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DECLARATION OF PROTECTIVE COVENANTS

FOR

WINDCREST

DECLARATION OF PROTECTIVE COVENANTS

FOR

WINDCREST

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EXHIBIT "A" PROPERTY DESCRIPTION**EXHIBIT "B" ADDITIONAL PROPERTY WHICH MAY UNILATERALLY BE SUBMITTED TO THIS DECLARATION BY DECLARANT****EXHIBIT "C" BYLAWS OF WINDCREST COMMUNITY ASSOCIATION, INC.**

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DECLARATION OF PROTECTIVE COVENANTS

FOR

WINDCREST

THIS DECLARATION is made on the date hereinafter set forth by **COLONY HOMES, L.L.C.**, a Georgia limited liability company doing business in North Carolina as Colony Homes of North Carolina, L.L.C. (hereinafter sometimes called "Declarant");

W I T N E S S E T H

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" hereof; and

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration;

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" attached hereto and by this reference incorporated herein is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, mortgaged and otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens, hereinafter set forth, which are for protecting the value and desirability of and which shall run with the title to the real property hereby and hereafter made subject hereto and shall be binding on all persons having any right, title or interest in all or any portion of the real property now and hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns and shall inure to the benefit of each owner of all or any portion thereof.

Article 1
Definitions

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

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1.1 "Articles of Incorporation" means the Articles of Incorporation of Windcrest Community Association, Inc., filed with the North Carolina Secretary of State and incorporated herein by this reference as may be amended from time to time.

1.2 "Association" means Windcrest Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

1.3 "Board of Directors" or "Board" means the appointed or elected body of the Association, vested with the authority to manage the affairs of the Association under the Non-Profit Corporation Law of the State of North Carolina.

1.4 "Bylaws" means the Bylaws of Windcrest Community Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference as may be amended from time to time.

1.5 "Common Property" means any and all real and personal property, and the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.6 "Community" refers to that certain real property described in Exhibit "A", attached hereto, and such additions thereto as may be made by Supplementary Declaration as provided herein.

1.7 "Community-Wide Standard" means the standard of conduct, maintenance or other activity generally prevailing in the Community. 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 the Declarant.

1.8 "Declarant" means **COLONY HOMES, L.L.C.**, a Georgia limited liability company, doing business in North Carolina as Colony Homes of North Carolina, L.L.C., and its successors-in-title and assigns; provided that in a recorded instrument executed by the Declarant and the successor Declarant, such successor-in-title or assignee is designated as the Declarant hereunder by the holder of all of the rights of Declarant hereunder; and, provided, further, upon the effective date of the designation of a successor Declarant, all rights of the former Declarant in and to such status as Declarant hereunder shall cease, it being understood that there shall be only one holder of the rights of Declarant hereunder at any one point in time.

1.9 "Lot" means any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes a single-family dwelling site as shown on a recorded plat for the Community. The ownership of each Lot shall include, and there shall automatically pass with the title to each Lot as an appurtenance thereto membership in the Association and all rights and interest of an Owner in the Common Property.

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1.10 "Mortgage" means any and all instruments used for the purpose of encumbering or conveying title to real property in the Community as security for the payment or satisfaction of an obligation, including, without limitation, any mortgage, deed to secure debt or deed of trust.

1.11 "Mortgagee" means the holder of a Mortgage.

1.12 "Neighborhood" means each separately developed and denominated residential area within the Community which has been so designated on one or more recorded plats for the Community, on Exhibit "A" hereof or in one or more Supplementary Declarations. By way of illustration and not limitation, all of the Lots designated as Village Lots on the recorded plats for the Community shall make up the Village Neighborhood. The Declarant shall have the right to designate separate Neighborhood status and change the Neighborhood status of any previously designated Neighborhood for any property in the Community. A Neighborhood may (but is not required to) have a separate incorporated mandatory membership Neighborhood association.

1.13 "Occupant" means any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.14 "Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot within the Community but does not include any Mortgagee.

1.15 "Person" includes any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company or other organization, recognized as a separate legal entity under North Carolina law.

1.16 "Supplementary Declaration" means an amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.17 "Total Association Vote" means the votes attributable to the entire membership of the Association as of the record date for such action (including votes of the Declarant), whether or not such members are present or represented at the meeting, if any, where such votes are to be cast. If, for example, and without limitation, a majority of the Total Association Vote is required to approve a matter, such matter must receive more than half of the votes attributable to all existing members of the Association as of the record date for such action, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast. As a further illustration, if a majority vote is required to approve a matter (and the term Total Association Vote is not used), such matter must receive more than half of the votes cast by the members present and entitled to vote on the matter.

Article 2
Property Subject To This Declaration

2.1 Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants, conditions, restrictions and easements hereinafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration is the real property described in Exhibit "A" attached hereto and by this reference made a part hereof.

2.2 Unilateral Annexation By Declarant. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option from time to time at any time until five (5) years after the recording of this Declaration to annex and subject such additional real property which is located within a five (5) mile radius of the boundary of the Community as shown on Exhibit "B" attached hereto and by reference made a part hereof, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the public registry of the county in which the property to be annexed is located a Supplementary Declaration describing the property being subjected. Declarant intends to annex hereto the property contained in Declarant's land plan for the development as amended from time to time which property is a portion of the property described in Exhibit "B". However, inclusion of property on Declarant's land plan or in Exhibit "B" shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land plan bar Declarant from subjecting such property to the Declaration. Any annexation shall be effective upon the filing for record of a Supplementary Declaration executed by the Declarant unless a later effective date is provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property. If any land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

2.3 Additional Covenants, Restrictions and Easements. The Declarant may subject any portion of the property submitted to this Declaration initially or by Supplementary Declaration to additional covenants, restrictions and easements and/or modify the applicability of the covenants, restrictions and easements contained in this Declaration as to such property.

2.4 Other Annexation. Upon the written consent of: (a) the owner(s) thereof; (b) the Declarant; and (c) the Owners of at least two-thirds (2/3) of the Lots, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the public records of the county where the Community is located a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be executed on behalf of the Association by the President of the Association whose signature shall be attested by the Secretary of the Association. The annexation shall be effective only upon

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the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

Article 3

Association Membership and Voting Rights

3.1 Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot subject to this Declaration shall have a membership in the Association. The foregoing is not intended to include Mortgagees and the conveyance of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the designee of a member, but in no event shall more than one office be held for each Lot owned. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. Nothing in this Section shall restrict the number of votes cast or the number of the officers and directors appointed by the Declarant.

3.2 Voting. Members shall be entitled to one vote for each Lot owned. When more than one Person holds an ownership interest in a Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Lot shall be suspended in the event more than one Person seeks to exercise it. The Board of Directors may suspend the voting rights of an Owner for any period during which any past due assessment against any Lot of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws or rules and regulations.

3.3 Notice of Sale, Lease or Acquisition. Prior to the sale or lease of a Lot, the Owner shall provide the Association with written notice of the name of the purchaser or lessee, as the case may be, and such other information as the Board may reasonably require. Upon acquisition of a Lot each new Owner shall provide the Association with written notice of the name and mailing address of the Owner and such other information as the Board may reasonably require.

Article 4

Assessments

4.1 Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Lots, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

4.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) general assessments; (b) Neighborhood assessments, if applicable; (c) special assessments; and (d) specific assessments. All sums assessed against any

Lot pursuant to this Declaration, together with late charges, interest, costs and reasonable attorney's fees actually incurred, as provided herein, when remaining unpaid for thirty (30) days or longer, shall be secured by a lien on such Lot in favor of the Association, when the Association files a claim of lien in the public records of the county in which the Lot is located in the manner provided by law. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (i) liens and encumbrances recorded before the docketing of the claim of liens and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot. Each such assessment, together with such late charges, interest and costs, shall also be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot and each grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of the grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings. No Owner may waive or otherwise exempt themselves from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the property. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

4.3 General Assessments. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget, the assessment to be levied against each Lot for the year (or portion thereof in the case of the initial budget) and a notice of the meeting to consider ratification of the budget (which notice shall include a statement that the budget may be ratified without a quorum being present) to be provided to each member no more than thirty (30) days after the adoption of the budget. The date for the meeting of the members to consider ratification of the budget shall be not less than ten (10) days nor more than sixty (60) days after mailing of the budget and notice. The meeting shall be held at least thirty (30) days prior to the due date for payment of the assessment (or the first installment thereof). The budget is ratified and the assessment shall become effective unless disapproved at the meeting by at least seventy-five (75%) percent of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget last ratified shall be continued until a new budget is ratified. Any surplus funds of the Association remaining after payment of or provision for the common expenses, the funding of a reasonable operating expense surplus, and any prepayment of reserves shall not be refunded or credited to the Owners but shall be Association funds for use in covering operating and other expenses (including reserves) incurred by the Association pursuant to the terms of this Declaration and the Bylaws. General assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice for delinquents. Unless otherwise provided by the Board, the

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general assessment shall be paid in one annual installment. General assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Property, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. General assessments may include, without limitation, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities, cleaning and janitor services, landscape maintenance, expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

4.4 Neighborhood Assessments. The Association may levy assessments against the property in a particular Neighborhood to fund actual and estimated expenses incurred by the Association for the primary benefit of property within such Neighborhood, including without limitation, maintenance required to be performed by the Association with respect to property within such Neighborhood. Neighborhood assessments shall be levied as specifically budgeted from time to time by the Board of Directors pursuant to this Declaration. In addition, the Board shall levy a Neighborhood assessment upon the request of the Owners holding two-thirds (2/3) of the Total Association Vote applicable to Lots within a Neighborhood. Neighborhood assessments may be paid either in quarterly installments or in one annual installment as designated by the Board of Directors.

4.5 Special Assessments. The Association may levy a special assessment if approved by two-thirds (2/3) of the Total Association Vote and the Declarant. Special assessments shall be paid as determined by the Board. The Board may permit a special assessment to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

4.6 Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board of Directors may also specifically assess Owners for Association expenses as follows: (a) expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and (b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

4.7 Subordination of Liens to Mortgages. The lien of all assessments authorized herein is hereby made subordinate to the lien of any first Mortgage if, but only if, all assessments and charges with respect to such Lot authorized herein having a due date on or prior to the date of the Mortgage as filed of record have been paid. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date

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such Mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such Mortgage or the sale or transfer of the property pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the property pursuant to a sale under power contained in such Mortgage. Such subordination is merely a subordination and shall not relieve an Owner of the personal obligation to pay all assessments coming due during such period of ownership; shall not relieve such property from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of such subordination as against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure or by sale under power); and no sale or transfer of such property to the Mortgagee or to any other Person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous Owner of any personal obligation or relieve such property or the then Owner from liability for any assessment authorized hereunder become due after such sale and transfer.

4.8 Remedies of the Association. Any sums (including assessments or installments thereof) assessed against any Lot pursuant to this Declaration which are not paid when due shall be delinquent. Any such sums delinquent for a period of more than ten (10) days shall incur a late charge in such amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If any such sums are not paid within thirty (30) days after the due date, the Board may accelerate and declare immediately due all such sums (including annual assessments or installments thereof) without any further notice being given to the delinquent Owner, and a claim of lien, as herein provided, may be filed in the public records of the county in which the Lot is located in the manner provided by law. Such lien shall include the late charge, interest on the principal amount due at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum, all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. If any sum assessed against any Lot pursuant to this Declaration remains unpaid after sixty (60) days from the due date, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same. If any such sums are not paid within thirty (30) days after the due date, the Association may, after notice and an opportunity to be heard, suspend the membership rights of the delinquent Owner, including the right to vote, the right of enjoyment in and to the Common Property and recreational facilities, maintained by the Association, and the right to receive and enjoy such servicing and other benefits as may then be provided by the Association. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect any lien on such property in favor of the Association.

4.9 Date of Commencement of Assessments. Assessments shall commence in general when the Board of Directors first determines a budget and levies assessments. The assessments provided for herein shall commence as to a particular Lot on the first to occur of the date that the Lot is first occupied for residential purposes; or is conveyed by the Declarant to an Owner who is not a builder acquiring such Lot in the ordinary course of business or a successor Declarant. A Lot shall be occupied for residential purposes when it has been improved with a dwelling and has been conveyed to an Owner who intends to occupy the dwelling, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy.

4.10 Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the general, neighborhood, special and specific assessments collected by the Association in any fiscal year. Notwithstanding anything to the contrary herein, the Declarant and its affiliates may contribute assessments due from them in services or materials or a combination of services and materials, rather than in money (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors, approved by the Declarant, who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

4.11 Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

4.12 Estoppel Letter. The Association shall, within ten (10) days after receiving a written request therefor certify to the amount of any unpaid assessments and other charges against a specified Lot. A certification letter signed by an officer of the Association or the Association's managing agent, if any, as to the amount of assessments due with respect to a Lot shall be binding upon the Association.

4.13 Initiation Fee. Upon the first sale of each and every Lot after it has been improved with a residence for which a certificate of occupancy has been issued, an initiation fee in the amount of \$100.00 shall be collected from the purchaser at the closing of such sale for the benefit of the Association. The aggregate fund established by such initiation fee shall be maintained in a

segregated account, and shall be for the purpose of insuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board.

Article 5

Maintenance; Common Property

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain (whether or not constituting Common Property): (a) all Community entry features, including entry area landscaping and any irrigation system and the expenses for water and electricity, if any, provided to all such entry features; (b) all storm water detention/retention ponds and storm water drainage facilities serving the Community, if and to the extent such facilities are not maintained by the owner of such facilities or a government body; (c) all Community recreational facilities; (d) all Community greenbelt and open spaces to the extent such open space is not dedicated and maintained by the Town of Holly Springs; (e) the landscaping improvements located on the front yard of a Lot up to the side yard fence in any Neighborhood designated as a "Village Neighborhood" as provided in Article 6; (f) all property outside of Lots located within the Community which was originally maintained by Declarant. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community and to enter into easements and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment. All maintenance by the Association shall be performed consistent with the Community-Wide Standard.

5.2 Owner's Responsibility. Except for maintenance performed on a Lot by the Association pursuant to Section 5.1, Article 6 or Article 7 hereof, if any, all maintenance of the Lot and all structures, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. The term "Lot" as used in this Section 5.2 shall include any Sideyard Area as defined in Article 6 Section .3.1(a) hereof, but shall not include any part of the Sideyard Area of an adjacent Lot. Such maintenance obligation shall include, without limitation, the following: prompt removal of all litter, trash, refuse, and waste; lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas in accordance with all city and/or county water restrictions; keeping improvements, and exterior lighting in good repair and working order; keeping lawn and garden areas alive, free of weeds, and attractive; keeping driveways in good repair; complying with all governmental health and police requirements; and repairing and painting (or other appropriate external care) of improvements located on a Lot. In the event that the Board of Directors determines that any Owner has failed or refused to

discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten-day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement and all costs thereof shall be assessed against the Owner and the Lot as a specific assessment.

5.3 Conveyance of Common Property by Declarant to Association; No Implied Rights.

Declarant may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall thereafter be Common Property to be used and maintained by the Association for the benefit of its members. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether or not any such property has been made available for the use of Owners. The Declarant may reserve, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Community. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements or licenses are conveyed by the Declarant, or the owner of such property to the Association or the Owners, as the case may be, by an instrument recorded in the public records of the county where the Community is located.

5.4 Partition. The Common Property shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Lots located within the Community.

5.5 Condemnation. In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, the Association shall restore or replace such improvements so taken on the remaining Common Property, unless within sixty (60) days after such taking, an alternative plan is approved by at least seventy-five percent (75%) of the Total Association Vote and the consent of the Declarant. The provisions of this Declaration applicable to replacement or restoration of damaged improvements on the Common

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Property shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

5.6 Liability. Owners, Occupants and their guests shall use the Common Property, Community recreational facilities, if any, and green space maintained by the Association at their own risk and shall assume sole responsibility for their personal belongings used or stored there. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on any of the foregoing property. The Association shall not be liable for injury or damage to any Person or property (a) caused by the elements or by an Owner or any other Person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or Occupant for loss or damage, by theft or otherwise, of any property of such Owner or Occupant.

Article 6 Village Neighborhood

6.1 Village Neighborhood. The provisions set forth in this Article shall be applicable only to the Lots within any Neighborhood designated as a "Village Neighborhood" and shall be in addition to the covenants, conditions, restrictions and easements set forth in this Declaration. As long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to modify the provisions of this Article as to a particular Village Neighborhood or impose additional covenants and restrictions.

6.2 Yard Maintenance. As provided in Section 5.1 above, the Association shall maintain and keep in good repair the landscaping improvements located on the front yard and side yard up to the side yard fence of all Lots in a Village Neighborhood as so determined and designated by the Declarant. Such maintenance shall include, but not be limited to, mowing, edging, and otherwise caring for the existing landscaping but not including the replacement of plant materials. The costs to replace damaged, diseased or dead grass, plants, shrubs and trees on a Lot in a Village Neighborhood may, at the sole discretion of the Board of Directors, be assessed against the Owner and such Lot as a specific assessment. The Board of Directors in its sole discretion may leave portions of Lots in a Village Neighborhood as undisturbed natural areas and may change the landscaping in a Village Neighborhood at any time and from time to time or may, with the consent of the Declarant, change the level of yard maintenance performed on such Lots. Any common irrigation system installed by the Declarant or the Association shall be Common Property operated, maintained, repaired and replaced by the Association. The deed of conveyance of any Lot shall not include any right, title or interest in such irrigation system, if any. The Board of Directors may promulgate rules setting forth the extent of landscaping maintenance to be performed on Lots in a Village Neighborhood by the Association and the rights of Owners with respect to adding or modifying landscaping improvements on such Lots,

including, for example, allowing seasonal flowering plants in certain areas of Lots at the expense of the Owner.

6.3 Sideyard Area.

(a) Definition of Sideyard Area. Declarant desires to create a side yard area along the entire common side boundary line between every two (2) Lots sharing a common side boundary line (hereinafter referred to as the "Sideyard Area"). There shall be a five (5) foot building setback line extending along one side of each Lot for its entire length (hereinafter referred to as the "Five Foot Setback Line"). Dwellings may be constructed on each Lot within five (5) feet of one of the side boundary lines. The five (5) foot wide area between the Five Foot Setback Line and the closest side boundary line of such Lot will be hereinafter referred to as the "Use Easement Area". The strip of land located contiguous to each Use Easement Area on each adjoining Lot will be hereinafter referred to as the "Maintenance Easement Area". Each Sideyard Area shall consist of the Maintenance Easement Area on one Lot and the contiguous Use Easement Area on the adjoining Lot with the exception of corner Lots.

(b) Statement of Intent. As provided below, Declarant intends that each Owner shall be restricted to using its Use Easement Area for maintenance purposes only and shall have a limited maintenance easement over the contiguous Maintenance Easement Area. Declarant also intends that each Owner shall be allowed to use its Maintenance Easement Area for any purpose not restricted hereby and shall have a full use and enjoyment easement over the contiguous Use Easement Area. In other words, Declarant intends that all such Lots have the right to the full use and enjoyment of the Sideyard Area on the side of the dwelling where the doors, windows, and/or patio are located, but be limited to using the Sideyard Area on the other side of the house for maintenance purposes.

(c) Easements.

(i) Reservation of Maintenance Easement. Declarant, as the owner of each Lot, hereby reserves for the benefit of the Owner of each Lot a nonexclusive easement of access, ingress and egress over the Maintenance Easement Area on the Lot adjoining the Use Easement Area located on such Lot for the purpose of entering the Maintenance Easement Area at reasonable times and under reasonable circumstances to construct, reconstruct, maintain and repair the Lot and the improvements located thereon (hereinafter referred to as the "Maintenance Easement"). Such easement shall be appurtenant to and run with title to each Lot for the benefit of the Owner, from time to time, of such Lot, but shall not be sold, mortgaged, leased or otherwise granted or conveyed separate and apart from such Lot.

(ii) Reservation of Use and Enjoyment Easement. Declarant, as the owner of each Lot, hereby reserves for the benefit of the Owner of each Lot a nonexclusive easement of access, ingress and egress over the Use Easement Area on the Lot adjoining the Maintenance Easement Area located on such Lot for the purpose of fully using and enjoying such Use Easement Area in any manner permitted by this Declaration, including such purposes as landscaping, fencing, and general recreation (hereinafter referred to as the "Use Easement").

Such easement shall be appurtenant to and run with title to each Lot for the benefit of the Owner, from time to time, of such Lot, but shall not be sold, mortgaged, leased or otherwise granted or conveyed separate and apart from such Lot. Notwithstanding the foregoing, each Owner shall not place any structures within such Use Easement Area on an adjacent Lot in such a manner or such location that the structure would unreasonably interfere with the construction, reconstruction, maintenance or repair of any wall, fence or the dwelling lying on the adjacent Lot, as provided in Section 6.3(c)(i) above. If any such structure interferes with the Owner of the adjacent Lot's ability to construct, reconstruct, maintain or repair the Owner's Lot and the improvements located thereon, then the Owner of the adjacent Lot shall not be liable for any damage to such structure which occurs in the course of such permitted work.

(d) Use Restrictions.

(i) Restrictions on Use Easement Area. Each Owner shall only utilize its fee simple title to the Use Easement Area on its Lot for the purpose of constructing, reconstructing, maintaining and repairing its Lot and the improvements constructed thereon at reasonable times and under reasonable circumstances. Each Owner shall not permit eaves, gutters or overhangs of its dwelling to extend more than twelve (12) inches onto such Use Easement Area or construct, install or otherwise cause to be made any door, window, duct, vent or aperture of any kind on the side of its dwelling that abuts or adjoins such Use Easement Area. In exercising its right of entry upon the Use Easement Area, as provided above, each Owner shall use reasonable care not to damage any landscaping or other items to the extent such damage could not be reasonably avoided in connection with such entry upon the Sideyard Area for authorized purposes.

(ii) Restrictions on Sideyard Area. Each Owner shall not: (1) suffer or permit any waste upon the Sideyard Area; (2) undertake any use of or affix any object to any wall, fence or other structure on an adjacent Lot; (3) undertake any grading that would tend to prevent proper drainage of the Sideyard Area, or to promote soil erosion or to undermine support for the foundation of any wall, fence or other structure on an adjacent Lot; (4) place or permit the accumulation of any soil or fill material against any wall, fence or other structure on an adjacent Lot to a height which exceeds original grade; (5) cause, suffer or permit any damage to any utility lines located within the Sideyard Area or interrupt or interfere with the maintenance and repair thereof; (6) construct, erect or install any structure upon, across, over, under or within the Sideyard Area or undertake any grading or fill or any other activity upon the Sideyard Area which violates any applicable governmental statute, ordinance, rule or regulation or the provisions of this Declaration; (7) stack wood or permit trees, shrubbery or other vegetation to grow on the Sideyard Area which would cause damage to or interfere with the maintenance and repair of any wall, fence or the dwelling on an adjacent Lot; (8) cause or permit any offensive contact (including without limitation, any pounding or bouncing of objects) with any wall of the dwelling on an adjacent Lot; (9) suffer or permit upon the Sideyard Area any activities by household pets or other animals which would tend to cause damage to or undermine support for any wall, fence or other structure on an adjacent Lot; or (10) cause or permit to exist any open, uncontained fire on the Sideyard Area.

6.4 Maintenance. Each Owner shall maintain the Sideyard Area that consists of the Four Foot Use Area located on its Lot and the Three Foot Use Area that is adjacent to the Four Foot Use Area located on its Lot at its sole costs and expense as provided in Section 5.2 above.

6.5 Disputes. In the event that a dispute arises concerning the respective rights and obligations of the Owners of contiguous Lots pursuant to this Section, then the Board of Directors shall act as arbitrator of said dispute and may enforce its decision in accordance with the provisions of Article 8 hereof.

Article 7 Architectural Standards

7.1 General. No exterior construction, alteration or addition of any improvements of any nature whatsoever (including, without limitation, staking, clearing, excavation, grading, filling, construction of impervious surface, building, exterior alteration of existing improvements, change in the exterior color of any existing improvement, and planting and removal of landscaping materials), shall be commenced or placed upon any part of the Community unless installed by the Declarant or an affiliate of the Declarant, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of structures on the Lot without approval hereunder. However, modifications to the interior of porches, patios and similar portions of a structure visible from outside the Lot shall be subject to approval. No approval shall be required to repaint the exterior doors and shutters of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to the activities of the Declarant, affiliates of the Declarant, nor to improvements to the Common Property by or on behalf of the Association. This Article may not be amended without the written consent of the Declarant until (a) the Declarant no longer has the right to unilaterally annex additional property to the Community; and (b) each Lot has been improved with a dwelling for which a certificate of occupancy has been issued.

7.2 Guidelines and Procedures. Except as provided above, no exterior construction, addition or alteration shall be made unless and until plans and specifications shall have been submitted in writing to and approved by the Declarant. Such plans and specifications shall be of sufficient detail to allow the Declarant to make its review and to the extent required by the Declarant shall show the nature, kind, shape, height, materials and location of the proposed improvement. The Declarant may adopt written design and development guidelines and application and review procedures, which may provide for a review fee. The Declarant shall have sole and full authority to prepare and to amend, from time to time at its sole discretion and without notice, the architectural guidelines. The Declarant shall make the architectural guidelines available to Owners and builders who seek to engage in construction in the Community and such Owners and builders shall conduct their operations strictly in accordance therewith. If the Declarant fails to approve or to disapprove submitted plans and specifications within thirty (30) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. 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 improvement, change, modification, addition or alteration. The Declarant shall be the sole arbiter of submitted plans and may withhold approval for any reason, including, without limitation, purely aesthetic considerations, and shall be entitled to stop any construction in violation of any provision of this Declaration. The Declarant shall have the right, during reasonable hours and after reasonable notice, to enter upon any property in the Community to inspect for the purpose of ascertaining whether or not these provisions have been or are being complied with. The Declarant, its employees and agents shall not be deemed guilty of trespass by reason of such entry. If construction does not commence on a project for which plans have been approved within twelve (12) months of the date of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the Declarant for reconsideration.

7.3 Limitation of Liability. Plans and specifications are not approved for engineering or structural design or quality of materials and by approving such plans and specifications the Declarant assumes no liability or responsibility therefor or for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, 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 such plans or specifications. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against Declarant, the Association 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.

7.4 No Waiver. The approval of the Declarant of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval or consent of the Declarant, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or drawings or matters subsequently or additionally submitted for approval or consent.

7.5 Variances. Notwithstanding anything to the contrary contained herein, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration and the architectural guidelines if it determines that waiver of application or enforcement of the provision in a particular case is dictated by unique circumstances, such as, but not limited to, topography, natural obstructions, hardship, aesthetic considerations or environmental considerations and would not be inconsistent with the overall scheme of development for the Community. No variance shall (a) be effective unless in writing, (b) be inconsistent with the overall scheme of development for the Community, or (c) estop the Declarant from denying a variance in other similar circumstances. For purposes of this provision, the inability to obtain

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approval of any governmental agency or the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

7.6 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Declarant, Owners shall, at their own cost and expense, remove such nonconforming structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant and its agents shall have the right to enter the property, remove the nonconforming structure or improvement, and restore the property to substantially the same condition as previously existed. All costs, including, without limitation, attorney's fees, may be assessed against the Lot as a specific assessment. Neither the Declarant, the Association or the officers, directors, members, employees and agents of any of them shall be held liable to any Person for exercising the rights granted by this Article. In addition to any other remedies available to the Declarant and the Association, in the event of noncompliance with this Article, the Declarant or the Association may record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, the Declarant and the Association shall have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article.

7.7 Architectural Review Committee. Until (a) the Declarant no longer has the right to unilaterally annex additional property to the Community; and (b) each Lot has been improved with a dwelling for which a certificate of occupancy has been issued, the Declarant shall have the sole right, power and authority under this Article. There shall be no surrender of this right except in a written instrument in recordable form executed by Declarant and recorded in the public records of the county where this Declaration is recorded. Upon expiration or earlier surrender in writing of all or any portion of such right and authority by the Declarant, the Board of Directors shall then have such jurisdiction over architectural control under this Article as may have been relinquished by the Declarant. The Board of Directors may appoint and delegate all or a portion of its right, power and authority hereunder to an Architectural Review Committee of the Association. The Declarant may in its sole discretion relinquish architectural control as to certain types of improvements or modifications to the Architectural Review Committee while retaining control over all other building and construction in the Community. For example and without limitation, the Declarant may relinquish control over modifications of existing structures to the Architectural Review Committee while retaining all authority to review and approve new home construction. Any right, power or authority of the Declarant which may be relinquished to the Association prior to the termination of the rights of Declarant hereunder shall be by written recorded instrument only and no such right, power or authority shall be relinquished by implication or otherwise. The establishment of an advisory Architectural Review Committee by the Declarant shall not be deemed to be a relinquishment by Declarant of any of its right, power and authority hereunder. After the termination of all rights of Declarant hereunder, the Board of Directors shall have all right, power and authority to review and approve building and construction activity within the Community hereunder and this Article shall then be read and interpreted as if any reference to approval or other action to be taken by the Declarant in this Article 6 were a reference to approval or action by the Board of Directors.

Article 8
Use Restrictions and Rules

8.1 Rules and Regulations. The Board of Directors may, from time to time, with the consent of Declarant and without a vote of the members, promulgate, modify or delete rules and regulations applicable to the Community. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority of the Total Association Vote and the consent of Declarant.

8.2 Residential Use. Each Lot shall be used for single-family residential purposes exclusively. For the purposes of this restriction a "single-family" means a group of individuals related by blood, marriage, adoption, or guardianship, or not more than six (6) persons not so related, living together as a single housekeeping unit. Leasing of a Lot for single-family residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant in residence at the Lot may conduct business activities within the dwelling unit so long as the business activity: (a) does not otherwise violate the provisions of the Declaration or Bylaws; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Community; (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (f) is consistent with the residential character of the Community; (g) does not constitute a nuisance or a hazardous or offensive use; and (h) does not threaten the security or safety of other residents of the Community, all as may be determined in each case in the sole discretion of the Board of Directors. The Board may issue rules regarding permitted business activities. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity.

8.3 Leasing. Lots may be leased for single-family residential purposes. Unless otherwise provided by the Board of Directors, all leases shall have a minimum term of at least six (6) months. All leases shall require, without limitation, that the Occupants acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions and rules and regulations of the Association and obligate the Occupants to comply with the foregoing.

8.4 Signs. No sign of any kind shall be erected within the Community without the prior written approval under Article 8 hereof. Notwithstanding the foregoing, the Board and the Declarant shall have the right to erect reasonable and appropriate signs. For-sale signs and security signs consistent with the Community-Wide Standard and any signs required by legal proceedings may be erected upon any Lot. The provisions of this Section shall not apply to any

Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure.

8.5 Vehicles; Parking. Vehicles shall be parked only in the garage parking spaces serving the Lot or other designated parking areas within the Community, if any. No on-street parking, other than in connection with special events as approved by the Board of Directors, shall be permitted within the Community. All parking shall be subject to such rules and regulations as the Board may adopt. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, golf carts, trucks, campers, buses, vans and automobiles. The term "parking areas" shall refer to the number of garage parking spaces on the Lot and if and only if the Occupants of a Lot have more vehicles than the number of garage parking spaces provided, any excess vehicles which are an Occupant's primary means of transportation on a regular basis may be parked on the driveway of a Lot. Garages are provided for parking vehicles and should not be used primarily for storage or other purposes. Garage doors should be kept closed at all times, except during times of ingress and egress from the garage. No vehicle may be left upon any portion of the Community, except in a garage or other area designated by the Board, for a period longer than five (5) days including any abandoned, unlicensed or inoperable vehicle. After such five-day period, such vehicle may be removed from the Community by the Board of Directors. Any towed vehicle, boat, personal water craft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go-cart, golf cart, commercial truck, camper, bus or mobile home regularly stored in the Community or temporarily kept in the Community, except if kept in a garage or other area designated by the Board, for periods longer than twenty-four (24) hours may be removed from the Community by the Board of Directors. Recreational vehicles shall include any vehicle that combines transportation and temporary living quarters for recreation, camping, and travel. Trucks with mounted campers which are used as a primary means of transportation shall not be considered recreational vehicles provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. Commercial vehicles may not be visibly parked or stored on any Common Property or any Lot. Construction, service, and delivery vehicles are exempt from this provision while providing service or making a delivery to a Lot or the Common Property. Commercial vehicles are defined as any type of vehicle used for a specific business or commercial purpose; bearing any indicia of commercial use, including but not limited to, writings, logos, or signage of a business or commercial nature; equipped with external racks, ladders, or tool boxes; or having visible work equipment stored in or on the vehicle. It is the Lot owners responsibility to see that their guests and tenants obey the vehicle parking rules and restrictions.

8.6 Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on the exterior of any Lot, with the exception of dogs, cats or other usual and common household pets. No pets shall be kept, bred or maintained for any commercial purpose. No exterior pens for household pets shall be erected or maintained on any Lot unless approved in accordance with the provisions of Article 8 hereof.

8.7 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a Lot. No Lot shall

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be used for the storage of anything that will cause such Lot to appear to be 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 Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property within the Community. No plants, animals, device or thing of any sort shall be maintained in the Community whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community by other Owners and Occupants. Without limiting the generality of the foregoing, no speaker, 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. Any noise that can be heard inside a neighboring house with the windows and doors closed will be considered too loud and in violation of this provision.

8.8 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.

8.9 Antennas. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting of radio or video signals shall be placed, allowed or maintained upon any portion of the Community, including any Lot, unless approved in accordance with the provisions of Article 8 hereof; provided, however, no such approval shall be necessary to install (1) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services, that are one meter or less in diameter; (2) antennas designed to receive video programming services via multi-point distribution services that are one meter or less in diameter or diagonal measurement; or (3) antennas that are designed and intended to receive television broadcast signals.

8.10 Tree Removal. No trees that are more than four (4) inches in diameter at a point twelve (12) inches above the ground and no ornamental or flowering trees, including, but not limited to, dogwood trees, cottonwood trees, cherry trees or apple trees, regardless of diameter, shall be removed from a Lot without prior written approval pursuant to Article 8 hereof. Owners shall also comply with any local ordinance and zoning condition applicable to tree removal. In the event of a conflict between the provisions of this Section and any local ordinance or zoning condition, the more restrictive provision shall govern. This provision shall not apply to the removal of trees by the Declarant or the Association or any builder in connection with construction approved under Article 8 hereof.

8.11 Drainage. Catch basins, retention ponds, detention ponds, drainage swales and drainage easement areas are for the purpose of controlling the natural flow of water only. Owners shall not obstruct or alter the drainage flow across or from their Lot after location and

installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval in accordance with the provisions of Article 8 hereof.

8.12 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, shrub or other planting or thing shall be placed or permitted to remain where, in the opinion of the Board, it would create an unsafe condition.

8.13 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment, and other similar items shall be located or screened so as to be concealed from view from neighboring streets and property. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate. Declarant, however, hereby expressly reserves the right to dump and bury rocks and trees on property within the Community as needed for efficient construction. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community except by the Declarant.

8.14 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval in accordance with the provisions of Article 8 hereof. Declarant, however, hereby expressly reserves the right to subdivide and/or revise and re-record the subdivision plat of any Lot(s) with the consent of the Owner of the effected Lot(s) and to approve the revision and re-recording of any plat of any Lot(s) owned by any builder or developer, including, but not limited to, changing any Lot to Common Property or creating a public or private street over any Lot or property that was formerly a Lot, without the consent of any Person, other than the Owner(s) of such property.

8.15 Firearms. The use or discharge of firearms in the Community is prohibited. The term "firearms" includes, without limitation, "B-B" guns, pellet guns and other guns of any type, regardless of size.

8.16 Fences. Except as herein provided, no fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof. Guidelines detailing acceptable fence styles or specifications may be issued pursuant to Article 6, but in no event may a chain link or barbed wire fence be approved; provided, however, the Declarant and the Association may erect any type of fence on the Common Property or elsewhere within the Community as they may deem appropriate or as necessary to satisfy the requirements of any law, regulation or governmental entity or for health and safety of Owners and Occupants. Expenses for the maintenance, repair and painting of fences located on a common rear property line will be shared by the Owners of the respective Lots. No fences or walls shall be permitted in the front yards except such fences or walls used for decorating or ornamental purposes installed by Declarant. Any fences connecting dwellings and which were originally erected by Declarant for side yard privacy shall not be removed, destroyed or altered and shall be maintained in good condition and repair by the Owner thereof. Fences must be constructed to permit reasonable access to utilities and the Sideyard Area or they must have gates to allow initial construction of a dwelling and must

conform to the same style as that of the connecting fence at the time of construction. Side yard trellises shall not have solid roofs over them unless permitted by the ARC.

8.17 Utility Lines. Except as may be permitted under and pursuant to Article 8 hereof, no overhead utility lines, including lines for cable television, shall be installed within the Community, except for temporary lines as required during construction and lines installed by or at the request of the Declarant.

8.18 Air-Conditioning Units. No window air-conditioning units may be installed.

8.19 Lighting. Exterior lighting on any Lot visible from the street shall not be permitted, except for: (a) approved lighting as originally installed on a Lot; (b) one decorative post light; (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; (e) front house illumination of model homes; or (f) other lighting approved under and pursuant to Article 8 hereof.

8.20 Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on the exterior of any Lot. Exterior sculpture, fountains, flags or similar items must be approved under and pursuant to Article 8 hereof.

8.21 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless as an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Declarant, in accordance with the provisions of Article 8 hereof.

8.22 Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without prior written approval in accordance with the provisions of Article 8 hereof and in no event shall any above-ground swimming pool be permitted.

8.23 Gardens, Play Equipment and Garden Pools. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals) or garden pool shall be erected on any Lot without the prior written approval in accordance with the provisions of Article 8 hereof. For certain play equipment, such as basketball goals, the Architectural Review Committee shall stipulate where the play equipment may be located either temporarily or permanently on a Lot.

8.24 Mailboxes. All mailboxes serving Lots shall be approved in accordance with the provisions of Article 8 hereof. Identical replacement mailboxes may be installed without further approval; but no modification to or change in mailboxes may be made unless approved in accordance with the provisions of Article 8 hereof.

8.25 Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

8.26 Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by the Declarant on any Lot, or any part of any easement area associated therewith without prior approval in accordance with the provisions of Article 8 hereof.

8.27 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades, or any other purpose. The side of all window treatments which can be seen at any time from the outside of any structure located on a Lot must be white or off-white.

8.28 Wetlands. For all areas within the Community designated as "Wetlands", all Owners, the Declarant and the Association shall abide by all local, state and federal regulations concerning such wetlands, including, but not limited to, Section 404 of the Federal Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*

8.29 Buffer Areas. All areas designated on the Master Plan as "Buffer Areas" shall be left in their undisturbed, natural state and no improvements may be constructed, erected, placed or allowed to remain thereon except utility lines and easements and pedestrian and vehicular access ways (including streets and roads); provided, however, Declarant and the Association and the Owner of any Lot adjacent to such areas (with the prior written consent of the Architectural Review Committee) may plant trees, flowers and shrubs in such areas, subject to further provisions of this paragraph. For all areas within the Community designated as "Neuse River Buffers" (hereafter "NRBs"), all Owners, the Declarant and the Association shall abide by all local, state and federal regulations concerning such NRBs, including, but not limited to, those rules contained in the North Carolina Administrative Code at 15 N.C.A.C. §§ 2B.0233 through .0242.

Article 9

Insurance and Casualty Losses

9.1 Insurance on Common Property. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the North Carolina Planned Community Act, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the U.S. Department of Housing and Urban Development, as applicable to the Community. Accordingly, the Board of Directors shall obtain casualty insurance for all insurable improvements, whether or not located on the Common Property, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board of Directors shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars. Policies may contain a reasonable deductible as determined by the Board of Directors. In addition to the other insurance required by this Section, the Board of Directors shall obtain worker's compensation insurance, if and to the extent necessary to satisfy

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the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall at least equal three (3) months' total assessments plus reserves on hand. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

9.2 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry all-risk casualty insurance on all structures and a liability policy covering damage or injury occurring on the Owner's property. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The policies required hereunder shall be in effect at all times.

9.3 Damage and Destruction -- Insured by Association. Immediately after damage or destruction by fire or other casualty to any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, a proposal not to repair or reconstruct such property is approved by at least eighty percent (80%) of the Total Association Vote and the Declarant. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members of the Association, levy a special assessment against the Owner of each Lot. Additional assessments may be made in like manner, as necessary, at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association. In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall thereafter be maintained by the Association in a neat and attractive condition.

9.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction.

Article 10 Mortgagee Provisions

10.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of: (a) any condemnation loss or any casualty loss which affects a material portion of the Community 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; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; and (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

10.2 Audit. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements of the Association within ninety (90) days of the date of the request.

10.3 No Priority. No provision of this Declaration or the Bylaws gives any Owner or other party priority over any rights of a 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 Property.

10.4 HUD Approval. As long as the Declarant has the right to appoint and remove the officers and/or directors of the Association and so long as the project is approved by the U.S. Department of Housing and Urban Development ("HUD") for insuring any Mortgage in the Community the following actions shall require the prior approval of the HUD: annexation of additional property to the Community, except for unilateral annexation by Declarant as provided herein; dedication of Common Property to any public entity; merger, consolidation or dissolution of the Association; and material amendment of the Declaration, Bylaws or Articles of Incorporation.

Article 11
Easements

11.1 General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded subdivision plats for the Community, as amended from time to time as well as the easements now or hereafter established by the Declarant in this Declaration or by any other document recorded in the public records of the county where the Community is located.

11.2 Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment by the Owner and the Occupants of the Owner's Lot in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

(a) the right of the Association to charge reasonable admission and other fees for the use of any Community recreational facilities to limit the number of Persons who may use the Community recreational facilities, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by authorized users and their guests and invitees;

(b) the right of the Association to suspend the rights of an Owner to use the Community recreational facilities for any period during which any past due assessment against any Lot of the Owner remains unpaid;

(c) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon and, upon the affirmative vote of the Owners of at least eighty percent (80%) of the Lots (other than Declarant) and the consent of Declarant, to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community (Regardless of any contrary provision in this Declaration or in any such Mortgage given by the Association, the exercise of any rights by the holder of such Mortgage in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community.);

(d) the right of the Association, acting through the Board of Directors and without a vote of the members, to dedicate or grant licenses, permits, easements and rights-of-way over, under and through the Common Property to government entities, any quasi-governmental agency or to any utility company or cable television company;

(e) the right of the Association to dedicate or transfer all or any portion of the Common Property upon the approval of the Owners of at least eighty percent (80%) of the Lots (other than Declarant) and the Declarant;

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(f) all other rights of the Association, the Declarant, Owners and Occupants set forth in this Declaration, in any Supplementary Declaration or in any deed conveying Common Property to the Association; and

(g) all encumbrances and other matters shown by the public records affecting title to the Common Property.

11.3 Easements for Utilities. There is hereby reserved to the Declarant and granted to the Association a blanket easement upon, across, above and under all property within the Community for access, ingress, egress, installation, alteration, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Declarant or the Association might decide to have installed to serve the Community. Declarant, the Association or the designee of either, as the case may be, may alter drainage and water flow, install, repair, replace and maintain or authorize the installation, repairing, replacing and maintaining of such wires, conduits, cables and other equipment related to the providing of any utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or the Board shall have the right to grant such easement.

11.4 Easement for Emergency Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, Bylaws, and rules, which right may be exercised by any member of the Board, the officers, agents, employees, and managers of the Association and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Association, but shall not authorize entry into any single family dwelling without permission of the Owner.

11.5 Easement for Maintenance. Declarant hereby grant to the Association a perpetual easement across the exterior portions of all Lots as may be reasonably necessary for the maintenance required hereunder. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots, reasonable steps shall be taken to protect such property and damage shall be repaired by the Association or its contractors at their sole expense.

11.6 Easement for Entry Features. There is hereby reserved to the Declarant and granted to the Association an easement for ingress, egress, installation, construction landscaping and maintenance of entry features for the Community, over and upon any portion of a Lot containing such entry features as may be more fully described on the recorded subdivision plats for the

Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around entry features and streetscapes and the right to grade the land under and around the same.

11.7 Easement for Drainage. There is hereby reserved to the Declarant and granted to the Association a blanket easement across all Lots for creating and maintaining satisfactory storm water drainage in the Community; provided, however, such easement area shall not include any portion of a Lot within the outer perimeter of the dwelling structure. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. Neither the Declarant, the Association or any builder or Owner constructing according to plans and specifications approved under Article 6 hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction within the Community.

11.8 Easements for Encroachment and Overhang. There is hereby reserved to the Declarant for the benefit of each Lot a reciprocal appurtenant easement for encroachment and overhang between adjacent Lots and between a Lot and adjacent Common Property due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than two (2) feet, as measured from any point on such common boundary; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

11.9 Easement During Construction and Sale Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, architectural guidelines, and amendments thereto, Declarant reserves an easement across the Community for Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required or convenient for Declarant's development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or nearby property being developed by Declarant, including, but not limited to: the right to place or authorize the placement of marketing and directional signs on Lots or right-of-way at street intersections within the Community; the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Lot; the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to grant easements over, under, in or on the Community, including without limitation the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to convert Lots (with the consent of the Owner thereof) to Common Property and/or streets; the right to construct recreational facilities, utilities and other

improvements on Common Property; the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residences, offices or other buildings owned or leased by Declarant as model residences and sales offices and may also use Community recreational facilities, if any, as a sales office without charge. This Section shall not be amended without the Declarant's written consent until the Declarant's rights hereunder have terminated as herein provided.

Article 12
General Provisions

12.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations and use restrictions, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plats for the Community and in the deed to such Owner's Lot, if any. The Board of Directors may impose fines or other sanctions for violations of the foregoing, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief or both, including, without limitation, reasonable attorney's fees actually incurred, maintainable by the Association, the Declarant or an aggrieved Owner. Failure by the Declarant, the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Association 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 Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

12.2 Occupants Bound. All provisions of the Declaration, Bylaws, rules and regulations, use restrictions and design guidelines which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants and the guests and invitees of Owners and Occupants. The Owner shall be responsible for insuring that the Occupants, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, Bylaws, rules and regulations, use restrictions and design guidelines. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

12.3 Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant, the ARC or their respective duly authorized agents shall have the power to enter upon any Lot or any other portion of the Community to abate or remove 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 violating Owner shall be given ten (10) days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required herein or by law. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

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12.4 Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually, until terminated by the agreement of the Owners of at least eighty (80%) per cent of the lots as provided in the North Carolina Planned Community Act.

12.5 Termination of Rights of Declarant. The rights of Declarant to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the Bylaws shall cease and be of no further force and effect upon the earlier of: (a) the date that the Declarant no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community as provided herein and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant in the public records of the county where the Community is located of a written instrument terminating all of Declarant's rights hereunder.

12.6 Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner of such Lot consents thereto in writing. Further, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owners hereunder nor shall it adversely affect title to any Lot without the consent of the affected Owner. In addition to the above, this Declaration may be amended upon the affirmative vote or written agreement of the Owners to which at least sixty-seven (67%) percent of the Total Association Vote is allocated and the consent of Declarant. Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein. The consent of the Declarant to any amendment shall be evidenced by the execution of said amendment by Declarant. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the Bylaws, the Articles of Incorporation and North Carolina law were given.

12.7 Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine or feminine pronoun shall include the neuter, masculine and feminine.

12.8 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and, to this end, the provisions of this Declaration are declared to be severable.

12.9 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

12.10 No Merger. There shall be no merger of any of the covenants, conditions, restrictions or easements created or reserved hereby with the fee estate of Declarant, by reason of the fact that Declarant may own or hold the estate or interest both encumbered and benefited by such covenants, conditions, restrictions or easements and no such merger shall occur unless and until Declarant, while owning all of the estate or interests shall execute a written statement or instrument affecting such merger and shall duly record the same.

12.11 Preparer. This Declaration was prepared by David N. Dorough, Jr., Dorough & Dorough, LLC, Attorneys at Law, Two Decatur TownCenter, Suite 520, 125 Clairemont Avenue, Decatur, Georgia 30030.

12.12 Notices. Notices provided for in this Declaration or the Articles or Bylaws shall be in writing, and shall be addressed to an Owner at the address of the Lot and to the Declarant or the Association at the address of their respective registered agent on file with the Secretary of State of the State of North Carolina. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by private courier service. The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or the date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

12.13 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

12.14 Indemnification. To the fullest extent allowed by the Non-Profit Corporation Law of the State of North Carolina, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member 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, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members 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, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member 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, director or committee member, or former officer, director or committee member, 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.

12.15 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors 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 is warranted and would not be inconsistent with the overall scheme of development for the Community.

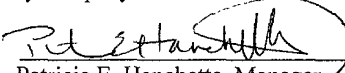
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IN WITNESS WHEREOF, the Declarant herein hereby executes this instrument under seal, this 10th day of February, 2003.

DECLARANT:

COLONY HOMES, L.L.C., a Georgia limited liability company

By:  (SEAL)
Patricia E. Hanchette, Manager

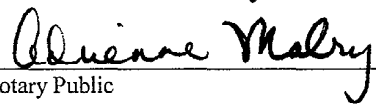
NORTH CAROLINA

WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that Patricia E. Hanchette personally appeared before me this day and acknowledges that she is the Manager of COLONY HOMES, L.L.C., a Georgia limited liability company, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by its Manager.

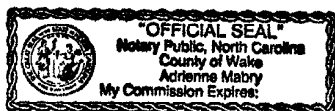
Witness my hand and official stamp or seal, this 10th day of February, 2003.

[STAMP/SEAL]


Notary Public

My Commission Expires: 12-11-2006

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EXHIBIT "A"
Property Description

Beginning at an existing iron pipe, said iron pipe being North 04°41'10" West 3,312.14 feet from NCGS monument "PEARSALL", said monument having NC grid coordinates (NAD 83) of N=692,883.883, E=2,049,363.864, thence from said Beginning point North 07°39'15" East 320.26 feet to an existing iron pipe, thence North 87°56'28" West 100.48 feet to an existing iron pipe, thence North 07°47'41" East 354.76 feet to an existing iron pipe, thence North 07°55'50" East 286.53 feet to an existing rebar, thence North 07°54'42" East 339.66 feet to an existing bolt, thence North 89°22'30" East 44.51 feet to an existing iron pipe, thence along a curve to the right having a radius of 2,017.14 feet, an arc length of 263.65 feet, and a chord bearing and distance of North 20°55'38" East 263.46 feet to an existing iron pipe, thence South 89°24'41" East 88.97 feet to an existing iron pipe, thence North 07°53'22" East 64.94 feet to an existing iron pipe, thence along a curve to the right having a radius of 1,957.14 feet, an arc length of 98.68 feet, and a chord bearing and distance of North 29°00'02" East 98.67 feet to an existing iron pipe, thence South 89°40'03" East 1,109.39 feet to an existing iron pipe, thence North 00°38'02" East 241.85 feet to an existing iron rod, thence South 87°29'46" East 952.32 feet to an existing iron pipe, thence South 02°10'28" West 243.08 feet to an existing iron pipe, thence South 02°18'01" West 404.31 feet to an existing pine knot, thence South 01°56'02" West 377.61 feet to an existing angle iron, thence South 02°03'02" West 210.75 feet to a point, thence North 87°56'58" West 101.73 feet to a point, thence South 00°00'00" West 13.42 feet to a point, thence South 11°19'58" East 50.69 feet to a point, thence South 07°53'28" West 76.58 feet to a point, thence South 34°18'32" West 130.99 feet to a point, thence South 58°13'33" West 130.83 feet to a point, thence North 88°10'22" West 173.02 feet to a point, thence along a curve to the right having a radius of 260.00 feet, an arc length of 69.14 feet, and a chord bearing and distance of South 13°56'33" West 68.94 feet to a point, thence South 21°33'40" West 300.93 feet to a point, thence along a curve to the left having a radius of 200.00 feet, an arc length of 279.72 feet, and a chord bearing and distance of South 18°30'19" East 257.47 feet to a point, thence South 58°34'18" East 219.54 feet to a point, thence along a curve to the right having a radius of 180.00 feet, an arc length of 182.58 feet, and a chord bearing and distance of South 29°30'50" East 174.85 feet to a point, thence South 00°27'21" East 28.11 feet to a point, thence along a curve to the left having a radius of 25.00 feet, an arc length of 39.27 feet, and a chord bearing and distance of South 45°27'21" East 35.36 feet to a point, thence North 89°32'39" East 161.57 feet to a point, thence South 02°13'59" West 177.09 feet to an existing iron pipe, thence South 89°32'34" West 343.35 feet to an existing iron pipe, thence North 05°45'18" West 140.24 feet to an existing iron pipe, thence North 87°42'31" West 126.11 feet to an existing iron pipe, thence North 44°36'11" West 207.10 feet to an existing iron pipe, thence South 62°33'11" West 284.82 feet to an existing iron pipe, thence North 00°41'11" East 544.72 feet to an existing iron pipe, thence North 88°23'08" West 822.35 feet to an existing iron pipe, thence North 88°14'31" West 629.77 feet to the point and place of Beginning containing 98.261 Acres more or less.

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EXHIBIT "B"

Additional Property Which May Unilaterally
Be Submitted To This Declaration by Declarant

ALL THAT TRACT OR PARCEL OF LAND lying and being in the Wake County, North Carolina, adjacent to the real property described in the foregoing Exhibit "A" to the Declaration of Protective Covenants for Windcrest or contiguous to other real property hereafter subjected to the Declaration. Adjacent property shall include property in the immediate vicinity of any property subjected to the Declaration even though separated by, without limitation, a public or private road, stream, pond or other body of water or a right-of-way of any kind.

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EXHIBIT "C"

BYLAWS
OF
WINDCREST COMMUNITY ASSOCIATION, INC.

Prepared By:
David N. Dorough, Jr.
DOROUGH & DOROUGH, LLC
Two Decatur TownCenter, Suite 520
125 Clairemont Avenue
Decatur, Georgia 30030
Telephone (404) 687-9977

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BYLAWS
OF
WINDCREST COMMUNITY ASSOCIATION, INC.

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BYLAWS
OF
WINDCREST COMMUNITY ASSOCIATION, INC.

Article 1
Name, Membership, Applicability and Definitions

1.1 Name. The name of the corporation shall be Windcrest Community Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 Membership. The Association shall have one class of membership, as is more fully set forth in the Declaration of Protective Covenants for Windcrest (such Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

1.3 Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article 2
Association: Meetings, Quorum, Voting, Proxies

2.1 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

2.2 Annual Meetings. There shall be an annual meeting of the members at such date, place and time as the Board of Directors shall determine to receive the reports of the outgoing Board of Directors, to install directors for the ensuing year and to transact such other business as may come before the meeting.

2.3 Special Meetings. The President or the Board of Directors may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association upon the delivery of a petition signed and dated by members entitled to cast at least ten percent (10%) of the Total Association Vote and describing the purpose or purposes for which it is to be held. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose(s) thereof. No business shall be transacted at a special meeting, except those matters that are within the purpose or purposes described in the notice.

2.4 Record Date. The Board of Directors shall fix in advance a record date for a determination of members entitled to notice of and to vote at any meeting of members or any adjournment thereof, or to make a determination of members for any other purpose, such date to

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be not more than seventy (70) days before the date on which the particular action requiring such determination of members is to be taken.

2.5 Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Lot of each member (as shown in the records of the Association as of the record date) a notice of each annual or special meeting of the Association stating the date, time and place where it is to be held and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes and any proposal to remove a director or officer. If an Owner wishes notice to be given at an address other than the Lot, the Owner shall designate by notice in writing to the Secretary such other address. Notices shall be mailed or delivered not less than ten (10) days nor more than sixty (60) days before the meeting. If any meeting of the members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If, however, a new record date is or must be fixed under the Governing Law notice of the adjourned meeting shall be given to persons who are members of record as of the new record date.

2.6 Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, signed by the member, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of lack of notice or defective notice, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. The quorum shall be reduced by fifty (50%) per cent at the next meeting as provided in the North Carolina Planned Community Act. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.8 Membership List. After the record date for any meeting is established by the Board of Directors, the Secretary shall prepare an alphabetical list of the names and addresses of all of the members who are entitled to notice of the meeting. Beginning at least two (2) business days after notice is given of the meeting for which the list was prepared, the list of members shall be available for inspection by any member or a member's agent or attorney at the Association's principal office or at such other reasonable place as may be specified in the notice. In addition, the list shall be available for inspection at the meeting or any adjournment thereof.

2.9 Voting. The voting rights of the members shall be as set forth in the Articles of Incorporation and the Declaration, and such voting rights are specifically incorporated herein.

2.10 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxy appointment forms shall be in writing, dated, and filed with the person presiding over a meeting before the appointed time of each meeting. A Proxy is void if not

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dated. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of actual notice by the person presiding over a meeting of the revocation of the proxy or the death or judicially declared incompetence of the member; (b) receipt by the person presiding over a meeting of a subsequent appointment form signed by the member; or (c) the expiration of eleven (11) months from the date of the proxy appointment form.

2.11 Quorum. The presence, in person or by proxy, of members entitled to cast at least ten percent (10%) of the votes entitled to be cast at the meeting shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Article 3

Board of Directors: Number, Powers, Meetings

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Directors shall be natural persons who are eighteen (18) years of age or older. Except for directors appointed by the Declarant, each director must reside in the Community and be a member or the spouse of a member; provided, however, no Person may serve on the Board at the same time with such Person's spouse or any co-Owner or Occupant of such Person's Lot.

3.2 Directors Appointed by Declarant. The Declarant shall have the right to appoint or remove any director(s) or any officer(s) of the Association until such time as the first of the following events shall occur: (a) the expiration of five (5) years after the date of the recording of the Declaration; (b) the date on which seventy-five percent (75%) of the Lots planned by Declarant to be a part of the Community shall have been improved with a dwelling and conveyed to an Owner for occupancy as a residence; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. The directors appointed by the Declarant need not be Owners or residents in the Community. The total number of lots planned by Declarant for the Community shall initially be the number of Lots shown on the Declarant's land use plan for the development as it may be amended from time to time. Inclusion of property on the land use plan shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land use plan bar Declarant from subjecting such property to the Declaration. The final total number of Lots planned for the Community shall be the actual number of Lots shown on the recorded subdivision plats for the Community regardless of any different number of Lots shown from time to time on the land use plan.

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of from one to three members as determined by Declarant in writing from time to time. Thereafter, the Board shall consist of three directors, with at least one (1) director from each Neighborhood, who shall be elected as provided below. The number of directors of the Board shall be increased if necessary so that there is always an odd number of directors.

3.4 Nomination of Directors. Elected directors may be nominated from the floor, if a meeting is held for the election of directors and may also be nominated by a nominating committee, if established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.12 or Section 2.13 in lieu of a meeting) and the members shall elect directors. Each Neighborhood shall elect at least one (1) director, with the remaining directors to be elected at large. The members of the Board of Directors shall hold office for one (1) year and shall continue in office until their respective successors shall have been elected and take office. At annual meetings of the membership thereafter (or pursuant to Section 2.12 or Section 2.13 in lieu of a meeting), directors shall be elected. The candidates receiving the most votes shall be elected.

3.6 Removal of Directors. At any annual, regular or special meeting of the Association at which a quorum is present, any director(s) elected by the members may be removed, with or without cause, by a majority of the members present and entitled to vote and a successor may then and there be elected to fill the vacancy thus created. The notice of the meeting shall state that the purpose, or one of the purposes, of the meeting is removal of a director. A director whose removal by the members has been proposed shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a majority vote of the remaining directors.

3.7 Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors. Each Person so selected shall serve the unexpired portion of the term.

3.8 Organization Meetings. The first meeting of a newly elected Board of Directors shall be held within ten (10) days after the election at such time and place as the directors may conveniently assemble.

3.9 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board, provided that, after the right of Declarant to appoint the directors terminates, at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.10 Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the date, time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery (including commercial delivery service) to such director's home or office; (b) written notice by first class mail, postage prepaid; or (c) by telephone communication (including facsimile), either directly to the director or to the director's home or office. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the

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Association. Notices sent by first class mail shall be deposited with the U.S. Postal Service at least four (4) days before the time set for the meeting. Notices given by personal delivery or telephone shall be given at least two (2) days before the day set for the meeting.

3.11 Waiver of Notice. The business transacted at any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if a quorum is present at the beginning of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present at the beginning of the meeting shall constitute the decision of the Board of Directors.

3.13 Compensation. No director shall receive any compensation from the Association for acting as such.

3.14 Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

3.15 Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.16 Action Without A Formal Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records.

3.17 Telephonic Participation. One or more directors may participate in and vote during any meeting of the Board by telephone conference call or any other means of communication by which all directors participating may simultaneously hear each other during the meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

3.18 Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by law, the Declaration, Articles, or these Bylaws directed to be done and exercised by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

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(a) preparation and adoption of an annual budget in which there shall be established the contribution of each member to the common expenses;

(b) making assessments to defray the common expenses and establishing the means and methods of collecting such assessments;

(c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the members concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(j) keeping books with detailed accounts of the receipts and expenditures of the Association and the actions thereof, and specifying the maintenance and repair expenses and any other expenses incurred; and

(k) authorization of contracts on behalf of the Association.

3.19 Management Agent. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days' written notice. The Board of Directors shall not delegate any power or authority of the Board to the managing agent or any other Person.

3.20 Borrowing. The Board of Directors shall have the power to borrow money without the approval of the members of the Association; provided, however, except as otherwise

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provided in the Declaration, the Board shall obtain membership approval in the same manner as for special assessments, in the event that the total amount of such borrowing exceeds or would exceed ten percent (10%) of the annual budget of the Association.

3.21 Fining Procedure. The Board shall not impose a fine (a late charge shall not constitute a fine) until the following procedure is followed:

(a) Written notice shall be delivered to the member by first-class or certified mail sent to the address of the member shown on the Association's records, specifying:

- (1) the nature of the violation, the fine to be imposed and the date, not less than fifteen (15) days from the date of the notice, that the fine will take effect;
- (2) that the violator may, within ten (10) days from the date of the notice, request a hearing regarding the fine imposed;
- (3) the name, address and telephone numbers of a person to contact to challenge the fine;
- (4) that any statements, evidence, and witnesses may be produced by the violator at the hearing; and
- (5) that all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

(b) If a hearing is requested, it shall be held before the Board in executive session, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. No fine shall be imposed prior to the date that is five (5) days after the date of the hearing.

Article 4 Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President and Treasurer shall also be directors.

4.2 Election, Term of Office, and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association, the officers of the Association shall be appointed annually by the Board of Directors at the first meeting of the Board of Directors following the election of directors. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

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4.3 Additional Officers and Agents. The Board of Directors may appoint such other officers, including vice presidents, assistant secretaries and assistant treasurers, and agents as it shall deem necessary. Such officers and agents shall hold their respective offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the board of directors.

4.4 Salaries. The officers shall receive no compensation.

4.5 Removal. Except for officers appointed by the Declarant, any officer may be removed, with or without cause, by the Board of Directors.

4.6 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and directors. The immediate supervision of the affairs of the Association shall be vested in the President. It shall be the President's duty to attend to the business of the Association and maintain strict supervision over all of its affairs and interests. The President shall have the authority to prepare, execute, certify and record any amendment to the Declaration made on behalf of the Association. The President shall keep the Board of Directors fully advised about the affairs and conditions of the Association, and shall manage and operate the business of the Association pursuant to and in accordance with such policies as may be prescribed from time to time by the Board of Directors.

4.7 Vice President. The Vice President(s), if any, shall act in the President's absence or disability and shall have all powers, duties, and responsibilities provided for the President when so acting, and shall perform such other duties as shall from time to time be imposed upon any Vice President by the Board or delegated to a Vice President by the President.

4.8 Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors; notify the members and directors of meetings as provided by these bylaws and North Carolina law; have custody of the seal of the Association; affix such seal to any instrument requiring the same; attest the signature or certify the incumbency or signature of any officer of the Association; and perform such other duties as the President, or the Board of Directors may prescribe. The Secretary shall perform the duties of the Treasurer of the Association in the absence or disability of the Treasurer.

4.9 Treasurer. The Treasurer shall keep, or cause to be kept, the financial books and records of the Association, and shall faithfully account for the Association's funds, financial assets, and other assets entrusted to the Treasurer's care and custody. The Treasurer shall make such reports as may be necessary to keep the President and the Board of Directors informed at all times as to the financial condition of the Association, and shall perform such other duties as the President, or the Board of Directors may prescribe. The Treasurer shall maintain the money and other assets of the Association in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer may provide for the investment of the money and other assets of the Association consistent with the needs of the Association to disburse such money and assets in the course of the Association's business. The Treasurer shall perform the duties of the Secretary of the Association in the absence or disability of the Secretary.

4.10 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article 5
Committees

Advisory committees to perform such tasks and to serve for such periods as may be designated by the Board or as provided in the Declaration are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the Declaration or resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. An advisory committee shall not be authorized to exercise any authority of the Board under the Articles of Incorporation, the Declaration, these Bylaws or the Non-Profit Corporation Law of the State of North Carolina.

Article 6
Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by resolution of the Board.

6.2 Parliamentary Rules. *Roberts Rules of Order* (current edition) shall govern the conduct of all Association proceedings, when not in conflict with North Carolina law, the Articles of Incorporation, the Declaration or these Bylaws.

6.3 Conflicts. If there are conflicts or inconsistencies between the provisions of North Carolina law, the Articles of Incorporation, the Declaration and these Bylaws, the provisions of North Carolina law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

6.4 Amendment. These Bylaws may be amended by the Board of Directors with the consent of the Declarant if such amendment is necessary to: (a) bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) enable an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase Mortgage loans on the Lots subject to the Declaration; or (d) enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration. In addition, these Bylaws may be amended upon the affirmative vote of at least two-thirds (2/3) of the Total Association Vote and the consent of Declarant; provided, however, that the U.S. Department of Housing and Urban Development (has issued a project approval for the insuring of any mortgage in the Community) shall have the

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right to veto amendments to these Bylaws for as long as the Declarant has the right to appoint and remove the directors and officers of the Association.

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Laura M Riddick
Register of Deeds
Wake County, NC



Book : 009915 Page : 01290 - 01342

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina - Wake County

The foregoing certificate___ of Adrienne Mabry

____ Notary(ies) 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. Riddick, Register of Deeds

By: Vernon S. Pearson
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
53 New Time Stamp
_____ # of Pages

EXHIBIT "C"

BYLAWS
OF
WINDCREST COMMUNITY ASSOCIATION, INC.

Prepared By:
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BYLAWS
OF
WINDCREST COMMUNITY ASSOCIATION, INC.

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BYLAWS
OF
WINDCREST COMMUNITY ASSOCIATION, INC.

Article 1
Name, Membership, Applicability and Definitions

1.1 Name. The name of the corporation shall be Windcrest Community Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 Membership. The Association shall have one class of membership, as is more fully set forth in the Declaration of Protective Covenants for Windcrest (such Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

1.3 Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article 2
Association: Meetings, Quorum, Voting, Proxies

2.1 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

2.2 Annual Meetings. There shall be an annual meeting of the members at such date, place and time as the Board of Directors shall determine to receive the reports of the outgoing Board of Directors, to install directors for the ensuing year and to transact such other business as may come before the meeting.

2.3 Special Meetings. The President or the Board of Directors may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association upon the delivery of a petition signed and dated by members entitled to cast at least ten percent (10%) of the Total Association Vote and describing the purpose or purposes for which it is to be held. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose(s) thereof. No business shall be transacted at a special meeting, except those matters that are within the purpose or purposes described in the notice.

2.4 Record Date. The Board of Directors shall fix in advance a record date for a determination of members entitled to notice of and to vote at any meeting of members or any adjournment thereof, or to make a determination of members for any other purpose, such date to

be not more than seventy (70) days before the date on which the particular action requiring such determination of members is to be taken.

2.5 Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Lot of each member (as shown in the records of the Association as of the record date) a notice of each annual or special meeting of the Association stating the date, time and place where it is to be held and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes and any proposal to remove a director or officer. If an Owner wishes notice to be given at an address other than the Lot, the Owner shall designate by notice in writing to the Secretary such other address. Notices shall be mailed or delivered not less than ten (10) days nor more than sixty (60) days before the meeting. If any meeting of the members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If, however, a new record date is or must be fixed under the Governing Law notice of the adjourned meeting shall be given to persons who are members of record as of the new record date.

2.6 Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, signed by the member, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of lack of notice or defective notice, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. The quorum shall be reduced by fifty (50%) per cent at the next meeting as provided in the North Carolina Planned Community Act. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.8 Membership List. After the record date for any meeting is established by the Board of Directors, the Secretary shall prepare an alphabetical list of the names and addresses of all of the members who are entitled to notice of the meeting. Beginning at least two (2) business days after notice is given of the meeting for which the list was prepared, the list of members shall be available for inspection by any member or a member's agent or attorney at the Association's principal office or at such other reasonable place as may be specified in the notice. In addition, the list shall be available for inspection at the meeting or any adjournment thereof.

2.9 Voting. The voting rights of the members shall be as set forth in the Articles of Incorporation and the Declaration, and such voting rights are specifically incorporated herein.

2.10 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxy appointment forms shall be in writing, dated, and filed with the person presiding over a meeting before the appointed time of each meeting. A Proxy is void if not

dated. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of actual notice by the person presiding over a meeting of the revocation of the proxy or the death or judicially declared incompetence of the member; (b) receipt by the person presiding over a meeting of a subsequent appointment form signed by the member; or (c) the expiration of eleven (11) months from the date of the proxy appointment form.

2.11 Quorum. The presence, in person or by proxy, of members entitled to cast at least ten percent (10%) of the votes entitled to be cast at the meeting shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Article 3

Board of Directors: Number, Powers, Meetings

3.1 Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors. Directors shall be natural persons who are eighteen (18) years of age or older. Except for directors appointed by the Declarant, each director must reside in the Community and be a member or the spouse of a member; provided, however, no Person may serve on the Board at the same time with such Person's spouse or any co-Owner or Occupant of such Person's Lot.

3.2 Directors Appointed by Declarant. The Declarant shall have the right to appoint or remove any director(s) or any officer(s) of the Association until such time as the first of the following events shall occur: (a) the expiration of five (5) years after the date of the recording of the Declaration; (b) the date on which seventy-five percent (75%) of the Lots planned by Declarant to be a part of the Community shall have been improved with a dwelling and conveyed to an Owner for occupancy as a residence; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. The directors appointed by the Declarant need not be Owners or residents in the Community. The total number of lots planned by Declarant for the Community shall initially be the number of Lots shown on the Declarant's land use plan for the development as it may be amended from time to time. Inclusion of property on the land use plan shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land use plan bar Declarant from subjecting such property to the Declaration. The final total number of Lots planned for the Community shall be the actual number of Lots shown on the recorded subdivision plats for the Community regardless of any different number of Lots shown from time to time on the land use plan.

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of from one to three members as determined by Declarant in writing from time to time. Thereafter, the Board shall consist of three directors, with at least one (1) director from each Neighborhood, who shall be elected as provided below. The number of directors of the Board shall be increased if necessary so that there is always an odd number of directors.

3.4 Nomination of Directors. Elected directors may be nominated from the floor, if a meeting is held for the election of directors and may also be nominated by a nominating committee, if established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.12 or Section 2.13 in lieu of a meeting) and the members shall elect directors. Each Neighborhood shall elect at least one (1) director, with the remaining directors to be elected at large. The members of the Board of Directors shall hold office for one (1) year and shall continue in office until their respective successors shall have been elected and take office. At annual meetings of the membership thereafter (or pursuant to Section 2.12 or Section 2.13 in lieu of a meeting), directors shall be elected. The candidates receiving the most votes shall be elected.

3.6 Removal of Directors. At any annual, regular or special meeting of the Association at which a quorum is present, any director(s) elected by the members may be removed, with or without cause, by a majority of the members present and entitled to vote and a successor may then and there be elected to fill the vacancy thus created. The notice of the meeting shall state that the purpose, or one of the purposes, of the meeting is removal of a director. A director whose removal by the members has been proposed shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a majority vote of the remaining directors.

3.7 Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors. Each Person so selected shall serve the unexpired portion of the term.

3.8 Organization Meetings. The first meeting of a newly elected Board of Directors shall be held within ten (10) days after the election at such time and place as the directors may conveniently assemble.

3.9 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board, provided that, after the right of Declarant to appoint the directors terminates, at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.10 Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the date, time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery (including commercial delivery service) to such director's home or office; (b) written notice by first class mail, postage prepaid; or (c) by telephone communication (including facsimile), either directly to the director or to the director's home or office. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the

Association. Notices sent by first class mail shall be deposited with the U.S. Postal Service at least four (4) days before the time set for the meeting. Notices given by personal delivery or telephone shall be given at least two (2) days before the day set for the meeting.

3.11 Waiver of Notice. The business transacted at any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if a quorum is present at the beginning of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present at the beginning of the meeting shall constitute the decision of the Board of Directors.

3.13 Compensation. No director shall receive any compensation from the Association for acting as such.

3.14 Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

3.15 Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.16 Action Without A Formal Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records.

3.17 Telephonic Participation. One or more directors may participate in and vote during any meeting of the Board by telephone conference call or any other means of communication by which all directors participating may simultaneously hear each other during the meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

3.18 Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by law, the Declaration, Articles, or these Bylaws directed to be done and exercised by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each member to the common expenses;

(b) making assessments to defray the common expenses and establishing the means and methods of collecting such assessments;

(c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the members concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(j) keeping books with detailed accounts of the receipts and expenditures of the Association and the actions thereof, and specifying the maintenance and repair expenses and any other expenses incurred; and

(k) authorization of contracts on behalf of the Association.

3.19 Management Agent. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days' written notice. The Board of Directors shall not delegate any power or authority of the Board to the managing agent or any other Person.

3.20 Borrowing. The Board of Directors shall have the power to borrow money without the approval of the members of the Association; provided, however, except as otherwise

provided in the Declaration, the Board shall obtain membership approval in the same manner as for special assessments, in the event that the total amount of such borrowing exceeds or would exceed ten percent (10%) of the annual budget of the Association.

3.21 Fining Procedure. The Board shall not impose a fine (a late charge shall not constitute a fine) until the following procedure is followed:

(a) Written notice shall be delivered to the member by first-class or certified mail sent to the address of the member shown on the Association's records, specifying:

- (1) the nature of the violation, the fine to be imposed and the date, not less than fifteen (15) days from the date of the notice, that the fine will take effect;
- (2) that the violator may, within ten (10) days from the date of the notice, request a hearing regarding the fine imposed;
- (3) the name, address and telephone numbers of a person to contact to challenge the fine;
- (4) that any statements, evidence, and witnesses may be produced by the violator at the hearing; and
- (5) that all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

(b) If a hearing is requested, it shall be held before the Board in executive session, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. No fine shall be imposed prior to the date that is five (5) days after the date of the hearing.

Article 4 Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President and Treasurer shall also be directors.

4.2 Election, Term of Office, and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association, the officers of the Association shall be appointed annually by the Board of Directors at the first meeting of the Board of Directors following the election of directors. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

4.3 Additional Officers and Agents. The Board of Directors may appoint such other officers, including vice presidents, assistant secretaries and assistant treasurers, and agents as it shall deem necessary. Such officers and agents shall hold their respective offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the board of directors.

4.4 Salaries. The officers shall receive no compensation.

4.5 Removal. Except for officers appointed by the Declarant, any officer may be removed, with or without cause, by the Board of Directors.

4.6 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and directors. The immediate supervision of the affairs of the Association shall be vested in the President. It shall be the President's duty to attend to the business of the Association and maintain strict supervision over all of its affairs and interests. The President shall have the authority to prepare, execute, certify and record any amendment to the Declaration made on behalf of the Association. The President shall keep the Board of Directors fully advised about the affairs and conditions of the Association, and shall manage and operate the business of the Association pursuant to and in accordance with such policies as may be prescribed from time to time by the Board of Directors.

4.7 Vice President. The Vice President(s), if any, shall act in the President's absence or disability and shall have all powers, duties, and responsibilities provided for the President when so acting, and shall perform such other duties as shall from time to time be imposed upon any Vice President by the Board or delegated to a Vice President by the President.

4.8 Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors; notify the members and directors of meetings as provided by these bylaws and North Carolina law; have custody of the seal of the Association; affix such seal to any instrument requiring the same; attest the signature or certify the incumbency or signature of any officer of the Association; and perform such other duties as the President, or the Board of Directors may prescribe. The Secretary shall perform the duties of the Treasurer of the Association in the absence or disability of the Treasurer.

4.9 Treasurer. The Treasurer shall keep, or cause to be kept, the financial books and records of the Association, and shall faithfully account for the Association's funds, financial assets, and other assets entrusted to the Treasurer's care and custody. The Treasurer shall make such reports as may be necessary to keep the President and the Board of Directors informed at all times as to the financial condition of the Association, and shall perform such other duties as the President, or the Board of Directors may prescribe. The Treasurer shall maintain the money and other assets of the Association in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer may provide for the investment of the money and other assets of the Association consistent with the needs of the Association to disburse such money and assets in the course of the Association's business. The Treasurer shall perform the duties of the Secretary of the Association in the absence or disability of the Secretary.

4.10 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article 5
Committees

Advisory committees to perform such tasks and to serve for such periods as may be designated by the Board or as provided in the Declaration are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the Declaration or resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. An advisory committee shall not be authorized to exercise any authority of the Board under the Articles of Incorporation, the Declaration, these Bylaws or the Non-Profit Corporation Law of the State of North Carolina.

Article 6
Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by resolution of the Board.

6.2 Parliamentary Rules. *Roberts Rules of Order* (current edition) shall govern the conduct of all Association proceedings, when not in conflict with North Carolina law, the Articles of Incorporation, the Declaration or these Bylaws.

6.3 Conflicts. If there are conflicts or inconsistencies between the provisions of North Carolina law, the Articles of Incorporation, the Declaration and these Bylaws, the provisions of North Carolina law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

6.4 Amendment. These Bylaws may be amended by the Board of Directors with the consent of the Declarant if such amendment is necessary to: (a) bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) enable an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase Mortgage loans on the Lots subject to the Declaration; or (d) enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration. In addition, these Bylaws may be amended upon the affirmative vote of at least two-thirds (2/3) of the Total Association Vote and the consent of Declarant; provided, however, that the U.S. Department of Housing and Urban Development (has issued a project approval for the insuring of any mortgage in the Community) shall have the

right to veto amendments to these Bylaws for as long as the Declarant has the right to appoint and remove the directors and officers of the Association.

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Laura M Riddick
Register of Deeds
Wake County, NC



Book : 009915 Page : 01298 - 01342

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina - Wake County

The foregoing certificate ___ of

Adrienne Mabry

____ Notary(ies) 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. Riddick, Register of Deeds

By: Vernon S. Geron
Assistant Deputy Register of Deeds

This Customer Group
____ # of Time Stamps Needed

This Document
53 New Time Stamp
of Pages

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WAKE COUNTY, NC 67
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
11/23/2004 AT 09:19:21

BOOK:011113 PAGE:00754 - 00761

Upon recording return to:
Adrienne Mabry
KB HOME RALEIGH-DURHAM LLC
1100 Navaho Drive, Suite GL3
Raleigh, NC 27609

Cross Reference:
Deed Book 9915; Page 1290-1342

**FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS
FOR WINDCREST**

THIS AMENDMENT (hereinafter referred to as the "Amendment") to the Declaration of Protective Covenants for Windcrest is made this 22nd day of November, 2004, by **COLONY HOMES, L.L.C.**, a Georgia limited liability company (hereinafter referred to as the "Declarant") and **WINDCREST COMMUNITY ASSOCIATION, INC.**, a North Carolina nonprofit corporation (hereinafter referred to as the "Association").

W I T N E S S E T H:

WHEREAS, Declarant executed that certain Declaration of Protective Covenants for Windcrest which was recorded on February 17, 2003 in Deed Book 9915, page 1290, *et seq.*, in the Wake County Public Registry (hereinafter as supplemented and/or amended from time to time, the "Declaration"); and

WHEREAS, the Association is a non-profit corporation organized under the North Carolina Nonprofit Corporation Act to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, the Declarant and the Association desire to amend the Declaration as set forth herein and intend for this Amendment to be prospective only; and

WHEREAS, pursuant to Section 12.6 of the Declaration, the Declaration may be amended upon the affirmative vote or written agreement of the Owners to which at least sixty-seven (67%) percent of the Total Association Vote is allocated and the consent of Declarant (until the earlier of: (a) the date that the Declarant no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community and a certificate of occupancy has been issued for a dwelling on each Lot in the

Community; or (b) the date of recording by Declarant in the real estate records of the county where the Community is located of a written instrument terminating its consent rights); and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is a certification by the Association, which certification states unequivocally that this Amendment was approved by the affirmative vote or written agreement of the Owners to which at least sixty-seven (67%) percent of the Total Association Vote is allocated, as provided in the Declaration;

NOW THEREFORE, Declarant and the Association hereby adopt this Amendment to the Declaration, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

The Declaration is hereby amended by deleting Section 5.1 of the Declaration in its entirety and inserting in lieu thereof the following new Section 5.1:

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain (whether or not constituting Common Property): (a) all Community entry features, including entry area landscaping and any irrigation system and the expenses for water and electricity, if any, provided to all such entry features; (b) all storm water detention/retention ponds and storm water drainage facilities serving the Community, if and to the extent such facilities are not maintained by the owner of such facilities or a government body; (c) all Community recreational facilities; (d) all Community greenbelt and open spaces to the extent such open space is not dedicated and maintained by the Town of Holly Springs; (e) the landscaping improvements located on the front yard of a Lot up to the side yard fence in any Neighborhood designated as a "Village Neighborhood" as provided in Article 6; (f) all property outside of Lots located within the Community which was originally maintained by Declarant; (g) all street trees required by the Town of Holly Springs, North Carolina to be placed on any Lot within the Community; and (h) all perimeter buffer areas shown on the recorded plat(s) of the Community. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community and to enter into easements and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or

replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment. All maintenance by the Association shall be performed consistent with the Community-Wide Standard.

2.

The Declaration is hereby amended by deleting Section 8.27 of the Declaration in its entirety and inserting in lieu thereof the following new Section 8.27:

8.27 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. The side of all window treatments, with the exception of stained wood blinds or shutters, which can be seen at any time from the outside of any structure located on a Lot must be white or off-white.

3.

The Declaration is hereby amended by deleting Section 8.29 of the Declaration in its entirety and inserting in lieu thereof the following new Section 8.29:

8.29 Buffer Areas. All areas designated as "Buffer Areas" on the Master Plan or the recorded plat(s) of the Community shall be left in their undisturbed, natural state and no improvements may be constructed, erected, placed or allowed to remain thereon except utility lines and easements and pedestrian and vehicular access ways (including streets and roads); provided, however, Declarant and the Association and the Owner of any Lot adjacent to such areas (with the prior written consent of the Architectural Review Committee) may plant trees, flowers and shrubs in such areas, subject to further provisions of this paragraph. For all areas within the Community designated as "Neuse River Buffers" (hereafter "NRBs"), all Owners, the Declarant and the Association shall abide by all local, state and federal regulations concerning such NRBs, including, but not limited to, those rules contained in the North Carolina Administrative Code at 15 N.C.A.C. §§ 2B.0233 through .0242.

4.

Unless otherwise defined herein, the words used in this Amendment shall have the same meaning as set forth in the Declaration.

5.

This Amendment shall be effective only upon being recorded in the records of the Register of Deeds of Wake County, North Carolina and shall be enforceable against current Owners of a Lot subject to the Declaration.

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6.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant hereby executes this instrument under seal on the date first above written.

DECLARANT: COLONY HOMES, L.L.C., a Georgia limited liability company

By: Patrick G. Sullivan (SEAL)
Name: Patrick G. Sullivan
Title: Director of Land Development

STATE OF North Carolina
COUNTY OF Harnett

I, a Notary Public of the County and State aforesaid, certify that Patrick G. Sullivan personally appeared before me this day and acknowledges that he/she is the Dir. of Land Dev. of Colony Homes, L.L.C., a Georgia limited liability company, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by its Director of Land Development

Witness my hand and official stamp or seal, this 22nd day of November, 2004



Susan M. Harper
Notary Public

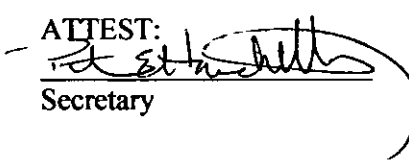
My Commission Expires: July 30, 2007

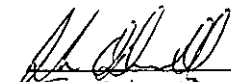
[SIGNATURES CONTINUE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association hereby executes this instrument under seal on the date first above written.

ASSOCIATION: **WINDCREST
COMMUNITY ASSOCIATION,
INC.,** a North Carolina nonprofit
corporation

ATTEST:


Secretary

By: 

Name: JOHN O'DONNELL

Title: President

[AFFIX CORPORATE SEAL]

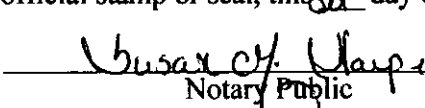
STATE OF North Carolina

COUNTY OF Harnett

I, a Notary Public, do hereby certify that John O'Donnell personally came before me this day and acknowledged that he/she is Secretary of Windcrest Community Association, Inc., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by Patricia E. Handelle as its Secretary.

Witness my hand and official stamp or seal, this 24 day of November, 2004

[stamp/seal]


Notary Public

30
2007

My Commission Expires: July 30, 2007



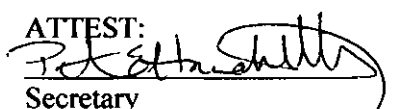
Exhibit "A"

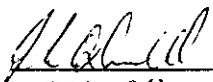
CERTIFICATION OF VALIDITY OF
FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS FOR
WINDCREST

By the authority of its Board of Directors, the Windcrest Community Association, Inc. hereby certifies that the foregoing instrument was approved by the affirmative vote or written agreement of the Owners to which at least sixty-seven (67%) percent of the Total Association Vote is allocated, as provided in the Declaration (as defined in such instrument).

As of the 22nd day of November, 2004.

**WINDCREST
COMMUNITY ASSOCIATION,
INC.**, a North Carolina nonprofit
corporation

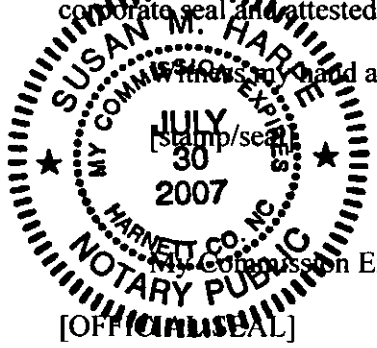
ATTEST:

Secretary

By: 
Name: JOHN O'DONNELL
Title: President

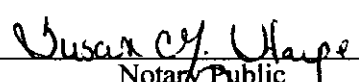
[AFFIX CORPORATE SEAL]

STATE OF North Carolina
COUNTY OF Harnett

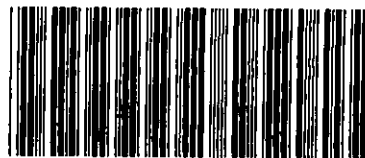
I, a Notary Public, do hereby certify that John O'Donnell personally came before me this day and acknowledged that he/she is Secretary of Windcrest Community Association, Inc., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by Patricia E. Hackett as its Secretary.



Witness my hand and official stamp or seal, this 22nd day of November, 2004


Notary Public

My Commission Expires: July 30, 2007
[OFFICIAL SEAL]



BOOK:011113 PAGE:00754 - 00761

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina – Wake County

The foregoing certificate ___ of Susan M Harpe

____ Notary(ies) 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. Riddick, Register of Deeds

By: James Morgan
Assistant/Deputy Register of Deeds

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_____ # of Time Stamps Needed

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_____ New Time Stamp
_____ # of Pages

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WAKE COUNTY, NC 397
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/10/2005 AT 13:07:09

BOOK:011353 PAGE:01765 - 01772

Upon recording return to:
Adrienne Mabry
KB HOME RALEIGH-DURHAM LLC
1100 Navaho Drive, Suite GL3
Raleigh, NC 27609

Cross Reference:
Deed Book 9915; Page 1290-1342

**FIRST AMENDMENT TO THE BYLAWS OF WINDCREST COMMUNITY
ASSOCIATION, INC.**

THIS AMENDMENT (hereinafter referred to as the "Amendment") to the Bylaws of Windcrest Community Association, Inc. is made this 25th day of March, 2005, by **COLONY HOMES, L.L.C.**, a Georgia limited liability company (hereinafter referred to as the "Declarant") and **WINDCREST COMMUNITY ASSOCIATION, INC.**, a North Carolina nonprofit corporation (hereinafter referred to as the "Association").

W I T N E S S E T H:

WHEREAS, Declarant executed that certain Declaration of Protective Covenants for Windcrest which was recorded on February 17, 2003 in Deed Book 9915, page 1290, *et seq.*, in the Wake County Public Registry (hereinafter as supplemented and/or amended from time to time, the "Declaration"); and

WHEREAS, attached to the Declaration and recorded therewith as Exhibit "C" thereof are the Bylaws of the Windcrest Community Association, Inc. (hereinafter as supplemented and/or amended from time to time, the "Bylaws"); and

WHEREAS, the Association is a non-profit corporation organized under the North Carolina Nonprofit Corporation Act to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, the Declarant and the Association desire to amend the Bylaws as set forth herein and intend for this Amendment to be prospective only; and

WHEREAS, pursuant to Section 6.4 of the Bylaws, the Bylaws may be amended upon the affirmative vote of at least two-thirds (2/3) of the Total Association Vote and the consent of

Declarant (until the earlier of: (a) the date that the Declarant no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant in the real estate records of the county where the Community is located of a written instrument terminating its consent rights); and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is a certification by the Association, which certification states unequivocally that this Amendment was approved by the affirmative vote of at least two-thirds (2/3) of the Total Association Vote, as provided in the Bylaws;

NOW THEREFORE, Declarant and the Association hereby adopt this Amendment to the Bylaws.

1.

The Bylaws are hereby amended by adding the following new Sections 2.12 and 2.13 to the end of Article II of the Bylaws:

2.12 Action Without A Formal Meeting. Any action required or permitted to be approved by the members may be approved without a meeting if one (1) or more consents, in writing, setting forth the action so taken, shall be signed and dated by all members (including the Declarant, if the consent of the Declarant is required) entitled to vote on the action. The record date for such action shall be the date that the first member signs a consent. Each signed consent shall be included in the minutes of meetings of members filed in the permanent records of the Association.

2.13 Action By Written Ballot. Any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked. Approval by written ballot of an action shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

2.

The Bylaws are hereby amended by deleting Section 3.3 of the Bylaws in its entirety and inserting in lieu thereof the following new Section 3.3:

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of from one to three directors as determined by Declarant in writing from time to time. Thereafter, the Board shall consist of three or more directors, with at least one (1) director from each Neighborhood, who shall be elected as provided below. The number of directors of the Board shall be increased if necessary so that there is always an odd number of directors.

3.

The Bylaws are hereby amended by deleting Section 3.5 of the Bylaws in its entirety and inserting in lieu thereof the following new Section 3.5:

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.12 and Section 2.13 in lieu of a meeting) and the members shall elect at least three (3) directors (the number of directors to be determined by the Board based, in part, on the number of Neighborhoods and in accordance with Section 3.4 above) as provided below. Each Neighborhood shall elect at least one (1) director with the remaining directors to be elected at large. The initial term of the majority of the directors receiving the most votes shall be fixed at two (2) years, and thereafter successors shall be elected to a term of two (2) years; the initial term of the remaining directors shall be fixed at one (1) year, and thereafter successors shall be elected to a term of two (2) years. At annual meetings thereafter, directors shall be elected as necessary to fill vacant seats on the Board. A quorum must be present at the meeting. All eligible members of the Association shall vote on all directors to be elected, and the candidates receiving the most votes shall be elected.

4.

Unless otherwise defined herein, the words used in this Amendment shall have the same meaning as set forth in the Declaration.

5.

This Amendment shall be effective only upon being recorded in the records of the Register of Deeds of Wake County, North Carolina and shall be enforceable against current Owners of a Lot subject to the Declaration.

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6.

Except as herein modified, the Bylaws shall remain in full force and effect.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant hereby executes this instrument under seal on the date first above written.

DECLARANT: COLONY HOMES, L.L.C., a Georgia limited liability company

By: *Patricia E. Hanchette* (SEAL)
Name: Patricia E. Hanchette
Title: President

STATE OF North Carolina
COUNTY OF Wake

I, a Notary Public of the County and State aforesaid, certify that Patricia E. Hanchette personally appeared before me this day and acknowledges that he/she is the President of Colony Homes, L.L.C., a Georgia limited liability company, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by its President.

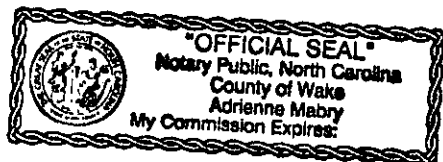
Witness my hand and official stamp or seal, this 25th day of March, 2005.

[stamp/seal]

Adrienne Mabry
Notary Public

My Commission Expires: 12-11-06

[OFFICIAL SEAL]



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

BK011353PG01770

IN WITNESS WHEREOF, the Association hereby executes this instrument under seal on the date first above written.

ASSOCIATION: WINDCREST
COMMUNITY ASSOCIATION,
INC., a North Carolina nonprofit
corporation

By: *[Signature]*
Name: John O'Donnell
Title: President

ATTEST:

[Signature]
Secretary

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Adrienne Mabry, a notary public of Wake County, North Carolina, do hereby certify that Patricia E. Hanchette personally came before me this day and acknowledged that she is the Secretary of Windcrest Community Association, Inc., a North Carolina nonprofit corporation, and that by authority duly give and as the act of the corporation, the foregoing instrument was signed in its name by its President John O'Donnell, sealed with its corporate seal and attested by Patricia E. Hanchette as its Secretary.

Witness my hand and official seal, this the 25th day of March, 2005.

Adrienne Mabry
Adrienne Mabry, Notary Public

My commission expires 12-11-2006

[OFFICIAL SEAL]

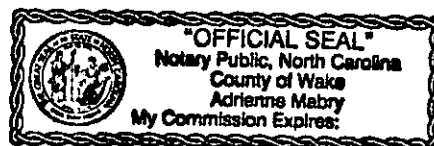


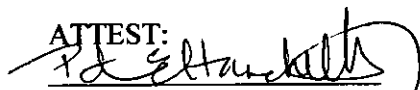
Exhibit "A"

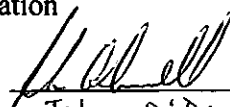
CERTIFICATION OF VALIDITY OF
FIRST AMENDMENT TO THE BYLAWS OF WINDCREST COMMUNITY ASSOCIATION,
INC.

By the authority of its Board of Directors, the Windcrest Community Association, Inc. hereby certifies that the foregoing instrument was approved by the affirmative vote of at least two-thirds (2/3) of the Total Association Vote, as provided in the Bylaws (as defined in such instrument).

As of the 25th day of March, 2005.

**WINDCREST
COMMUNITY ASSOCIATION,
INC.**, a North Carolina nonprofit
corporation

ATTEST:

Secretary

By: 
Name: John O'Donnell
Title: President

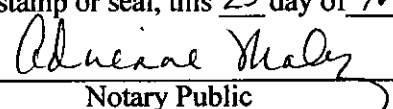
[AFFIX CORPORATE SEAL]

STATE OF North Carolina
COUNTY OF Wake

I, a Notary Public, do hereby certify that Patricia E. Hanchette  personally came before me this day and acknowledged that ~~he~~/she is Secretary of Windcrest Community Association, Inc., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its president John O'Donnell sealed with its corporate seal and attested by Patricia E. Hanchette as its Secretary.

Witness my hand and official stamp or seal, this 25th day of March, 2005.

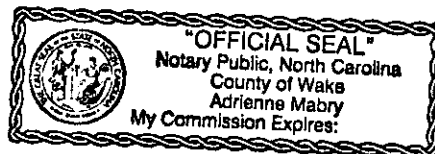
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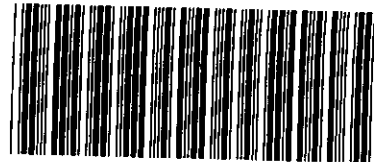

Notary Public

My Commission Expires: 12-11-2006

[OFFICIAL SEAL]

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Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina – Wake County

The foregoing certificate of Adrienne Malory

Notary(ies) 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. Riddick, Register of Deeds

By: Jana Morgan
Assistant/Deputy Register of Deeds

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