WAKE COUNTY, NC 212
LAURA M RIDDICK
REGISTER OF DEEDS
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Prepared by and hold for Garland L. Askew #13

NORTH CAROLINA

WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ROSEMOOR PLACE

THIS DECLARATION made this 15 day of April, 2006, by Daniel W. Williford and wife, Margaret E. Williford, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in St. Marys Township, Wake County, North Carolina, and more particularly described as follows:

> BEING all of that 48.63 acre, more or less tract of land located on Buffaloe Road conveyed to Declarant by deed recorded in Book 11257, Page 1569, Wake County Registry.

WHEREAS, Declarant will convey the said property, subject to certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold, used, mortgaged, occupied and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, restrictions, covenants, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Rosemoor Place Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" shall mean and refer to that certain real property hereinabove described.

Section 4. "Lot" shall mean and refer to: All of those numbered lots (Lots 1 through 41, inclusive) to be shown on map or maps of Rosemoor Place Subdivision to be recorded in Wake County Registry.

Section 5. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

Section 6. "Declarant" shall mean and refer to Daniel W. Williford and Margaret E. Williford, their successors and assigns.

Section 7. "Landscape Buffer Areas" shall mean a strip of land identified as such in the recorded plat adjacent to Buffaloe Road including earth berms, trees, shrubs, plantings, lighting, irrigation and entrance signs as shown on the recorded plat of the subdivision.

Section 8. "Private Open Space" shall mean those parcels of land identified as such in the recorded plat within the subdivision including detention ponds, trees, shrubs, plantings and pathways as shown on the recorded plat of the subdivision.

Section 9. "Common Properties" shall mean and refer to all real property to be owned by the Association in fee simple or by easement for the common use and enjoyment of the owners of Lots within Rosemoor Place Subdivision.

ARTICLE II

PROPERTY DEVELOPMENT PLAN

Section 1. The Declarant proposes to develop the property as single-family residential building lots.

Section 2. The ownership of easements for installation and maintenance of utilities as reserved herein, are reserved by the Declarant for conveyance to a public or private utility company or companies, to a municipality, or the Association.

Section 3. The responsibility for maintaining the public streets and roadways within the property shall remain with Declarant until such time as said streets and roadways are an accepted street system of the Town of Garner or the North Carolina Department of Transportation (NC DOT), or until all lots are sold, whichever shall first occur. If all lots are sold before the streets and roadways are accepted by the Town of Garner or the North Carolina Department of Transportation (NC DOT), the owners of lots in the subdivision shall share on a pro rata basis the responsibility for maintaining the public streets and roadways.

ARTICLE III

PROPERTY RIGHTS

Section 1. OWNER'S EASEMENT OF ENJOYMENT. Every owner shall have a right and easement of enjoyment in and to the common areas and facilities now or hereafter established which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association. In such event a hearing shall be held before an adjudicatory panel appointed by the Executive Board to determine if such Lot owner should be fined or if privileges or services should be suspended. If the Executive Board fails to appoint a adjudicatory panel to hear such matters, hearings under this section shall be held before the Executive Board. The lot owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. A fine not to exceed fifty dollars ($50.00) may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs. Such fines shall be assessed secured by liens under NCGS Sec. 47F-3-116. Any imposition of a suspension of privileges or services may be continued without further hearing until the violation or delinquency is cured.

(b) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless at least two-thirds (2/3rd) of each Class of Members agree to such dedication or transfer and signify their agreement by a signed and recorded document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewage, utility (including CATV) and drainage facilities upon, over, under and across the Common Properties without the assent of the Members when, in the opinion of the Board, such easements are necessary for the convenient use and enjoyment of the Properties. Notwithstanding anything herein to the contrary, the Declarant may recombine any portion of the Common Properties with a Lot pursuant to the terms of Article VIII, Section 1. herein and in accord with applicable governmental regulations and upon approval by the appropriate governmental authority;

(c) The right of the Association, with the written assent of Members entitled to at least two-thirds (2/3rd) of the votes of each Class of member to mortgage, pledge, deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the property rights of the Owners and Association as set forth herein.

(d) The right of the Association, to exchange any portion of the Common Properties for other properties provided that:

1. written notice of the exchange is given to each member of the Association; and

2. after notice is given, the Association must approve such exchange with the written assent of at lease two-thirds ($2/3^{rd}$) of each class in accordance with the provision herein described as "Membership and Voting Rights",

3. the exchanged properties and other considerations are of like value and utility; and

4. the acreage and configuration of the remaining open space equal (including property to be received in such exchange) or exceed the requirements of the appropriate governmental authority; and

5. the exchange is approved by the appropriate governmental authority.

(e) The right of the Association to adopt and enforce use regulations for the Common Properties as set forth in Article VIII, Section 17. of this Declaration.

Section 2. DELEGATION OF USE.

(a) Family. The right and easement of use and enjoyment and access granted to every Owner in Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Wake County, North Carolina. This right is subject to limitations set forth in Article III, Section 1 above.

(b) Contract Purchasers. The right and easement of use and enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his contract purchasers who occupy a residence or a portion of said residence within the Properties as their principal residence in Wake County, North Carolina. This right is subject to limitations set forth in Article III, Section 1 above.

(c) Guests. The right and easement of use and enjoyment granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors governing said use. This right is subject to limitations set forth in Article III, Section 1 (a.) above.

Section 3. CONVEYANCE OF TITLE TO THE ASSOCIATION. Declarant covenants, for itself and its successors and assigns, that it will convey title in fee simple to the Common Properties to the Association prior to the conveyance of the first Lot to an Owner within any phase, section, or annexation. Such conveyance shall be free and clear of all encumbrances and liens, except utility, drainage, pedestrian access, of record or shown on the recorded plats of ROSEMOOR PLACE SUBDIVISION. Declarant reserves an easement to, from, over and across the Common Properties for the purpose of constructing additional residences upon the Lots; provided that, following such use the Common Properties shall be restored to as nearly the same condition as which prevailed to the commencement of construction as is reasonably practicable.

Section 4. The Association shall have the responsibility of maintenance of entrance signs, landscape buffers and retention ponds as required by the Town of Garner.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to a lien for dues and assessments shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to dues and assessments.

Section 2. The Association shall have two classes of voting membership:

CLASS A: All owners, other than the Declarant, shall be Class A members. Class A members shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote or votes for such lots shall be exercised as they themselves determine, but in no event shall more than one vote be cast with respect to any lot.

CLASS B: The Class B member shall be the Declarant and the Declarant shall be entitled to seven votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On July 1, 2015.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR DUES AND ASSESSMENTS. The Declarant, for each lot owned within the property, hereby covenants, and each owner of any lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) Annual dues and assessments or charges; and

(2) Special assessments for capital improvements, such assessments to be established as hereinafter provided,

(3) Individual expense assessments, such assessments to be established as hereinafter provided, and

(4) To the appropriate governmental taxing authority, a pro rata share of ad valorem taxes levied against any property owned by the Association and its facilities, and a pro rata share of assessments for public improvements to any common areas conveyed to or owned by the Association, if the Association shall default in the payment thereof for a period of six months, all as hereinafter provided. The annual assessments, special assessments and individual expense assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the

land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time when the dues and assessment fell due. The personal obligation for the delinquent dues and assessments shall not pass to his successors in title unless expressly assumed by them.

(5) The Association shall have the authority, through the Board of directors, to establish, fix and levy an individual expense assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this declaration which breach shall require the expenditure of time and money or both, by the Association for repair or remedy.

Section 2. PURPOSE OF ASSESSMENTS. The dues and assessments levied by the Association shall be used exclusively to promote the beauty and desirability of the subdivision, the recreation, health, safety, and welfare of the residents in the Subdivision and to acquire, improve, reconstruct and maintain the Common Properties as and where established, including but not limited to driveways, walks, parking areas, retention ponds and other structures situated on the Common Properties, the cost of repairs, replacements and additions, the cost of labor, materials, management and supervision, the payment of taxes against any property owned by the Association and its facilities, the procurement and maintenance of insurance in accordance with the bylaws, the employment of attorneys to represent the Association when necessary, for the maintenance of roads and streets if necessary, and for the maintenance and costs in connection with any other entrance signs, lighting, irrigation or landscaping and for such other needs as may arise.

Section 3. MAXIMUM ANNUAL DUES. Until January 1, 2008 the maximum annual assessment shall be $400.00 per lot.

(a) The maximum annual dues for the year beginning January 1, 2008 and for each calendar year thereafter shall be established by the Board of Directors and shall be increased by the Board of Directors without approval by the membership by an amount not to exceed five (5%) percent of the maximum annual dues of the previous year.

(b) The maximum annual dues for the calendar year 2008 and for each calendar year thereafter may be increased without limitation by a vote of 2/3 of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual dues at an amount not in excess of the maximum, subject to the provisions of this Article.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual dues authorized above, the Association may levy, in any calendar year a special assessment for the purpose of defraying in whole or in part the cost of any construction, repair or replacement of a capital improvement within the common areas now or hereafter established and owned by the Association and its facilities, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of 2/3 of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all members not less than fifteen

(15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. FINES. Following notice and a hearing to present evidence, and the notice of the decision, the Association's Board may impose fines against any Lot and Lot Owner for a failure to comply with this Declaration. Fines shall be paid not later than thirty (30) days after notice of the assessment is given to the offending Owner and shall be subject to the collection and lien rights of the Association provided in Section 9. of this Article. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled. Any fine paid by the offending Owner shall nevertheless be deducted from or offset against any damage that the Association may otherwise be entitled to recover by law from that Owner. Fines shall be as follows:

(a) First non-compliance or violation: a fine not in excess of Fifty Dollars ($50.00).

(b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars ($100.00).

(c) Third and subsequent non-compliance or violation, or violations that are of a continuing nature: a fine not in excess of the maximum allowable pursuant to N.C.G.S Chapter 47F, The North Carolina Planned Community Act, for each day of continued violation or non-compliance.

Section 7. RATE OF ANNUAL ASSESSMENTS. Both annual dues and special assessments must be fixed at a uniform rate for all lots.

Section 8. DATE AND COMMENCEMENT OF ANNUAL DUES: DUE DATES. the annual dues and special assessments, if any, provided for herein shall be collected on an annual basis and shall commence on the first day of the month following the conveyance of the lot by Declarant to an owner. The first annual dues and assessments shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual dues period, the Board of Directors shall fix the amount of annual dues to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether dues and assessments on a specific lot have been paid. The statement shall be furnished within 10 business days after receipt of the request, and is binding on the Association, the executive board, and every lot owner.

Section 9. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessments not paid within thirty (30) days after the due date shall bear interest of one and one half (1.5%) percent per month from the due date. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and in either event interest, costs and reasonable attorney's fees of such action shall be added to the assessment. Any assessment levied against a lot remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the lot is located in the manner provided herein. A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed and the date due. Foreclosure is to be in the same manner as that of Deeds of Trust, foreclosed under Article 2A of Chapter 45 of North Carolina General Statutes. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Should any deficiency remain after the foreclosure, the Association may also being an action against the Owner for said deficiency.

Section 10. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY THE ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against any properties owned by the Association or its facilities or assessments for public improvements to any of such common areas and its facilities, which default shall continue for a period of six months, each owner of a lot in the development shall become personally obligated to pay the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of lots in the development. If each sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the lot of the then owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the lot of the owner.

Section 10. SUBORDINATE LIENS. The liens provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust. Sale or transfer of any lot shall not affect the lien or liens provided for in this Article. However, the sale or transfer of any lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish such lien as to the payment thereof which becomes due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any dues or assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

Section 11. EXEMPT PROPERTY. The following property, individuals, partnerships, or corporations subject to this Declaration shall be exempted from the dues and assessment charge and lien created herein:

(a) The grantee in conveyances made to utility companies for wells, tanks, pipelines, treatment plants and dispersion fields, lines, pumping stations and maintenance facilities, or for the purpose of creating utility easements.

(b) All properties exempted from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such exemption.

(c) All vacant lots owned by Declarant so long as it owns more than 1/10 of all lots on recorded maps now recorded or hereafter recorded for Rosemoor Place. The Declarant will, however, make contributions to the Association for the purpose of defraying maintenance and upkeep costs so long as it is exempt from assessments. After its lot ownership drops below 1/10, its unsold lots will be subject to assessment on the same basis as vacant lots acquired by an individual.

Section 12. WORKING CAPITAL FUND. At the time of closing of the sale of each Lot by the Declarant, a sum equal to at least two (2) months assessment for each Lot shall be collected from the purchaser and transferred to the Association to be held as a working capital fund. The purpose of said fund is to ensure that the Association Board will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payment of regular assessments.

Section 13. DUES PAID IN ADVANCE. The annual assessments provided for herein shall commence as to Lots being purchased at the time of recordation of a deed from the Declarant to a new owner, pro rated to the first day of the month following said recordation. An amount equivalent to one annual assessment (prorated to the end of the Association's fiscal year), plus any working capital collections, shall be collected at the time of closing to the ultimate consumer referenced to in this Section. Such annual assessments shall be paid ratably on an annual basis and shall be collected at the time of purchase.

ARTICLE VI

RESERVATION OF RIGHT TO ANNEX ADDITIONAL PROPERTY

The Declarant reserves the right prior to January 1, 2009, to annex or add additional property whose owners shall have the same property rights and obligations as described herein, by recording an instrument in writing subjecting such additional property to this Declaration of Covenants, Conditions and Restrictions.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. REVIEW AND APPROVAL OF SPECIFICATIONS FOR CONSTRUCTION OF STRUCTURES, ADDITIONS, ALTERATIONS OR CHANGES TO STRUCTURES AND LANDSCAPING. No building, structure, fence, mailbox, outside lighting, newspaper box, screen planting, swimming pool, or landscaping shall be erected, placed or altered on any building site until the plans, specifications and plot plans showing the location of such improvements, the nature, kind, shape, height and materials of said improvements have been submitted to and approved in writing as to conformity and harmony of external design and external materials with existing structures in the area and as to location with respect to the surrounding structures and topography, by an architectural committee (herein called the "Architectural Committee") which said committee shall initially be the Declarant. In the event the Architectural Committee fails to approve or disapprove such design or location within ninety (90) days after plans and specifications have been submitted to it, approval will not be required. All improvements shall comply with the plans as presented unless changes are approved in writing by Declarant. No flat roofs will be permitted without written permission of Declarant. All drives and walks must be paved with concrete, asphalt, or brick. All lots on which a dwelling unit is approved and built shall be landscaped in accordance with the plans approved by Declarant. Landscaping must be finished upon completion of the dwelling unit. Any structure or facility for providing alternative sources of energy, such as solar, wind, or biomass shall be erected and maintained only with the prior written approval of Declarant. Written approval of Declarant shall also be required prior to erecting, placing or altering mail boxes, permanent signs, newspaper boxes, or outdoor lighting upon any lot. The Declarant shall be the sole member of the Architectural Committee so long as it owns vacant lots within Rosemoor Place Subdivision, or until such time as the Declarant shall resign, whichever shall first occur. The Declarant may appoint an advisory committee composed of lot owners in the subdivision or other knowledgeable people to assist in evaluating the architectural effect of new construction in the subdivision. Upon resignation by the Declarant, the Board of Directors of the Association shall designate and appoint three persons to serve on the Architectural Committee. Members of the Architectural Committee shall not be entitled to any compensation for services performed pursuant to this covenant. Nothing herein contained shall be construed to permit interference with the development of the property by the Declarant so long as said development follows the general plan of development of the property.

If the Architectural Committee fails to approve or disapprove such submission by a Lot Owner within thirty (30) days after said completed plans and specifications have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with. The Association shall have the right to charge a reasonable fee, not to exceed $25.00 for receiving and processing each application.

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

Approval or disapproval by the Architectural Committee of such plans, locations or specifications may be based upon any grounds, including purely aesthetic and environmental, which in the sole discretion of the Committee, it shall deem sufficient. Neither the Association, Board, nor the Architectural Committee shall be responsible for any defects in the plans and specifications submitted to it or in any structure erected or improvement made on any Lot.

The Architectural Committee shall have the power to grant, and may allow, variances of, and adjustments of the restrictions established herein in order to overcome practical difficulties and prevent unnecessary hardships in application of the restrictions contained herein; provided, however, that the variances or adjustments are done in conformity with the intent and purposes hereof; and, provided also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other Lots in the immediate neighborhood. Variances and adjustments may be of the height, size, and setback requirements, pursuant to the terms hereof, but shall not be limited thereto. No variance shall be permitted if it violates governmental minimum standards.

In the event of the grant of any variance in the restrictions established herein, the Declarant for so long as the Declarant is the sole member of the Architectural Committee, and thereafter the Association, on behalf of the Architectural Committee shall execute a document acceptable in substance to the Association attesting to such grant and the specific nature thereof in form suitable for recording, so that the Lot Owner may record the document in the Wake County Registry. Such document shall be prepared at the cost of the Lot Owner and shall be binding upon the Declarant, the Association, and its successors and assigns, and other Lot Owners and may be relied upon by third parties to evidence the variance approval.

The Association, so long as Declarant remains the sole member of the Architectural Committee, shall defer architectural approvals and grants of variances to Declarant.

ARTICLE VIII

USE RESTRICTIONS

Section 1. BUILDING UNIT. AND SUBDIVIDING. A building unit shall consist of each lot shown on a map or maps of Rosemoor Place recorded in Wake County Registry. No lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the period of Declarant control of the Association and thereafter by the Board. However, the Declarant hereby expressly reserves unto itself, and to any successor to which Declarant makes a specific assignment of this right, the right to replat any two (2) or more Lots and/or Common Properties (so long as replatting of the Common Properties conforms with applicable governmental regulations and upon approval by the appropriate governmental authority) shown on the plat of any subdivision of the Property in order to create one or more modified Lots; to recombine one or more Lots and/or Common Properties to create a larger Lot; to eliminate from this Declaration Lots that are not otherwise buildable or Lots and/or Common Areas that are needed for access to any area of the Property or are needed for use as private roads or access areas, and to take such steps as are reasonably necessary to make such replatted Lots suitable and fit as a building site or access area or roadway, said steps to include, but not be limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said replatted Lots. If any of the Common Properties is recombined with a Lot, the Association shall execute all necessary documents to effect the recombination.

Section 2. LAND USE AND BUILDING TYPE. No building unit shall be used except for residential purposes and no part of said property shall be used for business, manufacturing or commercial purposes. No part of any lot or building unit shall be used for street purposes except with the prior written approval of the Declarant or Architectural Committee. No building shall be erected, altered, placed or permitted to remain on any building unit other than one detached single-family dwelling, a private attached (unless a variance is granted therefore as provided herein) two-car enclosed garage, and outbuildings incidental to residential use; provided, however, that no buildings other than the dwelling and enclosed attached garage shall be allowed except with the prior written approval of the Architectural Committee. Construction of homes must be completed within twelve months after construction is begun. Each building unit shall have an enclosed garage located thereon.

Section 3. DWELLING SIZE. No dwelling shall be permitted on any building unit which dwelling has a total finished heated living space of less than 3100 square feet nor a first floor finished heated living space of less than 2700 square feet. For purposes of these covenants, basements, porches, garages and storage areas shall not be considered as a part of the finished heated living area.

Section 4. BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line, side street line, side line or rear line than as shown on the recorded map or as a minimum the setbacks required by the Town of Garner. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of any building, but this may not be construed to permit any portion of a building or building unit to encroach on another building unit.

Section 5. PROHIBITED STRUCTURES. Mobile homes, shell homes, precut, pre-assembled and package homes and all other similar type buildings are expressly prohibited on any lot in the subdivision, except that the Architectural Committee may, without being required to do so, approve a home or other out-building on any lot with some of its components being precut and provided such components comply with pertinent Town of Garner regulations.

Section 6. EASEMENTS. Easements for installation and maintenance of utility and drainage facilities and infiltration areas are reserved as shown on the recorded plat and over the rear 10 feet of each lot and 5 feet on each side line unless shown in excess of such distances on the recorded plat, in which case the plat shall control. Within these easements, no structure, fence, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

For a period of twenty-five (25) years from the date hereof, Declarant reserves an easement and right on, over and under the Property to maintain and to correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Except when in conflict with laws and regulations of government agencies, such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary. After such action has been completed, Declarant shall restore the affected property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take such action to all affected Owners.

All Lots and the Common Properties shall be subject to easements for the encroachment to initial improvements constructed thereon to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, bay windows, steps and walls.

The Declarant, during the period when Declarant is the sole member of the Architectural committee, and, thereafter, the Association, and their agents or employees, shall have access to any Lot from time to time during reasonable working hours and with prior oral or written notice to the Owner of such Lot for the maintenance of the Common Properties or of facilities located thereon or of facilities located upon such Lot which serves the Common Properties or another Lot. The Declarant during the period when Declarant is the sole member of the Architectural Committee, and, thereafter, the Association, and their agents and employees, shall also have access to any Lot at any time without notice as may be necessary to make emergency repairs to prevent damage to the Common Properties or another Lot.

Section 7. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Each lot owner shall maintain his buildings, improvements, landscaping and grounds in a safe, clean and orderly condition. No trees planted in accordance with the Town of Garner's street landscaping requirements for the subdivision shall be removed without first obtaining Declarant's permission.

Section 8. TEMPORARY STRUCTURES. No structure of a temporary kind, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. A boat or recreational vehicle, or one of each, may be placed on the lot, provided that any and all of such vehicles shall be screened from view of the streets and from adjoining properties, and provided that no such vehicle shall be occupied by any person, either temporarily or permanently.

Section 9. PETS. No animals, livestock or poultry of any kind, shall be raised, bred, kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, and provided that the owner of any such pet shall not allow such animal to be at large in the subdivision. No person shall keep or maintain or permit the keeping of, on any lot in the subdivision, any animal or fowl otherwise permitted to be kept which, by habitual or frequent sound, cry, howling, barking, squawking, meowing, or other noise, shall disturb the quiet, comfort or repose of any person in the subdivision.

Section 10. VEHICLES. No boats, campers, trucks, junked, dismantled, wrecked, unlicensed or abandoned vehicles, mobile homes or trailers shall be placed or permitted to remain on a street or in front of any dwelling constructed on the property.

Motorized vehicles shall be operated only upon the paved portion of streets within the subdivision, driveways of individual lots, or parking areas specifically provided. No unlicensed motor vehicle shall be operated at any time upon the streets, shoulders or at any other place within the subdivision.

Adequate off street parking in an enclosed area screened from view of the streets and from adjoining properties shall be provided by the owner of each lot for the parking of automobiles owned by such owner and no parking will be permitted on the streets.

Section 11. ANTENNAE AND SATELLITE DISHES. With exception to the Federal Communications Commission's Restrictions identified in the Telecommunications Act of 1996, the following applies: Exterior radio and television antennae, aerials, disks and dishes for reception of commercial broadcasts shall not be permitted on any Lot and no other aerials, disks and dishes (for example, without limitation, amateur short wave or ship to shore) shall be permitted on any Lot without permission of the Architectural Committee as to design, appearance and location pursuant to regulations issued for that purpose.

Section 12. UNDERGROUND UTILITIES. The Declarant reserves the right to subject the property to a contract with a North Carolina public utility holding a franchise with the Sate of North Carolina, for the installation of underground water, sewer and electric lines to the property which may require an initial payment and/or a continuing monthly payment to the public utility by the owner of each lot.

Section 13. LEASE OF DWELLING UNIT. An Owner may not rent or let his dwelling unit nor any portion thereof.

Section 14. UTILITIES. All water, sewer, gas, electric, telephone, television, and other utility lines, and all connections between the main utility lines and the dwelling unit or any other structures on any lot shall be located underground and concealed so as not to be visible.

Section 15. FENCES, WALLS AND SIGNS. No fencing, walls or signs shall be erected or allowed to remain on any Lot without the prior written approval of the Architectural Committee.

Section 16. POOLS AND TENNIS COURTS. No pool, tennis court, or other recreational facility shall be constructed on any lot without the prior written approval of the Architectural Committee.

Section 17. REGULATIONS. Reasonable regulations governing the use of the Common Properties may be made and amended from time to time by the Board of Directors of the Association. Copies of such regulations and amendment thereto shall be furnished to each Member by the Association upon request.

ARTICLE IX

INSURANCE

Section 1. OWNER'S RESPONSIBILITY TO INSURE. Declarant suggests that each Owner, at his expense, secure and maintain in full force and effect one or more insurance policies insuring his Lot and the improvements thereon for the full replacement value thereof against loss and damage from all hazards and risks normally covered by a standard "Extended

Coverage" insurance policy, including fire and lightning, vandalism and malicious mischief. Declarant also suggests that each Owner, at his expense, secure and maintain in full force and effect comprehensive personal liability insurance for damage or injury to person or property of others occurring on his Lot.

Section 2. INSURANCE RESPONSIBILITIES OF THE ASSOCIATION. The Association shall procure and maintain adequate liability insurance, in an amount not less than $1,000,000.00, insuring the Association and its members against injuries occurring upon the Common Properties. The Association shall also maintain hazard insurance covering property and common elements as that term is defined in N.C.G.S. Sec. 47F-1-103(4) owned by the Association as set forth herein; and in an amount for full replacement value.

ARTICLE X

GENERAL PROVISIONS

Section 1. ENFORCEMENT. Enforcement of these covenant, conditions and restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain violation or to recover damages. Failure to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. SEVERABILITY. Invalidation of any one of these covenants or any part thereof by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect, and the failure of any person or persons to take action to enforce these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

Section 3. GENERAL AMENDMENTS. These covenants, conditions and restrictions shall run with the land and be binding upon all parties and persons claiming under them for a period of twenty-five (25) year from the date these covenants are recorded, after which time, these covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty-five year period by an instrument signed by not less than two-thirds of the Lot Owners, and thereafter by an instrument signed by not less than two-thirds of the Lot Owners.

Section 4. AMENDMENTS PERMITTED WITHOUT MEMBERSHIP APPROVAL. The following amendments may be effected by the Declarant, or the Board, as the case may be, without consent of the Lot Owners:

(a) Prior to the sale of the first Lot, this Declaration may be amended by the Declarant.

(b) The Declarant, so long as it shall retain control of the Association, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such Lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of the Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U. S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

(c) The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, to qualify the Association or the Property, or any portion thereof, for tax-exempt status.

(d) The Declarant for so long as it has control of the Association may amend this Declaration to include any platting change of the Property as permitted herein or to make amendments correcting minor typographical errors or similar clerical errors.

Section 4. GOVERNMENTAL AUTHORITY AMENDMENTS. No amendment which would change or delete any provision herein required by any governmental authority shall become effective until submitted to and approved by that authority; provided, however, if that authority fails to approve or disapprove such amendment within thirty (30) days after the same has been submitted to it, such approval shall not be required and this covenant shall be deemed to have been fully complied with.

Section 5. TRANSFER OF AUTHORITY. Any and all authority delegated specifically to the Declarant shall be transferred to the Association when all lots have been sold.

IN WITNESS WHEREOF, Daniel W. Williford and Margaret E. Williford has signed this instrument the day and year first above written.

Daniel W. Williford (SEAL)
Daniel W. Williford

Margaret E. Williford (SEAL)
Margaret E. Williford

NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Daniel W. Williford and Margaret E. Williford, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness and hand and official stamp or seal this 15th day of April, 2006.

Betty Parrish Holden
Notary Public

My Commission Expires: 12/19/2009

BETTY PARRISH HOLDEN
NOTARY
***
PUBLIC
WAKE COUNTY, N.C.

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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

This Customer Group

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_______________ New Time Stamp

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