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WAKE COUNTY, NC 690
LAURA M RIDDICK
REGISTER OF DEEDS
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PREPARED BY AND HOLD FOR: Kelly J. Mackay, Attorney
WARREN, PERRY & ANTHONY, PLLC
PO Box 1187, Wake Forest, NC 27588

NORTH CAROLINA DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
WAKE COUNTY BOWLING GREEN SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by Bowling Green Associates, LLC, a North Carolina limited liability company with its principal office located in Wake Forest, Wake County, North Carolina, hereinafter referred to as "Declarant", and by Jones Dairy Development, Inc., a North Carolina corporation with its principal office located in Wake Forest, Wake County, North Carolina, an owner of part of the property described on Exhibit A;

W I T N E S S E T H:

WHEREAS, Declarant and Jones Dairy Development, Inc. are the owners of certain property on Exhibit A in the Town of Wake Forest, County of Wake, State of North Carolina, which is more particularly described on Exhibit A attached hereto and shall be known as Bowling Green Subdivision; and

WHEREAS, Declarant recorded a Declaration of Covenants, Conditions and Restrictions of Bowling Green Subdivision in Book 11219, Page 2010, and hereby declares void that document recorded in Book 11219, Page 2010, Wake County Registry; and

WHEREAS, Declarant has caused or will later cause to be incorporated under the Laws of the State of North Carolina, as a non-profit corporation, BOWLING GREEN HOMEOWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth and which shall be duly formed and be in good standing prior to the conveyance of any lot;

NOW THEREFORE, Declarant hereby declares that all of the property described above together with such additions as may hereafter be made thereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Bowling Green Homeowners Association, a North Carolina corporation, its successors and assigns.

Section 2. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 3. "Building" shall mean and refer to a residential structure, constructed or erected on the property.

Section 4. "Common Elements" shall mean all real property owned by the Association for the common use and enjoyment of the Owners or Members or designated classes of Members of the Association, including such Limited Common Elements as may be designated on any subdivision map of the Property or by the Association. The Common Elements to be owned by the Association at the time of the conveyance of the first lot is all of that property (other than the Lots), including private streets, pool, tot lots and other land within the boundaries of Bowling Green Subdivision and not located on a Lot.

Section 5. "Common Expenses" shall mean and include:

(a) Payments or obligations to reserve accounts established and maintained pursuant to this Declaration.

(b) Expenses of administration, maintenance, repair, or replacement of the Common Elements and Limited Common Elements, as well as access easements to real property owned by the Association.

(c) Expenses declared to be common expenses by the provisions of this Declaration or the By-Laws;

(d) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase; or as the Association may deem appropriate to purchase;

(e) Ad valorem taxes and public assessment charges lawfully levied against Common Elements;

(f) The expense of the maintenance of private drainage and utility easements and facilities and storm drainage devices located therein which are within the boundaries of the Property, cross Common Elements of the Property and serve both the Property and lands adjacent thereto; and,

(g) The expense of the maintenance of landscape island(s) located within the right(s)-of-way of public street(s).

(h) Expenses agreed by the Members to be common expenses of the Association.

Section 6. "Declarant" shall mean and refer to Bowling Green Associates, LLC., its successors and assigns, to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as Declarant may impose.

Section 7. "Limited Common Element" shall mean those portions of the Common Elements that serve only a single Lot or a limited number of Lots, and which may include, but specifically is not limited to, driveways, walkways, parking areas or areas serving only specified Lots, and such other similar areas as may be designated by a subdivision map of the property or the Association. Limited common elements shall be designated as such on the recorded plat of the subdivision.

Section 8. "Living Unit" shall mean and refer to any lot on which a dwelling unit has been fully constructed and made ready for occupancy as a residence, including without limitation, completion of the final floor covering, interior paint and wallpaper and all appliances and for which a Certificate of Occupancy has been issued.

Section 9. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property with the exception of the common Elements.

Section 10. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 11. "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 12. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee or other legal entity.

Section 13. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 14. "Association Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, and the Bylaws of the Association, as from time to time amended.

ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Elements together with and including the right of access, ingress and egress, both pedestrian and vehicular, on and over the drives, walkways and parking areas of the Common Elements, all of 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 charge reasonable admission and other fees for the use of any recreational or other similar facility situated upon the Common Elements;

(b) The right of the Association to suspend the voting rights and the right to use the recreational or other Common Element facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations; it being understood that any suspension for either non-payment of any Assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members obligation to pay the Assessment;

(c) The right of the Association to dedicate, sell, lease or transfer all or any part of the Common Elements, or any interest therein, to any public agency, authority, or utility, or to any other person for such purposes and subject to the provisions of the Wake Forest Code and to such conditions as may be agreed upon by the Members. No such dedication, sale or transfer shall be effective unless it has been approved by two-thirds (2/3) of each class of Members and an instrument of dedication, sale, lease, or transfer properly executed by the Association has been recorded. On such instrument the Secretary of the Association shall certify that two-thirds (2/3) of each class of Members have approved the dedication, sale, lease or transfer and that certificate may be relied upon by any third party without inquiry and shall be conclusive as to any grantee, its successors or assigns; provided, however, conveyances for general utility purposes as specified herein may be made by the Association without consent of the Members;

(d) The right of the Association to limit the number of guests of Members;(e) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and facilities and in aid thereof to mortgage the Common Elements, and the rights of such mortgage in the Common Elements shall be subordinate to the rights of the Owners hereunder;

(e) The right of the Association in accordance with its Articles of Incorporation or Bylaws to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which rules and regulations may further restrict the use of the Common Elements and to create Limited Common Elements, the creation of which must be approved by the Town of Wake Forest.

(f) The right of Owners of Lots on additional lands annexed to the property initially, or subsequently, to the easements of enjoyment and rights of ingress, egress and access, as specified above, to the initial property and all lands included in subsequent phases.

(g) The right of Owners, members of his family, his tenants, his guests or his contract purchasers who reside on the property of access, ingress and use, both pedestrian and vehicular, on and over the drives, walkways of any private street located within the property for the purpose of enjoying and using the Common Elements.

(h) Right to Exchange (See VIII of Articles)

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

Section 3. Title to the Common Elements. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Elements located within the Property as shown on each map of the properties recorded in the Wake County Registry to the Association, free and clear of all encumbrances and liens, prior to the conveyance of any Lot shown on said map, except encumbrances of utility, service, access, storm drainage, and other similar service or utility easements. Similarly, the Declarant will convey to the Association Common Elements which are a portion of any additional property as the same is annexed in the future at the time of conveyance of the first Lot located on that additional property. If such conveyance is made, this additional property will become Common Elements belonging to the Association.

Section 4. Books and Records. The books, records and papers of the Association shall, at all times, during reasonable business hours, be subject to inspection by any Member or his designated agent. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

Section 5. TV Antennas, Cablevision. The Association may regulate or prohibit the erection of television, satellite dishes, radio or other antennas on individual Lots.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every record Owner of a Lot which is subject to assessment 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 assessment.

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

Class A. Class A members shall be all Owners with the exception of the Declarant, and 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; however, the vote for such Lot shall be exercised as they among themselves determine, or as set forth in the By-Laws, but in no event shall more than one vote be cast with respect to any Lot, neither fractional nor cumulative voting is allowed.

Class B. The Class B Member shall be the Declarant and shall be entitled to six (6) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership with one vote for each Lot owned on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; but provided, that the Class B membership shall be reinstated if thereafter, and before the time stated in Sub-paragraph (b) below, such additional lands are annexed to the Property without the assent of Class A Members on account of the development of such additional lands by the Declarant, all as provided for in Article VI below, or

(b) Seven (7) years from the date of conveyance of the first Lot by Declarant

Section 3. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and the Articles and By-Laws of the Association and according to the provisions of Article II, Section 1(b) herein.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which pay for Common Expenses, and (2) special Assessments or charges for the purposes set forth in this Article, such Assessments to be fixed, established and collected as herein provided. The annual and special Assessments, together with such interest thereon and costs of collection thereof, including reasonable attorneys' fees shall be a charge and continuing lien on the Lot and improvements thereon against which each such Assessment is made from time of filing such lien in the Clerk of Superior Court of Wake County. Each such Assessment, together with interest and costs, including reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such Lot at the time when the Assessment became due.

Notwithstanding any provision herein to the contrary, the assessment for each Lot which is not a Living Unit shall be twenty-five percent (25%) of the assessment of a Living Unit.

The Association shall also have the authority, through the Board of Directors, to establish, fix and levy a special assessment on any Lot or Living Unit 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.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the amount of such assessment shall be in default and become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the payment of Common Expenses to promote the recreation, health, safety, and welfare of the residents of the Property. Such purposes include without limitation the acquisition, improvement, enhancement, enlargement, operation, and maintenance of property, and the use and enjoyment of the Common Elements, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Elements, the procurement and maintenance of insurance in accordance with the By-Laws or as deemed appropriate by the Board, the employment of counsel, accountants and other professionals for the Association when necessary, and such other needs as may arise.

Section 3. Amount of Assessment.

(a) **Initial Maximum Assessment.** Up to and including December 31, 2005, the maximum annual assessment shall not exceed four hundred dollars (\$400.00) per Living Unit.

(b) **Increase by Association.** From and after January 1, 2006, the annual assessment effective for any subsequent year may be increased by the Board of Directors, without a vote of the membership, by a percentage which may not exceed ten percent (10%) above the maximum assessment for the previous year.

(c) **Increase by Members.** From and after January 1, 2006 the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for such purpose. The limitations set forth herein shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation

(d) **Criteria for Establishing Annual Assessment.** In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of that permitted in Subsection (b) of this Section 3 above without the consent of members required by Subsection (c) of this Section 3.

(e) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Assessments may be billed annually, quarterly, monthly, or on such other basis as may be determined by the Board of Directors. The Board of Directors may authorize a Billing Agent to collect the Assessments provided for herein.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, in any assessment year, the Association may levy a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Common Elements or any extraordinary maintenance, or any other purpose deemed appropriate by the Association including fixtures and personal property related thereto and any

property for which the Association is responsible, provided that a meeting is duly called for this purpose and two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at the meeting assent to such assessment..

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 (c) and 4. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Member 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 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots with a Living Unit thereon, and may, at the discretion of the Board of Directors, be collected as set out in Article IV, Section 3 (e). Provided, however, that the assessment for Lots which are not Living Units and have never been occupied as a residence shall be twenty-five percent (25%) of the regular assessments for Living Units.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Elements to the Association and, as to all Living Units, on the first month following the date a Lot became a Living Unit. Similarly, all Lots in subsequently annexed properties, shall be subject to assessment commencing on the first day of the month following conveyance of the Common Elements therein to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. At such time as the assessment includes maintenance of amenities set out in Article IV, Section 3(a) above, the Board of Directors may provide that such payment may be made monthly. The Association shall, upon demand and for a reasonable charge if it deems appropriate, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date at the highest rate then permitted by North Carolina law not to exceed twelve percent (12%) per annum. The Association may bring an action at law against the Owner, his heirs, devisees, personal representatives and assigns obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Elements or abandonment of his Lot. If the Assessment is

not paid within thirty (30) days after the past due date, the Association may bring an action at law against the Owner personally and there shall be added to the amount of such Assessment, the costs associated with such action reasonable attorneys fees, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided above. The lien of the Assessment shall run from the date of the Assessment. Additionally, the Board may charge such late fees as it deems appropriate.

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

Section 10. Exempt Property. Any portion of the property dedicated to and accepted by a local public authority and any portion of the property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments. Additionally, property which is used for the maintenance, operation, and service of utilities within the Property is exempt from the assessments created herein.

Section 11. Payment of Common Expenses. All Owners shall be obligated to pay the Assessments levied by the Association.

No Owner shall be liable for the payment of any part of any assessment levied against his Lot subsequent to the consummated sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Lot. The personal obligation for any delinquent assessments shall not pass to successors in title unless expressly assumed by them. A first-lien mortgagee or other purchaser of a Lot at a foreclosure sale of such Lot shall not be liable for, and such Lot shall not be subject to, a lien for the payment of assessments levied prior to such foreclosure sale, and such unpaid assessments shall be deemed to be assessments collectible from all of the Lot Owners, including such purchaser, his successors and assigns.

Section 12. Foreclosure of Liens for Unpaid Assessments. In any action brought by the Board to foreclose a Lot because of unpaid assessments, the Lot owner shall be required to pay a reasonable rental for the use of his Lot and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all Lot Owners, or on behalf of any one or more individual Lot Owners, if so instructed, shall have the power to purchase such Lot at a foreclosure sale to acquire, hold, lease, mortgage, convey, or otherwise deal with the same; subject, however, to applicable restrictions of record. An action to recover money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same.

Section 13. Annual Budget. The Board of Directors shall prepare and make available to all Members, at least sixty (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following year. The financial records of the Association shall be available for inspection by all Members during regular business hours.

Section 14. Reserve Funds. The Association shall set aside funds from its Annual Assessments to be held in reserve in an interest bearing account or investments for:

- a) major rehabilitation or major repairs;
- b) emergency or other repairs as required as the result of storm, fire, natural disaster or other casualty loss, and
- c) initial cost of any new service to be performed by the Association.

Section 15. Working Capital Fund. At the time of closing of the sale of each living unit a sum equal to at least two (2) months Assessment shall be collected from the purchaser and transferred to the Association as a contribution to the reserve funds described in Section 14 of this Article. The purpose of said fund is to ensure that the Association will have adequate cash available to meet unforeseen expenses and to acquire additional equipment deemed necessary or desirable. Amounts paid into the fund shall not be considered advanced payment of regular Assessments.

ARTICLE V FUNCTIONS AND SERVICES OF THE ASSOCIATION

Section 1. Minimum List of Functions and Services. The Minimum List of Functions and Services shall establish and define the minimum level of functions and services which the Association must furnish to its Members. The Minimum List of Functions and Services is as follows:

(a) The Association shall provide or procure the Administrative services necessary to carry out the Association's obligations and business under the terms of the Association Documents including, but not limited to, legal, accounting, financial and communication services.

(b) The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

- 1) the Association shall set, levy, give notice of and collect Assessments;
- 2) the Association shall prepare accurate indexes of Members, Votes, Assessments, and the Maximum Regular Annual Assessment;
- 3) the Association shall operate an Architectural Committee if turned over to it by Declarant;
- 4) the Association shall maintain and operate all Common Elements;
- 5) the Association shall hold Annual Meetings, Special Meetings and as required, elections for the Board of Directors as set forth in the

Association Documents and give Members proper notice of such meetings.

- 6) The Association shall prepare Annual Statements and Annual Budgets and shall make the financial records of the Association available for inspection by the Members during regular business hours.

(c) Should the Declarant appoint the Association its agent for the administration or enforcement of any of the provisions of the covenants conditions and restrictions of record the Association shall assume such responsibility and any obligations which are incident thereto.

(d) Should the Declarant assign to the Association any of the rights reserved unto it in the covenants, conditions and restrictions of record, the Association shall assume the responsibility of administering and enforcing said rights and shall assume any obligations which are incident thereto.

(e) The Association shall provide appropriate liability and hazard insurance coverage as provided herein for improvements and activities on all Common Properties.

(f) The Association shall provide appropriate Directors and Officers Errors and Omissions Insurance and indemnify persons pursuant to the provisions of the Articles of Incorporation of the Association.

(g) The Association shall keep a complete record of all its acts and corporate affairs.

(h) The Association shall provide regular and thorough maintenance and clean-up of all Common Elements, including, but not limited to, mowing of grass, fertilization landscape maintenance, pickup and disposal of trash, washing down of picnic tables and benches, painting, repairs to and replacement of all improvements, all on a as needed basis.

(i) Insurance coverage on the Common Elements shall be governed by the following provisions:

- 1) Ownership of Policies. All insurance upon the Common Elements shall be purchased by the Association for the benefit of all the Association and the Owners, as their security interests may appear and provisions shall be made for the issuance of certificates of mortgage endorsements to the mortgagees of Owners.
- 2) Coverage. All buildings and improvements upon the Common Elements and all personal property included in the Common Elements shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against: (i) loss or damage by fire or other hazards covered by standard extended coverage endorsement, and (ii) such other risks as from time to time shall be customarily covered with respect to buildings on the

land. Such policies shall contain clauses providing for waiver of subrogation.

- 3) Liability. Public liability insurance shall be secured by the Association with the limits of liability of no less than one million dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. The Association shall also obtain such other insurance coverage as it determines from time to time to be desirable and necessary.
- 4) Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a common expense.
- 5) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners, and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustees under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or stated in the By-Laws and for the benefit of the Owners and their mortgagees, in proportion to their respective ownership interests.
- 6) Proceeds of all insurance claims received by the Association as insurance trustee, shall be placed in the Association's treasury for the following: (i) Expense of the Trust. All expenses of the insurance trustees shall be paid first or provisions made therefore. (ii) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs. The Association shall retain any proceeds remaining after defraying such costs.
- 7) All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association or those held in trust, shall first be bonded by a fidelity insurer to indemnify the Association for any losses or default in the performance of their duties in an amount equal to six (6) months assessments plus reserves accumulated.

(j) The Association shall pay any and all taxes or public assessment on the Common Properties.

Section 2. Obligations of the Association. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association, taking into consideration the funds available to the Association and the needs of its members. The Functions and Services which the Association is authorized to carry out or provide may be added to or reduced at any time upon the affirmative vote of fifty-one percent (51%) of the votes cast by the Members at a duly called meeting of the Association.

Section 3. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loan shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with the prior consent of two-thirds (2/3) of the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of two-thirds (2/3) of the Association.

The Declarant may, but shall not be required to, make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not reduce the level of the Annual Assessment below the limit of the Maximum Regular Annual Assessment at any time during which there are outstanding amounts due the Declarant as repayment of any loans made by the Declarant to the Association without the express written consent of the Declarant.

Section 4. Maintenance of Property Not Owned by the Association. The Association shall be authorized to render services of a governmental nature not furnished by the local government in the case of maintenance of property not owned by it.

ARTICLE VI ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Annexation of additional property, shall require the assent of two-thirds (2/3) of the Class A membership, if any, present in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purposes of the meeting, provided the additional land contains at least five (5) acres, is not in conflict with any of the Association Documents and has received approval from The Town of Wake Forest as to the number of lots to be developed, except as provided in Section 2 and Section 3 of this Article VI, The presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event two-thirds (2/3) of the Class A membership are not present in person or by proxy, Members not present may give their written assent to the action taken thereat.

Section 2. Annexation by Declarant. If within ten (10) years of the date of conveyance by Declarant of the first Lot, the Declarant should develop additional land within the boundaries of that property described on Exhibit B attached hereto, such land may be annexed by the Declarant without the consent of Members; and, in doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of the Members in order to subject such additional lands to the terms of this Declaration and the jurisdiction of the Association. Said amendments shall not be in conflict with the Association Documents except as conflicts may arise when annexing to allow for multi-family units, and in such event, the necessary amendments to this Declaration and to the Bylaws shall be allowed. Said amendments shall not be in conflict with any of the Town of Wake Forest's requirements.

Section 3. Additional Annexation by Declarant. If within ten (10) years of the date of conveyance by Declarant of the first Lot, the Declarant should develop additional land outside the boundaries of that property described on Exhibit B attached hereto, such land may be

annexed by the Declarant without the consent of Members provided (a) such additional lands are contiguous to the property described in Exhibit B attached hereto, (b) such annexation is not in conflict with the Association Documents except as conflicts may arise when annexing to allow for multi-family units, and in such event, such annexation shall be allowed along with the necessary amendments to this Declaration and to the Bylaws; and (c) the annexation has been approved by The Town of Wake Forest as to the number of lots to be developed.

Section 4. Recording of Annexation. Annexation of additional lands shall be accomplished by recording in the Office of the Register of Deeds in the county in which the property is located. Such Declaration of Annexation must be duly executed by the Declarant if the Declarant has the right to annex pursuant to Section 2 and/or Section 3 above, and by the Association if pursuant to Section 1 above, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the property on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except local governmental authority if required by its ordinances.

Section 5. Conveyance of Common Elements. Subsequent to recordation of the Declaration of Annexation, and prior to the conveyance of the first Lot therein, there shall be delivered to the Association one or more deeds conveying any Common Elements within the lands annexed, as such Common Elements are developed. Such Common Elements shall be conveyed to the Association in the same manner as set forth in Article II, Section 3 of this Declaration.

ARTICLE VII ARCHITECTURAL CONTROL

The Declarant or His appointed Architectural Committee shall control approvals for all improvements and construction proposed on any Lot. Declarant, so long as he shall own at least one lot in Bowling Green, all phases combined, shall control all approvals. At such time as Declarant shall no longer own a lot in Bowling Green, or opts to voluntarily relinquish architectural control, he shall appoint an Architectural Committee of three (3) persons who own lots in the subdivision. Successors to the Committee shall be appointed by the Declarant, so long as a lot is owned by Declarant, or then the Architectural Committee members or replacements shall be appointed by the Board.

No site preparation (including, but not limited to, grading, elevation work, landscaping, sloping or tree work) or initial construction, erections or installation of any improvements, including, but not limited to, buildings, fences, signs, outside lighting, walls, bulkheads, screens, landscaping, plantings, swimming pools, equipment, lawn ornaments and decorations or other structures shall be commenced, erected, placed, altered or maintained upon any Lot, until the plans and specifications showing the nature, kind, shape, height, materials, exterior colors, siding, location and elevations of the proposed improvements, landscaping or plantings shall

have been submitted in person to, and approved in writing by, Declarant or Architectural Committee. In the event the Declarant or Architectural Committee fails to approve such submission made by any Lot owner within thirty (30) days after said plans and specifications have been received by the Declarant or Architectural Committee, approval will be delayed or deemed to have been denied. Any plans and specifications that contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding any prior approval by the Declarant or Architectural Committee.

The Lot Owner shall personally submit a plot plan showing all proposed activity, and all plans and specifications for such, including, but not limited to: beginning and finished ground elevations, trees and shrubs to be planted, exterior design of structures, exterior materials, and all other matters affecting the appearance of the Lot and its improvements. All front yards are to show sodded areas of grass blended with natural areas. Rear and side yards may be seeded or left natural. All plans personally submitted for approval must include a self addressed postage paid envelope for the return of said plans and letter of response.

The Declarant or Architectural Committee shall have sole discretion as to the location, design, exterior materials used, and color of any dwelling, accessory building including but not limited to: garages, storage building, greenhouses, shelters, play houses, swing sets, basketball goals, dog houses, and dog runs, etc. Proposed location of an accessory building must conform to the zoning restrictions by the governmental body having jurisdiction over the area.

The further written approval of the Declarant or Architectural Committee shall be required for any alteration to approved plans, and the alteration and modification of existing structures and improvements made after a house shall be occupied.

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

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

The Declarant or 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 variance 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. No variance shall be permitted if it violates governmental minimum zoning

standards. Notwithstanding the forgoing, Declarant shall have the power to grant the above variances and adjustments so long as it owns a lot in the subdivision.

In the event of the granting of any variance in the restrictions established herein, the Declarant, and thereafter the Association on behalf of the Architectural Committee shall execute a document acceptable in substance to the Association attesting to such grant the specific nature thereof in form suitable for recording, so that the Lot Owner may record the document in the Registry of the County in which the Lot is located. Such document shall be prepared and recorded at the cost of the Lot Owner and shall be binding upon the Declarant, the Association, its successors and assigns, and other Lot Owners and may be relied upon by third parties to evidence the variance approval. Any purchaser of a lot or institution financing a lot shall rely on the foregoing statement.

The Association, so long as Declarant has architectural control, shall defer architectural approvals and grants of variances to Declarant unless Declarant has voluntarily relinquished control to the Architectural Committee or the Board of Directors.

ARTICLE VIII BUILDING RESTRICTIONS

Section 1. Square Footage. Any single family dwelling erected on a Lot shall contain a minimum enclosed dwelling area of 1,600 square feet for R-5 zoning, 1800 square feet for R-8 zoning and 1800 square feet for R-15 zoning. The term "enclosed dwelling area" as used herein shall mean the total enclosed area within a dwelling subject to heating and cooling; specifically excluding garages, terraces, open porches, decks, stoops and like areas regardless of heating or cooling. The Declarant or the Board of Directors may approve, in writing, a variance not in excess of ten percent (10%) of the requirements set out in Section 1.

Section 2. Setback Lines. No dwelling erected on a Lot shall be constructed that doesn't meet the setback requirements of the Town of Wake Forest.

Section 3. Materials. All materials used in construction of dwellings in Bowling Green shall be of high quality and workmanship. Vinyl siding is only permitted in the R-5 sections. Location and type to be approved by Architectural Committee. All masonry shall be brick or stone. No stucco or other foundation materials are permitted without approval in writing from Declarant or the Architectural Committee.

Section 4. Height and Accessory Building. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any detached single-family residential Lot other than a detached single family dwelling not to exceed two and one-half (2 1/2) stories in height, unless the Declarant or the Board of Directors approves in writing a variance permitting a structure of more than two and one-half (2 1/2) stories and a garage and small accessory building; provided, the use of such garage or accessory building does not in the opinion of the Declarant or the Board of Directors overcrowd the site. Such accessory building may not be constructed prior to the construction of the primary dwelling. All garages must be

attached to the main dwelling unless the Declarant or the Board of Directors approves in writing a variance permitting a detached garage. Garages or accessory buildings may not exceed the height of the single-family dwelling located on the Lot. Garages may not exceed three (3) cars. Accessory buildings may not exceed 250 square feet. No metal accessory buildings are permitted and buildings must conform to the dwelling in materials and color. All accessory buildings must be completed within sixty (60) days of the start of construction of the accessory building.

Section 5. Multi-Family Use Prohibited. No multiplex residence or apartment house shall be erected or placed on any detached single-family residential Lot, and no dwelling once approved and constructed shall be altered or converted into a multiplex residence or apartment house. Notwithstanding the restrictions in this Section, townhomes may be constructed on the lots which have been approved for such construction by the Town of Wake Forest.

Section 6. Driveways. All driveways must be concrete with a minimum width of twelve (12) feet in the town right of way and a minimum of ten (10) feet for all other surfaces.

Section 7. Trash Receptacles. Each Lot Owner shall provide receptacles for garbage in a screened area, or not visible from the road.

Section 8. Mailboxes and Newspaper Holders. Each Lot shall be allowed one combination mailbox/newspaper box installation, which must be approved before installation by Declarant or the Architectural Committee as to design and location. Mailboxes will be uniform in construction, color, and materials.

Section 9. Pools. No aboveground pools are allowed except inflatable wading pools. All pools must be approved in advance of construction by the Architectural Committee.

Section 10. Shingles. All houses in the subdivision will have a minimum roof requirement of twenty-five (25) year Architectural Shingles, cedar shakes, slate roof, or other upgraded roofing materials approved by Declarant or the Architectural Committee.

Section 11. Remedies. If the finished dwelling, garage, accessory building or other structure does not comply with the submitted and approved plans and specifications, the Board retains the right to make the necessary changes at Owner's expense to comply with the approved plans and specifications, to treat such charge or cost as an assessment, to file under the North Carolina law a notice of liens for any costs incurred, and, the further right to resort to all remedies provided under the laws of North Carolina for the recovery of such costs and the expenses of collection, including without limitation, reasonable attorneys' fees. Any changes in plans or specifications must first be reapproved by the Declarant or the Architectural Committee in accordance with the procedure herein specified for architectural control.

ARTICLE IX USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Properties and its elements. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Property. The Property shall be used for single-family residential purposes and for purposes incidental or accessory thereto (Except for a temporary office or building model to be used by Declarant or his agents). This herein excluding all Permanent Open Space as shown on the recorded plats which must remain undeveloped conserving a vegetated and natural state.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried out upon the Property, nor shall anything be done which may be, or may become a nuisance or annoyance to the neighborhood. Christmas or other Holiday decorations shall be modest unless approved by the Architectural Committee.

Section 4. Animals. No animals, birds, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats, pet birds or other household pets may be kept or maintained provided that they are controlled in accordance with applicable governmental ordinances and are not a nuisance to other Owners. There shall be a limit of no more than three (3) household pets per lot. The location of and the materials used in the construction of any dog houses, runs and fences are improvements which require the review and approval of the Architectural Committee as set out in Article VI herein.

Section 5. Appearance. It shall be the responsibility of each Property Owner, tenant, contractor or sub-contractor to prevent the development of any unclean, unsightly, unkempt, unhealthy, or unsafe exterior conditions of buildings or grounds on any Property which will tend to substantially decrease the beauty of Bowling Green, the neighborhood as a whole or the specific area. The Declarant and his agent shall have the right to enter upon any property for the purpose of inspecting or correcting such conditions including, but not limited to, the removal of trash which has collected on a Property, and the cost of such corrective action or trash collection service weekly, shall be paid by the Property Owner. Such action shall not be made until thirty (30) days after the Owner of the Property has been notified in writing of the need to take corrective action within said thirty (30) days. Provided, however, that should such conditions pose a health or safety hazard, such entry shall not be made until the Owner has been notified in writing of the need to take immediate corrective action and unless such owner fails to perform the correction action immediately. The provisions of this paragraph shall not create any obligation on the part of the Declarant to take any such corrective action.

Section 6. Offensive Behavior. No immoral, improper, offensive, or unlawful use shall be made on or of the Property, or any part thereof including roads and right-of-ways. All laws, orders, rules, regulations, ordinances, or requirements of any governmental agency having

jurisdiction thereof, relating to any Lot or any portion of the Property, shall be compiled with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain such portion of the Property.

Section 7. Business. No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any Lot, except that the Declarant or his agents may use any unsold Lots for sales or display purposes. Declarant may maintain a sales or rental office on the Property. Nothing herein shall be interpreted or construed to prevent the use of a portion of any structure as a home office or to prevent the occupant of the house from working from home, provided goods or services are not offered to the general public on the premises. No trade materials, inventories or equipment (except during construction on the premises) shall be stored or allowed on the premises.

Section 8. Signs. No Lot Owner shall display, or cause, or allow to be displayed, to public view any signage, signs, placard, poster, billboard, or identifying name or number upon any Lot, vehicle, or any portion of the Common Properties, except as allowed by the Association pursuant to its Bylaws or regulations or as required by local governmental authority; provided, however, that the Declarant, or its respective agents, may place "For Sale" signs on any Lot for sale; provided, however, that during the development of the Property and initial marketing of Lots, the Declarant may maintain a sales office and may erect and display such signs as the Declarant deems appropriate as aids to such development marketing, provided that such signs do not violate any applicable laws. Such permitted signs shall be placed in the approximate center of a Lot and approximately twenty (20) feet from the edge of payment of the road or as Declarant otherwise deems necessary.

Section 9. Fences, Walls and Hedges. No fence, wall, hedge or other mass planting shall be erected or permitted in front of a dwelling on any Lot, except as approved by the Architectural Committee pursuant to Article VI herein. All fences shall have and maintain a uniform appearance. Fence standards size and design with type of material to be approved in writing before installation begins by the board or the architectural committee. All fences, if attached at property lines, to the neighbor's fence, must have a gate at such intersection along street frontage. If fence is not able to attach, a minimum distance of two foot of each property line must be maintained, except along drainage or utility easements where no fencing is allowed. All fencing to be abutted to existing house structure along the rear one-fourth of the side house footage.

Section 10. Alterations. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Properties except as to the direction or with the expressed written consent of the Association.

Section 11. Common Properties Use. The Common Properties or Permanent Open Space as shown on recorded plat shall be used only for the purposes for which they are intended and reasonable suited and which are incident to the use and occupancy of the Property, avoiding development and conserving its vegetated and natural state subject to any rules or regulations that may be adopted by the Association pursuant to its Bylaws.

Section 12. Parking. Adequate off street parking shall be provided by the Owner of each Lot for the parking of automobiles owned or used by the Owner, his family, tenants, guests or contract purchasers. No watercraft (i.e. boats, jet skis, etc.), other recreational machinery (i.e. four wheelers, go-carts, motorcycles, etc.), trailers, campers, motor-homes, large trucks, tractors or heavy equipment, or any vehicle with displayed advertising shall be parked on any Lot, on the Common Properties, or on any streets or right-of-ways of any roads within the Subdivision, except inside an enclosed garage or accessory building located on the Lot or as otherwise permitted by the Rules and Regulations of the Association. Delivery and maintenance vehicles are permitted temporarily while providing such services only.

Section 13. Trailers, etc. No trailer, camper, tent, mobile home, modular home or other structure of a temporary character shall be placed upon the Lot at any time, provided, however, that this prohibition shall not apply to temporary storage trailers or a portable toilet facility used by the contractor during the construction of a dwelling, garage or accessory building, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the Lot after the completion of construction. However, this does not prevent Declarant or his agents from maintaining a temporary sales or rental office of this nature on the Property.

Section 14. Fuel Tanks. No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within an accessory building or within a screened area, or buried underground; provided, however, that nothing contained herein shall prevent the Declarant or Association from erecting, placing of tanks, or other apparatus, on the Property for uses related to the provision of utility or other service.

Section 15. Accessory Buildings, Play Houses, Basketball Goals, Etc. Without prior written approval of Declarant or Architectural Committee, no detached accessory building or detached garage, for more than three cars, may be constructed upon any Lot subject to these covenants. Only one detached structure subject to building restrictions in Article VIII, Section 3 shall be permitted and shall not be used for human habitation temporarily or permanently. Any approved accessory building must comply with these covenants and Wake Forest zoning requirements. No play station or swing set may be constructed unless built with exterior treated wood that requires no painting and any colorful tops or slides must be approved in writing. Any such play station must be maintained no closer than twenty (20) feet from any side or rear property line. Basketball goals must be maintained in a location such that they are not in clear sight of the roadways.

Section 16. Subdividing. 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 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 necessary to make such replatted Lots suitable and fit as a building site or access area or roadway, said steps to include, but not limited to the

relocation of easements, walkways, and rights-of-way to conform to the new boundaries of said replatted Lots. If any of the Common Properties are recombined with a Lot, the Association shall execute all necessary documents to effect the recombination.

Section 17. Delivery Receptacle. No mail box, paper box or other receptacle of any kind for use in the delivery of mail, newspapers, magazine or similar materials shall be erected or located or located on any Lot unless and until the size, location, design and type of material for the receptacle shall have been approved by the Board of the Architectural Committee.

Section 18. Antennas and Satellite Receiving Devices. No satellite reception dish, or similar device for the reception of electromagnetic signals, having dimensions greater than thirty (30) inches in height, width and depth shall be located on any Lot in the subdivision. Such devices having dimensions thirty (30) inches or less shall be located so they cannot be seen from street, and no closer to street than front of dwelling. Any person desiring to install an exterior television antenna shall first obtain written approval of Declarant or Architectural Committee regarding size, shape, location, proportion and all other matters regarding the impact of the proposed antenna on the appearance of the house. The Declarant or Architectural Committee shall exercise at its sole discretion any granting or withholding of such approval. Nothing herein shall be construed to give any person the right to erect an antenna without the written approval of Declarant or Architectural Committee. No other antennas, 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 Declarant or Architectural Committee as to design, appearance and location or pursuant to Regulations issued for that purpose.

Section 19. Construction Limitations. During construction, all vehicles involved, including those delivering supplies, must enter the Lots on a driveway only, as approved by the Declarant or Architectural Committee so as not to damage unnecessarily shoulders in right-of-way, street paving and driveway pipes. During construction builders must keep the homes, garages, building sites and road right-of-ways in front of Lot clean and free of debris. All building debris, stumps, trees, etc. must be removed from each Lot by builder or Lot Owner as often as necessary to keep the house and Lot attractive. Such debris shall not be dumped in any area of the Property. No lumber, brick, block or other building materials, equipment, mechanical devices or any other object shall be stored on any Lot in an exposed location except for the purpose of construction on said Lot or contemplated construction within ninety (90) days and shall not be stored for longer than the length of time reasonable necessary for the construction in which the same is to be used.

Section 20. Firearms, Hunting Prohibited. There shall be no discharging of firearms, guns, or pistols of any kind, caliber, type, or method of propulsion; and no hunting of any type shall be carried on or conducted on the Property.

Section 21. Drying Areas. Clotheslines or drying yards shall not be located upon any Lot without the prior written consent of the Board, which consent may be conditioned or withheld in the sole discretion of the Board, as set forth in Regulations established for that purpose.

Section 22. Unsightly Growth or Objects. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or allowed to remain thereon, including vacant parcels. No disposal or burning of debris or organic matter shall be permitted within any drainage way ditches on any Property or along any road right-of-way within the Subdivision.

Section 23. Independent Covenants. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid, or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

Section 24. Additional Restrictions. Declarant may include in any contract or deed hereafter made any additional covenants and restrictions that are not inconsistent with and which do not diminish the covenants and restrictions set forth herein.

Section 25. Streets. No lot or portion thereof shall be dedicated or used for a public or private street without written consent of Declarant or their heirs or assigns.

ARTICLE X EASEMENTS

Section 1. Utility Easements. All of the Property including Lots and Common Elements, shall be subject to such easements for driveways, walkways, parking areas, water lines, storm drainage facilities, gas lines, telephone and electric power line and other public utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the property to this Declaration. The Association shall have the power and authority to grant and establish such further easements as are requisite for the convenient use, proper maintenance and enjoyment of the Common Elements without approval of the Membership, as provided in the Association Documents.

The Declarant reserves the right to subject the real property covered by this Declaration to a contract with the Town of Wake Forest for the installation of underground electric cables and/or the installation of street lighting, which may require initial and/or continuing monthly payments to Wake Forest by the Owner of each Lot.

Section 2. Priority of Easements. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Lots and the Common Elements, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the property or any portion thereof.

Section 3. Easements for Governmental Access. An easement is hereby established over the Common Area and every Lot within the Properties for the benefit of applicable governmental agencies for: installing, removing, and reading water meters; maintaining and

replacing water and sewer facilities; and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 4. Landscaping of Island(s). Landscaping of island(s) within the right(s)-of-way of public street(s) shall be the responsibility of the Association as set out in Article I, Section 5(h). Such area(s) shall remain neat, clean, attractive and safe. Damaged, unsafe or dead plants must be removed by the Association. Neither the Town, County, nor the State will be liable for any accidents or damage caused by such encroachment within the right(s)-of-way and the Association shall hold harmless the public and indemnify the Town, County and State from such liability.

Section 5. Association's Easement and Right of Entry. The Association, for itself and its employees, agents, contractors, subcontractor and invitees, shall have a perpetual access easement over the each Lot to the extent reasonable necessary to perform the maintenance to be performed by the Association as provided in Articles IV and IX of this Declaration.

ARTICLE XI INSURANCE

Section 1. Insurance to be Maintained by the Association. The following insurance coverage shall be maintained in full force and effect by the Association:

(a) Public liability and property damage insurance in such amounts and in such forms as shall be required by the Association, with at a minimum of \$1,000,000.00 for each occurrence for public liability insurance.

(b) All liability insurance shall contain cross-liability endorsements to cover liability of the Owners as a group to an individual Owner.

(c) Such other insurance coverage as the Association may determine to be desirable and necessary.

Section 2. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and charged pro rata to Owners as an assessment according to the applicable provisions of this Declaration.

Section 3. Insurance Beneficiaries. All such insurance policies shall be purchased by the Association for the benefit of the Association and the Owners.

ARTICLE XII RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders. "Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, savings banks, insurance companies, Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, and other holders or insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any Lot, or shall be the Owner of any lot, such Institutional Lender or Institutional Lenders shall have the following rights:

A. **Book and Records.** Any owner or holder of a first deed of trust on any Lot, or its agent(s), shall have the right, during normal business hours, to examine copies of this Declaration, the Articles of Incorporation, Bylaws, and the book and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

B. **Notice to Lenders.** Upon written request to the Association, the owner or holder of a first deed of trust on any Lot shall be entitled to timely written notice of:

- a. Any 60 day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan.
- b. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- c. Any proposed action that requires the consent of a specified percentage of owners or holders of first mortgages on the Lots.

C. **Approval of Owners and Holders of First Deeds of Trust.** Unless at least seventy-five percent (75%) of the owners and holders of the first deeds of trust on Lots located within the Properties have given their prior written approval, the Association shall not:

- a. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause. Notwithstanding anything herein to the contrary, the property owned by the Association, whether in fee, by easement, or otherwise, shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the Town of Wake Forest or to another non-profit corporation for the aforementioned purposes. Nothing herein shall be deemed to prohibit the Association, with the consent of the Town of Wake Forest, to exchange Common Area for other real property of like utility and value, or to require the approval of such exchange by the holders of first deeds of trust on the Lots.
- b. Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

- c. Fail to maintain hazard insurance on insurable improvements on the Common Area on a current replacement cost basis in an amount not less than one hundred per (100%) of the insurable value; or
- d. Use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement, or reconstruction of the damaged improvements.

D. Payment of Taxes and Insurance Premiums. The owners or holders of first deeds of trust on Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The persons, firms or corporations making such payments shall be owed immediate reimbursement therefor by the Association.

Whenever any Institutional Lender desires the benefits of the provisions of this section, such Lender shall serve written notice upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein, or to the address of the property, identifying the Lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Lot owned by them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XIII DISSOLUTION OR INSOLVENCY OF THE ASSOCIATION

The Association shall be dissolved upon the termination of this Declaration, or upon the written assent given in writing and signed by not less than two-thirds (2/3) of the Members of each class of members, or upon such more restrictive or additional conditions and in such manner as otherwise provided by the laws of the State of North Carolina. Upon dissolution or insolvency of the Association or upon loss of ownership of the Common Area (once such ownership has been acquired) by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Area as allowed by this Declaration or by reason of merger and/or consolidation with any other association as allowed by this Declaration), any portion of the Common Area not under the jurisdiction and being maintained by the Association, shall be offered to the Town of Wake Forest, North Carolina, or to some other appropriate governmental entity or public agency (as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Area and such assets were required to be devoted by the Association. If the Town of Wake Forest or such other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Common Area and assets shall be conveyed by the Association to the Town of Wake Forest or such other appropriate governmental entity or public agency, subject to the superior right of the Owner of each Lot [Unit] to an easement (if necessary) for reasonable ingress and egress to and from such Owner's Lot [Unit] and the public or private street(s) on which such Lot [Unit] is located, and subject to all other applicable rights of way and easements and subject to ad valorem property taxes subsequent to the date of such conveyance.

In the event that the Town of Wake Forest or such other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Area and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Area was required to be devoted by this Declaration, such conveyance to be made subject to the rights of Owners and other matters set forth in the immediately preceding paragraph.

ARTICLE XIV GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. General Amendments. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the 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 members: (A) Prior to the closed sale of sixty percent (60%) of the Lots in any recorded phase of the subdivision, this Declaration may be amended by the Declarant. (B) Declarant may amend this Declaration as to annexation of additional lands as specified in Article VI, Section 2, herein. (C) The Board may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction. (D) 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. The Declarant shall also have the right to qualify the Property or any Lots and improvements thereon for mortgages 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, the State of North Carolina, Wake County, or the Town of Wake Forest regarding purchase or sale of such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of 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. (E) 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. (F) As long as Declarant owns any Lot, Declarant reserves the right to be given notice of any condemnation or casualty loss that affects a material portion of the properties, any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association or any proposed action that requires the consent of a specified percentage of mortgage holders.

Section 5. Governmental Authority Amendments. No amendment shall become effective until submitted to and approved by those authorities set out in Article XIV, Section 4 above; 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 6. Exchange of Common Area. With the assent of two-thirds (2/3) of the votes of the entire Class A membership and two-thirds (2/3) of the entire Class B membership, if any, the Association, acting through its Board, from time to time may exchange with Declarant or any member a portion of the Common Elements for a portion of the real property owned by such member within Bowling Green, provided that the real property acquired by the Association in the Exchange; (a) is free and clear of all encumbrances except the Declaration, and easements for drainage, utilities, and sewers; (b) has approximately the same area and utility as the portion of the Common Elements exchanged and (c) the Common Elements as constituted after the conveyance meets the standards for open space as required by The Town of Wake Forest. The real property so acquired by the Association shall be a part of the Common Elements, and, without further act of the Association or membership, shall be released from any provisions of the Declaration except those applicable to the Common Elements. The portion of the Common elements so acquired by Declarant or a member, without further act of the Association or membership, shall cease to be Common Elements and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Association by the member.

Section 7. Fidelity Bonds. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, fidelity bonds shall be required for such management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association.

The total amount of fidelity bond coverage shall not be less than the estimated maximum of funds, including reserve funds in the custody of the Association or the management agent, as

the case may be, at any given time during the term of each bond. However, in no event shall the aggregate amount of such fidelity bonds be less than a sum equal to six month's aggregate assessments on all units plus reserve funds.

Fidelity bonds required herein shall:

1. Name the Association as an obligee;
2. Contain waivers by the insurers of the fidelity bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; and
3. Provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association, to any such agent as the Association shall designate to negotiate settlement of insurance claims on behalf of the Association, and to any institutional lender servicing on behalf of the Federal National Mortgage Association any loan secured by any unit.

The premiums on all such fidelity bonds for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.

Section 8. FHA/VA Approval. As long as there is a Class B membership, and if Declarant determines to qualify this property for Federal Housing Administration or Veterans Administration approval the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional property, dedication of Common Elements, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 9. Recordation. No amendment shall be effective until recorded in the County in which the property is situated.

Section 10. Rules and Regulations; Enforcement. The Board of Directors shall have the authority to adopt additional rules and regulations governing the use of the Common Area and the Lots within the Subdivision and shall furnish a written copy of said rules and regulations to the Owner(s) of each Lot at least fifteen (15) days before such rules and regulations become effective. Any violation of such rules shall be punishable by fine and/or suspension of voting rights as provided in this Declaration.

In addition to any other rights and remedies that the Association may have under this Declaration, the Association may impose sanctions for violations of this Declaration, the Bylaws of the Association, the rules and regulations adopted Association, or the Restrictive Covenants applicable to the Properties, in accordance with procedures set forth in the By-Laws, which sanctions may include, but are not limited to, reasonable monetary fines, as set forth in the By-Laws of the Association, and which fines shall constitute a lien upon the Lot of the violator, and

suspension of the right to vote and the right to use any recreational facility within the Common area.

In addition, as provided in the By-Laws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of Owner and tenant vehicles that are in violation of parking rules) and may suspend the right of an Owner to use any open space and recreational facility within the Properties if the Owner is more than 30 days delinquent in paying any assessment or other charge due to the Association.

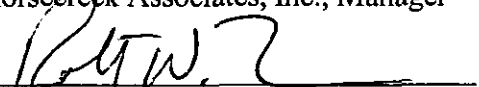
The Association shall at all times have the right and easement to go upon any Lot for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the architectural guidelines applicable to the Properties. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass. All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce its rights and remedies, if the Association prevails, it shall be entitled to recover all costs, including, without limitations, attorneys' fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule, which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonable determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 11. Attorneys Fees and Legal Costs. In the event that legal representation becomes necessary for the Association to enforce the Declaration, and attorneys' fees and/or legal costs are incurred by the Association, the non-prevailing party shall be liable to the prevailing party for all reasonable attorneys' fees and legal costs incurred by the prevailing party. Further, in an effort to deter frivolous actions against the Association, in the event that the Association is made a party to any legal action filed by or on behalf of any Member, the non-prevailing party shall be liable to prevailing party for all reasonable attorneys' fees and legal costs incurred by the prevailing party.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 29th day of December, 2005.

BOWLING GREEN ASSOCIATES, LLC
A North Carolina Limited Liability Company
By: Horsecreek Associates, Inc., Manager


Robert W. Neeb, President

**Jones Dairy Development, Inc.
A North Carolina Corporation**

By: Robert H Jones
Its President, Robert H Jones

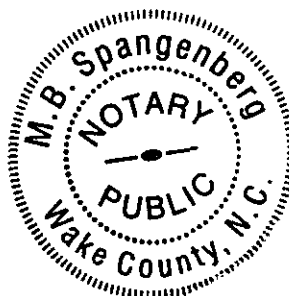
NORTH CAROLINA - WAKE COUNTY

I, M.B. Spangenberg, a Notary Public of the aforesaid County and State do certify that Robert W. Neeb, President of Horsecreek Associates, Inc., Manager of Bowling Green Associates, LLC, personally appeared before me this day and acknowledged that it is Manager of Bowling Green Associates, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the LLC, the foregoing instrument was signed in its name by it as its Manager.

Witness my hand and notarial seal, this the 30th day of December, 2005.

M.B. Spangenberg
NOTARY PUBLIC

4-24-07
COMMISSION EXPIRES:



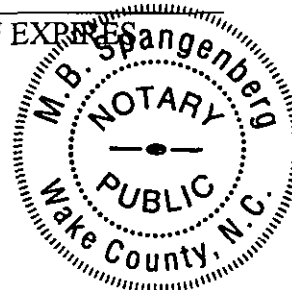
NORTH CAROLINA - WAKE COUNTY

I, a Notary Public for the County and State aforesaid, certify that Robert^H Jones personally appeared before me this day and acknowledged that he is President of Jones Dairy Development, Inc., a North Carolina corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its President.

Witness my hand and official stamp or seal, this 30th day of December, 2005.

M.B. Spangenberg
NOTARY PUBLIC

4-24-07
COMMISSION EXPIRES:



BK011757PG00839

EXHIBIT A

Tract One:

BEING all of Lots 1 through 61 of Bowling Green Subdivision, Phase 2A, Map 1 as shown on plat recorded in Book of Maps 2005, Pages 2413 & 2414, Wake County Registry.

Tract Two:

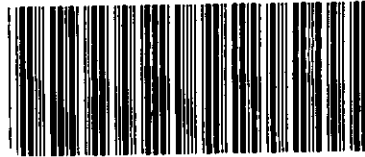
BEING lots 125 through 138 as indicated on plat for Bowling Green Associates, LLC entitled "Willow Deer Addition," dated January 12, 2005 and being recorded in Book of Maps 2005, Page 288, Wake County Registry.

EXHIBIT BTract One:

Beginning at an iron pipe in the southern right of way line of NC Highway 98, also known as Wait Avenue, said iron pipe being a northwestern corner for Nourse as shown in Book of Maps 1988, Page 1161, Wake County Registry; thence along the line of Nourse South 10° 49' 13" West, 682.34 feet to an iron pipe and North 89° 34' 06" East, 494.93 feet to a concrete monument; thence along the line of JVC Homes, Inc. South 01° 07' 08" West, 144.67 feet to an iron pipe; thence along a new line for JVC Homes, Inc. South 36° 25' 19" West, 134.07 feet to an iron pipe, South 27° 56' 24" West, 179.07 feet to an iron pipe, South 05° 15' 28" West, 720.92 feet to an iron pipe, South 35° 22' 26" West, 81.90 feet to an iron pipe, South 68° 34' 29" West, 364.06 feet to an iron pipe and South 72° 18' 11" West, 231.38 feet to an iron pipe; thence along the line of Willow Deer Subdivision, North 25° 19' 36" West, 398.85 feet to an iron pipe; thence along the line of Cresimore North 25° 19' 36" West, 252.17 feet to an iron pipe and North 26° 43' 29" West, 435.78 feet to an iron pipe; thence along the line of Mackie North 66° 46' 31" East, 10.82 feet to a point, North 25° 20' 58" West, 432.49 feet to an iron pipe and North 28° 54' 13" West, 320.48 feet to an iron pipe; thence along the line of Ellington North 86° 47' 57" East, 157.17 feet to an iron pipe; thence along the line of O'Neal, North 87° 14' 53" East, 156.78 feet to an iron pipe, North 55° 04' 25" East, 59.02 feet to an iron pipe and North 22° 04' 09" East, 474.94 feet to an iron pipe; thence along the southern right of way line of NC Highway 98, South 83° 55' 30" East, 740.69 feet to the beginning, containing 45.72 acres and being Tract 1 as shown on plat entitled "Boundary Survey for Gould Construction" dated June 21, 2004 and drawn by Rice & Associates, Civil Engineering, Planning, & Surveying.

Tract Two:

Beginning at an iron pipe in the northern right of way line of Jones Dairy Road, said iron pipe being a southeastern corner for George C. Mackie, Jr. and wife, Martha H. Mackie, as described by deed recorded in Book 2132, Page 582; thence along the line of Mackie North 66 degrees 46' 31" East, 2982.82 feet to an iron pipe; thence along the line of JVC Homes, Inc. South 26 degrees 43' 29" East, 435.78 feet to an iron pipe, and South 25 degrees 19' 13" East, 252.17 feet to a point, which is North 65 degrees 57' 10" East, 3.07 feet from an iron pipe; thence along the line of Willow Deer Subdivision South 65 degrees 57' 10" West, 956.52 feet to an iron pipe, South 22 degrees 40' 28" East, 355.92 feet to an iron pipe; South 65 degrees 44' 04" West, 622.52 feet to an iron pipe, and South 13 degrees 32' 59" West, 1207.31 feet to an iron pipe in the northern right of way line of Jones Dairy Road; thence along the northern right of way line of Jones Dairy Road in a westerly direction along a right hand curve having a radius of 2470.00 feet for a chord distance of 310.23 feet to a concrete monument; thence along the northern right of way line of Jones Dairy Road, North 42 degrees 44' 25" West, 909.24 feet to a point, and North 42 degrees 29' 42" West, 436.25 feet to a point; thence along the northern right of way of line of Jones Dairy Road in a westerly direction along a right hand curve having a radius of 5370.00 feet for a chord distance of 409.06 feet to the beginning, containing 73.60 acres according to a boundary survey by Rice & Associates, dated June 20, 2001.



BOOK:011757 PAGE:0809 - 0841

**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 _____

_____ 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: _____
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
_____  New Time Stamp
_____ # of Pages