

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR
ADALYN PLACE**

Prepared by and Return to:
Curtis K. Thompson
3716 National Dr., Ste 100
Raleigh, NC 27612

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF
THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA**

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SIGNS**

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR
ADALYN PLACE**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ADALYN PLACE ("Declaration") is made this _____ day of _____, 2019, by **Dan Ryan Builders – North Carolina, LLC**, a North Carolina limited liability company ("Declarant").

**PART ONE:
INTRODUCTION TO THE COMMUNITY**

**ARTICLE I
CREATION OF THE COMMUNITY**

1.1. Purpose and Intent. Declarant, as the Declarant hereunder and as owner of the real property described on Exhibit "A", intends by the recording of this Declaration to create a general plan of development for the planned community known as Adalyn Place. This Declaration provides a flexible and reasonable procedure for the future expansion of Adalyn Place to include additional real property as Declarant deems appropriate and provides for the overall development, administration, maintenance and preservation of the real property now and hereafter comprising Adalyn Place by forming Adalyn Place Homeowners Association, Inc. (the "Association"), an association comprised of all owners of residential property in Adalyn Place, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration. Although this Active Adult Community will be marketed towards those who are 55 years of age and older, there is no age restrictions contained in this Declaration.

1.2. Binding Effect. All property described on Exhibit "A", and any additional property which is made a part of Adalyn Place in the future by filing of one or more Supplemental Declarations in the Public Records, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns.

This Declaration shall be enforceable by the Declarant, the Association, any Owner and their respective legal representatives, heirs, successors, and assigns, perpetually, from the date this Declaration is recorded in the Public Records; provided, if North Carolina law shall limit the term that covenants or restrictions may encumber real property, this Declaration shall run for such period and shall be extended automatically for successive periods of ten (10) years each, unless amended as specified herein.

1.3 Governing Documents.

The Governing Documents, as defined in Article II hereof, create a general plan of development for Adalyn Place which may be supplemented by additional covenants, restrictions

and easements. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, and/or the provisions of any other articles of incorporation, bylaws, rules or policies, the Governing Documents shall control. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration.

All provisions of the Governing Documents shall apply to all Owners and to all occupants of their Units, as well as their respective tenants, guests and invitees. Any lease on a Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of the Governing Documents.

If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

ARTICLE II CONCEPTS AND DEFINITIONS

2.1 The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below:

"Act" The Planned Community Act, Chapter 47F of the North Carolina General Statutes, as the same is in effect as of the date hereof and as may be supplemented and/or amended from time to time.

"Area of Common Responsibility" The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts, or agreements.

"Association" ADALYN PLACE HOMEOWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation, its successors or assigns.

"Base Assessment" Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Board of Directors" or "Board" The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under North Carolina corporate law.

"By-Laws" The By-Laws of ADALYN PLACE HOMEOWNERS ASSOCIATION, INC., as amended from time to time and as attached as Exhibit "D" hereto and by this reference incorporated herein.

"Class 'B' Control Period" The period of time during which the Class "B" Member is entitled to appoint and remove the members of the Board as provided in the By-Laws.

"Common Area" All real and personal property, including easements and other interests therein and the improvements located thereon, including, without limitation, the private roads, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

"Common Expenses" The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners (including but not limited to landscaping maintenance), including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

"Community-Wide Standard" The standard of conduct, maintenance, or other activity generally prevailing throughout Adalyn Place. Such standard shall be established initially by the Declarant and may be more specifically defined in the Design Guidelines, the Use Restrictions and Rules attached this Declaration as Exhibit "B", or as may be set forth in Board resolutions.

"Declarant" Dan Ryan Builders – North Carolina, LLC, or any successor or assign who takes title to any portion of the property described on Exhibit "A" for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant and the assignee.

"Design Guidelines" The Design Guidelines adopted by the Declarant relating to the construction, modification or alteration of any structure or improvement on a Unit as provided in Section 4.3 hereof.

"Governing Documents" A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Design Guidelines, the Use Restrictions and Rules, as they may be amended and/or supplemented from time to time.

"Member" A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage" A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

"Mortgagee" A beneficiary or holder of a Mortgage.

"Owner" One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person" A natural person, a corporation, a partnership, limited liability company, a trustee, or any other legal entity recognized as a separate legal entity under North Carolina law.

"Properties" or "Adalyn Place" or "Community" The real property described on Exhibit "A", together with such additional property as is subject to this Declaration in accordance with Article IX.

"Public Records" The Office of the Register of Deeds of Wake County, North Carolina, or any successor office.

"Special Assessments" Assessments levied in accordance with Section 8.4.

"Specific Assessment" Assessments levied in accordance with Section 8.5.

"Supplemental Declaration" An instrument filed in the Public Records pursuant to Article IX which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

"Unit" A portion of the Properties, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as a detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The ownership of a Unit shall include and there shall pass with the title to each Unit as an appurtenance thereto, whether or not separately described, membership in the Association and all rights and interests of an Owner in and to the Common Area.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain a single unit until such time as a subdivision plat is recorded in the Public Records on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

"Use Restrictions and Rules" The initial use restrictions and rules attached to this Declaration as Exhibit "B", as they may be supplemented, modified and repealed pursuant to Article III hereof.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

ARTICLE III USE AND CONDUCT

3.1. Framework for Regulation. The Governing Documents establish, as part of the general plan of development for the Properties, a framework of affirmative and negative covenants, easements and restrictions which govern the Properties. However, within that framework, the Declarant, Board and Members must have the ability to respond to unforeseen problems and

changes in circumstances, desires, trends and technology which inevitably will affect Adalyn Place, its Owners and residents. Toward that end, this Article establishes procedures for modifying and expanding the initial Use Restrictions and Rules set forth on Exhibit "B" hereto.

3.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Declarant's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Declarant, so long as it owns any property subject to the Declaration or has the right to annex additional property to this Declaration, and thereafter the Board, may modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules. Declarant shall give the Board written notice of any such action taken by the Declarant, including the effective date of such action as determined by the Declarant. The Board shall give written notice of such Declarant action to each Owner. With respect to any such action to be taken by the Board, it shall send notice by mail to all Owners concerning any such proposed Board action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such proposed Board rule or restriction shall become effective unless disapproved at a meeting duly called for such purpose by Members representing at least fifty-one percent (51%) of the total eligible Association vote and by Declarant, so long as Declarant owns any property described on Exhibit "A" subject to the notice provision as set forth herein. The Board shall have no obligation to call a meeting of the Members to consider disapproval of a proposed amendment, modification or expansion of the initial Use Restrictions and Rules except upon petition of the Members as required for special meetings in the By-Laws.

Alternatively, the Members, at a meeting duly called for such purpose as provided in the By-Laws, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules previously adopted by a vote of Members representing at least fifty-one percent (51%) of the total votes in the Association and the approval of Declarant, so long as Declarant owns any property described on Exhibit "A".

At least thirty (30) days prior to the effective date of any Board or Member action taken under this Section 3.2(a), the Board shall send a copy of the newly-adopted rule to each Owner. The Association shall provide, without cost, a copy of the new Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(b) Nothing in this Article shall authorize the Board or the Members to modify, repeal or expand the Design Guidelines. In the event of a conflict between the Design Guidelines and the Use Restrictions and Rules, the Design Guidelines shall control.

3.3. Owners' Acknowledgment and Notice to Purchasers. All Owners are given notice that use of their Units and the Common Area is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and the Use Restrictions and Rules may change from time to time.

All purchasers of Units are on notice that changes may have been adopted by the Association. Copies of the current Use Restrictions and Rules may be obtained from the Association.

3.4. Protection of Owners and Others. No rule shall be adopted in violation of the following provisions, except as may be specifically set forth in this Declaration (either initially or by amendment).

(a) Equal Treatment. Similarly situated Owners shall be treated similarly.

(b) Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions with respect to displays visible from outside the dwelling located on a Unit.

No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria) and may regulate such other aspects of such signs as are allowed to be regulated under the Act.

(c) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise and traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance, all as more particularly set forth in Exhibit "B" hereto.

(d) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for the use of the Common Area, from denying use privileges to those who abuse the Common Area or violate the Governing Documents, or from enforcing the various insurance requirements specified herein. This provision does not affect the right of the Board to increase assessments as provided in Article VIII.

(e) Alienation. No rule shall prohibit the leasing or transfer of any Unit by an Owner; provided, the Association may require a minimum lease term. All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents; however, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease; and provided further, nothing herein shall prohibit the Declarant or the Association, in accordance with Article XVI of this Declaration, from filing an amendment to the Declaration in the Public Records prohibiting leasing or limiting the number of Units which may be leased at one time.

Within seven (7) days of entering into a lease agreement for the lease of a Unit, the

Owner shall provide the Board with a copy of the lease, the names and addresses of all occupants of the Unit, the address and telephone number of the Owner other than at the Unit and such other information as the Board may reasonably require.

Every Owner agrees to cause all occupants of his or her Unit to comply with the Declaration, By-Laws, Design Guidelines and the Use Restrictions and Rules and such Owner is responsible for all violations caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Governing Documents. In the event that the lessee or a person living with the lessee violates the Governing Documents for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with the Declaration and By-Laws. If the fine is not paid by the lessee within the time period established by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay such fine. Unpaid fines shall constitute a lien against the Unit.

When a Unit Owner who is leasing his or her Unit fails to pay any annual, special or specific assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid general, special and specific assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. Nothing herein shall be construed as releasing the Owner from the obligation to pay assessments required under this Declaration.

(f) Abridging Existing Rights. If any rule would otherwise require Owners to dispose of personal property which they maintained in or on the Unit prior to the effective date of such rule, or to vacate a Unit in which they resided prior to the effective date of such rule, and such property was maintained or such occupancy was in compliance with this Declaration and all rules previously in force, such rule shall not apply to any such Owners without their written consent.

(g) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede the Declarant's rights to develop the Properties.

(h) Activities Incidental to Construction. No rule or action by the Association shall impede the Declarant from maintaining upon the Common Area and Units which they own any facilities necessary or incidental to the construction or sale of Units. By way of example and not limitation, no rule shall prohibit the Declarant from installing signs, maintaining temporary structures for use during construction of a Unit, including, without limitation, construction trailers and sales trailers, or from using any dwelling on a Unit as a sales office.

(i) No Discrimination. No rule shall have the effect of discriminating against any Person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

The limitations in subsections (a) through (i) of this Section 3.4 shall only limit rule making authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XVI.

ARTICLE IV ARCHITECTURE AND LANDSCAPING

4.1. General. No structure, thing or improvement shall be placed, erected, installed or posted on the Properties and no improvements or other work (including staking, clearing, excavating, grading and other site work, exterior alterations of existing improvements, or planting or removing of landscaping) shall take place within the Properties, except in compliance with this Article and the Design Guidelines. Any Owner may remodel, repaint or redecorate the interior of structures located on the Unit without approval hereunder. However, modifications to the interior of porches, patios and similar structures visible from outside the residential dwelling located on a Unit shall be subject to approval. This Article shall not apply to activities of the Declarant or its affiliates, nor to improvements to the Common Area made by or on behalf of the Association. The failure to comply with the requirements in this Article IV shall entitle the Declarant and/or the Board to exercise the remedies set forth in Section 7.5 of this Declaration.

4.2. Architectural Review.

(a) By Declarant. Until one hundred percent (100%) of the property described on Exhibit "A" has been improved with a dwelling and conveyed to Owners other than the Declarant and Declarant no longer owns any property in Adalyn Place and no longer has the right to annex additional property to the Community as provided in Article IX hereof or the Declarant terminates such rights in a written instrument recorded in the Public Records, the Declarant shall have sole authority to review and approve all construction activity within the scope of this Article. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties, Declarant has a substantial interest in ensuring that the improvements within the Properties preserve and promote the desirability of Adalyn Place and do not impair the Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article ("Work") shall be commenced on such Owner's Unit unless and until the Declarant or its designee has given prior written approval for such Work, which approval may be granted or withheld in the sole discretion of Declarant or its designee.

In reviewing and acting upon any request for approval, Declarant or its designee, shall be acting in the interest of Declarant and shall owe no duty to any Person. The Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

The Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Association's Board of Directors (the "ARC"), or (ii) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be

subject to (i) the right of Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (ii) the right of Declarant to veto any decision made by the ARC which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as the Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by the Declarant.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of the Declarant's rights under this Article, the Association, acting through the Architectural Review Committee ("ARC"), shall assume jurisdiction over architectural matters hereunder, except for those architectural matters reserved by the Declarant. The ARC, when appointed by the Declarant or the Board, as the case may be, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or the Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer".

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for the review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.3. Guidelines and Procedures.

(a) Design Guidelines. The Declarant may prepare the initial Design Guidelines, which will contain provisions applicable to the entire Properties and may contain specific provisions to certain areas or units within the Properties. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Design Guidelines does not guarantee approval of any application.

The Declarant shall have sole and full authority to amend or modify the Design Guidelines until its rights terminate as set forth in Section 4.2 hereof. Upon termination or delegation of the Declarant's right to amend the Design Guidelines, the ARC shall have the authority to amend the Design Guidelines with the consent of the Board. Any amendments to the

Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. Amendments or modifications to the Design Guidelines shall become effective and shall be binding on all Owners and occupants unless and until overruled, cancelled or modified by a majority of the total Association vote. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners who seek to engage in development or construction within the Properties. In the Declarant's discretion, such Design Guidelines may be recorded in the Public Records, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

All Owners and occupants of Units are given notice that the use of their Unit(s) is limited by the Design Guidelines, as they may be expanded, modified or amended hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale recorded in the Public Records, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit may be affected and that the Design Guidelines may change from time to time, and that such changes may not be reflected in a instrument filed in the Public Records.

(b) Procedures. Prior to commencing any Work within the scope of this Article, an Owner shall submit to the Reviewer an application for approval of the proposed Work in such form as the Design Guidelines or the Reviewer may specify. Such application shall include plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, and other features of proposed construction, as applicable and as the Reviewer may require. The Design Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall, within thirty (30) days after receipt of a completed application and all required information, respond in writing to the applicant at the address specified in the application. The response may (i) approve the Plans and the application, with or without conditions; (ii) approve a portion of the application and the Plans and disapprove other portions; or (iii) disapprove the Plans and the application. The Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in such thirty (30) day time period after actual receipt of the documentation, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be

inconsistent with the Design Guidelines unless a variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

In addition, in the event that construction does not commence on a project for which plans have been approved with twelve (12) months of such approval being issued, such approval shall be deemed withdrawn and it shall be necessary for the Owner to submit the plans to the Reviewer for reconsideration.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

Notwithstanding anything to the contrary herein, with ten (10) days of any decision made by the ARC or if the ARC fails to respond to any application within thirty (30) days of receipt thereof, the Declarant shall have the right, but not the obligation, to overturn, in writing, said decision. The Declarant shall notify the ARC and the applicant of its decision within said ten (10) day period and the decision by the Declarant shall be final.

4.4. No Waiver of Future Approvals. Each Owner acknowledges that the Reviewer may change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or Plans for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances. The Reviewer may authorize variances from compliance with the Design Guidelines or any of its guidelines and procedures when circumstances require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability. The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with permitting requirements, building codes and other

governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work, nor for any defects in plans revised or approved hereunder, nor for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the ARC and all persons comprising the ARC shall be defended and indemnified by the Association as provided in Section 7.7. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against the Declarant, the Association or the officers, directors, Members, employees and agents of any of them to recover any damages and hereby releases, remises, quitclaims and covenants not to sue for all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

ARTICLE V MAINTENANCE AND REPAIR OF UNITS

5.1. Maintenance of Units. Each Owner shall maintain his or her Unit and all structures, parking areas, other improvements, and the residential dwelling located thereon in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by the Association or assigned to the Association pursuant to this Declaration, or any Supplemental Declaration. Such maintenance obligation shall include, without limitation, the following: (a) the prompt removal of all litter, trash, refuse, and waste; (b) lawn mowing on a regular basis if Owner opted out of the Association Yard Improvements; (c) tree and shrub pruning if Owner opted out of the Association Yard Improvements; (d) watering landscaped areas; (e) keeping improvements, and exterior lighting in good repair and working order; (f) keeping lawn and garden areas alive, free of weeds, and attractive; (g) keeping driveways in good repair; (h) complying with all governmental health and police requirements; and (i) repair of exterior damages to improvements, including, without limitation, periodic painting and pressure washing as needed.

5.2. Responsibility for Repair and Replacement.

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

(b) **Repair and Replacement.** The damage or destruction by fire or other casualty to all or any portion of any improvement on a Unit shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable period of time thereafter as determined by the Board in its sole discretion. In the event that an Owner elects to repair and reconstruct, such repair and reconstruction shall be consistent with the original construction or other plans and specifications approved pursuant to Article IV hereof. Alternatively, the Owner may elect to demolish all improvements on the Unit and remove all debris therefrom within seventy-five (75) days after such damage or destruction and maintain the property in a neat and attractive condition consistent with the Community-Wide Standard and this Declaration.

5.3. **Failure to Maintain.** In the event that the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten-day period, to commence such work which shall be completed within a reasonable period of time as determined by the Board in its sole discretion. If any Owner does not comply with the provisions hereof or in an emergency situation, the Association may provide such maintenance, repair or replacement to the Unit at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject, shall, to the extent permitted by applicable law, become and be a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

ARTICLE VI THE ASSOCIATION AND ITS MEMBERS

6.1. **Function of Association.** The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association also shall be the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of North Carolina.

6.2. **Membership.** Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) hereof and in the By-Laws, and all such Co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership

rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment. All Class "A" votes shall be cast as provided in Section 6.3(c) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member may appoint and remove the members of the Board of Directors during the Class "B" Control Period, as specified in the By-Laws. Additional rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. With respect to all matters under the Act or Governing Documents that require a vote of the Members, the Class B Member shall have three (3) votes for each Unit it owns.

The Class "B" membership shall terminate upon the earlier of:

(i) two (2) years after expiration of the Class "B" Control Period pursuant to the By-Laws; or

(ii) when, in its discretion, the Declarant so determines and declares in an instrument recorded in the Public Records.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns, if applicable.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Member. In any situation where there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

ARTICLE VII ASSOCIATION POWERS AND RESPONSIBILITIES

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property.

(b) The Declarant and its designees may convey to the Association personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described on Exhibit "A". The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent (i) conveyed by Declarant in error, (ii) needed by Declarant to make minor adjustments in property lines; or (iii) reasonably determined by Declarant to be needed by Declarant due to changes in the overall scheme of development for the Properties.

7.2. Maintenance of Area of Common Responsibility.

(a) The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

(i) all portions of and structures and improvements situated upon the Common Area, including the private roads within the subdivision, and any entry features and entry area landscaping, including costs for lighting and irrigating the same;

(ii) landscaping within rights-of-way within or abutting the Properties. Declarant may install trees within these rights-of-way at such locations that Declarant, in its sole discretion, shall determine. The Association shall be responsible for maintenance of these trees and for replacement thereof when necessary;

(iii) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(iv) all lands located within the Properties which serve as part of the storm water drainage system for the Properties, including improvements and equipment installed therein or used in connection therewith and any storm water detention/retention ponds initially installed by the Declarant in accordance with the Neuse River Basin Rules and/or any regulations promulgated or implemented by the State of North Carolina, the Town of Fuquay-Varina or Wake County ("Rules"); provided, however, each Owner of a Unit shall be responsible for the maintenance, repair and replacement of all storm water drainage facilities located on and exclusively serving a Unit;

(v) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association;

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(vi) The Association shall maintain and be responsible for monthly electric bills which represent a charge for the street lights in Adalyn Place and the same shall be deemed a Common Expenses.

(vii) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation and in accordance with the Community-Wide Standard.

(b) The costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

(c) Limitation on Liability. Owners, occupants and their guests shall use the Common Area maintained by the Association at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. All Owners and occupants shall have an affirmative duty and responsibility to inspect the Common Area and all portions of the Properties not contained within a Unit for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on any of the foregoing property. The Association shall not be liable for injury or damage to any Person or property: (a) caused by the elements or by an Owner or any other Person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association or from any portion of the Common Area, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or occupant for loss or damage, by theft or otherwise, of any property of such Owner or occupant.

(d) Damage to Units or Common Area. If damage is inflicted on any Unit by the Association in the performance of its duties under this Declaration, the Association shall be responsible to repair such damage or to reimburse the Unit Owner for the cost of repairing such damages.

In accordance with Chapter 47F-3-107 of Act, when the claim by a Unit Owner for damage to a Unit caused by the Association or a claim by the Association for damage caused by a Unit Owner to the Common Area, as the case may be, is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statutes 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Board to

determine if a Unit Owner is responsible for damages to the Common Area or the Association is responsible for damages to any Unit. Such panel shall accord to the party charged with causing damages notice of the charge, an opportunity to be heard and to present evidence and notice of the decision, all as may be provided in this Declaration and the By-Laws. The panel may assess liability for each damage incident against each Unit Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statutes 7A-210. When the claims set forth herein exceed the jurisdictional amount established for small claims, liability of a Unit Owner charged or the Association shall be determined as otherwise provided by law. Notwithstanding anything to the contrary herein, if the Board fails to appoint and adjudicatory panel to hear such matters, hearings under this Section shall be held before the Board and any and all references to an adjudicatory panel or panel shall be a reference to the Board.

(e) In addition to maintenance of the Common Area and the improvements and facilities located thereon, the Association shall be responsible for maintaining the grass, plants, shrubs, trees, and landscaping, (hereinafter the "Yard Improvements") installed or constructed on a Lot by the Declarant or the Association, and any Yard Improvements installed or constructed by an Owner with the prior written consent of the Association (but only to the extent that such consent specifically provides that the Association will maintain such additional Yard Improvements).

Notwithstanding the foregoing: (i) the Association shall not be responsible for maintaining any parking areas, walks, fence installed on any Lot or any Yard Improvements inside of such fence; (ii) the Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree for any reason; (iii) the Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of an Owner or any utility company or governmental entity; (iv) the Association shall not be responsible for repairing any damage caused by the negligent or willful act or omission of the Owner of such Lot or such Owner's family members or tenants, or the guests, invitees or contractors of any of them; and (v) the Association shall not be responsible for the watering of any landscaping, pest control (other than termite), any drainage problems/issues, fertilization, removal of mulch volcanoes, flowers of any kind.

Owners may choose to opt out of the Association Yard Improvements described herein. However, opting out will not affect the Owner's Assessments described herein. Owners who do opt of the Association Yard Improvements shall maintain a healthy, weed free turf and weed free landscaping beds.

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance as a Common Expense, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance on the Area of Common Responsibility covering the full replacement cost of all insured improvements, if any, under current building

ordinances and codes, to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least One Million and No/100 Dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Wake County, North Carolina area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.23 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of North Carolina which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association;

(vii) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, (i) Adalyn Place is terminated, (ii) repair or reconstruction would be illegal under any state or local health or safety statute or ordinance, or (iii) within sixty (60) days after the casualty, at least eighty percent (80%) of the total Association vote and the Owner or Owners of any damaged Unit or Units otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy a Special Assessment to cover the shortfall.

(d) Right of Entry into Units in Emergencies. In case of any emergency originating in or threatening any Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter such Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate; provided, however, nothing herein shall authorize entry into a residential dwelling located on a Unit without the consent of the Unit Owner.

7.4. Management. The Association, through its Board, may employ a professional management agent or agents at such compensation as the Board may establish, to perform such

duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policymaking authority.

In the event Declarant manages the Community, Declarant shall maintain and preserve the capital contributions as reserves for the Association in a financially responsible manner, create and oversee the budgets for the Association and manage the same in a first class, financially prudent and professional manner.

7.5. Compliance and Enforcement. Every Owner and occupant of a Unit shall comply with the Governing Documents. The Declarant and/or the Board may impose sanctions for a violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.23 of the By-Laws. Such sanctions may include, without limitation:

(a) imposing reasonable monetary fines which shall constitute a valid lien upon the violator's Unit upon the filing of a lien in the Public Records, if and to the extent filing a lien in the Public Records is required by the Act. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board). The Declarant and the Board shall have the authority to levy and collect fines; provided, however, only one fine may be imposed for a single violation such that an Owner or occupant may not be fined by the Declarant and the Association for the same violation; provided further, that the Declarant or the Association, as the case may be, may count each day a violation continues after notice thereof as a separate violation. In the event fines or sanctions are imposed by Declarant, Declarant shall have any and all rights to collect such fines or sanctions (which fines shall be payable to the Association) and any related charges, including, without limitation, attorneys' fees actually incurred and costs of collection, in the same manner as provided herein for the collection of assessments by the Association acting through the Board.

(b) suspending an Owner's right to vote;

(c) suspending any Person's right to use the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(d) suspending any services provided by the Association, if any, to an Owner or the Owner's Unit if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(e) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(f) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article IV and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass and any costs associated

therewith shall be a Specific Assessment against the Unit; provided, however, the Declarant, the Association or their officers, directors, members, employees and agents shall not be held liable to any Person for exercising the rights granted herein, including, without limitation, claims for damages resulting from the removal of the nonconforming structure or improvement;

(g) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Design Guidelines from continuing or performing any further activities in the Properties;

(h) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents;

(i) Recording a notice of violation in the Public Records for architectural violations pursuant to Article IV hereof; and

(j) performing maintenance responsibilities to a Unit on behalf of the Owner and assessing all costs incurred by the Association against the Unit and the Owner as a Specific Assessment.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without complying with the procedures set forth in Section 3.23 of the By-Laws:

(a) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and

(b) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable city and county ordinances and permit the County of Wake, North Carolina to enforce ordinances within the Properties for the benefit of the Association and its Members.

7.6. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.7. Indemnification of Officers, Directors and Others. To the fullest extent allowed under the North Carolina Nonprofit Corporation Act (Chapter 55A of the North Carolina General Statutes or any successor statute), the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action, subject to the provisions of the North Carolina Nonprofit Corporation Act. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association nor the Declarant, shall in any way be considered insurers or guarantors of security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board and committees, and the Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties. IT IS THE OBLIGATION OF EACH UNIT OWNER AND ITS OCCUPANTS TO PROVIDE INDIVIDUAL SECURITY TO HIS OR HER UNIT.

7.9. Provision of Services. The Association shall be authorized but not obligated to enter into and terminate, in the Board's discretion, contracts or agreements with other entities to provide services to and facilities for the Members of the Association and their guests, lessees and

invitees and to charge use and consumption fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

ARTICLE VIII ASSOCIATION FINANCES

8.1. Budgeting and Allocating Common Expenses. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2., if any. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, if any, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units.

The Association is hereby authorized to levy Base Assessments equally against all Units subject to assessment under Section 8.3 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall cause the budget and the Base Assessment to be levied against each Unit for the year (or portion thereof in the case of the initial budget) and a notice of the meeting to consider ratification of the budget (which notice shall include a statement that the budget may be ratified without a quorum being present) to be provided to each Member no more than thirty (30) days after the adoption of such budget. The date of the meeting of the Members to consider ratification of the budget shall be not less than ten (10) days nor more than sixty (60) days after mailing of the budget and notice of the meeting to consider the ratification of the same. There shall be no requirement that a quorum be present at the meeting. The meeting shall be held at least thirty (30) days prior to the due date for payment of the Base Assessment (or the first installment thereof). The budget is ratified and the Base Assessment shall become effective unless disapproved at a meeting by at least a majority of the total Association vote. Notwithstanding the foregoing, if any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

8.2. Budgeting for Reserves. The Board may, but shall have no obligation to, prepare and review at least annually a reserve budget for the Area of Common Responsibility. The budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair, or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

8.3. Base Assessments. Base Assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Area and the

Yard Improvements described herein, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. Base Assessments may include, without limitation, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities and other services provided by the Association, if any, cleaning and janitor services, landscape maintenance and expenses and liabilities incurred as provided herein and in the Articles of Incorporation and By-Laws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

8.4. Special Assessments. Except as set forth in Section 7.3(c) and in addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted without the approval of the Owners so long as the amount of the assessment allocated to each Unit does not exceed Three Hundred and No/100 Dollars (\$300.00) in any one fiscal year. In the event the amount of the Special Assessment exceeds Three Hundred and No/100 Dollars (\$300.00) in any one fiscal year, such Special Assessment must be approved by two-thirds (2/3) of the total Association vote and the Declarant. Any such Special Assessment shall be levied against the entire membership. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; or

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

Fines levied pursuant to this Declaration, the working capital contribution and the costs of maintenance performed by the Association for which the Owner is responsible shall be Specific Assessments.

8.6. Authority to Assess Owners. The Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit subject to the Declaration upon (i) conveyance of such Unit to an Owner by Declarant, whether such conveyance is to an individual homeowner, and (ii) the improvement of such Unit with a dwelling for which a certificate of occupancy has been issued and has been conveyed to an Owner for residential occupancy; provided, however, if the dwelling is occupied as a residence before such

conveyance, assessments shall commence on the date of such occupancy. Any Unit which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Unit is used as a model home and is not occupied for residential purposes.

8.7. Personal Obligation. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such higher amount permitted by the Act), late charges (in the amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars (\$20.00) per month or ten percent (10%) of any assessment of installment unpaid or such higher amount as may be authorized under the Act), costs of collection, and reasonable attorneys' fees actually incurred, shall be the personal obligation of each Owner and shall be secured by a lien on such Unit when the Association files a claim of lien in the Public Records in the manner provided by law, if the filing of such liens is required by law, otherwise such lien shall attach when the assessment is assessed. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance; provided, however, the liability of the grantee for the unpaid assessments of the grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

Failure of the Board to determine an assessment or to deliver an assessment notice shall not be deemed a waiver or release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for the alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Assessments shall be paid at a uniform rate per Unit in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of assessments for delinquents; provided however, (a) notwithstanding any provision in this Declaration to the contrary, assessments to pay a judgment against the Association may be made only against the Units in Adalyn Place at the time the judgment was entered; and (b) if any Common Expense is caused by the negligence or misconduct of any Owner or occupant, the Association may assess the expenses exclusively against that Owner or occupant's Unit, as more particularly set forth in Section 8.5 hereof. The Board may charge each Owner a service, collection, consulting or administration fee (an "Administrative Fee") in an amount to be determined by the Board from time to time in connection with the assessment and collection of the assessments provided for in this Declaration.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid within ten (10) business days after receipt of such request by said Owner. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

8.8. Remedies of the Association for Nonpayment of Assessments. Any sums or charges (including assessments or installments thereof) assessed against any Unit pursuant to this Declaration which are not paid when due shall be delinquent. Any such sums delinquent for a period of more than ten (10) days shall incur a late charge (in an amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars (\$20.00) per month or ten percent (10%) of any installment unpaid or such higher amount as may be permitted by law) and interest (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such higher amount as may be permitted by law). The Association shall cause a notice of delinquency to be given to any Member who has not paid within ten (10) days following the due date (the "Delinquency Notice"). The Delinquency Notice shall state: (i) the outstanding balance due as of the date of the Delinquency Notice; (ii) that the Member has fifteen (15) days from the mailing of the Delinquency Notice (the "Grace Period") to pay the outstanding balance without being required to pay attorneys fees and court costs; (iii) the name of and contact information for a representative of the Association whom the Member can contact to discuss a payment schedule for the outstanding balance; provided however, the Association shall not be required to permit payment of the outstanding balance in installments; and (iv) that if the outstanding balance is not paid within the Grace Period, the Association intends to seek payment of attorneys' fees and court costs. The Delinquency Notice must be sent by first class mail to the Unit of such Member and, if different, to the mailing address of the Member in the Association's records. If any such sums are not paid within thirty (30) days after the due date, the Board may accelerate and declare immediately due all such sums (including annual assessments or installments thereof) without any further notice being given to the delinquent Owner, and (i) to the extent permitted by applicable law, a lien, as herein provided, shall attach; and (ii) a claim of lien, as herein provided, may be filed in the Public Records in the manner provided by law. Such lien shall include, interest, all late charges from the date first due and payable, any Administrative Fee, all costs of collection, and, if the Owner has been provided with a Delinquency Notice and failed to pay the outstanding balance set forth therein within fifteen (15) days from the mailing of the Delinquency Notice, court costs and reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charge to such Unit if it had not been acquired by the Association.

In addition to the foregoing, in the event an Owner is more than thirty (30) days delinquent in the payment of any assessment or charge owed to the Association, the Association may suspend any services being provided to the Unit by the Association, if any. Prior to any suspension

provided for herein, the Owner shall be afforded the notice and hearing requirements set forth in the By-Laws.

Notwithstanding anything to the contrary in this Declaration, if a Member does not contest the collection of the unpaid assessments and enforcement of a lien after the expiration of the Grace Period, then reasonable attorneys fees collected by the Association in connection with such debt shall not exceed One Thousand Two Hundred and No/100 dollars (\$1,200.00), or such higher amount as may be permitted by law, not including costs or expenses incurred; provided however, such limitation shall not apply to judicial foreclosures or to proceedings authorized under Section 116 (d) or Section 120 of Article 3 of Chapter 47F of the North Carolina General Statutes. The collection of the unpaid assessments and enforcement of the lien shall be deemed uncontested as long as the Member does not dispute, contest or raise any objection, defense, offset or counterclaim as to the amount or validity of the unpaid assessments and lien asserted or the Association's right to collect the debt and enforce the lien.

If any sum assessed against any Unit pursuant to this Declaration remains unpaid after sixty (60) days from the due date (or any longer period of time required by the Act), the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes or in any other manner permitted by applicable law; provided however, (i) the Association may not foreclose the lien under Article 2A of Chapter 45 of the North Carolina General Statutes if the debt securing the lien consists solely of fines imposed by the Association, interest on unpaid fines, or attorneys fees incurred by the Association solely associated with fines imposed by the Association (such lien may be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes); and (ii) any lien securing debt consisting solely of Administrative Fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents, to the extent permitted by this Declaration and applicable law, the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes; or in any other manner permitted by applicable law. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Unit at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

8.9 Subordination of Liens to Mortgages. The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.5, including such acquirer, its successors and assigns.

8.10. Exempt Property. The following property shall be exempt from payment of Base Assessments and Special Assessments:

(a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1; and

(b) Any property dedicated to and accepted by any governmental authority or public utility.

8.11. Capitalization of Association. Upon the first sale of each Unit in Adalyn Place after the issuance of a certificate of occupancy for the residential dwelling constructed thereon, a working capital contribution in the amount of \$1,000.00 shall be collected from the purchaser at the closing of such sale for the benefit of the Association, or if not collected at the closing, shall be paid immediately on demand by the Association. The working capital contribution shall be a Specific Assessment against the Unit and shall be in addition to not in lieu of the Base Assessment. Notwithstanding anything to the contrary herein, it is the intent of this Section 8.11 that the working capital contribution provided for herein shall only be paid by the first Owner of a Unit, other than Declarant, after a residential dwelling constructed thereon has been issued a certificate of occupancy by the appropriate governmental entity and such fee shall not be binding or enforceable at law or equity against any subsequent Owner or Mortgagee.

Notwithstanding anything to the contrary herein, the working capital contribution shall not apply to the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of indebtedness secured by such Mortgage, but shall apply to the Owner acquiring the Unit from the foreclosing Mortgagee.

8.12. Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant shall: (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the Base Assessment, Special Assessment and Specific Assessments collected by the Association in any fiscal year; or (b) lend to the Association, or cause the Association to borrow, such amount from a commercial lending institution at the then prevailing rates for similar loans in the local area of the Properties. No Mortgage secured by the Common Area or any of the improvements maintained by the Association shall be given in connection with such loan. Notwithstanding anything to the contrary herein, the Declarant and its affiliates may contribute assessments due from them in services or materials or a combination of services and materials, rather than in money (herein collectively called "in kind contribution").

PART FOUR: COMMUNITY DEVELOPMENT

ARTICLE IX EXPANSION OF THE COMMUNITY

9.1. Unilateral Expansion by the Declarant. Declarant may from time to time subject to the provisions of this Declaration all or any portion of any property in the Flower Plantation Community by filing a Supplemental Declaration in the Public Records describing the additional property to be subjected. A Supplemental Declaration filed pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant, which consent shall not be unreasonably withheld.

The Declarant's right to expand the Community pursuant to this Section shall expire ten (10) years after the recording of the Declaration in the Public Records. Until then, the Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A". Any such transfer shall be memorialized in a written instrument executed by the Declarant and the transferee and filed in the Public Records.

Nothing in this Declaration shall be construed to require the Declarant or any successor to subject additional property to this Declaration. If any land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

9.2. Expansion by the Association. The Association may also subject additional property to the provisions of this Declaration by filing a Supplemental Declaration in the Public Records describing the additional property. Any such Supplemental Declaration shall require: (i) the prior written consent of Declarant; (ii) the affirmative vote of more than fifty percent (50%) of the Class "A" votes of the Association represented at a meeting duly called for such purpose; and (iii) the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, the consent of the Declarant shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property and by Declarant, if Declarant's consent is necessary.

ARTICLE X ADDITIONAL RIGHTS RESERVED TO DECLARANT

10.1. Withdrawal of Property. The Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 9.1, for the purpose of removing any portion of the Properties which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Marketing and Sales Activities. The Declarant may maintain and carry on upon Units and portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of

Units, including, but not limited to, business offices, signs, model units, and sales offices. The Declarant shall have easements for access to and use of such facilities.

10.3. Right to Develop. The Declarant and its respective employees, agents and designees shall have rights of access and use and easements over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as they deem appropriate in their sole discretion.

10.4. Right to Approve Changes in Community Standards. Notwithstanding anything herein to the contrary, no amendment to or modification of any Restrictions and Rules or Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.5. Right to Transfer or Assign Declarant Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by, as applicable, the Declarant, and the assignee/transferee and duly recorded in the Public Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.6. Exclusive Rights to Use Name of Development. No Person shall use the name "Adalyn Place" or any derivative of such name in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the name "Adalyn Place" in printed or promotional matter where such term is used solely to specify that particular property is located within Adalyn Place and the Association shall be entitled to use the word "Adalyn Place" in its name.

10.7. Termination of Rights. The rights of Declarant to take, approve or consent to actions under the Governing Documents shall cease and be of no further force and effect upon the earlier of: (a) the date that the Declarant no longer owns any property in the Properties and no longer has the right to unilaterally annex additional property to the Properties as provided herein and a certificate of occupancy has been issued for a dwelling on each Unit in the Properties; or (b) the date of recording by Declarant in the Public Records a written instrument terminating all of Declarant's rights hereunder.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

ARTICLE XI EASEMENTS

11.1. Easements in Common Area. The Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area which is appurtenant to the Unit, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use portions of the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to Section 3.23 of the By-Laws;
- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to the approval of Members entitled to cast eighty percent (80%) of the votes in the Association;
- (f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, upon the approval of Members entitled to cast eighty percent (80%) of the Association votes;
- (g) The easements granted or reserved to the Declarant pursuant to this Declaration or pursuant to plat(s) of the Properties subject to this Declaration.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

11.2. Easements of Encroachment. The Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than five feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3. Easements for Utilities, Etc.

(a) The Declarant reserves for itself, so long as Declarant owns any property described on Exhibit "A" of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout all of the Properties (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) a ten foot (10') utility easement along the front and rear boundaries of each Unit and a five foot (5') utility easement adjacent to the side boundaries of each Unit, for the installation, operation, and maintenance of storm water drainage facilities and utilities (including, without limitation, water, sanitary sewer, electric, telephone, cable television, and other utility services) throughout the property described on Exhibit "A", plus all utility easements shown on any plat recorded in the Public Records in connection herewith;

(ii) installing utilities and infrastructure to serve the Properties, water meters, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights and signage on property which Declarant owns or within public or private rights-of-way or easements reserved for such purpose on recorded plats;

(iii) inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in Section 11.3(a)(i) and 11.3(a)(ii); and

(iv) access to read utility meters.

(b) Declarant also reserves for itself as long as Declarant owns any property described on Exhibit "A" of this Declaration, the non-exclusive right and power to grant and record in the Public Records such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibit "A".

11.4. Easements to Serve Additional Property. The Declarant for itself, and their duly authorized agents, successors, assigns, and mortgagees, hereby reserves, for so long as Declarant owns any property described on Exhibit "A" of this Declaration, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "A". This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing infrastructure and utilities on such property.

11.5. Easements for Maintenance, Emergency and Enforcement. The Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities under Sections 7.2 and 5.1, respectively. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and

after notice to the Owner and shall not authorize entry into any residential dwelling located on a Unit without the consent of the Owner.

11.6. Easements for Drainage. There is hereby reserved by the Declarant and granted to the Association an easement upon, across, above and under all storm water drainage easement areas as shown on the recorded subdivision plat(s) for the Properties for access, ingress, egress, installing, altering, repairing, replacing, and maintaining the storm water drainage system and related facilities serving Adalyn Place or any portion thereof. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. In addition, there is hereby reserved to the Declarant and granted to the Association a blanket easement across all Units for creating and maintaining satisfactory drainage in the Properties; provided, however, such easement area shall not include any portion of a Unit within the outer perimeter of the dwelling structure. It is anticipated that increased storm water run-off across downstream Units will result from the construction of impervious surface within the Properties. Neither the Declarant nor the Association or any other Owner constructing according to plans and specifications approved under Article IV hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction within Adalyn place.

11.7. Easement During Construction and Sales Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the By-Laws, Articles of Incorporation, Use Restrictions and Rules and regulations, Design Guidelines, and amendments thereto, Declarant reserves an easement across the Properties for Declarant to maintain and carry on, upon such portion of the Properties as they may reasonably deem necessary, such facilities and activities as in the opinion of Declarant may be required or convenient for Declarant's development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or nearby property being developed by Declarant, including, but not limited to: the right to place or authorize the placement of marketing and directional signs on Units or right-of-way at street intersections within the Properties; the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Properties, including, without limitation, any Unit; the right to tie into any portion of the Properties with streets, driveways, paths, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Properties; the right to grant easements over, under, in or on the Properties, including without limitation the Units, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Properties; the right to convert Units (with the consent of the Owner thereof) to Common Area and/or streets; the right to construct utilities and other improvements on Common Area; the right to carry on sales and promotional activities in the Properties; and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residences, offices or other buildings owned or leased by Declarant as model residences and sales offices. This Section shall not be amended without the written consent of Declarant until the rights of Declarant hereunder have terminated as herein provided.

ARTICLE XII
LIMITATION ON LITIGATION

Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of at least seventy-five percent (75%) of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedure, necessary to institute proceedings as provided above.

ARTICLE XIII
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

13.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affect any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within sixty (60) days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

13.2. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to a taking of the Common Area.

13.3. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

ARTICLE XIV
CHANGES IN OWNERSHIP OF UNITS

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

ARTICLE XV
CHANGES IN COMMON AREA

15.1. Condemnation. If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least eighty percent (80%) of the total votes in the Association and including the consent of the Declarant, as long as the Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association and the Association shall restore or replace such improvements, if any, on the remaining land included in the Common Area to the extent available and reasonably possible. Otherwise, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

15.2. Partition. Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

15.3. Transfer or Dedication of Common Area. The Association may dedicate portions of the Common area to Wake County, North Carolina or to any other local, state or federal governmental or quasi-governmental entity upon the approval of Members holding eighty percent (80%) of the votes in the Association.

ARTICLE XVI
AMENDMENT OF DECLARATION

16.1. By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; (iv)

to satisfy the requirements of any local, state or federal governmental agency; or (v) to correct scrivener's errors. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing. In addition, so long as the Declarant owns property described in Exhibit "A" or has the right to unilaterally annex additional property to the Properties, it may unilaterally amend this Declaration for any other purpose; provided, however, no such amendment shall materially adverse effect the substantive rights of any Owner without the consent of such Owner.

16.2. By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the consent of the Declarant, so long as the Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

16.3. Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between an Owner and a third party will affect the validity of such amendment.

The consent of the Declarant to any amendment shall be evidenced by the execution of said amendment by Declarant. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the By-Laws, the Articles of Incorporation and North Carolina law were given.

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one (1) year of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

16.4. Exhibits. Exhibits "A", "B", "C", and "D" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for information purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

ARTICLE XVII
MISCELLANEOUS

17.1. Occupants Bound~~Error! Bookmark not defined.~~ All provisions of the Declaration, By-Laws, rules and regulations, Use Restrictions and Rules and Design Guidelines which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants and the guests and invitees of Owners and occupants. The Owner shall be responsible for insuring that the occupants, the guests, invitees and licensees of the Owner and occupant strictly comply with all provisions of the Declaration, By-Laws, regulations, Use Restrictions and Rules and Design Guidelines. Fines may be levied against Owners or occupants. If a fine is first levied against an occupant and is not timely paid, the fine may then be levied against the Owner.

17.2. Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant or their respective duly authorized agents shall have the power to enter upon any Unit or any other portion of Adalyn Place to abate or remove any structure, thing or condition which violates this Declaration, the By-Laws, the regulations, the Use Restrictions and Rules or the Design Guidelines. Unless an emergency situation exists, the violating Owner shall be given ten (10) days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required herein or by law. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

17.3. Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association, the Declarant, and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually, unless and until terminated by the agreement of Unit Owners to which eighty (80%) percent of the votes in the Association are allocated as provided in and in accordance with the Act. It is the intention of the Declarant that the Declaration exist and continue until terminated as provided herein, and that it constitute an exception to any automatic termination or expiration provision that might be applicable under the Real Property Marketable Title Act as contained in Chapter 47B of the North Carolina General Statutes, or under any successor or replacement statute or any other applicable law that would or could terminate the Declaration other than in the manner provided for termination herein. Accordingly, the Association, in its discretion, may at any time and from time to time, re-record in the land records of the county where any portion of the Properties is located the Declaration or some memorandum or other notice hereof in order to continue the Declaration in full force and effect and/or to qualify the Declaration as an exception to any such automatic termination or expiration provision of the Real Property Marketable Title Act or any other applicable law.

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

17.5. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of

this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and, to this end, the provisions of this Declaration are declared to be severable.

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

17.7. No Merger. There shall be no merger of any of the covenants, conditions, restrictions or easements created or reserved hereby with the fee simple title to the Properties unless and until Declarant while owning all of the estate or interests shall execute a written statement or instrument affecting such merger and shall duly record the same.

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

17.9. No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or disability.

17.10. Indemnification. To the fullest extent allowed by the North Carolina Nonprofit Corporation Act, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on

account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

17.11. Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors shall be authorized to grant individual variances from any of the provisions of this Declaration, the By-Laws and any rule, regulation, use restriction or Architectural Guideline promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case is warranted and would not be inconsistent with the overall scheme of development for the Properties.

17.12. Agreements. Subject to the prior approval of Declarant, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Properties or the privilege of possession and enjoyment of any part of the Properties.

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

17.14. Cumulative Effect; Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of North Carolina law, then to the extent the provisions of North Carolina law cannot be waived by agreement, North Carolina law shall control.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

DECLARANT:

Dan Ryan Builders -- North Carolina, LLC

By: [Signature]
Print Name: Jay Lewis
Print Title: Division President

State of North Carolina
County of Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Jay C. Lewis.

Date: 28, March, 2019

[Signature]
Official Signature of Notary

(Official Seal)

Kristi Dillard, Notary Public
Printed or typed name

My commission expires: Oct. 6, 2021

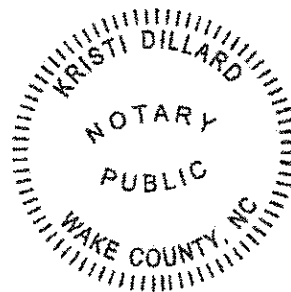


EXHIBIT A
DESCRIPTION OF PROPERTIES

Lying in the Town of Fuquay-Varina, Middle Creek Township, Wake County, North Carolina,
and being more particularly described as follows:

Tract One GIS Map Card 853-3

Beginning at a stake in the Adcock line and the north east corner of the land conveyed to J. M. Judd by the Cary Lumber Company and runs thence with the Cary Lumber Company line North 89 deg. 25' West 1028 feet to a stake, G. B. Judd's corner; thence with the said G. B. Judd's line South 1 deg. 17' East 446.5 feet to a stake on the west side of the public road; thence South 20 deg. 15' West 439 feet to a stake on the East side of said road; thence South 60 deg. 30' East 210 feet to a stake in the field; thence South 25 deg. West 540 feet to a stake in the northern margin of the Durham & Southern Rail Road right-of-way; thence with the north margin of said right-of-way South 37 deg. 30' East about or approximately 2100 feet to a stake in the old Cary Lumber Company line; thence with said line North 1 deg. West approximately 3190 feet to the beginning, and contains Sixty and three tenth (62.3) acres more or less.

Tract Two GIS Map Card 853-8

✓ BEGINNING AT A STAKE (IRON) ON THE EAST SIDE OF THE ROAD ABOUT 90 YARDS NORTH OF L. C. TURNER'S HOUSE (A TENANT HOUSE ON THE FARM OF J. M. JUDD) AND RUNS THENCE AS A NEW LINE NORTH 89 DEGS. EAST 1950 FEET TO A STAKE IN THE WEST LINE OF M. D. SMITH'S LAND AND IN THE SOUTHERN MARGIN OF THE DURHAM & SOUTHERN R. R. RIGHT-OF-WAY FIFTY FEET FROM THE CENTER OF THE RAILROAD MEASURED AT RIGHT ANGLES TO SAID RAILROAD; THENCE WITH M. D. SMITH'S LINE NORTH 1 DEG. WEST 130 FEET CROSSING THE RAIL ROAD TO A STAKE IN THE NORTHERN MARGIN OF THE DURHAM & SOUTHERN RIGHT-OF-WAY; THENCE WITH THE NORTHERN MARGIN OF SAID DURHAM & SOUTHERN RIGHT-OF-WAY NORTH 54 DEGS. 34' WEST 2100 FEET TO AN IRON STAKE GLENN B & JAMES L JUDD'S CORNER IN SAID RIGHT-OF-WAY MARGIN; THENCE WITH GLENN B JUDD'S LINE SOUTH 80 DEGS. WEST 257.2 FEET TO AN IRON STAKE ON THE EAST SIDE OF THE FARM ROAD; THENCE SOUTH 6 DEGS. 15' WEST 1338 FEET TO THE BEGINNING, AND CONTAINS 37.76 ACRES MORE OR LESS, ACCORDING TO A SURVEY OF W. H. BLANCHARD AND IS LOT NO. 1 AS SHOWN ON PLAN DRAWN BY W. H. BLANCHARD AND DATED MAY 15TH, 1942.

Less and Except the following six tracts:

1. All of Lots 1-5, Phase One, Judd Place, as shown on a map recorded in Book of Maps 1988, Page 1531, Wake County Registry.
2. All of Lots 6-8, Phase Two, Judd Place, as shown on a map recorded in Book of Maps 1988, Page 1531, Wake County Registry.
3. All of Lots 1-3, Office Unit Map for: RC Fuquay, L.L.C, as shown on a map recorded in Book of Maps 2014, Page 621, Wake County Registry.
4. All of Lots 13A & 13B, Minor Subdivision for The Cumalander Company as shown on a map recorded in Book of Maps 2001, Page 159, Wake County Registry.
5. All of Lot 12, Judd Place, as shown on a map recorded in Book of Maps 2008, Page 1824, Wake County Registry.
6. All of Tracts A & B, as shown on a map recorded in Book of Maps 1994, Page 773, Wake County Registry.

EXHIBIT B
Initial Use Restrictions and Rules

The purpose of the initial Use Restrictions and Rules is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities that fall outside of "the norm." In fact, it is expressly intended that the Reviewer under Article IV, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Unit under one set of circumstances, the same thing may be disapproved for another Unit under a different set of circumstances. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

The following shall apply to Adalyn Place until such time as they are modified pursuant to Article III of the Declaration.

1. **General.** The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any sales professionals retained by Declarant to assist in the marketing or sale of property described on Exhibits "A" or "B," offices for any property manager retained by the Association or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration. No lot shall be used for any purposes other than single-family residences. Except as may be permitted by the Declarant or the ARC during initial construction within the Properties, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties without the written consent of Declarant and the ARC.
2. **Dwelling Size.** No dwelling house shall be erected on any Unit within the Properties having less than 1,700 square feet of heated and living area nor more than 3,200 square feet of heated and living area unless otherwise approved by Declarant in writing. For purposes of calculating the permitted square feet of heated and living area space, space in the following areas shall not be included: space within optional third floor expansion areas or optional rooms over garages (both of which may be heated), garages, crawlspaces or basements that are not heated and cannot be used for normal living purposes.
3. **Rules and Restrictions.** The Properties are subject to the following rules and restrictions unless expressly authorized by, and then subject to such conditions as may be imposed by the Board of Directors:
 - (a) **Parking.** The following restrictions shall apply to all Owners, occupants, invitees and guests; provided, however, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide

service or to make a delivery to a Unit or the Common Area;

(i) Vehicles shall be parked only in appropriate parking spaces serving the Unit or other designated parking areas established by the Board, if any. All parking shall be subject to such additional reasonable rules and regulations as the Board may adopt. The term "vehicles," as used herein, shall include, without limitation, trailers, motorcycles, minibikes, trucks, campers, buses, vans and automobiles. The term "parking areas serving the Unit" shall refer to the number of garage parking spaces, if any, and if and only if the Owner or occupants of a Unit have more vehicles than the number of garage parking spaces, those excess vehicles which are an Owners or occupant's primary means of transportation on a regular basis may be parked on the driveway on the Unit; provided, however, no vehicle parked in the driveway of a Unit shall encroach onto the sidewalks in the Properties;

(ii) Parking of commercial vehicles or equipment, tractor trailer cabs, commercial equipment, mobile homes, recreational vehicles, ATVs, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages or other areas designated by the Board in writing, if any, is prohibited; provided, however, small panel trucks with company names and/or logos on the sides that are used as primary vehicles shall be permitted;

(iii) Any vehicle, commercial vehicle, boat, motorhome, trailer, ATVs, boat and other watercraft or recreational vehicle, left upon any portion of the Common Area for longer than forty-eight (48) consecutive hours is subject to removal without further notice (the temporary removal of the vehicle, commercial vehicle, boat, motorhome, trailer, ATVs, boat and other watercraft or recreational vehicle to break the continuity of the forty-eight (48) hour period shall not be sufficient to establish compliance with this restriction). The costs of such removal shall be a Specific Assessment against the Owner of same;

(iv) Garage doors shall be kept closed except during times of ingress and egress from the garage and garages shall be used primarily for the parking of vehicles and not for storage or other purposes;

(v) Trucks with mounted campers which are an Owner or occupants' primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal; and

(vi) Nothing herein shall prevent the Declarant and their respective agents, builders, subcontractors and assigns from parking vehicles on any and all streets during regular business hours to facilitate the construction, development and build-out of Adalyn Place.

(b) Animals. Other than a reasonable number of dogs, cats, or other usual and common household pets, raising, breeding, or keeping animals of any kind is prohibited. Pets which are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet and all costs associated with the removal shall be a Specific Assessment against the Unit. Dogs shall be kept on a leash whenever outside the dwelling located

on a Unit and not in a fenced in yard. Pet owners are required to clean up after pets. Pets shall be registered, licensed, and inoculated as required by law. Failure to comply with these restrictions may result in fines as provided for in the By-Laws. No dog runs, runners or exterior pens for household pets shall be erected or maintained on any Unit unless approved in accordance with the provisions of Article IV hereof. The Board of Directors shall have the right to adopt additional rules and regulations designed to minimize damage and disturbance to other Owners and occupants including restrictions requiring damage deposits, waste removal, leash control, noise control and occupancy limits based on the size and facilities of the Unit.

All Owners must control their pets at all times, whether or not such Owner is present, in a manner that will prevent any pet from (i) making noise at objectionable sound levels for extended periods of time, whether continuously or intermittently, (ii) endangering the health or safety of other Owners, their families, guests or invitees or creating fear in other Owners as to the safety of themselves, their families, guests or invitees, or (iii) otherwise constituting a nuisance or inconvenience to the Owner(s) of any other Unit; all of the foregoing as determined by the Association. Any Owner or occupant who keeps or maintains any animal within the Properties shall be deemed to have agreed to indemnify and hold harmless the Association and its officers, directors, employees and agents from any and all loss, claim, or liability of any kind or character whatsoever arising by reason of keeping or maintaining such animal in the Properties.

(c) Business. An Owner or occupant residing in a Unit may conduct business activities within the residential dwelling located on the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Properties; (iii) the business activity does not involve excessive visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; (iv) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board; or (v) does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

This subsection shall not apply to any activity conducted by Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties.

(d) Trash Cans. Trash cans and recycle bins shall not be stored in the driveway other than the day of trash collection. Trash receptacles stored in side yards must be screened from view. Such screening design and materials must be approved by the Reviewer as provided in Article IV hereof or as set forth in the Design Guidelines. The Board of Directors shall have the authority to adopt rules and regulations governing trash removal and/or recycling in the Properties.

(e) Gardening Materials. Garden hoses, hose reels, sprinklers, and other gardening material and equipment must be stored from view from neighboring use and the public right-of-

way when not in use.

(f) Garages. Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area is not permitted without the prior approval of the Reviewer pursuant to Article IV; and

(g) Satellite Dishes. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting audio or video signals shall be placed, allowed or maintained upon any portion of the Properties, including any Unit, unless approved in accordance with the provisions of Article IX hereof; provided, however, no such approval shall be necessary to install (a) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services or to receive or transmit fixed wireless signals via satellite, that are one meter or less in diameter; (b) antennas designed to receive video programming services via multi-point distribution services or to receive or transmit fixed wireless signals other than via satellite that are one meter or less in diameter or diagonal measurement; or (c) antennas that are designed and intended to receive television broadcast signals. Owners shall install any permitted antennae on the deck or the rear of the dwelling located on the Unit unless such installation (i) imposes unreasonable delay or prevents the use of the antennae; (ii) unreasonably increases the cost of installation; or (iii) an acceptable quality signal cannot otherwise be obtained.

(h) Fences. Written approval must be obtained from the Reviewer prior to any placement, erection, or maintenance of any fence or fencing type barrier of any kind. Fence types are determined by the Declarant for the Community-Wide Standard and may be set forth in the Design Guidelines, but other types may be approved on an individual basis; provided, however, under no circumstances shall a chain link or wire fence be approved. The Declarant may install fencing on certain Units within the Properties. Notwithstanding the foregoing, Declarant shall have the right to erect fencing of any type, at any location, on any Unit during the period that such Unit is being used by Declarant as a model home. The Board of Directors shall have the right to erect fencing of any type considered appropriate or desirable by the Board at any location on the Common Area.

(i) Miscellaneous. Written approval must be obtained from the Reviewer prior to any construction, erection, or placement of any thing, permanently or temporarily, on the outside portions of the Unit in accordance with the provisions of Article IV of the Declaration or the Design Guidelines. This shall include, without limitation, signs, permanent basketball hoops, swing sets and similar sports and play equipment; hedges, walls, dog runs, or animal pens, of any kind; garbage cans; woodpiles; swimming pools; docks, piers, and similar structures.

(j) Portable Play Equipment. Equipment, including portable basketball hoops, soccer goals, pitching/catching devices, children's toys, bicycles, tricycles and other such items, must be stored from view when not in use.

(k) Flags. No approval under Article IV or this Declaration shall be required for any Owner or occupant to display the flag of the United States of America and the current flag of the State of North Carolina on a Unit in accordance with the provisions of the U.S. Flag Code (36 US Code 10) and usual and customary practice. The Board of Directors of the Association may

promulgate reasonable rules and regulations with respect to the display of flags in the Properties, including, without limitation, regulating the size of flags that may be displayed. In accordance with the Freedom to Display the American Flag Act of 2005, the Declarant or the Association shall not enact any rule or regulation which has the effect of prohibiting any Owner from displaying the flag of the United States of America on any Unit in the Properties; provided, however, the Declarant, the Association or the Board, as applicable, shall be entitled to enact reasonable time, place and manner restrictions pertaining to the display of the United States flag located on a Unit in the Properties.

(l) Signs. No sign of any kind shall be erected or displayed within the Properties without prior written approval of the Reviewer. Notwithstanding the foregoing, the Board and the Declarant shall have the right to erect reasonable and appropriate signs, which shall include, but not be limited to, marketing materials used to advertise the sale of Units in Adalyn Place, and the right to adopt reasonable rules and regulations governing the display or placement of signs in the Properties. For-sale signs and security signs consistent with the Community-Wide Standard and any signs required by legal proceedings may be erected upon any Unit. The provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure. Notwithstanding anything provided herein to the contrary, no sign shall be displayed on or from within any structure on a Unit.

3. Prohibited Conditions. The following shall be prohibited within the Properties:

(a) Quiet Enjoyment. Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties (the inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person as determined in a particular instance by the Board); use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit. Each Owner hereby agrees that Declarant may engage in construction activities in the Properties and that such activity shall not be in violation of this subsection.

(b) Laws. Any activity which violates local, state, or federal laws or regulations is prohibited. However, the Board shall have no obligation to take enforcement action in the event of a violation;

(c) Disrepair. Structures, equipment, or other items on the exterior portions of a Unit which have become unsightly, rusty, dilapidated, or otherwise fallen into disrepair;

(d) Irrigation. Sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, wetlands, or other ground or surface waters within the Properties, except that Declarant and the Association shall have the right to draw water from such sources; and

(e) Motorized vehicles. Motorized vehicles on pathways or unpaved Common Areas, except for public safety vehicles and vehicles authorized by the Board.

(f) Annoyance. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units; provided, however, construction activities on Units in the Properties by the Declarant or their agents or employees shall not be deemed an annoyance as provided herein.

(g) Burning. Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Dumping. Dumping of grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, storm water detention/retention pond, lake, or elsewhere within the Properties is prohibited. Fertilizers and pre-emergents may be applied to landscaping provided care is taken to minimize runoff;

(i) Trash. Accumulation of rubbish, trash, or garbage is prohibited except between regular garbage pick ups, and then only in approved containers;

(j) Drainage. Obstruction or rechanneling of drainage flows after installation of drainage swales, storm sewers, or storm drains is prohibited, except that Declarant and the Association shall have such right;

(k) Subdivision. Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or re-plat Units which it owns;

(l) Common Area Landscaping. Removal alteration or pruning of landscaping on the Common Area.

(m) Firearms and Fireworks. The display or discharge of firearms and fireworks; provided, however, that the display of lawful firearms is permitted by law enforcement officers and also is permitted for the limited purpose of transporting firearms to or from a Unit. The term "firearms" includes "B-B" guns, pellet guns, archery equipment and firearms of all types, regardless of size.

(n) Fuel. On site storage of fuel, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance

vehicles, generators, and similar equipment; and,

(o) Vegetation. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within or outside the Properties, or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution.

(p) Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. The side of all window treatments, with the exception of stained wood blinds or shutters, which can be seen at any time from the outside of any structure located on a Unit must be white or off-white. Bed sheets, blankets, towels, black plastic, paper and similar type items shall not be used as window treatments.

(q) Air Conditioning Units. Installation and use of window air conditioning units shall be prohibited.