

This instrument prepared by,
and hold after recordation for:

Eric R. Spence, Esq.
Wyrick Robbins Yates & Ponton LLP (Box 210)
Post Office Drawer 17803
Raleigh, North Carolina 27619

Wake County, NC 701
Laura M Riddick, Register Of Deeds
Presented & Recorded 06/14/2002 15:59:25
Book : 009455 Page : 01139 - 01166

NORTH CAROLINA

WAKE COUNTY

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE VILLAS
AT FALLS LAKE SUBDIVISION (a/k/a
DALTONS RIDGE SUBDIVISION)**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter the "Declaration") is made on May 24, 2002, by THE VILLAS OF FALLS LAKE, LLC, a North Carolina limited liability company, (hereinafter the "Declarant"); CAPITAL BANK (hereinafter called "Capital"); and AMERICAN BANK, (hereinafter called "American").

RECITALS

WHEREAS, Declarant owns that certain property located in Wake County, North Carolina, which is more particularly described in Exhibit A attached hereto (the "Property"). Declarant will convey the Property subject to the declarations, covenants, conditions and restrictions described herein. The Property is made subject to this Declaration for the purpose of insuring a uniform scheme of development and the best use and most appropriate development and improvement of each Lot; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of the Property; to preserve, so far as practicable, the natural beauty of the Property; to guard against the erection of poorly designed or proportioned structures and structures built of improper and unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of the Property; to encourage and secure the erection of attractive structures with appropriate locations on the Lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvements in the Property and thereby to enhance the values of investments made by the Owners.

WHEREAS, Capital is the holder of a security interest in the Property, less and except Lots 1, 10, 11 and 39 (the "Excepted Lots"), by virtue of a Deed of Trust recorded in Book 9004, Page 1841, Wake County Registry (the "Capital Deed of Trust"), and American is the holder of a security interest in the Excepted Lots by virtue of a Deed of Trust recorded in Book 9255, Page 1668, Wake County Registry (the "American Deed of Trust"), together with any other documents and instruments evidencing, securing, or in any manner relating to the indebtedness evidenced or secured by the Capital Deed of Trust and the American Deed of

Trust (all such documents are hereinafter referred to collectively as the "Security Documents"); and

WHEREAS, the Declarant has requested Capital and American (hereinafter collectively, the "Lenders") to join in the execution of this Declaration for the purpose of acknowledging and consenting to the terms and conditions herein and further subjecting the Property, in which the Lenders hold the security interests as described above, to the provisions contained herein. By the execution of this Declaration, the Lenders consent to the terms and conditions hereof, and subordinate the lien of the Security Documents to the provisions, terms and conditions of this Declaration.

NOW, THEREFORE, the Declarant declares, and the Lenders consent that the Property is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, assessments, affirmative obligations and liens contained in this Declaration, which shall run with the land and shall be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

1. **DEFINITIONS.**

1.1. "**Articles**" means the Association's Articles of Incorporation.

1.2. "**Association**" means Daltons Ridge Homeowners Association, Inc., a non-profit North Carolina corporation.

1.3. "**Association's Board**" means the Board of Directors of the Association.

1.4. "**Building**" means a single family residential structure constructed upon a Lot within the Property.

1.5. "**Bylaws**" means the Association's Bylaws.

1.6. "**Common Area**" means all real property owned by the Association and any easements granted thereto, including the subdivision wall easement, as hereinafter described, for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be described in deeds to the Association. Common Area shall include, but not be limited to, Lots 42 and 43 of the Subdivision (as hereinafter defined).

1.7. "**Common Expenses**" means expenses of administration, maintenance, repair or replacement of the Common Areas and Improvements (as defined hereinbelow); expenses described in this Declaration or the Bylaws as "Common Expenses"; expenses agreed by the Members to be "Common Expenses"; premiums for insurance as this Declaration or the Bylaws may require the Association to purchase; and expenses for exterior maintenance as required in paragraph 7, et seq.

1.8. "**Declarant**" means The Villas of Falls Lake, LLC, a North Carolina limited liability company, and its successors and assigns specifically designated as Declarant.

1.9. "**Declaration**" means this Declaration of Covenants, Conditions and Restrictions for The Villas At Falls Lake also known as Daltons Ridge subdivision.

1.10. "**Improvements**" means any structure or improvement of any type or kind, including, but not limited to entranceways, screening walls, landscaping walls, retaining walls, hedges, mass plantings and beds, trees, shrubs, sprinkler systems, sidewalks, signs, roof shingles, exterior paint and siding.

1.11. "**Lot**" means any tract of land described by a metes and bounds description shown upon any recorded subdivision plat of the Property.

1.12. "**Lot in Use**" means any Lot that has been conveyed by the Declarant to a subsequent purchaser, upon which a Building has been constructed and at such time as a certificate of occupancy for Improvements on the Lot is issued. In no event shall it mean a Lot owned by the Declarant on which no Improvements have been constructed.

1.13. "**Member**" means every Person who holds membership in the Association.

1.14. "**Owner**" means the record owner, whether one or more Persons, of a fee simple title to any Lot, except those having an interest merely as security for the performance of an obligation.

1.15. "**Person**" means an individual, a trust, an estate, a corporation, a partnership, a limited liability company, an unincorporated association, or other legal entity.

1.16. "**Property**" means the property described on Exhibit A attached hereto.

1.17. "**Subdivision**" means The Villas At Falls Lake Subdivision, also known as Daltons Ridge subdivision as shown on the recorded subdivision plat(s) of the Property, recorded in Book of Maps 2001, Page 1736, Wake County Registry (the "Subdivision Plat").

2. **PROPERTY RIGHTS.**

2.1. **Title to Common Area.** The Declarant shall convey fee simple title in the Common Area to the Association, subject to subsequent years' ad valorem taxes, and rights-of-way, this Declaration, drainage and utility easements. Conveyance of title to the Common Area to the Association shall be done prior to the sale by the Declarant of the first Lot in Subdivision.

2.2. **Owners' Easement of Enjoyment.** Every Owner shall have a right and easement of use and enjoyment in and to the Common Area (the "Owners' Easement"). The Owners' Easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

A. Dedication and Transfer of Common Area: Subject to all applicable governmental ordinances, the Association may dedicate or transfer fee simple title to all or any part of the Common Area to any public agency, authority or utility. The Association may also engage in a real estate exchange made in accordance with any requirement of Wake County Code of Ordinances. No such dedication or transfer shall be effective unless an instrument signed by at least two-thirds (2/3) of each Class of Members agreeing to the dedication or transfer has been recorded in the appropriate County Registry. Any dedication or transfer shall be made subject to that portion of the Owners' Easement.

B. Borrowing for Improvements: The Association's right, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and to mortgage those properties to secure those borrowings, provided the mortgage is subordinate to the Owners' and the Association's Easement.

C. Rules and Regulations: The Association's right to impose and enforce rules and regulations which may restrict the use and enjoyment of the Common Areas.

D. Easements: The Association and Declarant shall have the authority to grant and/or establish upon, over, under and across the Common Areas further easements (including, but not limited to those provided in this Declaration) as are required for the convenient use and enjoyment of the Property.

The authority granted to Declarant herein shall terminate no later than December 31, 2012.

3. GENERAL POWER AND DUTIES OF THE ASSOCIATION.

3.1 Powers and Duties of the Board. The Association, acting through its Board, for the mutual benefit of the Owners of the Association, shall have the following powers and duties:

(a) The Association shall be responsible for the improvement, repair, replacement, use, operation and maintenance of the Lots and the Common Area as provided in this Declaration, including, but not limited to, planting, mowing, edging, leaf raking and/or blowing, pruning, fertilizing, seeding, mulching, preservation and replacement of the vegetation and landscaping, and the upkeep and maintenance of sprinklers, sprinkler pumps, wells, signs, lighting, planting boxes and other equipment, apparatus and Improvements located in the Lots and/or Common Area or located in easements granted to or reserved by the Developer or the Association. The duties herein shall not include any maintenance specifically designated as the Owner's responsibility as provided in Section 10.18 of this Declaration

(b) The Association is empowered to enter into agreements with the appropriate governmental authorities to enable the Association to improve, repair, replace, use, operate and maintain the Lots, the Common Area or any portions thereof;

(c) The Association is empowered to make reasonable rules and regulation for the use and enjoyment of the Common Area, and to amend them from time to time; provided that any rule or regulation may be amended or repealed by an instrument in writing signed by the Members possessing seventy-five percent (75 %) or more of the total eligible votes of the membership of the Association;

(d) The Association is empowered to borrow funds to pay costs of operation of the Association and for improving the Common Area, and to mortgage those properties to secure those borrowings, provided the mortgage is subordinate to the Owners' and the Association's Easement. Such borrowing may also be secured by assignment or pledge of rights against delinquent Owners or by liens on other Association assets, as determined by the Board;

(e) The Association is empowered to enter into contracts to maintain one or more bank accounts, and generally, to have all the powers necessary or incidental to the operation and management of the Association;

(f) The Association is empowered to sue or defend in any court of law on behalf of the Association; and to employ attorneys and other necessary professionals in connection therewith;

(g) The Association shall, to the extent determined by the Board, provide adequate reserves for repairs and replacements of Improvements;

(h) The Association shall make available to each Member making written request therefore an annual financial report and, upon the written request of the Members possessing seventy-five percent (75 %) or more of the total eligible votes of all the Members of the Association, to have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member making written request therefore;

(i) The Association shall make available for inspection by Owners and holders of first lien mortgages or deeds of trust secured by Lots, upon reasonable request and during normal business hours, current copies of this Declaration and all Supplemental Declarations, the Bylaws, the rules and regulations of the Association, and the books, records and financial statements of the Association;

(j) The Association is empowered to adjust the amount, collect, and use any insurance proceeds to repair damage to or replace Improvements, as applicable; and if proceeds are insufficient to repair damage to or replace Improvements, to levy special assessments (in the manner provided herein) to cover the deficiency;

(k) The Association is empowered to exercise all powers, duties and authority vested in or delegate to the Association by this Declaration, the Bylaws, or the Articles and not reserved to the Members or Developer by other provisions of this Declaration, the Bylaws or the Articles;

(l) The Association is empowered to employ a manager or firm to manage the business and property of the Association, and to employ independent contractors or other employees as the Board may deem necessary;

(m) The Association is empowered to retain the services of legal and accounting firms;

(n) The Association is empowered to administer and enforce the provisions of this Declaration and any rules made hereunder and to enjoin and/or, in its discretion seek damages or other relief from any Owner for violation of such provisions or rules;

(o) The Association is empowered to contract with any third party or any Owner (including, without limitation, Declarant) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be at competitive rates and otherwise upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association;

(p) The Association shall establish the amount of and provide for the collection of Assessments, as defined herein and provided for in this Declaration;

(q) The Association is empowered to establish from time to time the tax status of the Association for Federal and State of North Carolina income tax purposes, as determined by the Board to be in the best interests of the Association;

(r) The Association is empowered to contract with other nonprofit corporations or associations which exist for purposes substantially similar to those for which the Association exists with respect to the acquisition of lease or use of, and improvement, repair or maintenance of property owned by such corporation or association;

(s) The Association is empowered to take any and all actions and to enter into any and all other agreements as may be necessary or proper for the fulfillment of its obligations hereunder, for the operational protection of the Association and for the implementation and enforcement of the terms, covenants, conditions and restrictions contained in this Declaration;

3.2 Liability Limitations. Neither Declarant nor any member, the Board, any director on the Board, nor any officer of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of the Association or otherwise. Neither Declarant or the Association, nor any of the directors, officers, agents or employees of either shall be liable for any incidental or consequential damages for failure to inspect any property, premises, Improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other Person liable to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable

law, indemnify and defend all members of the Board and all members of the Architectural Committee and other committees appointed by the Board from and against and all loss, costs, expense, damage, liability, action or cause of action arising from or relating to the performance by the Board and such Architectural Committee and other committees of their duties and obligations except for any such loss, cost, expense, damage, liability, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

4. MEMBERSHIP AND VOTING RIGHTS.

4.1 Ownership of a Lot shall be the sole qualification for membership in the Association. The Association's Board may make reasonable rules relating to the proof of ownership of a Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

4.2. The Association shall have two classes of voting membership:

(a) Class A Members shall be all Owners with the exception of the Declarant. Declarant may, however, be a Class A member upon the termination of Class B membership. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any one Lot, all such Persons shall be Members. The vote of that Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Fractional voting is prohibited.

(b) The Class B Member shall be the Declarant. Class B Members shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease upon the earlier of:

- (i) the sale of all Lots by Declarant to third parties; or
- (ii) the effective date of the Declarant's written consent to termination.

5. COVENANT FOR MAINTENANCE ASSESSMENTS.

5.1. Lien of Assessments:

5.1.1. The Declarant, for each Lot, covenants, and each Owner of any Lot by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay the Association Annual Assessments, Special Assessments, and Initial Assessment, all as described below, (together the "Assessments"). The Association shall also have the authority, through the Association's Board, to establish, fix and levy an individual assessment on any Lot to secure the liability of that Owner to the Association arising from Owner's breach of any of the provisions of this Declaration.

5.1.2. The Assessments shall be set on a calendar year basis (the "Annual Assessment Period") by the Association's Board and may be collected on a monthly basis as determined by

the Association's Board (the "Annual Assessment"), or some other billing cycle acceptable to Declarant and/or any property management firm hired by Declarant. Annual Assessments shall be charged to each Owner of a Lot in Use. Special Assessments shall be charged to each Lot without regard as to whether or not it is a Lot in Use. Assessments, together with interest thereon and the costs of collection (including reasonable attorney fees), shall be a lien on the applicable Lot from the due date for the Assessment as set by the Association's Board, continuing until paid in full as well as a personal obligation of the Person who was the Owner of the Lot at the time the Assessment became due. While any unpaid amounts shall remain a lien on the applicable Lot, the personal obligation shall not pass to that Owner's successors in title unless expressly assumed by the successor.

5.2. Purpose of Assessments. The Assessments levied by the Association shall be used for the purposes of implementing and enforcing the terms and provisions hereof and of any Supplemental Declaration and promoting the use, enjoyment and welfare of the Owners of Lots, and in particular, but without limitation, for the (i) improvement, use, operation, repair, replacement, and maintenance of the Improvements; (ii) payment of public liability and other insurance of the Association; (iii) paying the costs of operating and maintaining street lighting; (iv) paying the costs of labor, equipment (including the expense of leasing any equipment) and material required for the Improvements and the improvement, maintenance, repair, replacement, management, protection, preservation, use and supervision thereof; (v) paying the Association's share of the annual and special assessments as more described herein; and (vi) carrying out the purposes and duties of the Association as stated in its Articles and Bylaws and as stated in this Declaration, (vii) payment of persons employed by the Association to provide professional services, including but not limited to, accountants, attorneys, engineers, land planners, and other such persons deemed appropriate by the Association for the proper management of the duties of the Association.

5.3. Annual Assessments:

5.3.1. On or before December 1st of each year, the Association's Board of Director's shall adopt the Budget (as defined below) for the upcoming Annual Assessment Period. The annual budget for the Association shall include all anticipated revenues (including revenues from Annual Assessments to be charged in the next Annual Assessment Period - the "Anticipated Annual Assessments") and anticipated costs for the Association for the upcoming Annual Assessment Period (together, the "Budget"). The Anticipated Annual Assessments for the approved Budget shall be the basis for calculating the Annual Assessment to be charged each Owner for the upcoming Annual Assessment Period.

5.3.2. Notwithstanding the above to the contrary:

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment per Lot shall be \$235.00/mo.; and

(b) An annual increase in the Annual Assessments shall not be more than ten (10%) percent except by approval of at least two-thirds (2/3) of the votes of the Members of each

class of membership who are voting in person or by proxy at a meeting duly called for such purpose.

5.3.3. As long as Declarant has a majority of the total votes, Declarant may at its option, loan the Association monies to the extent that Annual Assessments paid by the Owners are inadequate. This advance shall be to the Association and on terms generally available to Declarant from its lending institution. Declarant shall also be responsible for the payment of Assessments as otherwise required by this Article.

5.4. Special Assessments.

5.4.1. In addition to the Annual Assessments, the Association may levy in any Annual Assessment Period a special assessment applicable to that year only (the "Special Assessment") for the purpose of defraying in whole or in part the cost of any expenditures (including capital improvements) not otherwise included in the Budget. A Special Assessment shall require the assent of two-thirds (2/3) of the votes of the Members of each class of membership who are voting in person or by proxy at a meeting duly called for this purpose.

5.4.2. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.3.2. (b) or 4.4.1. above shall be sent to all Members no less than thirty (30) days nor more than fifty (50) days prior to the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast two-thirds (2/3) of the votes appurtenant to the Class A Lots and two-thirds (2/3) of the votes appurtenant to the Class B Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirements, and, if called for a date not less than fifty (50) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

5.5. Initial Assessment. At the closing of each sale of a Lot by Declarant, a sum equal to two (2) monthly payments of the then applicable Annual Assessment (the "Initial Assessment") shall be collected from the purchaser and contributed to the Association. The Initial Assessment shall be used in the manner specified for Annual Assessments. The Initial Assessment shall not be considered an advance against Assessments to become due on and after transfer of title to the purchaser.

5.6. Fines. The Association's Board may impose fines against any Lot for a failure to comply with this Declaration. Fines shall be paid not later than thirty (30) days after notice of the assessment is given to the offending Owner and shall be subject to the collection and lien rights of the Association provided in Section 4.10 below. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled. Any fine paid by the offending Owner shall nevertheless be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from that Owner. Fines shall be as follows:

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

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

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

5.7. Uniform Rate of Assessment. Both Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots in Use or Lots, as the case may be. Provided, however, that the Association shall also have the authority, through the Board of Directors, to establish, fix and levy a Special Assessment on any Lot to secure the liability of that Owner to the Association arising from that Owner's breach of any of the provisions of this Declaration.

5.8. Date of Commencement of Annual Assessment/Due Dates. The Annual Assessments shall commence as to a Lot on the first day of the month following the date it becomes a Lot in Use. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the Annual Assessment shall be sent to every Owner subject thereto at least fifteen (15) days in advance of each Annual Assessment Period. The due date(s) for payment of the Annual Assessment shall be established by the Board of Directors. As a matter of information, it is anticipated the Annual Assessments shall be payable monthly at the rate of one-twelfth (1/12) of the Annual Assessment per month. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Association's Board for the issuance of these certificates. These certificates shall be conclusive evidence of payment of any Assessment as to third parties acting in reliance on the statement.

5.9. Owner's Personal Obligation for Payment of Assessments. The Assessments shall be the personal and individual debt of the Owner (as of the due date of the applicable Assessment payment) of the Lot to which such Assessments relate. Except for the Declarant, no Owner shall be exempt from liability for such Assessments by non-use of such Owner's Lot(s) or otherwise. In the event of default in the payment of any such Assessment, the defaulting Owner shall be obligated to pay interest at the lesser of eighteen percent (18%) per annum or the highest lawful rate per annum on the amount of the Assessment from the due date thereof until the date such Assessment and interest is paid, together with all costs and expenses of collection, including reasonable attorney's fees.

5.10. Assessment Lien and Foreclosure. All unpaid sums that have been assessed in the manner provided in this Article shall, together with interest as provided in this Declaration, plus the cost of collection (including reasonable attorney's fees), become a continuing lien and charge on the Lot and all Improvements thereon owned by the defaulting Owner as of the Assessment due date, which shall bind such Lot and Improvements then in the hands of the Owner, and the defaulting Owner's heirs, devisees, personal representatives, successors, and

assigns. Except as otherwise provided in this Declaration, the aforesaid lien shall be superior to all other liens and charges against such Lot and Improvements thereon. The Association's Board shall have the power to subordinate the aforesaid Assessment lien to any other lien, and such power shall be entirely discretionary with the Association's Board. To evidence the aforesaid assessment lien, the Association's Board may prepare a written notice of assessments claim of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot and Improvements thereon covered by such lien, and a description of a Lot. Such notice of claim of lien shall be signed by one of the officers of the Association and/or its attorney, and shall be recorded in the Office of the Register of Deed of Wake County, North Carolina. Such claim of lien for payment of assessments shall attach with the priority above set forth from the date of recordation of such claim of lien. The claim of lien may be enforced by i) the foreclosure of the defaulting Owner's Lot and Improvements thereon by the Association in like manner as a deed of trust with power of sale on real property under Article 2A of Chapter 45 of the General Statutes of North Carolina; ii) the Association may institute suit against the Owner personally obligated to pay the assessments; or iii) the lien may be enforced by judicial foreclosure. The Association may pursue one or more of the foregoing remedies and/or may seek any other available remedy or relief. In any suit or foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the Owner's Lot and Improvements thereon at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same.

5.11. Subordination of the Lien to Mortgages. The lien of the Assessments shall be subordinate and inferior to the lien of any first mortgage or deed of trust on such Lot; provided, however, that such subordinations shall apply only to the Assessments which have become due and payable prior to the sale (whether public or private) of such Lot pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve any new Owner of the Lot from liability for the amount of any assessments thereafter becoming due nor from the lien of any such subsequent Assessment.

5.12. Exempt Property. All Lots dedicated to and accepted by a local public authority shall be exempt from the Assessments.

6. INSURANCE.

6.1 Association Coverage. The Association's Board or its duly authorized agent may have the authority to and shall obtain a broad-form public liability policy (in an amount not less than \$2,000,000.00) covering all damage or injury caused by the negligence of the Association or any of its agents. This insurance may include coverage against vandalism. All persons responsible for or authorized to expend funds or otherwise deal in the Association's assets shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties. This coverage shall be in an amount equal to at least one-half (1/2) the Annual Assessment plus reserves accumulated. The Association shall also obtain such other insurance coverage as it deems desirable and necessary.

6.2 Owner's Coverage. It shall be the responsibility of each Owner, at his own expense, to obtain hazard insurance in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction to his Building or other Improvement from any hazard. The hazard insurance shall be with a company, in an amount, and in a form that is acceptable to the Association's Board and shall include a loss payable clause listing the Association as an additional insured. Each Owner shall satisfy the Association's Board that at all times his property is covered by the required hazard insurance.

6.3 Retention by Owner. In the event a Building is substantially destroyed, and the Owner does not begin repair or reconstruction within ninety (90) days following the destruction, he shall remove or cause to be removed, at his expense, all damaged structures, buildings, other Improvements and debris from the Lot, and regrade and stabilize the Lot to prevent soil erosion, so that it shall be placed in a neat, clean and safe condition. If he fails to do so, the Association may cause, and shall have the right to perform these duties on behalf of the Owner, and the cost of such removal, clearing, grading and stabilizing shall constitute a lien upon the Building and its Lot until paid by the Owner, unless the Lot is thereafter acquired by the Association.

6.4 Application of Declaration and Bylaws. Any Building (including the Lot on which it was constructed) which is destroyed and not subsequently restored or reconstructed and any Building which has been destroyed in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall continue to be subject to the provisions of this Declaration and to the Bylaws of the Association, and the Owner thereof shall continue to pay assessments.

6.5 Ownership/Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association and its mortgagees, if any, as their interests may appear, and the Owners, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee shall be to receive any proceeds as are paid and to hold them in trust for the purposes stated in this Declaration.

6.6 Premiums. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and shall be included in Common Expenses.

7. EXTERIOR MAINTENANCE.

7.1. Maintenance Responsibility. The Association shall provide exterior maintenance for each Lot in Use as follows: repair and replacement of gutters and downspouts; and maintenance of trees, shrubs, grass, walks located in the front and rear yards of each Lot. The Association is not responsible for, nor will provide, snow or ice removal from driveways and sidewalks. This exterior maintenance shall not include any maintenance specifically designated as the Owner's responsibility as provided in Section 10.18 of this Declaration. In order to enable the Association to accomplish the foregoing, it is reserved to the Association the right, privilege and easement of unobstructed access over and upon each Lot and each Building at all reasonable times to perform maintenance as provided in this Section. The

Owner shall not place any furniture, place or construct any Improvements, or plant any vegetation in the front yard or, except with the prior approval required by Article 9, in the rear yard of a Lot. After receiving the required approval, the Owner may plant approved plantings and grass in his rear yard and may also maintain portions or all of his rear yard, provided that such maintenance by the Owner does not hinder the Association in performing its yard maintenance obligations. In that event, the Owner shall maintain such plantings or perform such other maintenance as will be required. No such maintenance by an Owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any Owner who fails to maintain his rear yard in a neat and orderly manner, the Association may perform the required maintenance and assess Owner for those costs.

7.2. Cost of Maintenance. In the event that the need for exterior maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, tenants, contractors, employees or invitees, or is caused by any hazard not covered under a North Carolina Standard Fire and Extended Coverage Insurance policy, the cost of such maintenance or repair shall be added to and become a part of the Assessment to which the Lot is subject. If the exterior maintenance or repair is caused by a hazard insured against by any Owner's insurance policy, such maintenance or repair shall be the responsibility of the Lot Owner(s), as provided by Section 5.2 above.

7.3. Maintenance Procedures. The Association shall establish regulations governing the procedure for exterior maintenance. In the event any Owner desires to expend a sum greater than that sum authorized by the Association, that Owner shall advance to the Association, prior to the commencement of work, an amount necessary to cover the additional expenses, and a lien shall be established against the Owner's Lot for any deficiency.

8. EASEMENTS.

8.1. Easements Reserved by Declarant. Easements for installation, maintenance, repair, replacement, use, operation and removal of public or private utilities, drainage facilities and impoundments are reserved by Declarant for itself, its successors and assigns, over, under and across the Lots (other than the portions thereof use as building sites), and in any event over no less than a ten (10) foot strip inside of and adjacent to the front, rear and side property boundaries of each Lot. Full right of ingress and egress shall be had by Declarant at all times over the Lots (other than the portions thereof used as building sites) for the installation, use, operation, maintenance, repair, replacement or removal of any utility, drainage facility or impoundment, together with the right to remove any obstruction that may be placed in any easement that would constitute interference with the use of such easement, or with the use, installation, maintenance, repair, replacement, removal or operation of same. Assignees to whom Declarant reserves the right to assign and convey, in whole or in a part, the easement reserved by it hereunder shall include, without limitation, the Association and one or more governmental entities or public utility companies.

8.2. Easement Reserved for the Association. An easement is reserved by Declarant for rights of ingress and egress for the benefit of the Association at all times to enter, over and

upon each Lot for the maintenance and repair of each Lot and Improvements in accordance with the provisions hereof and for the carrying out by the Association of its rights, power, duties and obligations hereunder; provided, that any such entry by the Association upon any Lot and/or Improvement shall be made with as minimum inconvenience to the Owner as reasonably practicable, and any damage caused as a result of the gross negligence of the Association's employees or agents shall be repaired by the Association at the expense of the Association.

8.3. Subdivision Wall Easement. An easement 10 feet wide is reserved by Declarant and for the benefit of the Association, for the purpose of installation, maintenance, repair, replacement, use, operation and removal of a brick screening wall (the "Subdivision Wall Easement"). The Subdivision Wall Easement shall have its southeastern boundary along the northwesterly line of the "10' Slope Easement" identified on the Subdivision Plat, located inside of and adjacent to the side property lines of Lots 3, 4, 26, 27, 34, 35, 43 and 42, as shown on the Subdivision Plat.

8.4. Drainage Easement. For a period of thirty-six (36) months following the initial conveyance of a Lot to an Owner by the Declarant, that Lot shall be subject to an easement for entry and encroachment by the Declarant for the purpose of correcting any grading or drainage problems with respect to that Lot or adjoining Lots. After such an entry, the Declarant, at its expense, shall, to the extent reasonably practicable, restore the affected Lot(s) to their original condition.

8.5. Easement Reserved for Governmental Entities and Public Utilities. An easement is hereby established for applicable governmental entities and municipal, state or public utilities serving the Property, and their agents and employees, over all Lots, for the purpose of setting, removing and reading utility meters, maintaining, repairing and replacing street, utility or drainage connections, and acting for other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection, the rights granted by easements to be exercised in a reasonable manner and at reasonable times (except in the case of an emergency).

8.6. Easement Reserved for Emergency Conditions. An easement is reserved by Declarant, its contractors, subcontractors, officers, agents, employees and to any management company retained by the Association to enter in and to cross over all Lots for the purpose of correcting, repairing or alleviating any emergency condition which arises upon any Lot and that endangers any Improvements.

9. ARCHITECTURAL COMMITTEE.

9.1. Members. The Architectural Committee shall consist of one (1) or more persons designated by the Declarant. At the earlier of such time as Declarant no longer owns any real property within the Property or December 31, 2012 (or earlier if the Declarant shall surrender this right in a written instrument in recordable form executed by Declarant), the Declarant shall assign to the Association the rights, powers, duties and obligations of the Architectural Committee. Upon this assignment, the Associations' Board shall appoint three (3) or more

persons as the members of the Architectural Committee. Prior to December 31, 2012, this provision shall not be amended or revoked without the Declarant's written consent.

9.2. Powers. The Architectural Committee shall have the right to refuse to approve any plans and specifications for Improvements proposed to be constructed on a Lot (the "Plans & Specifications") which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving Plans & Specifications, the Architectural Committee shall consider the purposes of this Declaration as discussed in the Recitals, including the suitability of the proposed Improvements and materials to be used in those Improvements, the site upon which it is proposed to be erected, and the effect of the Improvements on adjacent or neighboring property. There is specifically reserved unto the Architectural Committee the right of entry and inspection upon any Lot for the purpose of determining whether there exists any construction of any Improvements which violates the terms of any approval by the Architectural Committee or the terms of this Declaration or of any other applicable covenants, conditions and restrictions. The Architectural Committee and the Board of Directors are specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorneys' fees).

10. ARCHITECTURAL CONTROL AND USE RESTRICTIONS.

10.1. Building Sites. Each Lot, as approved by the appropriate governmental entity, shall constitute a building site ("Building Site") and shall be used for single-family, residential purposes only. The lay of the Lots as shown on the recorded plat shall be substantially adhered to; provided, however, that with the prior written approval of the Declarant (as long as Class B Membership exists), or, thereafter, the Association's Board or the Architectural Committee, and the appropriate governmental authority, the size and shape of any Lot may be altered. More than one Lot may be used as one Building Site provided the location of any structure permitted thereon is approved in writing by the Architectural Committee or the Declarant, its successors or assigns, and said Lot is recombined as provided in N.C. General Statute § 160A-376(1). In no event, however, shall a Lot or group of Lots be resubdivided or recombined in violation of any applicable zoning or other laws in force at the time of the change.

10.2. Setbacks. The Building on each Lot shall not be located on any Lot nearer to the Lot boundary lines than the building setback lines specified as follows or, if a greater setback is required thereby, as required by applicable zoning laws and other governmental requirements:

- (a) Front Setback – twenty (20) feet from the front boundary line of the Lot;
- (b) Side Setback – ten (10) feet from each side boundary line of the Lot; provided, however, when a Lot adjoins two or more street right-of-way lines, no less than twenty (20) feet from the side boundary line of the Lot adjoining the street right-

of-way line and no less than ten (10) feet from any other side boundary line of the Lot.

- (c) Rear Setback – thirty (30) feet from the rear boundary line of the Lot.
- (d) Subdivision Wall Setback – ten (10) feet from the Subdivision Wall constructed or to be constructed within the Subdivision Wall Easement on Lots 3, 4, 26, 27, 34, 35, 42 and 43.

Notwithstanding the foregoing, as to Lots 3, 4, 26, 27, 34, 35, 42 and 43, if any rear or side setback which is greater than the Subdivision Wall Setback along the property line containing the Subdivision Wall, the Subdivision Wall Setback shall control and the side and/or rear setback shall be reduced to conform to the Subdivision Wall Setback.

If any minimum setback distance specified herein is different from any minimum setback distance shown on any recorded plat of any part or all of the Property, the greater distance shall be controlling with respect to the Lot or Lots affected thereby.

Declarant reserves the right to waive, in writing, any minor violation of the setbacks contained in this Section. A minor violation shall be defined as any violation which does not exceed twenty (20%) percent of the required setback established hereunder. Unintentional violations of the setbacks contained herein which do not exceed ten (10%) percent of the required setback shall not be considered a violation hereunder.

For the purpose of determining the foregoing building setback distances under this Declaration, eaves, steps, stoops, open carports, overhangs, bay windows, decks, patios, terraces and chimneys shall not be considered as a part of the Building, but the location of such improvements on a Lot shall be subject to the architectural control and approval provisions applicable to the Lots subject to this Declaration. Provided, notwithstanding anything to the contrary that may appear herein, no Building or other improvement on a Lot shall encroach upon another Lot. Should any question arise under this Declaration as to whether or not any portion of the Building (other than the foregoing items specified as not being part of the Building) should be considered as part of the Building for the purpose of determining the foregoing building setback distances, the Architectural Committee shall have the authority to make such determination and the decision of the Architectural Committee shall be final.

10.3. Buildings and Minimum Square Footage. Buildings on any Building Site shall be restricted solely to residential dwellings for residential use. All Buildings erected upon a Lot shall be of new construction, it being the intent of this covenant to prohibit the moving of any existing Building onto a Lot and remodeling or converting same into a primary residential dwelling house. Provided, however, the foregoing shall not be construed as prohibiting remodeling of or constructing additions to existing Buildings on a Lot that have been previously constructed thereon in compliance with this Declaration. The Building constructed on each Lot subject to this Declaration shall have an enclosed floor area of the main structure, exclusive of garages, open and screened porches, decks, terraces, patios, and chimneys of not less than 2,100 square feet. Provided, however, the Declarant shall have the right at any time

and from time to time to allow or require variances from, and the right to waive violations of, such minimum total floor area requirements of up to five percent (5%) of either or both of such minimum area requirements, such variances or waivers to be in writing. Should any question arise as to whether or not any Building, other than those items specifically excluded by this Article, is part of the Building, the Architectural Committee shall have the authority to make such determination, and the decision of the Architectural Committee shall be final.

10.4. Approval of Plans & Specifications. No Owner shall cause any alterations to be made to the exterior of the Buildings (including re-roofing, applying or re-applying siding, painting or other decorating, installation of electrical wiring, television or radio antennae, or any other objects or devices which may protrude through the walls or roof of the Buildings) or in any manner alter the appearance of the exterior portion of any Building without the prior written permission of the Architectural Committee. No Owner shall cause any object to be fixed to its Lots (including the location or construction of fences or the planting or growing of flowers, trees, shrubs or other vegetation) or in any manner change the appearance of the Lot without the prior written permission of the Architectural Committee.

No Building or Improvement shall be commenced, erected, or maintained upon the Property, nor shall an Improvement be repaired or rebuilt after destruction by any hazard until completed Plans & Specifications, showing the nature, kind, space, height, materials, and location of the Improvement shall have been submitted, in writing with a clearly stated submittal date, to and approved in writing by the Architectural Committee. A failure to approve or disapprove completed Plans & Specifications within forty-five (45) days after they have been submitted shall be deemed to be an approval of those Plans & Specifications. Neither the Association, the Association's Board, the Declarant, the Architectural Committee or any officer, employee, director or members thereof shall be liable for damages to any persons by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any Plans & Specifications. Every person who submits Plans & Specifications for approval agrees, by submission of such Plans & Specifications, that it will not bring any action or suit to recover any such damages.

10.5. Declarant Facilities. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Lots and Buildings the Declarant is permitted, subject to the laws of the applicable governmental authority, to maintain such facilities and conduct such sales activities as Declarant deems reasonably required, convenient, or incidental to the development and sale of the Lots and Buildings. These facilities/activities shall include but not be limited to sales tours, sales parties and promotions, a business/sales office, storage area, construction yards, model units, and signs. Prior to December 31, 2012, this provision shall not be amended or revoked without the Declarant's written consent.

10.6. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Lots, except that up to two (2) domesticated, household pets may be kept, provided they are not maintained for commercial purposes. Declarant reserves the right to i) prohibit the keeping of animals that could be considered aggressive or that which exhibit behavior considered a nuisance (e.g. excessive barking), and ii) approve an Owner having or

keeping more than the minimum allotment of two (2) domesticated household pets, all in Declarant's absolute discretion.

10.7 Screening. All equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate Improvements, as approved by the Architectural Committee (including approval of the materials with which the Improvements are to be constructed), so as to screen them from view from the street and adjoining Lots. All garbage, trash, or rubbish shall be regularly removed from the Lot and shall not be allowed to unreasonably accumulate.

10.8 Outbuildings. No outbuilding or storage building shall be erected, placed or allowed to remain on any Lot.

10.9 No Temporary Structures. No structure of a temporary character, such as a trailer, manufactured home, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a dwelling house, either temporarily or permanently.

10.10 Mailboxes. All mailboxes, unless affixed to the Building on a Lot (which either must be approved by the Architectural Committee or otherwise required by applicable governmental law or regulation or United States Postal Service or successor agency regulation) shall be affixed to a substantial pole or stand permanently placed in the ground and shall not be located within a sidewalk. Architectural guidelines with respect to mailboxes may require, prohibit, restrict or specify one or more of the following: method and type of support, style, material, color, size, height; and one or more of the foregoing with respect to the numbering and/or lettering to be placed on a mailbox or affixed thereto.

10.11. Leasing. No Lot or any portion of the Improvements thereon shall be leased for transient or hotel purposes, except that an Owner may lease not less than the entire residential structure on its Lot; provided that each lease must be in writing, must be for a period of not less than thirty (30) days, and must provide that it is subject to this Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease. The Owner shall promptly provide the Association with copies of any and all leases entered into by the Owner.

10.12. Attachments. Without the prior written approval and the authorization of the Declarant (as long as Class B Membership exists), the Association's Board or the Architectural Committee, no exterior television or radio antennas, satellite dishes (which shall be no larger than one meter {39.37 inches} in diameter), solar panels or basketball goals shall be placed, allowed or permitted upon any portion of the exterior of the Building or Improvements. No clotheslines shall be allowed outside of the Owner's Building. Exterior spotlights may be installed on the Buildings without prior approval, but the light generated from the spotlights cannot illuminate any portion of an adjacent Lot or Building.

10.13. Business/Obnoxious Activity. No business activity of any kind or any obnoxious or offensive activity that may constitute a public or private nuisance shall be carried on the Property or Improvements thereon, nor shall anything be done which may be or may

constitute a private or public nuisance or annoyance to the neighborhood. Nor shall the Property be used in any way or for any purpose that may endanger the health or unreasonably disturb an Owner or his tenants or invitees. No "For Sale" signs (except as otherwise specifically authorized by the Association), advertising signs, for rent signs, bill boards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property. The foregoing covenants shall not, however, apply to the business, sales or marketing activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its employees, realtors, agents and assigns, during the construction and sales period for the Villas At Falls Lake Subdivision also known as Daltons Ridge Subdivision. This shall include but is not limited to the right of Declarant to install and/or construct a temporary sales office and/or models for the purpose of carrying on business related to the development, improvement, marketing and sale of Lots and dwellings. This right of the Declarant shall nevertheless be subject to the laws and/or ordinances of the City of Raleigh.

10.14. Vehicles. No boats, sailboats, jet skis, recreation vehicles, campers, motorcycles, tractors, trucks (other than one pick-up truck rated one-half ton or less), or trailers (the "Vehicles") of any Owner or member of his family, his tenants or contract purchasers shall be parked within the right-of-way of any street, in or adjacent to the Subdivision or in an Owner's driveway. All Vehicles shall be either parked or stored within the Owner's garage, including inoperative or abandoned Vehicles or automobiles. No motor homes are to be parked within the right-of-way of any street, in or adjacent to the Subdivision. Motor homes may be parked in an Owner's driveway for periods of up to seven (7) consecutive days up to five (5) times per year. Automobiles in working order may be parked at any and all times in the Owner's driveway.

10.15. Tanks/ Pools. Other than swimming pools, hot tubs or similar devices approved by the Architectural Committee, no above or below-ground tanks will be permitted for the storage of fuel or water or any other substance. Approved pools, hot tubs and similar devices shall be subject to reasonable screening requirements established by the Architectural Committee.

10.16. Lawn Ornaments. No decorative lawn ornaments shall be placed on any Lot without the prior written approval of the Architectural Committee, with the exception that one (1) holder with a pole designed to be attached to the front porch of a Building may be installed by an Owner for the display of decorative or other flags without prior Architectural Committee approval. No free-standing flagpoles are allowed to be installed on a Lot.

10.17. Parking. Adequate off-street parking shall be provided by the Owner of each Lot for the parking of automobiles and Vehicles owned by that Owner. Owners shall not be permitted to park their automobiles and Vehicles on the streets in the Subdivision. Guests of Owners may temporarily park their automobiles on the streets in the Subdivision.

10.18. Maintenance by Owner. Maintenance, upkeep, and repairs of any fence (which shall be no taller than 6 feet), patio, sidewalk, driveway, deck, roofs, porch decking, screens and screen doors, exterior doors, windows and window fixtures and other hardware, approved

flower beds as expanded or installed by Owner and rear yards as fenced in by Owner shall be the sole responsibility of the individual Owner of the Lot and not in any manner the Association's. All exterior maintenance, including re-painting and repair of exterior siding, repair or replacement of roofing, shingles and other related materials, the maintenance of all fixtures and equipment installed on or within a Building, including but not limited to, all appliances, interior floor coverings, light fixtures, plumbing, HVAC systems (whether located inside or outside the Building), all load bearing walls, foundations and other portions of the Building not specifically maintained by the Association under Section 7.1 herein, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act, nor any work that will impair any easement or hereditament, nor do any act or allow any condition to exist which will adversely affect the other Buildings or their Owners. All public or private utility systems lying within the boundaries of and serving a single Lot shall be maintained by the Owner. All public utility systems located outside the boundaries of any Lot shall be maintained by the appropriate utility company or governmental authority.

10.19. Governmental Regulations. Each Owner shall comply with all laws, ordinances, governmental building codes, health regulations, zoning restrictions and the like applicable to its Lot. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

10.20. Anti-Discrimination. No action shall at any time be taken by the Declarant, the Association, the Association's Board, or the Architectural Committee in the enforcement or interpretation of this Declaration which in any manner would unfairly discriminate against any Owner in favor of any of the other Owners.

10.21. Waiver. Notwithstanding anything above to the contrary, the Declarant (as long as Class B Membership exists), the Association's Board, or the Architectural Committee shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Article. No waiver shall be effective unless in writing and shall not operate as a waiver of any other requirement respecting the Lot in question or any other Lots subject to this Declaration. No waiver shall be effective if it shall cause the Lot or structures thereon to be in non-conformance with any applicable governmental ordinances.

11. GENERAL PROVISIONS.

11.1. Enforcement. The Declarant (as long as Class B Membership exists), the Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, the terms of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

11.2. Severability. Invalidity of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

11.3. Duration and Amendment. This Declaration shall run with the land for a term of twenty (20) years from the date of their recording and shall inure to the benefit of the Declarant (as long as Class B Membership exists), the Association and any Owner or their respective legal representatives, heirs, successors, and assigns. This Declaration shall thereafter automatically be extended for successive periods of ten (10) years. As long as Declarant is an Owner of any Lot within the Subdivision, Declarant reserves the right to amend any term or condition of this Declaration without obtaining the consent or approval of the Members. After Declarant is no longer an Owner of any Lot within the Subdivision, this Declaration may only be amended by an instrument signed by not less than the Owners of seventy-five percent (75 %) of the Lots.

11.4. Amendments. If an amendment is executed, each such amendment shall be delivered to the Association's Board which shall, within thirty (30) days:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots (for this purpose, the Associations' Board may rely on its roster of Members, and shall not be required to cause the title to any Lot to be examined); and

(b) Attach the following certification:

CERTIFICATION

By authority of its Board of Directors, Daltons Ridge Homeowners Association, Inc. certifies that the foregoing instrument has been duly executed by the Owners of seventy-five percent (75 %) of the Lots in the Property and is therefore a valid amendment to the Declaration recorded at Book _____, Page _____, Wake County Registry.

DALTONS RIDGE HOMEOWNERS
ASSOCIATION, INC.

BY: _____

Within the thirty (30) day period, the Association's Board shall cause the amendment to be recorded with the appropriate Register of Deeds. All amendments shall be effective from the date of recordation in the appropriate Register of Deeds; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association.

11.5. Voting. Voting by Members of the Association shall be in accordance with the applicable provisions set forth in this Declaration and the Bylaws.

11.6. Member Addresses. Each Member agrees to keep the Association informed of his address at any time and any notice sent or delivered to that address shall be sufficient. Each new Member agrees to provide the Association with evidence of his ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as to the ownership of each Lot.

11.7. Gender and Grammar. All words and phrases in this Declaration shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires.

11.8. Owner Responsibility. Notwithstanding anything in this Declaration to the contrary, an Owner shall be responsible for any and all violations of these Declarations by his employees, agents, tenants, guests and invitees. When a party to this Declaration consists of more than one individual or entity, such party's liability hereunder shall be joint and several.

11.9. Construction. This Declaration shall be construed in accordance with the laws of North Carolina without giving effect to its conflict of laws principles. In case of any conflict between this Declaration and the Articles or the Bylaws, the Declaration shall control.

11.10. "Institutional Lender" or "Institutional Lenders". As the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other firms or entities customarily affording loans secured by first liens on residential property and eligible insurers and governmental guarantors. In addition to any other rights set forth in this Declaration, these Articles of Incorporation and the Bylaws, so long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any Building, such Institutional Lender or Institutional Lenders shall have the following rights:

(a) To approve the company or companies with whom casualty insurance is placed, and to be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(b) To examine, at reasonable times and upon reasonable notice, the books and records of the Association and to be furnished at least one copy of the annual financial statement and report of the Association, prepared by a certified public accountant designated by the Association, such financial statement and report to be furnished by May 15 of each calendar year.

(c) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering: (1) any proposed Amendment to this Declaration or the Articles of Incorporation and the Bylaws of the Association; (2) the proposed termination or abandonment of the Association; (3) the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association. Such notice shall state the nature of the Amendment or action being proposed.

(d) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Building encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing.

(e) To be given notice of any condemnation loss or casualty loss which affects a material portion of any Lot.

(f) To be given notice of any proposed action that requires the consent of a specified percentage of mortgage holders.

Whenever any Institutional Lender or Institutional Lenders desire the provisions of this Article to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by Registered Mail or Certified Mail, identifying the Building upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Building owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender or Institutional Lenders.

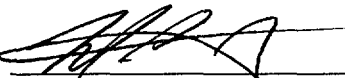
11.11. Amendment. In addition to the foregoing rights, and notwithstanding anything to the contrary that may appear herein, Declarant may at any time and from time to time amend or modify this Declaration and any Supplemental Declaration without obtaining the consent or approval of the Members or any other person or entity if such amendment or modification is necessary for any one or more of the following purposes: to correct an obvious typographical error; to cause this Declaration or any such Supplemental Declaration to comply with the requirements of FHA (Federal Housing Administration), VA (Veterans Administration), Fannie Mae (Federal National Mortgage Administration) or other similar agency; or as be necessary to establish or maintain the tax exempt status of the Association under the laws of the United States of the State of North Carolina, or for the purpose of protecting the value, desirability, aesthetic quality and lifestyle of the Subdivision, its owners and guests in the sole and absolute discretion of Declarant.

[The next page is the signature page]

IN WITNESS WHEREOF, the undersigned Manager has caused this Agreement to be signed in the limited liability company name, sealed, and delivered, all as the act of the limited liability company, on the date first above written.

DECLARANT:

THE VILLAS OF FALLS LAKE, LLC (SEAL)
a North Carolina limited liability company

By:  (SEAL)
Mark P. Schweibinz, Manager

NORTH CAROLINA

WAKE COUNTY

I, Paula P. Smith, a Notary Public for said County and State, do hereby certify that Mark P. Schweibinz, Manager of The Villas of Falls Lake, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing Declaration of Covenants, Conditions and Restrictions for The Villas At Falls Lake Subdivision on behalf of the company.

Witness my hand and notarial seal this 24th day of May, 2002.

PAULA P. SMITH
Notary Public
WAKE COUNTY, N.C.
My Commission Expires _____


Notary Public

My Commission expires: Jan 8, 2006

LENDER:

CAPITAL BANK, a North Carolina banking corporation

BY: F. Todd Simpson
Senior Vice President

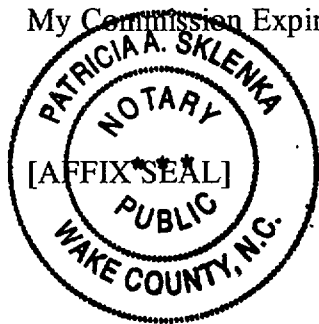
STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, PATRICIA A. SKLENKA, a Notary Public, do hereby certify that
F. TODD SIMPSON personally appeared before me this day and acknowledged that
he is the SENIOR VICE President of CAPITAL BANK, a North Carolina banking corporation
and further acknowledged the due execution of the foregoing instrument on behalf of the
corporation.

Witness my hand and official stamp and seal, this 29th day of May,
2002.

Patricia A. Sklenka

My Commission Expires: 09-04-06 Notary



LENDER:

AMERICAN BANK, a
Federal Savings Bank

BY: David H. Bowman
Sr. Vice President

STATE OF Maryland
COUNTY OF Montgomery

I, William Godfrey, a Notary Public, do hereby certify that
David H. Bowman personally appeared before me this day and acknowledged that
he/she is the Sr. Vice President of AMERICAN BANK, a
Federal Savings Bank and further acknowledged the
due execution of the foregoing instrument on behalf of the corporation.

Witness my hand and official stamp and seal, this 13th day of June,
2002.

My Commission Expires: 10/1/04 Notary

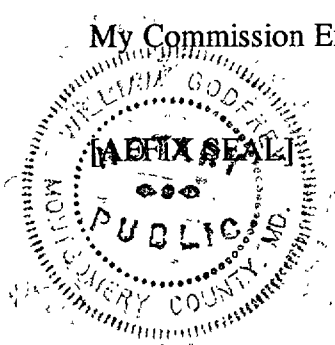


EXHIBIT A

Legal Description

All that certain piece or parcel of land situated in the County of Wake, State of North Carolina, as more particularly described as follows:

Beginning at a monument NCGS "LOWERY" bearing N.C. grid coordinates N=794400.37, E=2124126.54, combined factor = 0.99993145, thence North 76 deg. 53 min. 08 sec. East 447.34 feet to an iron pipe set which is the point and place of BEGINNING; running thence South 20 deg. 20 min. 28 sec. East 27.92 feet to a computed point, said point being the centerline of a sixty (60) foot public right-of-way, running thence along said right-of-way of Falls of Neuse Road the following five (5) calls:

South 66 deg. 59 min. 27 sec. West 100.00 feet

South 61 deg. 58 min. 07 sec. West 100.00 feet

South 57 deg. 42 min. 07 sec. West 100.00 feet

South 54 deg. 18 min. 27 sec. West 92.00 feet

South 54 deg. 12 min. 47 sec. West 808.66 feet to a computed point,

running thence North 43 deg. 350 min. 14 sec. West 30.28 feet to an iron pipe set, said point being in the common boundary of property now or formerly owned by Falls Lake Project, US Army Corp of Engineers; running thence North 43 deg. 50 min. 14 sec. West 313.60 feet to a concrete monument found, Corp of Engineers Concrete Monument "1-19-L"; running thence North 37 deg. 03 min. 56 sec. East 761.06 feet to a concrete monument found, Corp of Engineers Concrete Monument "1-18-L1"; continuing thence North 39 deg. 02 min. 46 sec. East 585.92 feet to an iron pipe found; running thence South 51 deg. 50 min. 27 sec. East 201.22 feet to an iron pipe found; running thence South 28 deg. 52 min. 59 sec. East 342.78 feet to an iron pipe found; running thence South 20 deg. 30 min. 06 sec. East 206.77 feet to the point and place of BEGINNING, consisting of 16.16 acres, less .83 acres in the right of way of Falls of Neuse Road or 15.33 net acres, more or less, as shown on survey entitled "Boundary Survey, Dalton Property" prepared by Aiken & Yelle Associates, PA, dated September 27, 2000 and revised October 20, 2000.

Laura M Riddick
Register of Deeds
Wake County, NC



Book : 009455 Page : 01139 - 01166

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



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

North Carolina - Wake County

The foregoing certificate 5 of _____

Regula P. Smith
Patricia A. Sklenka
William Godfrey.

Notary(ies) Public is (are) certified to be correct. This instrument
and this certificate are duly registered at the date and time and in the book and
page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: *Josh Kim*
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
28 New Time Stamp
of Pages