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NORTH CAROLINA

WAKE COUNTY

**DECLARATION OF COVENANTS
AND RESTRICTIONS FOR
GREAT FALLS ESTATES**

THIS DECLARATION is made and executed this 6th day of May, 2002, by ***Kirby Marshburn Bldg. Corp.***;

W I T N E S S E T H:

THAT WHEREAS, Kirby Marshburn Bldg. Corp. (hereinafter referred to as the "Declarant"), is the fee simple owner of certain real property located in Wake County, North Carolina, and desires to establish on a portion thereof a community consisting of residential dwellings to be known as Great Falls estates (hereinafter called "Great Falls") and further desires that said property be used, developed, maintained and managed for the benefit and welfare of owners of property in Great Falls:

WHEREAS, Declarant desires to insure the attractiveness of Great Falls and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within Great Falls. To this end the Declarant desires to subject the real property described herein, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant further desires to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Area in Great Falls, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values and amenities in Great Falls to insure the residents' enjoyment of the specific rights, privileges and easements in the Common Area, and to provide for the maintenance and upkeep of the Common Area;

NOW, THEREFORE, in consideration of the premises, the Declarant hereby declares that all of the property described on the map of Great Falls in Book of Maps 2002, Page 509, Wake County Registry and that hereafter may be made subject to this Declaration of Covenants and Restrictions (hereinafter called "Restrictions") is and shall be held,

transferred, sold conveyed, occupied and used subject to the restrictions and matters hereinafter set forth, said Restrictions and matters to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title or interest in the described property, or any part thereof, and which shall inure to the benefit of each owner, for and during the time hereinafter specified.

The Declarant may until they have sold 75% of the lots in Great Falls Estates choose to establish an architectural committee. If the Declarant established an architectural committee, upon the selling of 75% of the lots the duties of the architectural committee shall be transferred to the homeowners.

No site preparation (including, but not limited to, grading, elevation work, landscaping, sloping or tree work), initial construction or construction, erection or installation of any improvements, including, but not limited to, buildings, fences, walls, bulkheads, screens, landscaping, planting or other improvements or structures shall be commenced, erected, placed, altered or maintained upon the Property of any Lot, nor shall any addition to, change, or alteration therein be made by any Lot Owner, other than Declarant, until the plans and specifications showing the nature, kind, shape, height, materials, exterior colors, siding, location and elevations of the proposed improvements, or landscaping shall have been submitted to, and approved in writing by, as to harmony of external design and location in relation to surrounding structures and topography, the Architectural Committee composed of three (3) people selected by the Declarant or the Homeowners Association if and when such association exists. In the event said Architectural Committee fails to approve or disapprove such submission within thirty (30) days after such plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided that plans and specifications that contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding the foregoing.

Upon request, the Architectural Committee shall provide any Owner with a letter stating that any such approved plans and specifications have been approved and the same may be relied upon by third parties.

Refusal of approval of such plans, locations or specifications may be based upon any grounds, including purely aesthetic and environmental, which the Architectural Committee, in its sole discretion, shall deem sufficient. The Architectural Committee shall not be responsible for any defects in the plans and specifications submitted to it or in any structure erected according to such plans and specifications.

The Architectural Committee or its appointed agents shall have the right, at its election, but shall not be required, to enter upon any of the Property during site preparation or construction, erection or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

RESTRICTIONS AND REQUIREMENTS

1. No tract shall be occupied or used except for single-family residential purposes. Only one residence is permitted on any tract.

2. Each residential dwelling, whether ranch, 1 ½ story and 2-story style, shall contain a minimum of 2,400 square feet of heated, enclosed living area, exclusive of patios, porches, garages and basements (finished or unfinished). All dwellings shall have a minimum of a 2 car attached garage. Once construction of a dwelling has commenced, the exterior thereof, including finished siding material shall be completed within six (6) months thereafter. Prior to completion of a dwelling, the owner shall install at his own expense a concrete or asphalt driveway.

3. No building shall be constructed nearer than twenty (20) feet to any side property line nor any nearer than fifty (50) feet to the front property line nor any nearer than thirty (30) feet to the rear property line.

4. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to a septic tank sewage system constructed by the tract owner and approved by the appropriate governmental authority unless public sewage becomes available in the Subdivision.

5. No modular home, mobile home, house trailer or the basement of a contemplated permanent dwelling shall be occupied as a residence, either on a permanent or temporary basis. All structures constructed or placed on any tract shall be built of substantially new materials and no used structures shall be relocated or placed on any tract, except doghouses, swing sets, or children's playhouses.

The terms "modular home" and mobile home" are defined as follows:

Modular Home. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code for 1 and 2 family dwellings and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly, whether on its own chassis or otherwise. The use of roof or floor trusses on an otherwise conventionally constructed dwelling will not render such dwelling a modular home.

Mobile Home. A dwelling unit that: (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis.

6. Exterior construction material for all buildings, whether residential or auxiliary, shall be properly painted, stained or veneered with wood, vinyl, hardiplank, brick, stone or stucco. If wood or vinyl material is used, it shall consist of individual boards each of which shall be no wider than twelve inches. No exposed concrete block is permitted. All chimneys must be covered with brick, stone, stucco, wood, hardiplank or vinyl material. Roof pitch shall be a minimum ration of 7: 12, except that screen porches, sun rooms and similar ancillary rooms may have a roof pitch of 3: 12. No walls or fences, except split rail fences and (a) board fences with three (3) 1" x 6" horizontal boards (commonly referred to as horse fencing) not higher than three and one-half (3 ½) feet shall be permitted between the front wall of a dwelling and the street it faces. Walls or fences constructed on the remainder of the property cannot be higher than six (6) feet and shall be constructed of wood, vinyl, brick or stucco-covered concrete block.

7. With the exception of a maximum of two (2) horses per lot, no animals or livestock of any description, except the usual household pets are permitted on any tract, provided that not more than three (3) dogs or three (3) cats may be kept on any lot.

8. Any partially completed structures or improvements for which construction activity has ceased for 90 consecutive days, and the debris or remains of any structure damaged by wind, fire or other causes, shall constitute a nuisance and may be removed by the Declarant or the Association if the owner of the tract fails to abate such nuisance within 30 days after written notice thereof is given. All costs expended by the Declarant or the Association shall be paid by the owner and shall constitute a lien upon the tract until paid in full together with interest thereon at the rate of 12% per annum. No inoperable, stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any street or tract.

9. No noxious, offensive or illegal activities shall be carried on any tract nor shall anything be done on any tract that shall be or become an unreasonable annoyance or nuisance to the neighborhood. No hunting shall be allowed on ay of the property covered hereby, either owners or their guests.

10. No oil or natural gas drilling, refining, quarrying, mining or timbering operations of any kind shall be permitted upon or in any tract, and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any tract.

11. All tracts, whether improved or unimproved, shall be kept free of trash, debris and rubbish and shall be maintained in a neat and attractive condition and in such a manner as to prevent the same from becoming unsightly, unsanitary or a hazard to health or safety or other residents. In the event the owner, or his contractor or agent, fails to comply with the terms of this provision, the Declarant or the Association shall have the right (but not the

obligation) to enter upon such tract after the owner has been notified in writing of the violation and no curative action has been taken within 30 days after such notice, or the curative action has started but has not been pursued diligently, in order to effect compliance with this provision. All expenses incurred by the Declarant or the Association shall be paid by the owner of the tract upon billing from the party incurring the expense. Declarant may require the use of trash containers during any construction activity on a tract in order to maintain a clean and sightly condition during the construction period.

12. Any satellite reception disk or device larger than 24" in diameter shall be screened from view by adjoining tracts and the streets by means of landscaping or attractive screening material.

13. No tractor-trailer rigs or buses shall be parked or stored on any tract, except in the normal course of making deliveries or providing services to the tract. Any RV unit or camper trailer must be parked so as to be screened from its neighbors' view or the street.

14. No tract may be subdivided by any owner subsequent to the Declarant; provided that Declarant may amend or modify any existing plat and thereby relocate the property lines of any tract which is owned by the Declarant.

15. The Declarant reserves for itself, its successors and assigns, for purposes incident to its development of the real property subject to these Restrictions, a twenty (20) foot strip along the margin of each road right of way and a ten (10) foot strip along each other property line for the purpose of constructing, installing, maintaining, repairing and operating utility lines, poles, mains and facilities, and water drainage.

16. Nothing herein shall be construed as imposing any Restrictions upon any other property owned by Declarant. Declarant in the course of developing adjoining property shall not be obligated to extend these Restrictions to such property, but may impose such Restrictions as Declarant chooses.

17. These Restrictions, rights, reservations, limitations, covenants and conditions shall be deemed to be real covenants and shall run with the land and shall be binding upon the owners of all tracts described herein or hereinafter made subject hereto for a period of twenty-five (25) years from the date of this instrument, and shall continue for successive periods of ten (10) years thereafter unless amended or terminated as provided below. These Restrictions may at any time and from time to time be modified or amended by written instrument signed by the owners of at least two-thirds of the tracts subject hereto at the time thereof.

18. There is reserved an easement for access, ingress and egress in favor of owners

of tracts in Great Falls and in favor of their invitees, as the same access is shown on the Plat entitled "Great Falls Estates" and duly recorded in the county office for Wake County. Any damage to a street shown on the Plat caused by driveway connections, traffic to and from the property owner's tract, or the ditches or shoulders of the street, or to the flow of drainage water along the said street, shall be repaired at the expense of the owner connecting such driveway. Each property owner is held fully responsible for the acts of his agents, contractors and subcontractors.

19. Except for a sign marking the entrance to Great Falls and Declarant's temporary marketing signage, the only sign permitted on any tract is one sign, no larger than four (4) square feet, bearing the name or names of a property owner or property address within twenty (20) feet of a driveway entrance; provided, that one small sign such as is used in the ordinary course of effecting residential sales transactions may be placed by Realtors or by owners.

20. All driveway pipe installed in ditches which are in the road right of way shall be constructed of reinforced concrete pipe with a diameter that meets NCDOT standards (in no case less than 15" diameter). All improvements (mailboxes [brick and concrete are prohibited], fences landscaping, etc.) constructed in the road right of way (road right of way typically extends beyond rear slope of roadside ditch) must meet NCDOT standards. All mailboxes will be uniform in a style selected by the Declarant. Declarant will notify owner of any violations and owner will have five (5) days to correct said violation. If owner fails to correct said violation, Declarant shall have the right (but not the obligation) to remove, replace or repair any improvement placed in a road right of way owned by Declarant or NCDOT which does not meet NCDOT standards, and any associated cost or loss of value shall be the responsibility of owner.

21. Except as otherwise specifically provided, the owner of each tract in Great Falls by acceptance of a deed therefore by virtue of such ownership shall become a member of the Great Falls Property Owners Association, Inc. (the "Association") upon its formation and each owner of a tract is deemed to covenant and agree to, and shall pay to the Association an annual assessment to pay for the cost of maintaining and repairing the Common Areas, as hereinafter defined, within Great Falls Estates Subdivision. Each owner of a tract subject to this assessment obligation, including owners of tracts in subsequent sections or phases or Great Falls who are subject to these restrictions by amendment or supplemental filings, shall pay the same annual and special assessment amount, irrespective of the size of the tract, the location of such tract or any other factor.

The assessments and charges created herein shall constitute a continuing lien upon each tract and, if not paid within thirty (30) days after the due date thereof, shall bear interest at the rate of 12% per annum until paid. The lien may be enforced as by law allowed. The

lien created herein is specifically subordinated to the lien of any valid first mortgage upon any tract in the subdivision. The property owners shall have the right to promulgate rules and regulations concerning the use of the Common Areas. Each person acquiring title to a tract binds himself, his heirs and assigns to pay the assessment to the Association once it has been levied by the Association. The obligations imposed by this paragraph shall exist whether or not the Association has been formed as of the date these restrictions are recorded or as of the date any tract is sold, if at any time that these restrictions are in effect the Association is formed as a non-profit corporation, the principal purpose of which is to maintain the Common Areas.

The "Common Area" used in these restrictions shall include (a) one or more signs identifying Great Falls; (b) any landscaping or lighting associated with any Common Area and any other land, improvement, facility or amenity which Declarant or the Association may construct on property subject to these restrictions and designated by Declarant as Common Area.

22. Declarant or five (5) or more of the individual property owners (one of which may be the Declarant) subject to these restrictions and conditions may from the Association at any time after Declarant has sold and conveyed 75% or more of the tracts to which these restrictions apply. The Association, once formed, shall have the right to enforce the restrictions and conditions contained in Paragraph 21 above. The Association shall be organized under the laws of the State of North Carolina, and each property owner shall automatically become a member of the Association once it is formed, with full voting rights. The owner of each tract shall be entitled to cast one vote (which may not be fractionalized) with respect to any matter brought before the members of the Association for action. Owners of more than one tract shall be entitled to cast one vote for each tract owned, which shall not be changed by future combination of lots; any subsequent combination of lots will not reduce owner's responsibility to continue to pay an assessment for each lot originally purchased prior to the lot combination. The officers and directors of the Association shall be property owners (or employees of a corporate property owner) and all fees set by the Association for maintenance shall be set by the directors of the Association. The initial directors shall be elected by the members at the first meeting or appointed by Declarant.

23. If any person shall violate or attempt to violate any of the covenants herein set forth, it shall be lawful for any other person or persons owning or having an interest in any portion of said subdivision to institute and prosecute any proceeding in law or equity against such person or persons to restrain such violation or to recover damages or other compensation for such violations.

24. Zoning ordinances, restrictions and regulations of Wake County and its various agencies applicable to the subject property shall be observed. In the event of any conflict

between any provisions of these restrictions and such ordinances, restrictions or regulations, the more restrictive shall apply. The invalidation or enforceability of any provision of these covenants by judgments or other order of any court shall in no way affect any of the other provisions, and such other provisions and covenants shall remain in full force and effect.

25. The Declarant reserves the right to subject the property in the subdivision to a contract with Wake Electric Membership Corporation for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Wake Electric Membership Corporation by the individual lot owners.

IN WITNESS WHEREOF, the Declarant, **Kirby Marshburn Bldg. Corp.**, has caused this instrument to be executed the day and year first above written by affixing its name and seal thereto.

KIRBY MARSHBURN BLDG. CORP.

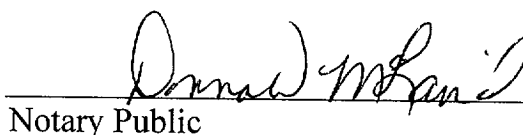
By: 
KIRBY L. MARSHBURN, *President*

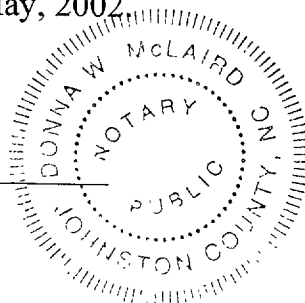
NORTH CAROLINA

County Johnston

I, a Notary Public of the County and State aforesaid, certify that **Kirby L. Marshburn**, personally came before me this day and acknowledged that he is the president of **Kirby Marshburn Bldg. Corp.**, a North Carolina Corporation, and that he, as president, being authorized to do so, executed the foregoing instrument on behalf of the corporation.

WITNESS my hand and official stamp or seal, this 6th day of May, 2002.


Notary Public



My Commission Expires: 4-13-2003

Laura M Riddick
Register of Deeds
Wake County, NC



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



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

North Carolina - Wake County

The foregoing certificate ___ of _____

_____ *Dana W. McLaird* _____

____ 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: *Frederick C. Bayne*
Assistant/Deputy Register of Deeds

This Customer Group
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