

WAKE COUNTY, NC 69
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/22/2012 AT 10:47:30

BOOK:014772 PAGE:02710 - 02759

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
ALPINE CREEK SUBDIVISION

NOTE FOR TITLE EXAMINER: Article V, Section 14 of this Declaration requires a non-refundable initial contribution payment to be paid by each purchaser upon every purchase of a Lot, whether from Declarant or on resale.

NO OWNER SHALL DISPLAY, HANG, STORE OR EXHIBIT ANY SIGNS (INCLUDING WITHOUT LIMITATION POLITICAL SIGNS) OUTSIDE OF THE DWELLING ON ANY LOT OR IN ANY DWELLING SO AS TO BE VISIBLE FROM OUTSIDE THE LOT OTHER THAN AS MAY BE PERMITTED BY THE RULES AND REGULATIONS, AS MORE PARTICULARLY SET FORTH IN ARTICLE IX, SECTION 11 OF THIS DECLARATION. THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

Prepared in part by and return to:
Manning, Fulton and Skinner, P.A. (Box 133)
Attn. Nicole S. Loeffler

STATE OF NORTH CAROLINA
COUNTY OF WAKE

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR ALPINE CREEK SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ALPINE CREEK SUBDIVISION ("Declaration") is made this 21 day of May, 2012 by R&R ADVENTURES, LLC, a North Carolina limited liability company (hereinafter referred to as "Declarant") and by Lee Development Company 6, LLC, a North Carolina limited liability company (hereinafter referred to as "Lee").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Wake County, State of North Carolina, as more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Declarant Property"); and

WHEREAS, Declarant contemplates developing Alpine Creek Subdivision ("Subdivision") as a residential housing development and intends to create a planned subdivision as that term is defined and is subject to the provisions of Chapter 47F of the North Carolina General Statutes; and

WHEREAS, Declarant has caused or, prior to the conveyance of the first lot, shall cause to be incorporated under the laws of North Carolina, as a non-profit corporation, ALPINE CREEK HOMEOWNERS ASSOCIATION, INC. ("Association"), for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and

WHEREAS, Lee Development Company 6, LLC ("Lee") is the owner of certain real property located in Wake County, State of North Carolina, as more particularly described on Exhibit "B" attached hereto and made a part hereof (the "Lee Property") (the Declarant Property and the Lee Property are hereinafter collectively referred to as the "Property"); and

WHEREAS, the parties desire to impose easements, covenants, conditions and restrictions upon all of the Property, for the mutual and reciprocal benefit of the Declarant Property and the Lee Property, which shall be binding upon each of the Declarant Property and the Lee Property and the present and future owners and occupants thereof, with the understanding that, at the option of Declarant, changed, additional and/or supplemental restrictions may be imposed to the Property; and

NOW, THEREFORE, Declarant and Lee hereinafter subject the Property to the easements, covenants, conditions and restrictions hereinafter stated and hereby declare that all of the Property shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions as hereinafter stated, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the

Property. The easements, covenants, conditions and restrictions herein contained shall run with the Property and all parts thereof, shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof or interest therein, and shall inure to the benefit of each owner of the Property or any part thereof or interest therein.

ARTICLE I
DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (as hereinafter defined) or amendment hereto (unless the context shall otherwise require) shall have the following meanings:

- (a) "Additional Property" shall mean such additional real property that may be brought within the jurisdiction of the Association.
- (b) "Architectural Review Board" or "ARB" shall mean and refer to that permanent committee of the Association, created for the purpose of establishing and enforcing criteria for the construction of Improvements within the Property.
- (c) "Articles" shall mean and refer to the Articles of Incorporation of the Association.
- (d) "Association" shall mean and refer to the Alpine Creek Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.
- (e) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association.
- (f) "Bylaws" shall mean and refer to the duly adopted Bylaws of the Association as they may now or hereafter exist.
- (g) "Common Area" or "Common Property" shall mean and refer singularly or collectively, as applicable, to all real property and improvements thereon or associated therewith, which is/are owned or leased by, or located in an easement granted to or reserved by or on behalf of, the Association (or the Declarant for later transfer or assignment to the Association) or which is designated as "Common Area", "Open Space", "Greenway", "Buffer", "Roadway", "Landscaped Right-of-Way", or some other, similarly descriptive term, on a recorded plat, in a Supplemental Declaration, or in a deed or other recorded written instrument, and also shall refer to all personal property owned or leased by the Association and designated as Common Property by the Declarant or the Association. All Common Area or Common Property shall be subject to the terms and conditions of this Declaration. Common Property also may be modified to include, all areas, structures and improvements associated therewith, required to be constructed, repaired, replaced or maintained within the Property by the laws, rules or regulations of any governmental authority having jurisdiction thereof as determined by Declarant in its sole discretion.

(h) "Common Expenses" shall mean and refer to: (i) expenses of administration, maintenance, improvement, repair or replacement of the Common Area or any portion thereof, including any expense of maintenance and/or repair relating to the fencing, signage, lighting, irrigation, paving, landscaping and any other reasonable expenses necessary to maintain all entrances to the Property as shown on any recorded plat, the expenses of maintenance of any fencing, signage, lighting, irrigation and landscaping located on any of the Common Property, including any expense of maintenance and/or repair relating to real property subsequently conveyed to the Association; (ii) expenses declared to be or described as Common Expenses by the provisions of this Declaration; (iii) premiums for hazard, liability or other insurance as may be obtained by the Association; (iv) all other expenses incurred by the Association in carrying out its functions and duties under this Declaration; (v) expenses determined by the Board to be Common Expenses of the Association; (vi) expenses for maintenance of the roads, streets, private streets, or rights-of-way including any Department of Transportation right-of-way easements; (vii) ad valorem taxes and public assessment charges lawfully levied against the Common Property; (viii) expenses pursuant to agreements between Declarant and an entity providing a community water source, which are determined by the Declarant or the Association to be a Common Expense; and (viii) any expenses of the maintenance and/or repair relating to the private drainage and utility easements and facilities located therein which are within the boundaries of the Property and serve both the Property and/or lands adjacent thereto.

(i) "Conversion Date" shall mean the date that Declarant converts its Class B Membership to a Class A Membership, which shall be the earliest of the following dates to occur: (i) the date on which all Lots have been conveyed and sold by Declarant and certificates of occupancy have been issued for all of the Lots; or (ii) the date which the Declarant may so designate by written designation executed by Declarant.

(j) "Declarant" shall mean and refer to R&R Adventures, LLC, its successors and assigns (in whole or in part).

(k) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Alpine Creek Subdivision as it may be amended and supplemented (by Supplemental Declarations) from time to time as herein provided.

(l) "Improvement" or "Improvements" shall mean and refer to all structures of any kind, including without limitation any buildings, roofed structures, decks, patios, parking areas, exterior recreational areas, recreational equipment, facilities, mailboxes, exterior antennae, dishes, other apparatus to receive or transmit television, radio, microwave or other signals, fences, walls, hedges, mass plantings, paving, poles, driveways, changes in grade or slope of a Lot, site preparation of a Lot, landscaping, swimming pools, tennis courts, signs, exterior illumination, changes in any exterior color or shape and any other exterior construction, exterior structure, any other exterior improvement or change which may not be expressly included in any of the foregoing. The definition of Improvements includes both original Improvements and all later changes and additions to such

Improvements.

- (m) "Landscaped Rights-of-Way" shall mean the medians and other areas within private street rights-of-way within or adjoining the Property which are designated as Landscaped Rights-of-Way by Declarant, on a recorded plat, in a Supplemental Declaration, or in a deed or other recorded written instrument, and also shall refer to all personal property owned or leased by the Association and designated as Landscaped Rights-of-Way by the Declarant or the Association.
- (n) "Limited Common Area" or "Limited Common Property" shall mean and refer singularly or collectively, as applicable, to all real property and improvements thereon or associated therewith, and to all personal property, which is/are owned or leased by, or located in an easement granted to or reserved by or on behalf of the Association (or the Declarant for later transfer or assignment to the Association) for the benefit of a particular residential section located within the Property and which has been designated by the Declarant as Limited Common Property by written recorded instrument.
- (o) "Lot" shall mean and refer to any numbered or lettered plot of land which is part of the Property, is intended for single-family residential use and is shown on any plat in the office of the Register of Deeds, Wake County, North Carolina which Declarant has recorded, caused to be recorded or approved for recordation. Where the context requires or permits, the term "Lot" shall include all Improvements.
- (p) "Maintain" or "Maintenance" or any substantially similar term used in this Declaration, when applied to a power or duty of the Association shall mean and include without limitation the right to repair, replace, improve, operate and use the improvement, property or other item which is the subject thereof.
- (q) "Member" shall mean and refer to each Owner of a Lot who is a member of the Association as provided in this Declaration.
- (r) "Notice" required to be given herein shall be given as provided in Article XII, Section 6 below.
- (s) "Owner" shall mean and refer to the owner of record as shown in the Wake County, North Carolina Registry, whether one or more persons or entities (as allowed herein), of fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation.
- (t) "Person" shall mean and refer to any individual, corporation, partnership, limited liability company, association, trust or other legal entity. A Person, other than an individual, who is a Member shall keep the Association informed of the name and street and mailing address of the individual(s) who own and control the entity and/or its parent entity.
- (u) "Property" shall mean the property described on Exhibit A and any and all other

Additional Property (as herein defined) hereinafter made subject to this Declaration by Supplemental Declaration, merger or consolidation as provided herein below.

- (v) "Subdivision" shall mean Alpine Creek Subdivision, as shown on recorded plats of the Property and shall refer to (i) such additions thereto as may be made by the Declarant by Supplementary Declaration; and (ii) such additions thereto as may be made by the Association by Supplemental Declaration.
- (w) "Supplemental Declaration" shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.
- (x) "Total Association Vote" shall mean all of the votes attributable to the Members, including any votes cast by the Declarant, and the written consent of the Declarant so long as the Declarant has the right to unilaterally annex Additional Property (defined below) to the Subdivision.

ARTICLE II
PROPERTY

Section 1. Property Made Subject To Declaration. The Property is hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the terms, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

Section 2. Contents of Supplemental Declaration. Each Supplemental Declaration shall set forth the terms, covenants, conditions, restrictions, easements, charges and liens to which the Property and any Additional Property covered thereby shall be subject. This Declaration may be incorporated by reference for the purpose of subjecting to its terms and conditions property described in Supplemental Declarations. Such terms, covenants, conditions, restrictions, easements, charges and liens may contain additions, deletions and modifications from those contained in this Declaration, as the parties subjecting such Additional Property to this Declaration may desire; provided that prior to the Conversion Date, if such party is other than Declarant, as a condition to such party's right to so impose such additions, deletions or modifications, such party must obtain the written approval of Declarant. In addition, prior to the Conversion Date, Declarant shall have the right, to be exercised in its or his sole and absolute discretion, to impose or file Supplemental Declarations (which may or may not add Additional Property) in regard to particular phase(s) or section(s) of the Property and such Supplemental Declarations may, in regard to the phase(s) or section(s) of the Property to which it relates, amend, add to, delete from, and/or supersede in whole or in part, the provisions of this Declaration. No party other than Declarant shall be required to join in any such Supplemental Declaration to make it effective.

Section 3. Additional Declarations Affecting Property. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that Declarant may, prior to the Conversion Date, create and impose additional declarations or Supplemental Declarations (which may or may not add Additional Property) in regard to all or any part of the Property and thereby supplement, modify, amend, in whole or in part, the terms and provisions hereof. Notwithstanding the foregoing or any other term contained herein, in no event shall Declarant release that Property identified on **Exhibit B** from the terms of this Declaration without the prior written consent of all Owners at the time of such release.

ARTICLE III
MEMBERSHIP IN ASSOCIATION AND VOTING RIGHTS

Section 1. Membership. Each and every Owner of a Lot shall automatically become and be a Member of the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the granting of a security interest shall not terminate the Owner's membership in the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership right per Lot. Members shall be entitled to one (1) vote for each Lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Membership; Voting Rights. Subject to the rights of Declarant reserved in this Article, the Association shall have two (2) classes of voting membership as follows:

Class A. Class A Members shall be all Owners of Lots, with the exception of Declarant until such time as Declarant's Class B Membership is converted to Class A Membership as provided in this Article. The Class A Members shall be entitled to full voting privileges on the earliest of the following dates to occur: (i) the date on which all Lots have been conveyed and sold by Declarant and certificates of occupancy have been issued for all of the Lots; or (ii) the date which the Declarant may so designate by written designation executed by Declarant. Before the earliest of the foregoing dates to occur, the Class A Members shall be entitled to vote only on: (a) any proposal of merger, consolidation or dissolution of the Association; and (b) any other matter which is expressly required as provided by the North Carolina Planned Subdivision Act as found in Chapter 47F of the North Carolina General Statutes.

When entitled to vote, the Class A Members shall be entitled to cast one (1) vote for each Lot in which they hold an interest required for membership by Section 1 of this Article. If only one (1) of the multiple owners of a Lot is present at a meeting of the Association, the owner who is present is entitled to cast the vote allocated to that Lot. If more than one (1) of the multiple owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple owners. Majority agreement is conclusively presumed if any one (1) of the multiple owners casts the vote allocated to that Lot without protest being made promptly to the person presiding

over the meeting by any of the other owners of the Lot. In the event a majority in interest of the multiple owners fail to come to an agreement at the time of any matter being put to a vote, such Lot voting right shall be deemed waived.

Class B. The sole Class B Member shall be the Declarant. The Class B Member shall be the sole voting member during its existence, and the Class B Member shall be entitled to vote on all matters and in all events. The Class B Membership shall terminate and be converted to Class A Membership on the Conversion Date.

Notwithstanding anything to the contrary that may appear within this Declaration, if prior to the Conversion Date, Declarant annexes Additional Property to the Declaration pursuant to Section 2 of Article II or Article XI of the Declaration, then the Declarant shall remain the sole Class B Member. There shall be no limitation on the number of times the Declarant may annex Additional Property to the Declaration pursuant to the provisions of this paragraph.

Section 3. Voting, Quorum and Notice Requirements. Except as may be otherwise specifically set forth in this Declaration, the Articles or the Bylaws, action by vote of the majority of votes entitled to be cast by of the Members present, or represented by legitimate proxy, at a legally constituted (duly called) meeting of the Association at which a quorum is present, shall be the act of the Members with respect to the matter that is the subject of such vote. The number of votes required to constitute a quorum shall be as set forth herein or in the Bylaws. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein or in the Bylaws.

Section 4. Termination Of Membership. A Person's membership in the Association shall terminate automatically whenever such Person ceases to be an Owner, but such termination shall not release or relieve any such Person from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of such Person's ownership of a Lot, or impair any rights or remedies which the Association or any other Member has with regard to such former Member.

Section 5. Board of Directors. Until the Conversion Date, Declarant shall have the right to designate and select all of the members of the Board of Directors of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any members or members of the Board of Directors so removed for the remainder of the unexpired term of any member or members of the Board of Directors so removed. Any Board of Directors member designated and selected by Declarant need not be a resident of the Subdivision. Except as otherwise provided in the Bylaws with respect to the filling of vacancies, any members of the Board of Directors which Declarant is not entitled to designate or select shall be elected by the Members of the Association.

Until the Conversion Date, the Board shall have the sole and exclusive authority to exercise all powers and rights of and to act in all instances on behalf of the Association, and the Members shall have no authority to exercise such powers or rights to act by exercise of their votes, except as may be determined by the Board in its discretion, and except as provided with respect to the commencement of judicial or administrative proceedings as expressly provided in this Declaration and those acts the Planned Community Act or other applicable laws provide may not be undertaken unilaterally by the Board, such as, to the extent required, ratification of the budget as provided in Article V, Section 7 of this Declaration, and conveying fee simple title to all or any part of the Common Elements as expressly provided in this Declaration.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owners' Easements of Enjoyment. Subject to the provisions of this Declaration (and subject to the provisions of any Supplemental Declaration or additional declaration which may be applicable), every Owner (including persons residing with such Owner on a Lot, and guests and tenants of such Owner), and Declarant shall have a right and easement of use and enjoyment in and to the Common Area, which right and easement shall be appurtenant to and shall pass with the title to every Lot; such easement shall not give such person the right to make alterations, additions or improvements to any part of the Common Area.

Section 2. Title to the Common Area. Declarant shall dedicate and convey to the Association (by deed without warranty at Declarant's option) fee simple title to all real property portions of the Common Area, free and clear of all encumbrances and liens other than the lien of current taxes and assessments not in default and utility easements, other easements and encumbrances (not constituting a lien to secure the payment of money) and mineral interests outstanding and of record in Wake County, North Carolina, and the terms and conditions of this Declaration and any applicable Supplemental Declaration.

Section 3. Extent of Members' Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association to prescribe and enforce regulations governing the use, operation and maintenance of the Common Area (including limiting the number of guests of Members who may use the Common Area);
- (b) Subject to the affirmative vote of two-thirds (2/3) of the votes of the Members entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum is present, the right of the Association to borrow money for the purpose of improving, repairing, replacing and maintaining the Common Area and facilities and/or the Landscaped Rights-of-Way;

(c) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure;

(d) The right of the Association to suspend the voting rights and right to use the Common Area by an Owner for (i) any period during which any assessment against such Owner's Lot remains unpaid, and (ii) a period not to exceed the longer of: (a) sixty (60) days or (b) for the duration of any infraction of the Association's published rules and regulations;

(e) Subject to the approval of any governmental entities or agencies whose approval is required therefor, the right of the Association to exchange portions of the Common Area with the Declarant for substantially equal (in acreage or value) portions of the Property for the purpose of eliminating unintentional encroachments of Improvements onto portions of the Common Area;

(f) Subject to the affirmative vote of two-thirds (2/3) of the votes of the Members entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum is present, the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and upon such conditions as the Association may determine;

(g) Easements for drainage, storm water control or removal, utilities, signs and other matters shown on recorded plats of the Common Area or created or reserved by Declarant prior to or simultaneously with conveyance of such Common Area by Declarant to the Association, and/or granted by the Association as permitted by this Declaration;

(h) Subject to the affirmative vote of two-thirds (2/3) of the votes of the Members entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum is present, the right of the Association to lease or transfer title to any part or all of the Common Area to another nonprofit corporation or association organized and existing, with respect to property owned by such corporation or association within the Property, for purposes substantially similar to the Association with respect to the Common Area. Upon the approval of the Board, the Association may lease from or accept transfer of title from any such nonprofit corporation or association any part or all of the property owned by such corporation or association.

Section 4. Ingress and Egress. Notwithstanding anything to the contrary appearing in this Declaration, if ingress and egress to any Lot is through any part of the Common Area, any conveyance or encumbrance of such part of the Common Area shall be subject to an easement for ingress and egress for such Lot over and upon such portion of the Common Area as is designated for ingress and egress (by a public or private street or right of way) and shown on a recorded plat of such Common Area or the Lot affected thereby or created or reserved by Declarant in an instrument recorded in the Wake County, North Carolina Registry.

ARTICLE V
COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Subject to the terms and conditions of this Declaration, each Owner of a Lot, and the individual owner(s) of any entity Owner, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, is hereby deemed to covenant and agree (and such covenant further shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the Lot), and Lee hereby covenants and agrees to pay to the Association (or to any Person which may be designated by the Association to receive such monies on behalf of the Association): (i) annual assessments or charges; (ii) special assessments for capital improvements or unusual or emergency matters; and (iii) special individual assessments levied against an Owner to reimburse the Association for extra costs for maintenance and/or repairs caused by the failure of such Owner to maintain such Owner's individual Lot and Improvements thereon, all of such assessments and charges to be fixed, established and collected as hereinafter provided. The annual, special and special individual assessments, together with such interest thereon and costs of collection thereof (including, without limitation, reasonable attorney fees) as are hereinafter provided shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made as provided in Section 10 below, and shall also be the personal and continuing obligation of the Owner of such Lot at the time when the assessment became due. An Owner's personal obligation for payment of such assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 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 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 Common Area and any Landscaped Rights-of-Way; (ii) payment of premiums for hazard insurance in connection with the Common Area and Landscaped Rights-of-Way, and any improvements or facilities thereon; (iii) payment of public liability and other insurance of the Association; (iv) paying the costs of labor, equipment (including the expense of leasing any equipment) and material required for the Common Area and Landscaped Rights-of-Way, and the improvement, maintenance, repair, replacement, management, protection, preservation, use and supervision thereof; (v) payment of any Association expenses; and (vi) carrying out the purposes and duties of the Association as stated in its Articles and Bylaws and as stated in this Declaration.

Declarant shall not be subject to, or responsible for, the payment of any assessments as described in this Article. Any Lot(s) owned by the Declarant (its successor and assigns) shall not be included in the proration allocation of any assessment as applied by this Article.

Section 3. Maximum Annual Assessment and Annual Assessment. The maximum

annual assessment per Lot shall be determined annually by the Board so long as the Declarant is a Class B Member, and by the Association thereafter. Special assessments may be made by the Association as deemed appropriate. The initial annual assessment for the calendar year beginning January 1, 2012, and for successive calendar years thereafter, shall be Three Thousand Dollars (\$3,000) per Lot and may be increased by the Declarant or the Association as appropriate without approval by the membership of the Association by an amount per year not to exceed five percent (5%) of the amount of the maximum annual assessment of the immediately preceding calendar year. The annual assessment shall be paid on a monthly basis.

The maximum annual assessment for each successive calendar year thereafter as increased, may be further increased, without limit, by the affirmative vote of two-thirds (2/3) of the votes entitled to be cast by the Members present or represented by proxy at a duly called meeting of the Association at which a quorum is present.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized herein, the Association may levy in any calendar year a special assessment for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by the Members present or represented by proxy at a duly called meeting of the Association at which a quorum is present. A special assessment shall be due and payable as established by the vote of the Members approving the special assessment, or, if not established by such vote of the Members, as established by the Association.

Section 5. Notice and Quorum For Actions Authorized Under Sections 3 and 4. Written notice of any meeting of the Association called for the purpose of taking any action required to be taken by the membership under the preceding Sections 3 and 4 of this Article shall be sent to all Members entitled to vote not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. The presence of Members plus proxies entitled to cast seventy-eight percent (78%) of the combined total number of aggregate votes entitled to be cast shall constitute a quorum.

Section 6. Rate of Assessments. Except as set forth in this Section, both annual and special assessments must be fixed at a uniform rate for all Lots. Annual and special assessments may be collected on a monthly, quarterly, annual or other basis, as determined by the Association. The Association shall have the power at any time and from time to time, in its sole discretion and upon such terms and conditions as the Association deems appropriate, to allow percentage discounts to Owners who pay annual and/or special assessments earlier than would otherwise be required for such payments; all such discounts shall be made available to and applied uniformly to all Owners whose Lots are subject to the assessment to which the discount applies.

Notwithstanding anything to the contrary that may appear in this Declaration, any and all lots owned by Declarant, shall be exempt from any and all annual and special

assessments which become applicable to such Lots during the time they are owned by the aforementioned.

Section 7. Commencement of Assessments. The annual assessment shall commence with respect to a Lot on the first (1st) day of the month immediately following the month in which the Lot is conveyed to the Owner by Declarant, and the amount of the first annual assessment applicable to the Lot shall be prorated in accordance with the number of months remaining in the calendar year on and after it becomes applicable to the Lot. The annual assessment shall commence with respect to the Lee Property on the first (1st) day of the month immediately following the month in which this Declaration is recorded. A special assessment shall be applicable to each Lot subject to this Declaration at the time such assessment is established. The Association shall establish the amount of the annual assessment for the ensuing calendar year at least thirty (30) days in advance of the beginning of such year. Within thirty (30) days after adoption of a proposed budget, the Board shall provide to the Owners of each Lot a summary of the proposed budget and a notice of a meeting to consider ratification of the budget, which notice shall contain a statement that the budget may be ratified without a quorum of the Members being present at the meeting. The date of the meeting shall be not less than ten (10) nor more than thirty (30) days after mailing of such notice. The ratification vote may be conducted at an annual meeting of the Members so long as the notice of the annual meeting complies with the requirements of this Section. There shall be no requirement that a quorum be present to vote on ratification of the budget (although a quorum must be present to vote on other matters). The budget shall be deemed ratified unless at that meeting Members having a majority of the votes of the entire membership vote to reject the budget; provided, however, if the budget provides for an annual assessment not more than ten percent (10%) greater than the annual assessment in effect for the current fiscal year, such budget shall be deemed ratified unless Members having at least eighty percent (80%) of the votes of the entire membership vote to reject the budget. If any proposed budget is rejected by the Members, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board. Subject to any limitations contained in this Declaration, the Articles, the Bylaws or any applicable laws, the Association is empowered at any time and from time to time to establish the due dates and penalties for late payment of annual and special assessments. The failure of the Association to establish the amount of any annual assessment as required herein shall not be a waiver or modification in any respect of the provisions of this Declaration, or a waiver of the Association's right to establish the annual assessment at any time during the calendar year to which it is applicable, or a release of any Owner from the obligation to pay the assessment or any installment thereof for that or any subsequent year, and the annual assessment established for the immediately preceding calendar year shall continue in effect until the Association has established the new annual assessment.

Section 8. Certification of Assessments Paid. The Association (or any Person employed by the Association to assist in the management of the Association and collection of assessments and authorized to issue such certificates) shall, upon demand and for a reasonable charge or fee, furnish a certificate signed by an officer of the

Association (or the Person or an officer, partner or agent of such Person having authority to issue such certificate) setting forth whether the assessments (annual and special) on a particular Lot have been paid. A properly executed certificate of the Association (or authorized Person) as to the status of the payment of such assessments shall be binding on the Association, as of the date of its issuance, with respect to the assessments addressed therein.

Section 9. Owner's Personal Obligation for Payment of Assessments. The annual and special assessments provided for herein shall be the personal and individual debt of the Owner, or all individuals jointly and severally who own any entity Owner (as of the due date of the applicable assessment) of the Lot to which such assessments relate. No Owner shall be exempt from liability for such assessments by non-use of such Owner's Lot(s) or the Common Area 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 interest rate allowed under North Carolina law 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.

Section 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(s) as of the assessment due date, which shall bind such Lot and Improvements then in the hands of the Owner(s), 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 shall have the power to subordinate the aforesaid assessment lien to any other lien, and such power shall be entirely discretionary with the Association. To evidence the aforesaid assessment lien, the Association may prepare a written notice of assessment 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 the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Office of the Register of Deeds of Wake County, North Carolina. Such lien for payment of assessments shall attach with the priority above set forth from the date that such payment becomes delinquent and, subsequent to the recordation of such notice, the lien may be enforced by 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, or the Association may institute suit against the Owner(s) personally obligated to pay the assessments, or the lien may be enforced by judicial foreclosure or the Association may pursue one or more of the foregoing remedies and/or may seek any other available remedy or relief. In any foreclosure proceeding, whether judicial or non judicial, the Owner(s) 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.

Section 11. Subordination of the Lien to Mortgages. The lien against a Lot for the assessments provided for herein shall be subordinate and inferior to the lien of any first mortgage or deed of trust on such Lot and shall be subordinate and inferior to the lien of any second mortgage or deed of trust on such Lot securing an indebtedness to Declarant for a portion of the purchase price of such Lot. Such subordination 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.

Section 12. Common Area Exempt. The Common Area and all portions of the Property owned by or otherwise dedicated or conveyed to any governmental entity shall be exempt from the assessments and liens created herein. In addition, if required by the governmental entity to whom such Common Area or portion of the Property is being dedicated or conveyed, such Common Area or portion of the Property may be dedicated or conveyed free and clear of all of the terms, conditions, covenants and restrictions contained in this Declaration.

Section 13. Additional Assessments. Declarant reserves the right, by recordation of supplemental declarations or specific subdivision declarations or other document, to subject Lots located in one (1) or more sections or subdivisions within the Property to provisions requiring the Owners thereof to pay additional annual and special assessments to the Association for the construction, repair, maintenance, alteration and replacement of, and addition to, Limited Common Property including, without limitation, any one or more of the following: (i) private streets; (ii) specialized subdivision entrance or other features; and (iii) specialized subdivision landscaping features.

Section 14. Reserve Fee. Upon the closing of each sale of every Lot by Declarant and by any subsequent Owner to a third party owner (whether or not such Lot has been previously occupied as a residence), a fee equal to two (2) months' worth of assessments, said amount to be redetermined by the Association on an annual basis as of January 1, shall be collected from the new Owner at the closing of such sale, such fee to be used for the benefit of the Association. Declarant, or any of its members who are also Owners, shall not be subject to, nor responsible for, the payment of any fee.

ARTICLE VI
GENERAL POWERS AND DUTIES OF THE ASSOCIATION

Section 1. Scheme and Purpose. The Association is and shall be responsible for the ownership, management and operation of the Common Area for the Subdivision, the enforcement of the covenants and restrictions set forth in this Declaration, the collection of all assessments provided for in this Declaration, the performance of such other duties and the provision of such services as the Association shall deem to be in the best interests

of the Members. Without limitation, the Association shall have all the power and authority provided in the Association by the provision of Section 47F-3-102 of the North Carolina Planned Subdivision Act.

The Association may provide certain services (such as landscaping and grounds maintenance) for the benefit of certain Lots that will not be provided for other Lots. There shall be no requirement that the services to be provided uniformly to all of the Lots and the Association shall have the specific power and authority to provide certain services to certain Lots that shall not be provided to other Lots. Notwithstanding the foregoing, the Association shall not provide services solely for the benefit of Lots owned by Declarant prior to the sale of such Lots by Declarant.

Section 2. Powers and Duties of the Board. The Association, acting through its Board, pursuant to the Bylaws of Alpine Creek Homeowners Association, Inc. for the mutual benefit of the Members of the Association, shall have the following powers and duties:

(a) The Association shall be responsible for any Improvement(s) including without limitation the improvement, repair, replacement, use, operation and maintenance of the Common Area, Roadway, and Landscaped Rights-of-Way as provided in this Declaration, including, but not limited to, planting, mowing, pruning, fertilizing, preservation and replacement of the vegetation and landscaping, and the upkeep and maintenance of sidewalks, sprinklers, sprinkler pumps, wells, signs, lighting, planting boxes and other equipment, apparatus and improvements located in the Common Area, and the Landscaped Rights-of-Way or located in easements granted to or reserved by the Declarant or the Association. With respect to the Landscaped Rights-of-Way, the foregoing responsibility is to such extent as the Association may determine, in its sole discretion, with consideration being given to the extent to which any governmental entity is responsible for and carrying out maintenance of the same;

(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/or maintain the Common Area, the Roadway, and the Landscaped Rights-of-Way or any portions thereof;

(c) The Association is empowered to make reasonable rules and regulations for the use and operation 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 entitled to vote; provided further, any such amendment must also be approved by Declarant before it may become effective;

(d) The Association is empowered to enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Area, the Roadway, and the Landscaped Rights-of-Way;

- (e) The Association is empowered to borrow funds to pay costs of operation of the Association, which borrowing may be secured by assignment or pledge of rights against delinquent Owners or by liens on other Association assets;
- (f) 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;
- (g) The Association is empowered to sue or defend in any court of law in behalf of the Association, and to employ attorneys and other necessary professionals in connection therewith;
- (h) The Association shall, to the extent determined by the Board, provide adequate reserves for repairs and replacements of Common Area, Landscaped Rights-of-Way and Roadway;
- (i) The Association shall make available to each Member making written request therefor 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 therefor;
- (j) 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;
- (k) The Association is empowered to adjust the amount, collect, and use any insurance proceeds to repair damage to or replace Common Area; and if proceeds are insufficient to repair damage to or replace Common Area, to levy special assessments (in the manner provided herein) to cover the deficiency;
- (l) The Association is empowered to exercise all powers, duties and authority vested in or delegated to the Association by this Declaration, the Bylaws, or the Articles;
- (m) 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;
- (n) The Association is empowered to retain the services of legal and accounting firms;
- (o) 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;

(p) The Association is empowered to contract with any third party or any Owner (including, without limitation, Declarant) for the 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 reasonable rates and otherwise upon such terms and conditions and for such consideration as the Association may deem proper, advisable and in the best interest of the Association;

(q) The Association shall establish the amount of and provide for the collection of annual and special assessments as provided for in this Declaration;

(r) 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;

(s) 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; and

(t) The Association is empowered to take any and all other 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 or in any Supplemental Declaration.

Section 3. Liability Limitations. Neither Declarant, nor any Member, the Board, any director on the Board, nor any officer of Declarant or 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 ARB and other committees appointed by the Board from and against any and all loss, cost, expense, damage, liability, action or cause of action arising from or relating to the performance by the Board and such ARB 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.

Section 4. Exchange of Common Area. The Association, at any time and from time to time may exchange with Declarant, or with any Owner, or with any other Person with whom such an exchange is determined by the Association to be in the best interests of the Association, a portion of the real property Common Area for a portion of the real property owned by the Declarant, Owner or Person, provided that the real property acquired by the Association in the exchange: (i) is free and clear of all encumbrances except for this Declaration and any applicable Supplemental Declaration and subdivision covenants, and easements for drainage, utilities, and sewers; (ii) is contiguous to a Lot or some portion of the Common Area or a Landscaped Right-of-Way; and (iii) has approximately the same area and utility, or is of approximately the same market value, as the portion of the Common Area exchanged. The real property so acquired by the Association shall be part of the Common Area and, without further act of the Association or its Members, shall be released from any provisions of this Declaration (or any applicable Supplemental Declaration or subdivision covenants) except those applicable to the Common Area. The portion of the Common Area so acquired by the Declarant, Owner or other Person, without further act of the Association or its Members, shall cease to be Common Area and shall be subject to those provisions of this Declaration (and any applicable Supplemental Declaration and subdivision covenants) that would have been applicable to such real property had it been a Lot, except that, if such portion of the Common Area is being acquired by a governmental entity, in like manner as provided in this Declaration for the conveyance or dedication of Common Area to a governmental entity, such Common Area may be acquired by such governmental entity free and clear of all of the terms, covenants, conditions and restrictions contained in this Declaration.

Section 5. Utility Service Contracts. Subject to the conditions set forth in this Declaration, in connection with the ownership and/or operation by the Association of any utility service or water retention facility, the Association, shall have the power to enter into contracts with owners of real property located outside of the Subdivision to provide utility services to such Owners or, in the case of water retention facilities, to allow such Owners to use such facilities. All such contracts shall be subject to the following requirements or limitations:

(a) The services to be provided or the portion of the Association's facilities to be used under any such contract shall not reduce or adversely affect the level of services being provided to the Owners of Lots in the Subdivision;

(b) There shall be fees charged for such services or use of the Association's facilities which shall be no less (but may be more) than the fees charged to Owners of Lots in the Subdivision for use of the same services and facilities; and

(c) The Association may not enter into any such contract unless the Board determined that it is in the best interests of the Association and the Owners of Lots in the Subdivision to do so.

Section 6. Conveyance of Property From Declarant to Association. Declarant may transfer or convey to the Association any personal property and any improved or

unimproved real property, leasehold, easement, or other property interest. Such conveyance shall be free and clear of all encumbrances except utility, drainage and greenway easements and accepted by the Association and the property shall thereafter be the Common Area to be maintained by the Association, for the benefit of all or a part of its Members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section except for any improvements required by governmental entities to be made by Declarant.

ARTICLE VII
INSURANCE: REPAIR AND RESTORATION

Section 1. Insurance. The Association shall purchase, carry and maintain in force insurance for the interest of the Association, the Board, its agents and employees, Declarant and its officers and employees, and all Members of the Association, covering any part or all of the Common Area, Landscaped Rights-of-Way and Roadway and any improvements thereon or appurtenant thereto and any other property owned by the Association or any other property which the Association shall lease or otherwise contract for the use of the Association and/or its Members, (for which the Association shall name the Owner as an additional insured), in such amounts and with such endorsements and coverage as the Association shall consider to be reasonable insurance coverage for similar properties. Such insurance may include, but need not be limited to:

- (a) Comprehensive public liability and property damage insurance on a broad form basis with respect to the Common Area, Landscaped Rights-of-Way, and Roadway; coverage for the personal liability (if any) of the Declarant (and its officers, agents, employees and servants), the Board (and the individual members thereof), the officers of the Association, the ARB and other committees appointed by the Board, the Owners and Members;
- (b) Fidelity bond for all officers and employees of the Association and other Persons having control over the receipt of disbursement of Association funds; and
- (c) Worker's compensation insurance to the extent necessary to comply with applicable laws.

Section 2. Insurance Proceeds. Subject to any limitations imposed by any applicable financing documents, the Association shall use the net proceeds of casualty insurance recovered to repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Association remaining after satisfactory completion of repair and replacement shall be retained by the Association as part of the general reserve fund for repair and replacement of the Common Area and/or Landscaped Rights-of-Way.

Section 3. Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment in the manner provided for in this Declaration, to cover the deficiency.

Section 4. Homeowner Insurance; Indemnification. Each and every Owner shall purchase, carry and maintain in force fire and hazard insurance in an amount equal to the full insurable value of the dwelling and other improvements constructed on that Owner's Lot except that the amount shall not be required to exceed the replacement cost of the dwelling and other improvements. An Owner shall exhibit to the Board, upon request, evidence that such insurance is in effect. If any Owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the Owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the Owner and shall constitute a lien against his Lot until paid as a result of enforcement by the Association or otherwise. In addition, the Association shall have the authority to request that it be an additional named insured and the Owner shall cooperate in such request to the extent reasonably necessary. Each Member hereby indemnifies and holds harmless, the Association, the other Members, directors, officers and the ARB from and against any and all claims, losses, damages, costs, or liability of any kind, including, without limitation, reasonable attorney fees and costs of litigation, resulting from any act or omission or claim of the Member or any guest or invitee including without limitation, in connection with such Member's, guest's or invitee's use of Association amenities.

ARTICLE VIII
ARCHITECTURAL CONTROL

Section 1. General. Anything contained in this Declaration to the contrary notwithstanding, no tree cutting, grading or clearing or other site preparation on any Lot, no change in grade or slope of any Lot, no construction or placement of any building or exterior additions or alterations to any building situated upon a Lot, and no construction of or changes or additions to any other structure or Improvement on a Lot shall be commenced, nor shall any of the same be placed, maintained or allowed to remain, on any Lot until the "Architectural Review Board" ("ARB") (appointed as hereinafter provided) has approved the plans and specifications required to be provided herein and the location of such Improvements. The ARB shall be a permanent committee of the Association.

Section 2. Composition. Until the Conversion Date, Declarant shall appoint at least three (3) individuals to act as members of the ARB (the exact number of members of the ARB to be designated by Declarant from time to time), each generally familiar with residential and subdivision development design matters and knowledgeable about the Declarant's concern for a high level of taste and design standards within the Subdivision. Members of the ARB may be removed and replaced from time to time by the Declarant until the Conversion Date, and after the Conversion Date, such ARB members may be removed and replaced from time to time by the Association in accordance with the Bylaws. The initial composition of the ARB shall be the Declarant or its designee, and two other members as designated by the Declarant or its designee. In the event of a deadlock, the vote of the Declarant shall control. In the event of the inability to serve of any member of the ARB, Declarant, for so long as it has the authority to appoint the

members of the ARB, and thereafter, the Association shall have full authority to designate and appoint a successor. No member of the ARB shall be liable for claims, causes of action or damages (except where occasioned by gross negligence or willful misconduct of such member) arising out of services performed pursuant to this Declaration. Upon the Conversion Date, the Association shall designate the number of and appoint the members of the ARB. At any time and from time to time Declarant may assign to the Association its right to appoint members of the ARB.

The Declarant (and the Association when applicable), in its discretion, may at any time and from time to time appoint two (2) separate ARBs: one (1) for the purpose of reviewing plans, specifications and site plans for initial Improvements to be constructed or placed on a Lot, and another to review plans, specifications and site plans for subsequent new Improvements and changes in and additions to existing Improvements on a Lot, the specific division of such reviews to be as specified by the Declarant (or the Association when applicable). Each such ARB separately shall be subject to and shall comply with the provisions of this Declaration applicable to the ARB and the review of plans, specifications and site plans.

Section 3. Procedure. No exterior Improvement of any kind or nature shall be constructed, repaired, replaced, remodeled, placed or allowed to remain on any Lot until all plans, specifications, and a site plan have been submitted to and approved in writing by the ARB, as to:

- (a) type of materials, adequacy of site dimensions and facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and compatibility with existing Improvements within the Property;
- (c) location of the Improvement on a Lot;
- (d) provisions for handling water drainage; and
- (e) compliance with the provisions of this Declaration and compliance with any architectural guidelines that may be established from time to time by Declarant until the Conversion Date, and by the Association after the Conversion Date (or earlier upon assignment to the Association of Declarant's right to appoint members of the ARB).

Final plans and specifications for all Improvements proposed to be constructed on a Lot shall be submitted to the ARB for approval or disapproval in such format and in such numbers or sets (not to exceed three) as the ARB may require. The ARB is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the ARB, at least one (1) complete set of plans and specifications shall be retained by the ARB and another complete set of plans and specifications shall be marked "Approved" and returned to the Owner or such Owner's designated representative. If such plans and specifications are determined not to

be in compliance with this Declaration, or if the same are otherwise unacceptable to the ARB because of inadequacy or noncompliance with respect to the provisions of this Section, one (1) set of plans and specifications shall be returned to the Owner marked "Disapproved", accompanied by a reasonable statement of items found not to be in compliance with this Declaration or otherwise unacceptable. Any modification or change in the plans and specifications submitted to and approved by the ARB must again be submitted to the ARB for its inspection and approval in accordance with requirements established by the ARB. The ARB's approval or disapproval, as required herein, shall be in writing.

The Declarant (or the Association, when the Association has the right to appoint members of the ARB), may from time to time adopt procedures for conducting the architectural reviews and other duties of the ARB, provided that such procedures do not materially conflict with the specific requirements of this Declaration.

Section 4. Jurisdiction. In addition to the foregoing, the ARB is authorized and empowered to consider and review any and all aspects of the construction of any Improvements on a Lot which may, in the reasonable opinion of the ARB, affect the living enjoyment of one (1) or more other Owners or the general value of the Property.

Section 5. Enforcement. The ARB shall have a specific, nonexclusive right (but not obligation) to enforce the provisions contained in this Article and to prevent any violation of the provisions contained in this Article of this Declaration by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. No failure to enforce or waiver of any violation of such provisions no matter how long such failure or waiver continues, shall constitute a waiver of any rights with respect to any other such violation.

Section 6. Failure of the ARB to Act. If the ARB fails to approve or disapprove any plans, specifications and other submittals which conform with the requirements for such submittals established as provided herein or to reject them as being inadequate or unacceptable within Sixty (60) days after actual receipt by ARB of written submittal thereof to the ARB, and provided such submittal was a full and complete submittal of all items required by this Declaration and any applicable architectural guidelines (as may be established from time to time) to have been submitted to the ARB, it shall be conclusively presumed that the ARB has approved such conforming plans and specifications and other submittals, except that the ARB has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration, in any applicable Supplemental Declaration, or of any applicable governmental entity. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the ARB may reject them as being inadequate or may approve or disapprove the same in part, conditionally or unconditionally, and reject the balance.

Section 7. Limitation of Liability. PLANS AND SPECIFICATIONS ARE NOT REVIEWED OR APPROVED BY THE ARB FOR ENGINEERING OR

STRUCTURAL DESIGN OR QUALITY OF MATERIALS. AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ARB, THE MEMBERS THEREFOR, NOR THE ASSOCIATION ASSUMES LIABILITY OR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS. NEITHER DECLARANT, THE ASSOCIATION, THE ARB, THE BOARD, NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM SHALL BE LIABLE IN DAMAGES TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS. EVERY PERSON WHO SUBMITS PLANS OR SPECIFICATIONS AND EVERY OWNER AGREES THAT SUCH PERSON OR OWNER WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, THE ASSOCIATION, THE ARB, THE BOARD, OR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES AND AGENTS OF ANY OF THEM TO RECOVER ANY DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ANY AND ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY JUDGMENT, NEGLIGENCE. OR NONFEASANCE AND HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

Section 8. Miscellaneous. No member of the ARB shall be entitled to compensation for, or be liable for, claims, causes of action or damages (except where occasioned by gross negligence or intentional misconduct) arising out of, services performed pursuant to this Declaration provided that professionally licensed Members of the ARB may be compensated on a reasonable basis as agreed by Declarant or the Association and such Members. The Association may reimburse members of the ARB for reasonable out-of-pocket expenses. Any provision in this Declaration to the contrary notwithstanding, the Declarant and the ARB retain the right to amend these Covenants, Conditions and Restrictions as they deem appropriate from time to time to protect, maintain and/or improve the general quality and nature of the Subdivision. Any action or inaction by the ARB on any matter with respect to any Lot or Member shall not be deemed to affect the ability of the ARB to act differently as to the same or a similar matter with respect to any other Lot or Member.

ARTICLES IX
USE OF LOTS AND COMMON AREA - PROTECTIVE COVENANTS

Section 1. Rules and Regulations of the Association. All Owners and occupants of Lots shall abide by all rules and regulations adopted from time to time, by Declarant, the Association or the ARB as applicable. The Association shall have the power to enforce

compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association and/or the Declarant for all damages and costs, including attorney's fees.

Section 2. Land Use And Building Type. Each Lot shall be used exclusively for single-family, non-transient residential purposes and, except for existing structures, and except as may be allowed by Declarant or approved by the ARB, no building or other structure shall be constructed, placed or allowed to remain on a Lot except one single-family dwelling with a minimum of five thousand (5,000) total heated and cooled square feet with a minimum of three thousand (3,000) of such total required to be on the first (1st) floor, and an attached or detached garage appurtenant thereto; and notwithstanding anything to the contrary appearing herein, except for existing structures, no storage building or structure of any kind which is detached from the single family residence or garage shall be constructed, placed or allowed to remain on any Lot unless previously approved by the ARB. The design of all floor areas are subject to ARB written approval. The calculation of square footage shall not include: garage, covered walks, open and/or screen porches, patios and pool areas. Square footage measurements shall be taken from inside exterior walls. The ARB may grant variances regarding first floor minimum square footage for designs to fit the particular topography of any Lot.

The construction of a single-family residence as approved by the ARB shall commence within twenty-four (24) months of the purchase of a Lot from the Declarant; otherwise the Declarant may re-purchase such Lot from the Owner or any subsequent Owner at the price which the Owner paid for such lot. The Owners shall use a builder from an approved list as approved from time to time and provided by the Declarant. Once construction begins it shall proceed in a diligent and timely manner. Notwithstanding the foregoing, until the Conversion Date, Declarant may, in its sole discretion, waive any aspect of the construction requirement contained in this paragraph as to any Lot.

Except as otherwise provided herein, no business activity or trade of any kind (other than activities related to construction, alteration, repair, improvement, maintenance or replacement of a single-family residence, or improvement or maintenance of a Lot) shall be conducted on any Lot. Notwithstanding anything to the contrary that may appear herein, Declarant, Declarant's agent, or any builder of homes on any Lot, subject to Declarant's approval, shall be permitted to erect and maintain sales offices, model homes and temporary construction or sales trailers or offices on any Lot owned by Declarant or such builder for the purpose of carrying on business related to the development, improvement and sale of Lots and the construction of single-family residences within the Property. Any such sales office, model home and temporary construction or sales trailer or office must be specifically approved by Declarant and must comply with all applicable governmental laws and regulations. Declarant and any Person authorized by Declarant may conduct such business activities on any Lot as may be necessary in connection with Declarant's development and/or sales of any part or all of the Property.

Section 3. Residency. The residents of each Lot shall be limited to the members of

one (1) family. For purposes of this section, “family” shall mean and refer to a group of persons, each of whom is related to each other member of the group through blood or marriage either as siblings or in direct lines of ancestry or descent. This residency limitation shall not be construed to prohibit the temporary occupancy of a residence located on a Lot by a child care provider such as a nanny or housekeeper. In addition, this limitation shall not be construed to prohibit keeping occupancy by nonfamily members for a period not exceeding thirty (30) consecutive days, provided that any such periods of occupancy of a single-family residence by nonfamily members shall not exceed the period of occupancy solely by family members during any measured period of sixty (60) consecutive days.

Section 4. Leases of Lots. Any lease agreement between an Owner and a lessee for the lease of such Owner's Lot and Improvements must first be approved in writing by the Declarant or the Association in its sole and absolute discretion, and, if approved, shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, Articles and the Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease.

Section 5. Setbacks. Each Lot shall have the following setback limitations: (a) Front and Corner: fifty (50) feet; (b) Side: fifty (50) feet; (c) Rear: thirty (30) feet.

Section 6. Obstructions and Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept, stored, altered, constructed or planted in or on the Common Area, or removed therefrom, without the prior written consent of Declarant or the Association. Declarant and the Association shall have the right to install, place, repair, replace and maintain signs in the Common Area and to install, maintain, repair and replace in the Common Area such materials, equipment and other apparatus as may be necessary to enable the Association to carry out its powers and duties under this Declaration.

Section 7. Restricted Actions by Owners. No Owner shall permit anything to be done or kept on such Owner's Lot or in the Common Area which will result in the cancellation of or increase in cost of any insurance carried by the Association, or which would be in violation of any law or any rule or regulation established by the Association. No waste shall be committed in the Common Area, except as may be necessary to enable Declarant or the Association to exercise any rights reserved to them hereunder or except as may be necessary to enable the Association to carry out its powers and duties hereunder. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to such Owner's Lot(s) and the Common Area.

Section 8. Nuisance and Other Matters. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No trade materials or inventories (other than materials used for construction of dwellings or other approved structures on

the Lots) may be stored upon any Lot and no tractors, inoperable motor vehicles, rubbish, trash, or unsightly materials of any kind may be stored, regularly placed, or allowed to remain on any Lot (except that trash, leaves, tree limbs, materials for recycling pick-up and similar items may be kept or placed on a Lot temporarily and only for such time as is reasonably necessary to enable the appropriate governmental or private entity to remove same from the Lot, or such materials may be kept on a Lot for use as compost (provided that such materials used for this purpose are neatly kept and are screened from view from any adjoining Lot or street as approved by the ARB) and inoperable motor vehicles may be stored on a Lot if the same are kept in an enclosed garage). Trucks and/or other construction vehicles, materials and equipment may be allowed to remain on the Property temporarily during construction of roads, utilities and other improvements within the Property and during construction on a Lot of a single-family residential dwelling and/or other Improvements which have been approved for construction by Declarant or the ARB established by this Declaration (the temporary nature of the foregoing to be determined by the Declarant or by the Association or the ARB, when such right has been assigned by the Declarant to the Association or the ARB). Notwithstanding the foregoing, no vehicle of any type or size which transports inflammatory or explosive cargo or which stores or transports materials or substances defined as hazardous or toxic by any applicable environmental laws of any governmental entity having jurisdiction over the Property may be kept or allowed to remain in or on the Property at any time, except as may be required to effectuate removal of such prohibited materials and substances.

Section 9. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any portion of the Property or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes, that they do not create a nuisance (in the judgment of the Association), such as, but without limitation, by number, noise, odor, damage or destruction of property or refuse, and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the State of North Carolina, and the County of Wake relating thereto; and (ii) such rules and regulations pertaining thereto as the Board may adopt from time to time. In no event shall more than a total of three (3) dogs, cats or other household pets be regularly kept on any Lot.

Section 10. Signs. No sign of any kind (including political signs) shall be displayed to the public view on any Lot except for: (a) signs that are approved by Declarant or the Association as applicable as to size, design, content and all other specifications, and (b) signs that are for one or more of the following purposes: (i) advertising the Lot for sale or rent; (ii) advertising the building contractor constructing improvements on the Lot during the initial construction and sales period; (iii) identifying the sales office and/or model home of a building contractor who owns the Lot; (iv) identifying the subdivision or phase name and/or identifying the Lot number of a Lot; and (v) any other purpose approved by the Declarant (or by the Association after the Class B membership terminates); provided however, the foregoing limitations shall not act to restrict or prohibit Declarant or the Association or any applicable governmental entity from erecting, maintaining, repairing and replacing (and Declarant hereby reserves for itself, the Association and such governmental entities the right to erect, maintain, repair and replace) on a Lot or on the

Common Area, Landscaped Rights-of-Way, and in any easements reserved or granted for such purposes, signs and billboards advertising the Property, or portions thereof, of either, or signs identifying various subdivisions or phases of the Property, or regulatory, street and directional signs. Notwithstanding the foregoing, all signs erected and maintained on any Lot must conform with all applicable governmental requirements. Signs for any resale of any Lot and/or residence shall meet the requirements of the ARB as it determines from time to time.

Section 11. Attachments. No permanent attachments of any kind or character whatsoever (including, but not limited to, television and radio antennas and satellite dishes) shall be made to the roof or exterior walls of any residence on a Lot, unless such attachments shall have been first submitted to and approved by the ARB. No exterior clotheslines shall be allowed on any Lot. Unless screened and located to provide minimum visual impact on neighboring properties and streets, no exterior antennas of any kind, including without limitation satellite dishes, shall be placed, allowed, or maintained upon any portion of the Subdivision, including any Lot. In no event shall any such antenna or satellite dish in excess of one (1) meter in size be permitted in the Subdivision except if installed by the Declarant. The Association shall have the right (but shall not be obligated), to erect a master antenna, satellite dish or other similar master system for the benefit of the Subdivision. Each Owner acknowledges that this provision benefits all Owners and each Owner agrees to comply with this provision despite the fact that the erection of an outdoor antenna or similar device would be the most cost-effective way to transmit or receive the signals sought to be transmitted or received.

Section 12. Boats and Other Vehicles. All motorboats, houseboats or other similar water-borne vehicles, airplanes, travel trailers, other trailers, jet ski or "camper" vehicles shall be maintained, stored or kept in other enclosed garages or in area(s) specifically designated by the Declarant or the Association.

Section 13. Garages. Each single-family residence located on a Lot, shall have sufficient enclosed garage space for any and all family-owned or leased vehicles, and each garage shall contain at least three (3) spaces for said vehicles. Garage doors shall be kept in closed position when garage is not being used. No Carports shall be permitted. The ARB shall be the sole judge of whether detached or attached garages shall be permitted in each case. The ARB may waive the requirements of this Section where the topography of the particular building site makes compliance therewith impracticable.

Section 14. On-Street Parking. The Owner of each Lot shall provide for adequate parking space on the Lot for vehicles of all types and all other apparatus designed for movement over and upon streets or highways (whether self-propelled or not) and regularly used by the residents of the single-family residence on the Lot. No automobiles, trucks, vans, travel trailers, other trailers or any other apparatus designed for movement over and upon streets or highways (whether self-propelled or not) shall be regularly parked on the streets within or adjoining the Property, and trucks with tonnage in excess of one (1) ton shall not be permitted to park overnight on the streets, driveways or otherwise within the Property, except that Declarant or the Association may allow such

parking by any such vehicles used in connection with the construction of improvements within the Property. In addition and supplemental to the prohibitions on parking set forth in this Declaration, the Association is empowered to promulgate and enforce rules and regulations relating to parking on the streets within or adjoining the Property.

Section 15. New Construction. Except as otherwise provided in this Declaration, construction of new dwellings only shall be permitted on Lots, 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 dwelling house. The foregoing shall not be construed as prohibiting remodeling of or constructing additions to existing buildings or structures on a Lot that have been previously constructed thereon in compliance with this Declaration, provided such new construction plans are first submitted to, reviewed and approved by the ARB.

Section 16. No Temporary Structure. No structure such as a trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a dwelling house.

Section 17. Land and Landscaping Plan. Prior to beginning preparation for construction or actual construction on any Lot, the Owner must submit site, elevation, building and landscape plans (and such other plans as the ARB may from time to time require) to the ARB for approval. Except for the single-family residence, driveways, sidewalks and other Improvements on each Lot, the surface of each Lot shall be of undisturbed areas left in their natural state or sod or other live foliage or areas covered with pine straw and/or other ground cover approved by the ARB, and such sod, foliage, pine straw and ground cover shall be neatly maintained at all times. No Lot may be cleared, graded, cut or filled or trees cut for any reason until the ARB has reviewed and approved the preliminary application for the single-family residence. The site plan, along with other documents required by the ARB, must clearly delineate the extent of clearing, grading, cutting and filling. Any tree removal and clearing lines shall be marked and approved by the ARB prior to tree removal or clearing. In connection with the initial construction of a new dwelling on a Lot, the Owner shall spend five percent (5%) of the cost of the Lot plus the cost to construct the building on the Lot, for costs and expenses associated with hard and soft landscaping.

The provision of this Section 18 shall not be construed so as to limit the Declarant's authority to have such clearing, filling, tree cutting and similar work done as it, in its absolute discretion, deems appropriate in connection with the development of the Property.

Section 18. Water, Well and Septic Systems. Subject to prior written approval from the ARB, an Owner shall, at its own expense, install an individual water supply system on its Lot. Subject to submission of a design plan by the Owner and written approval from the ARB, each Owner shall, at its own expense, install and maintain (with written verification to the Association of inspections at least annually by a contractor approved by the Association) a rain water retention system with a minimum Five Thousand (5000)

gallon capacity. Subject to submission of a design plan by the Owner and written approval from the ARB, Owner may install/drill a well or septic system on its Lot.

Notwithstanding the foregoing, until the Conversion Date, Declarant may elect in its sole discretion to contract with a separate entity ("Utility") to provide water supplies necessary to serve the Property (the "Water System"), and all water mains, pipes, elevated tanks, and other equipment necessary for the operation and maintenance of the Water System. The Water System and related equipment shall be owned, operated, repaired and maintained by the Utility pursuant to the terms of a separate agreement for the installation, conveyance and operation of the Water System serving Alpine Creek Subdivision (the "Water Agreement"), or upon termination of the Water Agreement, by a public utility company duly licensed and operating under the authority granted by the North Carolina Department of Public Utilities Commission. In the event that such a Water Agreement is executed and if required by the Water Agreement (subject to any express exceptions provided herein): (a) all Owners shall connect to the Water System for domestic water service; (b) the Water System shall be the sole provider of water supply to the Property; and (c) except for wells (i) dug or constructed by the Declarant, (ii) in existence as of the date of this Declaration, and (iii) as may be expressly excluded from the Water Agreement, no well may be dug or constructed on any Lot for the purpose of providing domestic water supply. The Water System and its providers, managers and operators may be subject to state or municipal regulations, laws and ordinances. Such regulations, laws and ordinances may have an impact on certain aspects of the Water System, including, but not limited to, the fees charged, the method of delivery, the rights of the Owners as well as the rights of the Water System providers and operators. Neither Declarant nor the Association nor their successors and assigns shall in any manner be liable for any interruption in Water Systems services. Furthermore, each Owner agrees to release and discharge the Declarant and the Association from and against any and all losses, claims, demands, damages, costs and expenses of whatever nature or kind, including reasonable attorneys' fees and costs at all tribunal levels, related to or arising out of any claim relating to the Water System. Declarant reserves the right to supplement this Declaration, and the Owners and Association shall execute such documents, as may be reasonably required to grant such easements as are necessary to effect the Water System.

Section 19. Fences, Walls and Hedges. Except as specifically approved in writing by the ARB, no fence, wall or hedge shall be erected, placed or altered on any Lot. The composition, location, height of any fence, wall or hedge to be constructed on any Lot shall be approved in advance by the ARB. The ARB shall require the composition of any fence, wall or hedge to be consistent with the material used in the surrounding single-family residences and other fences, if any. Chain link fencing may not be used except as fencing around tennis courts, fencing around swimming pools, and the Common Property, as determined by the ARB. All non natural material fences must be black and not in front of the back corners of the single family residence. Fencing design must accompany the final working drawings submitted to the ARB for any proposed single-family residence located on a Lot. Any fence, wall or hedge shall not exceed six (6) feet in height unless otherwise specifically required by governmental authorities having

jurisdiction; and (ii) unless written prior consent is given by Declarant or the Association as applicable. All fences on Lots shall be maintained at all times in a structurally sound and attractive manner and in a good state of repair. All fences on Lots shall be of wood, metal, masonry or other material approved by the Declarant, the Association or the ARB as applicable and no fence shall be constructed, placed or allowed to remain on any Lot until the Owner thereof has obtained written approval for such fence from the ARB.

Section 20. Driveway. Except for the paver provision below, all driveways and parking areas shall be concrete, asphalt, or other approved permanent surface. Driveways may connect to streets at only two (2) points for each Lot and such connection shall provide continuity of any drainage swale or curb and shall blend into the street pavement. No curbside parking areas may be created by extending any portion of street pavement. In addition, each Owner shall be required to have a minimum of twenty (20) feet of driveway pavers, stone, or other approved surface with such pavers to connect to the street pavement and prior to any such installation of driveway pavers to any Lot, written approval must be obtained from the ARB relating to the type, design and installation. In addition, culverts, where required, shall be constructed of riverstones to match neighborhood gate structures.

Section 21. Sight Line Limitations. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at a point twenty (20) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

Section 22. Utility Yards. Each Lot on which a single-family residence is located shall have thereon one or more utility yards. At least one such utility yard shall be constructed at the same time as the single-family residence is constructed, unless provision is made for the housing or storage of the items set forth in this Article either inside the single-family residence/or inside the garage. Each utility yard shall be walled or fenced or otherwise screened as required by the ARB, and the entrance thereto shall be screened, using materials with height and design approved by the ARB. The following buildings, structures and objects may be constructed or placed on a Lot and allowed to remain on a Lot only if the same are located wholly inside the single-family residence or garage on the Lot or wholly within a utility yard located on the Lot: pens, yards and houses for pets; above ground garbage and trash cans or receptacles (unless by applicable governmental law or regulation the same must be located elsewhere); above ground and exterior air-conditioning, heating and other mechanical equipment; and all other buildings, structures and objects determined by the ARB to be of a similar nature to the foregoing items or determined by the ARB to be of an unsightly nature or appearance. Transformers, electric, gas or other meters of any type, or other utility apparatus shall be contained

within the buildings constructed on Lots or, within the utility yard.

Section 23. Mailboxes. All mailboxes shall be selected by the Association and shall be uniform throughout the Subdivision and placed in the ground and shall not be located within a sidewalk. Mailboxes shall be maintained by the Owner of each Lot.

Section 24. Utilities. All electric, telephone, water and sewer, natural gas and cable television utilities and utility connections shall be located underground or screened in such manner as is approved by the ARB. As of the execution of this Declaration, natural gas is not available to the Subdivision. LP tanks must be located below ground, and access shall be screened in such manner as is approved by the ARB. Prior to occupancy, every single family residence shall be inspected and certified by Progress Energy or its successors as "Energy Star" efficient, or the substantial equivalent of such designation.

Section 25. Governmental Requirements. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. In any instance in which the provisions of this Declaration impose a more restrictive requirement than the applicable governmental requirements or restrictions, the provisions of this Declaration shall control.

Section 26. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of Declarant or the ARB. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant for as long as Declarant has the right unilaterally to annex additional property to the Subdivision pursuant to this Declaration. Any such division, boundary line change or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 27. Firearms, Hunting Prohibited. The use of "firearms" in the Subdivision is prohibited. The term "firearms" includes without limitation guns, pellet guns, bows and arrows, sling shots and small firearms of all types. There shall be no discharging of firearms, guns or pistols of any kind, caliber, type or method of propulsion; and no hunting of any type shall be carried on or conducted on the Property.

Section 28. Lighting. Except as may be permitted by the Declarant, the Association or the ARB, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot pursuant to plans approved in writing by the ARB or as later approved in writing by the ARB from time to time; (b) street lights in conformity with an established street lighting program for the Subdivision; (c) seasonal decorative lights from Thanksgiving to the following the first (1st) day after New Year's Day; or (d) front house illumination of model homes. The Declarant, Association and ARB shall have authority to limit or restrict lighting of any type or amount it determines not to be reasonable or in keeping with the appearance of the Subdivision. External lighting shall be screened from neighboring lots so as to limit visibility. No exterior lights shall be used for playgrounds or other recreational areas during times other than as

allowed by the rules and regulations of the Declarant, the Association or the ARB from time to time. In no event shall exterior lighting visible on adjoining lots be used for recreational purposes after 11:00pm, unless otherwise approved by the Declarant or Association.

Section 29. Artificial Vegetation, Exterior Sculpture, Exterior Statuary and Similar Items. No artificial vegetation or plastic animal decorations shall be permitted on the exterior of any property. Exterior sculpture and fountains and their location must be approved by the ARB. Flags, bird baths, bird houses and similar items and their location must be approved by the ARB, but in no event shall be located so as to be visible from the front of any Lot or any adjoining street.

Section 30. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARB for each lot.

Section 31. Swimming Pools. No swimming pool, outside jacuzzi or hot tub (collectively "Swimming Pool") shall be constructed, erected or maintained upon any Lot without the prior written consent of the ARB and in no event shall any above-ground swimming pool be permitted. Any Swimming Pool so approved by the ARB shall not be visible from any street of the Subdivision and shall not be in a location as to be an annoyance to surrounding residents.

Section 32. Gardens and Play Equipment. No vegetable garden, hammock, statuary or play equipment (including, without limitation, basketball goals) be constructed, erected or maintained upon any Lot unless the type and location thereof has been previously approved by the ARB. Further, in no event shall any lighted recreation area be allowed unless it is approved in writing by the ARB and is adequately screened from both sight and hearing from neighboring Lots, Common Area and streets as provided by the ARB Rules and Regulations.

Section 33. Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose.

Section 34. Fuel or Water Tanks. No fuel tanks or water tanks shall be stored or maintained upon any Lot in such a manner as to be visible from any street or road or from any other Lot, unless used by Declarant in the ordinary course of developing the Subdivision, and all such tanks must be approved in writing and in advance by the ARB.

Section 35. Damage to the Common Area. Each Owner shall be liable to the Association and/or the Declarant for any damage to the Common Area, Roadway, and/or Landscaped Rights-of-Way caused by the negligence or willful misconduct of the Owner or such Owner's family members, tenants, guests, or invitees.

Section 36. Independent Covenants. Each and every covenant and restriction

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

Section 37. Owner's Responsibility. Except as provided in Article VI, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with this Declaration. Such maintenance shall include, without limitation, (i) the repairing and painting (or other appropriated external care) and otherwise caring for the dwelling and all other structures located on the Lot; (ii) the seeding, fertilizing and watering of all lawns and mowing, edging, clipping, sweeping, pruning, raking and otherwise caring for all lawns; (iii) the pruning and trimming of all trees, hedges and shrubbery not maintained by the Association so that the same are not obstructive of a view by motorists or pedestrians of street, do not cause unsightly or unkempt conditions and do not trespass onto the property of others; (iv) the maintenance, repair and painting of all fences on the Lot. If the Association determines that any Owner has failed or refused to discharge properly of any such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement which needs to be performed and all maintenance, repairs or replacement shall be completely performed within ten (10) days of such notice being sent to the Owner. If any Owner does not comply with the provisions hereof, in addition to any other remedies available to it, the Association may provide any such maintenance, repair or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

ARTICLE X
EASEMENTS

Section 1. Easements Reserved by Declarant. Easements for installation, maintenance, repair, replacement, use, operation and removal of 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 used as building sites), and in any event over no less than a five (5) 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 part, the easements reserved by it hereunder shall include, without limitation, the Association and one or more governmental entities or public utility companies.

Declarant hereby reserves such easements on, across and over the Common Property as shall be reasonably necessary for:

- (i) the exercise by Declarant or any assignee of Declarant of any right herein reserved, including, without limitation, Declarant's right to annex any additional property pursuant to this Declaration; and
- (ii) the development by Declarant or any assignee of Declarant, their respective successors and assigns, of any additional property owned by Declarant or assignee of Declarant, whether or not Declarant elects to annex such additional property;

including without limitation easements for ingress, egress and regress over private roads and streets now or hereafter erected on the Properties and easements for drainage and for the use of all utility lines, fixtures and/or their connections located within the Common Property for the purpose of providing drainage, water, light, power, telephone, sewage and sanitary service to any additional properties.

Declarant and the Association reserve the right to subject the Property, including the Common Property, to a contract with Progress Energy or other utility provider for the installation of above ground or underground wires and/or cables including without limitation electric cables and other lines or 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 Progress Energy or any other utility provider by each Owner. The Declarant reserves the right to subject the Property, including the Common Property, to a contract with the applicable gas, cable and other utilities serving the region, for and easement for the installation of gas lines, cable lines and other necessary lines and facilities for operation of said utilities on the Property. Further, Declarant reserves the right to subject the Property, including Common Property, to a contract with a private provider of water and sewer services for the installation, maintenance, repair and replacement of facilities in connection thereof. Such right shall also extend to other public or private utilities providing services to the Lots as determined by Declarant or the Association.

The terms and provisions of this Section shall extend to and be binding upon the parties and their respective successors and assigns, and shall operate as covenants running with each Lot and shall not be barred by any lapse of time. The rights, privileges and easements granted in this Section shall be non-exclusive easements in perpetuity, running with the land, for the benefit of and as an appurtenance to each Lot and binding upon each Lot.

Section 2. Easement Reserved for the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon each Lot for the maintenance and repair of each Lot in accordance with the provisions hereof and for the carrying out by the Association of its rights, powers, duties and obligations hereunder; provided, that

any such entry by the Association upon any Lot 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.

Section 3. Easement Reserved for Governmental Entities and Public Utilities. An easement is hereby established for public utilities serving the Property, and their agents and employees, over all Lots and over Common Property hereby or hereafter established, for the purpose of setting, removing and reading utility meters, maintaining, repairing and replacing utility or drainage connections, and acting for other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

The terms and provisions of this Section shall extend to and be binding upon the parties and their respective successors and assigns, and shall operate as covenants running with each Lot and shall not be barred by any lapse of time. The rights, privileges and easements granted in this Section shall be non-exclusive easements in perpetuity, running with the land, for the benefit of and as an appurtenance to each Lot and binding upon each Lot.

Section 4. Easements Shown On Recorded Maps. Declarant, for itself, its successors and assigns (including, without limitation, governmental entities and the Association), and in addition to those easements reserved in this Declaration, hereby reserves easements in the locations and for the purposes shown and indicated on all maps of Lots subject to this Declaration that are recorded in the Wake County, North Carolina Registry.

The terms and provisions of this Section shall extend to and be binding upon the parties and their respective successors and assigns, and shall operate as covenants running with each Lot and shall not be barred by any lapse of time. The rights, privileges and easements granted in this Section shall be non-exclusive easements in perpetuity, running with the land, for the benefit of and as an appurtenance to each Lot and binding upon each Lot.

Section 5. Easement for Declarant. Declarant, and Members, shall at all times have a perpetual easement to use any and all Common Area including any and all private roads and/or streets located within the Subdivision and the Property for ingress and egress, both vehicular and pedestrian, in the same manner and with all the rights of an Owner as defined herein, such easements shall run with the land.

The terms and provisions of this Section shall extend to and be binding upon the parties and their respective successors and assigns, and shall operate as covenants running with each Lot and shall not be barred by any lapse of time. The rights, privileges and easements granted in this Section shall be non-exclusive easements in perpetuity, running with the land, for the benefit of and as an appurtenance to each Lot and binding upon each Lot.

Section 6. Priority. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Lots, and the Common Property, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the Property or any portion thereof.

Section 7. Access, Ingress and Egress; Roadways. All Owners, by accepting title to property conveyed subject to this Declaration, waive all rights of uncontrolled, unlimited access, ingress and egress to and from such property and acknowledge and agree that such access, ingress and egress will be limited to roads, sidewalks, walkways and paths located within the Property from time to time, provided that pedestrian and vehicular access to and from such property will be provided at all times. Subject to the right of the Declarant to dedicate any roadways within the Property, there is reserved unto Declarant, the Association and their respective successors and assigns the right and privilege, but not the obligation, to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Property, provided that access to the Property may be granted to any person who gives reasonable evidence satisfactory to entry guards, if there are any, that entry is with the specific permission of the Owner, or his duly authorized agent. Neither the Declarant nor the Association will be responsible, in the exercise of its reasonable judgment, for the granting or denial of access to the Property in accordance with the foregoing.

Neither the Declarant nor the Association shall in any way be considered insurers or guarantors of any gate or controlled access to the Property or safety measures undertaken with respect thereto by either or both of them, nor shall either or both be liable for any loss or damage resulting from any failure to provide controlled access or safety measures, or from leaving any gate open, or from a failure or ineffectiveness of any such controlled access or safety measures undertaken by either or both of them. No representation, warranty or covenants is given to any owner or occupant by either or both of the Declarant and the Association that any controlled access or safety measures installed or undertaken cannot be bypassed or compromised, or that they would, in fact, avert damage or loss resulting from that which they are designed to prevent, and each owner, by acceptance of a deed to a Lot or Dwelling and each occupant thereof shall indemnify and hold the Declarant and the Association harmless from any damage and costs and expenses, including attorney fees, incurred by either or both of them as a result of any such assertion or determination.

The parties hereto acknowledge the recordation of the Private Road Maintenance Agreement dated August 7, 2006, and recorded at Book 12343, Page 1258, Wake County Registry, as amended by that Amended and Restated Private Road Maintenance Agreement and Declaration of Cross Access ("Private Road Maintenance Agreement"). To the extent that the Private Road Maintenance Agreement may be deemed to be effective as of the date of this Declaration, the parties hereby terminate such Private Road Maintenance Agreement and desire for all applicable terms of this Declaration to encumber the Property in lieu of the Private Road Maintenance Agreement. Each Owner shall be responsible for a proportionate share of the costs of maintaining the roads within

the Subdivision as part of the Common Expenses set forth by the Association during the term of this Declaration. In the event that the N.C. Department of Transportation accepts the maintenance of such roads, the obligation to contribute to such costs shall terminate. Upon the termination of this Declaration, the Owner of each Lot shall contribute to the maintenance, replacement, and repair of the roads within the Subdivision to keep such roads in good order and repair, and the Owners of the Lots shall cooperate in connection with such maintenance, replacement, or repair, including payment of such services immediately upon being billed (with the failure to pay such proportionate share within thirty (30) days of the date of billing constituting a failure to pay for labor and materials pursuant to the North Carolina General Statutes, and the Owners paying for such services shall be entitled to perfect a lien against such Lot).

The terms and provisions of this Section shall extend to and be binding upon the parties and their respective successors and assigns, and shall operate as covenants running with each Lot and shall not be barred by any lapse of time. The rights, privileges and easements granted in this Section shall be non-exclusive easements in perpetuity, running with the land, for the benefit of and as an appurtenance to each Lot and binding upon each Lot.

ARTICLE XI
ANNEXATION AND WITHDRAWAL OF PROPERTY

Section 1. Unilateral Annexation by Declarant. As the Owner thereof or, if not the Owner, with the consent of the Owner thereof, Declarant or any Member of Declarant (for purposes of this Article XI, "Declarant" shall include its members) shall have the unilateral right, privilege, and option from time to time at any time until the Conversion Date, to annex and subject such additional real property which is contiguous or adjacent to the boundary of the Property ("Additional Property"), to the provisions of this Declaration or any Supplementary Declaration thereto, by filing for record in the public registry of the county in which the Additional Property to be annexed is located a Supplementary Declaration describing the property being subjected. Any such annexation shall be effective upon the filing for record of such Supplementary Declaration. Declarant may include additional restrictions and limitations affecting any such Additional Property.

Section 2. Other Annexation. Subject to the consent of the Owner(s) thereof and, until the Conversion Date, the consent of Declarant, upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the Total Association Vote, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the public registry of the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President of the Association, whose signature shall be attested by the Secretary of the Association, and any such annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided.

Section 3. Withdrawal of Property. For a period of thirty (30) years after the recordation of this Declaration, Declarant shall have the right, in its sole and absolute discretion, without the consent of the Association, any Association Member or any other Owner, to release any portion of the Property then owned by Declarant from the terms of this Declaration by recording a release in the Office of the Register of Deeds of Wake County, North Carolina. After the recordation of such release, the portion of the Property described thereon shall not be subject to the terms of this Declaration, provided that the foregoing shall not affect the ingress, egress, and access and utility easements in favor of such portion of the Property as set forth in perpetuity in Article X.

ARTICLE XII
MISCELLANEOUS PROVISIONS

Section 1. Duration. This Declaration and the terms, covenants, restrictions and provisions set forth herein shall run with and bind the Property and shall inure to the benefit of every Owner of a Lot in the Property, including Declarant, and their respective heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded and continuing through and including December 31, 2040. At such time, the easements, covenants, conditions and restrictions herein shall be automatically extended for successive period(s) of Ten (10) years each unless, at a duly called annual or special meeting of the Association at which a quorum is present held prior to the expiration of the applicable time period, termination of this Declaration is approved by the affirmative vote of eighty percent (80%) or more of the votes entitled to be cast by the Members present or represented by proxy. A vote by the membership on termination of this Declaration may be held only upon presentation to the Association of a petition for termination signed by Members possessing no less than fifty percent (50%) of the total eligible vote of the membership of the Association, which petition, in the case of an annual meeting of the Association, shall be presented to the Association prior to the date that notice of the annual meeting is sent to the Members. The Association shall give written notice of any annual or special meeting at which termination of this Declaration is to be considered and voted upon to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth that termination of this Declaration will be considered and voted upon at such meeting. If the membership votes to terminate this Declaration, such termination shall be effective upon the expiration of the then applicable time period for which the Declaration is in existence, or shall be effective on such date thereafter as may be specified in the resolution of termination passed by the membership as required herein (it being the intention of this Section, notwithstanding anything to the contrary appearing herein, that if the membership has voted to terminate this Declaration, the membership may set a date of termination that may result in this Declaration continuing to be in effect for a period of less than ten (10) years following the expiration of a preceding time period in which this Declaration was in effect). The quorum required at the annual or special meeting at which termination of this Declaration is to be considered by the membership pursuant to the petition filed with the Association shall be the presence of Members plus proxies entitled to cast eighty percent (80%) or more of the total vote of the membership.

If the Members vote to terminate this Declaration in accordance with the foregoing requirements, then the President and Secretary of the Association shall execute in recordable form a certificate which shall set forth at least the following information: the Resolution of Termination adopted by the Association; the date of the meeting of the Association at which such resolution was adopted; the date that notice of such meeting was given; the total number of votes required to constitute a quorum at such meeting; the total number of votes present at such meeting; the total number of votes necessary to adopt the resolution terminating the Declaration; the total number of votes cast in favor of such resolution; and the total number of votes cast against the resolution. Such certificate shall be recorded in the Wake County, North Carolina Registry no later than thirty (30) days following the date such resolution of termination is passed by the membership, and such certificate may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendment. Subject to the limitations hereinafter contained, this Declaration or any Supplemental Declaration hereto may be amended or modified at any time by the affirmative vote of seventy-five percent (75%) or more of the votes entitled to be cast by the Members present or represented by proxy at a duly called annual or special meeting of the Association at which a quorum is present. Written notice of any such meeting shall be given to all Members at least thirty (30) days in advance of the date of such meeting, which notice shall set forth the amendments to be voted upon at such meeting. Notwithstanding anything contained hereinabove, it is understood and agreed that the consent of Declarant in writing to any amendment or modification of this Declaration or of any Supplemental Declaration must first be obtained if such amendment or modification is to be effective prior to December 31, 2040. Notwithstanding the foregoing requirements for amending this Declaration, Declarant may make minor amendments or modifications hereof which do not involve a change which materially affects the rights, duties or obligations specified herein if Declarant first obtains the affirmative vote of a majority of the total number of votes entitled to be cast by all Members present or represented by proxy at a duly called annual or special meeting of the Association at which a quorum is present. If any amendment to this Declaration is approved as required herein, the President and Secretary of the Association shall execute an amendment to this Declaration which shall set forth the following information, the effective date of the amendment (which in no event shall be less than thirty (30) days following the date of the meeting at which such amendment was adopted by the membership); the date of the meeting of the Association at which such amendment was adopted; the date that notice of such meeting was given; the total number of votes required to constitute a quorum at such meeting; the total number of votes present at such meeting; the total number of votes necessary to adopt the amendment; the total number of votes cast in favor of such amendment; and the total number of votes cast against the amendment. Such amendment shall be recorded in the Wake County, North Carolina Registry within thirty (30) days following the date of the meeting at which such amendment was adopted. The foregoing shall not limit the rights of Declarant under Article II of this Declaration.

Amendments for consideration by the Members may be proposed by the Declarant, or by

resolution adopted by the Association, or by written petition signed by the Members possessing fifty percent (50%) or more of the total votes of the Membership, subject to their right to cast such votes.

Section 3. Dissolution of the Association. The Association shall be dissolved upon the termination of this Declaration, or upon the written assent given in writing and signed by not less than eighty percent (80%) of the Members entitled to vote, or upon such more restrictive or additional conditions and in such manner as otherwise provided by the laws of the State of North Carolina. The quorum required to dissolve this Association shall be in the same manner as provided in Section 1 of this Article relating to the termination of this Declaration.

Section 4. Enforcement. Declarant, the Association, the Board, ARB and every Owner shall have the right to enforce the terms, covenants, conditions, restrictions, easements, charges and liens for which provision is made in this Declaration, which enforcement shall be by any proceeding at law or in equity (or otherwise, as provided in this Declaration) against any Person violating or attempting to violate any such term, covenant, condition, restriction, easement, charge or lien either to restrain violation or to recover damages, and against the land, to enforce any lien created by these covenants; and failure by the Association, Declarant, or any Owner to enforce any such term, covenant, condition, restriction, easement, charges or lien shall in no event be deemed a waiver of the right to do so thereafter or a waiver of any other or future violation of any of same.

Section 5. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 6. Notice. Except as otherwise provided herein, whenever written notice to an Owner (including Declarant) is required hereunder, such notice shall be given by the mailing of same, by United States mail, postage prepaid, first class to the address of such Owner appearing on the records of the Association. It shall be the duty of each Owner to keep the Association informed of such Owner's current mailing address and telephone number. If an Owner has not provided the Association with the Owner's current mailing address the Association may use the street address of such Owner's Lot for that Owner's mailing address.

Section 7. Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 8. Number and Gender. Whenever the context of this Declaration requires, the singular shall include the plural and one gender shall include all.

Section 9. No Exemption. No Owner or other party may exempt himself from the coverage hereof or obligations imposed hereby by non-use or abandonment of such Owner's Lot(s) or the Common Area.

Section 10. Subdivision, Combination of Lots. Prior to the Conversion Date, no Lot shall be subdivided, or its boundary lines changed, without the written consent of Declarant. After the Conversion Date, no Lot shall be subdivided, or its boundary lines changed, without the written consent of the Association; provided however, Declarant may at any time subdivide or change boundary lines of any Lots owned by the Declarant. Two (2) adjoining lots may be combined into a single Lot with the written consent of Declarant and, upon such combination and consent of Declarant, the resulting Lot shall be considered as one Lot for the purposes of this Declaration, except such Lot shall be considered two (2) Lots for purposes of all assessments. Notwithstanding the foregoing, Declarant may combine multiple adjoining Lots into a single Lot, which resulting Lot shall be considered as one Lot for purposes of this Declaration and for purposes of all assessments. The Declarant, hereby expressly reserves unto itself, and to any successor to which Declarant makes a specific assignment of this right, the right to replat any two (2) or more Lots and/or Common Property (so long as replatting of the Common Property conforms with applicable governmental regulations and upon approval by the appropriate governmental authority) shown on the plat of any subdivision of the Property in order to create one or more modified Lots; to recombine one or more Lots and/or Common Property to create a larger Lot; to eliminate from this Declaration Lots that are not otherwise buildable or Lots and/or Common Property that are needed for access to any area of the Property or are needed for use as private roads or access areas, and to take such steps as are reasonably necessary to make such replatted Lots suitable and fit as a building site or access area or roadway, said steps to include, but not to be limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said replatted Lots. If any of the Common Property is recombined with a Lot pursuant to this Section, the Association shall execute all necessary documents to effect the recombination.

Section 11. Conflict Between Declaration Articles and Bylaws. Whenever there exists a conflict between the provisions of this Declaration, Articles or Bylaws, the provisions of this Declaration shall control, and whenever there is a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control.

Section 12. Laws of North Carolina. This Declaration shall be subject to and construed in accordance with the laws of the State of North Carolina and all applicable laws and regulations of the United States of America.

Section 13. Assignment. Declarant specifically reserves the right, in its sole discretion, at any time and from time to time, to assign (temporarily or permanently) any or all of its rights, privileges and powers under this Declaration or under any Supplemental

Declaration.

Section 14. Recordation of Documents. Whenever there is any reference in this Declaration to the recordation of documents, unless there is a contrary reference associated therewith, the place of recordation shall be in the office of the Register of Deeds for Wake County, North Carolina.

Section 15. Grievance Procedure. Every Member agrees that any grievance or dispute involving the Association and/or any other Member, director, officer, ARB, or any third party with whom the Association contracts, with respect to any matters related to the Property, the Subdivision, this Declaration or any Supplemental Declaration, the Association, Common Property, Subdivision amenities, shall, prior to any legal action, be first submitted to informal dispute resolution procedures established from time to time by written resolution of either Declarant or the Board of the Association.

[Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this Declaration to be signed in its corporate name by its duly authorized manager and its seal to be hereunto affixed, the day and year first above written.

DECLARANT:

R&R Adventures, LLC,
A North Carolina limited liability company

By: *Richard M. Lee, Jr.*
Richard M. Lee, Jr. Manager

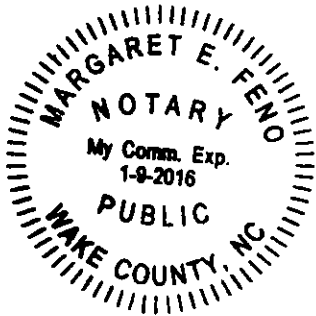
STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned Notary Public of Wake County and the aforesaid State, hereby certify that Richard M. Lee, Jr. personally came before me this day and acknowledged that he is the Manager of R&R Adventures, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.

Witness my hand and official stamp or seal, this 21st day of May, 2012.

Notary Public: *Margaret E. Feno*
(Signature)
Margaret E. Feno
(Print)

My Commission expires: 1-9-2016



Lee Development Company 6, LLC,
A North Carolina limited liability company

By: RLD M LJ
Richard M. Lee, Jr. Manager

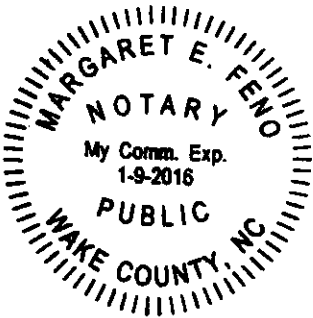
STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned Notary Public of Wake County and the aforesaid State, hereby certify that Richard M. Lee, Jr. personally came before me this day and acknowledged that he is the Manager of Lee Development Company 6, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.

Witness my hand and official stamp or seal, this 21ST day of May, 2012.

Notary Public: Margaret E. Feno
(Signature)
Margaret E. Feno
(Print)

My Commission expires: 1-9-2016



JOINDER BY LENDER AND TRUSTEE

AND IN CONSIDERATION OF the sum of One and no/100 Dollars (\$1.00) paid to RLLT Capital LLC, the receipt of which is hereby acknowledged, RLLT Capital, LLC, as Beneficiary, and Nicole S. Loeffler, as Trustee, do hereby join in the Declaration of Covenants, Conditions, and Restrictions for Alpine Creek Subdivision for the sole purpose of expressing their consent hereto and of binding, subjecting and subordinating the Deed of Trust recorded in Book 14284, Page 2024, Wake County Registry and their interest in the subject property to the terms, covenants and conditions of the aforesaid Declaration.

IN WITNESS WHEREOF, the undersigned do hereby set their hands and seal as of the day and year above first written.

BENEFICIARY:

RLLT Capital, LLC,

By: Richard M. Lee Jr
Name: Richard M. Lee Jr
Title: Manager

TRUSTEE:

By: Nicole S. Loeffler
Name: Nicole S. Loeffler
Title: Trustee

BENEFICIARY ACKNOWLEDGMENT

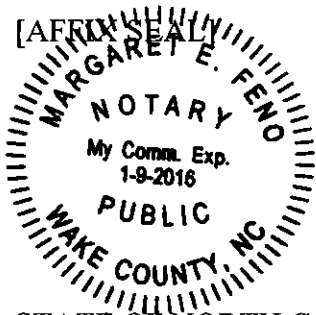
STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

I certify that the following person personally appeared before me this day acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Richard M. Lee, Jr., manager of RLLT Capital, LLC

Witness my hand and notarial stamp or seal, this 21st day of May, 2012.

My commission expires: _____

Margaret E. Feno
Notary Public
Typed or Printed Name Margaret E. Feno



TRUSTEE ACKNOWLEDGMENT

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

I certify that the following person personally appeared before me this day acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Nicole S. Loeffler, Trustee.

Witness my hand and notarial stamp or seal, this 21st day of May, 2012.

My commission expires:

Margaret E. Feno
Notary Public
Typed or Printed Name Margaret E. Feno

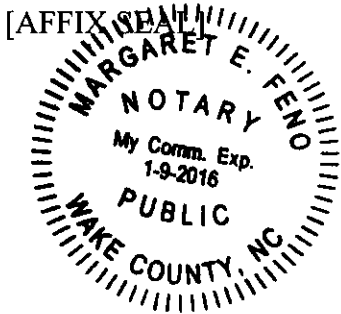


EXHIBIT A

Being all of that property shown as Still Creek subdivision on plats recorded in Book of Maps 2009, Pages 611 through 613, Wake County Registry, exclusive of the property shown as Lot 14 therein, such property being further described without limitation as Lots 1R, 2R, 3, 4R, 5R, 6R, 7R, 8R, 9R, 11R, 12R, 15R, 17R, 18, 19, 20, 21, 22, 23, 24, 25, 26, and all of the property shown as Alpine Creek Drive and Creek Pointe Way, private streets, and the 30' Emergency Access Easement.

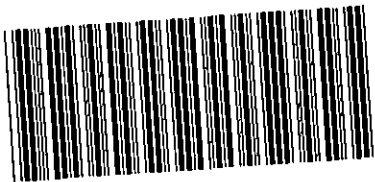
and

Being all of that certain 1.13 acres of property identified as Wake County PIN 1719.02-77-5418 and being further described as follows: beginning at the northeast corner of the above-referenced Lot 12R, said point being located in the southern line of that 30' Private Street known as Alpine Creek Drive, runs thence from said point and place of beginning, along and with the eastern boundary line of the above-reference Lot 12R, the following courses and distances: (1) S 02° 25' 42" W 137.39' to a point; and (2) S 35° 43' 19" E 235.89' to a point; thence leaving said eastern boundary line of the above-referenced Lot 12R, runs thence N 83° 32' 31" E 45.53' to a point; runs thence N 13° 16' 05" E 227.22' to a point in the southern line of a 30' Private Street known as Alpine Creek Drive, thence along the southern line of said Private Street the following courses and distances: (1) along and with a curve to the right having a radius of 95.00 feet, an arc length of 47.16 feet, and an interior chord bearing and distance of N 52° 54' 54" W 46.67 feet to a point; (2) along and with a curve to the right having a radius of 105.00 feet, an arc length of 53.53 feet, and an interior chord bearing and distance of N 53° 18' 01" W 52.95 feet to a point; (3) along and with a curve to the left having a radius of 815.00 feet, an arc length of 40.66 feet, and an interior chord bearing and distance of N 66° 28' 36" W 40.66 feet to a point; and (4) along and with a curve to the left having a radius of 285.00 feet, an arc length of 116.11 feet, and an interior chord bearing and distance of N 76° 43' 07" W 115.31 feet to the point and place of beginning, being identified as "A Portion of Lot 13" all according to that survey titled "ALTA/ACSM Land Title Survey for R & R Adventures, LLC of Still Creek Subdivision" by Daniel L. Hatch PLS, dated February 22, 2011.

BK014772PG02758

EXHIBIT B

Being all of Lot 14, Still Creek Subdivision, as shown on plats recorded in Book of Maps 2007, Pages 1840 through 1842, Wake County Registry.



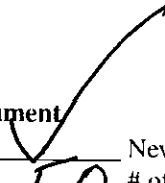
BOOK:014772 PAGE:02710 - 02759

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



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

This Customer Group
_____ # of Time Stamps Needed

This Document 
_____ New Time Stamp
_____ # of Pages
50
F