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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

AVALON SPRINGS

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVALON SPRINGS

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EXHIBIT	NAME
A	DEFINITIONS
B	PROPERTY SUBMITTED
C	BYLAWS OF AVALON SPRINGS HOMEOWNERS ASSOCIATION, INC.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVALON SPRINGS

THIS DECLARATION is made on the date hereinafter set forth by AVALON SPRINGS, LLC, a North Carolina limited liability company (hereinafter referred to as "Declarant").

BACKGROUND STATEMENT

Declarant is the owner of the real property described in Article II, Section 1 of this Declaration. Declarant desires to subject the real property described in Article II, Section 1 hereof to the provisions of this Declaration to create a residential community that will include various types of residential housing and to provide for the subjecting of other real property to the provisions of this Declaration. Declarant intends hereby to create a Planned Community as that term is defined and subject to the provisions of Chapter 47F of the North Carolina General Statutes.

NOW, THEREFORE, Declarant hereby declares that the real property described in Article II, Section 1 of this Declaration and any additional property subjected to the Declaration as authorized in Article II, Section 2 of this Declaration, including the improvements constructed or to be constructed thereon, are hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

ARTICLE I
DEFINITIONS

Unless the context shall prohibit, certain words used in this Declaration shall be defined as set forth in Exhibit "A", attached hereto and by reference made a part hereof.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property Hereby Subjected To This Declaration. The real property described in Exhibit "B," attached hereto and by reference made a part hereof, is, by the recording of this Declaration, hereby subject to the covenants and restrictions hereafter set forth and shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration.

Section 2. Other Property. Only the real property described in Section 1 of this Article II is hereby made subject to this Declaration; provided, however, by one or more Supplementary Declarations, Declarant and the Association have the right, but not the obligation, to subject other real property to this Declaration, as hereinafter provided.

ARTICLE III
THE ASSOCIATION

Section 1. Scheme and Purpose. Prior to the date this Declaration has been filed for record with the Register of Deeds for Wake County, North Carolina, the Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association is and shall be responsible for the ownership, management and operation of the Common Property, the maintenance and repair of the Stormwater Control Measures located on Avalon Springs Properties in compliance with the ordinances of the Town of Fuquay-Varina, the enforcement of the covenants and restrictions set fort in this Declaration, the collection of all assessments provided for in Article IV of this Declaration, and the performance of such other duties and the provision of such services as the Board of Directors shall deem to be in the best interests of the Members. The Association shall have all the power and authority provided in the Association by the provisions of Section 47F-3-102 of the North Carolina Planned Community Act.

The Declarant's plan for the development of Avalon Springs Property contemplates that the Lots located in different portions of the Properties will be developed with the construction of residential dwellings as patio homes, and that the Association will provide limited landscaping and grounds maintenance on certain lots within Avalon Springs. There shall be no requirement that the services to be provided by the Association be provided uniformly to all of the Properties and the Board of Directors shall have the specific power and authority to cause the Association to provide certain services to certain Lots that it shall not provide to other Lots, as may or may not be specifically defined within this Declaration.

Section 2. Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in 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 giving of a security interest shall not terminate the Owner's membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership 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 3. Classes of Membership; Voting Rights. The Association shall have two (2) classes of voting membership: Class A and Class B.

(a) Class A. The Class A Members shall be all those persons holding an interest required for membership in the Association, as specific in Section 2 of this Article III, and who own a Lot upon which is constructed a dwelling. The Class A Members shall be entitled to full voting privileges on the earliest of the following dates to occur: (i) the date which the Declarant may so designate by a written designation executed by the Declarant; (ii) the date on which certificates of occupancy have been issued for seventy-five percent (75%) of the Lots; or December 31, 2015. Before the earliest of these 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 (b) any proposal pursuant to Article XII to amend this Declaration; (c) any vote to increase the annual assessment for Class A Members or to impose a Special Assessment against Class A Members, as provided in Article IV of this Declaration; and (d) any other matter for which it is herein specifically provided, or for which it is provided by the N.C. Planned Community Act or the North Carolina Nonprofit Corporation Act, that approval of each and every class of members of the Association is required.

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 2 of this Article III. If only one of the multiple owners of a lot is present at a meeting of the association, the owner who is present is entitled to cast all the votes allocated to that lot. If more than one of the multiple owners are present, the votes 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 of the multiple owners casts the votes 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.

(b) Class B. The Declarant shall be the sole Class B member. Class B membership shall be a full voting membership, and, during its existence, the Class B member shall be entitled to vote on all matters and in all events. The Class B member shall be entitled to five (5) votes for each Lot owned by the Class B member. Without limiting the generality of the foregoing, the Class B member will itself elect all of the members of the Association's Board of Directors until the termination of the Class B membership. At such time as the Class A Members shall be entitled to full voting privileges, as provided in subparagraph (a) above, the Class B membership shall automatically terminate and cease to exist, and the Class B Member shall convert to Class A membership for each of the Lot(s) owned by Declarant at that time.

ARTICLE IV
ASSESSMENTS

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, common benefit, use and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors. Without limiting the generality of the foregoing, the purpose for which the assessments provided for herein shall be used include the costs of: repair and maintenance of all Common Property; payment of all governmental charges, taxes and assessments which shall be levied against all Common Property; payment of all costs and expenses incurred in connection with the maintenance and repair of the Stormwater Control Measures; and payment of the fees for provision of such professional services as the Executive Board shall determine to be required by the Association, including legal, accounting and architectural services; payment of all costs and expenses incurred in providing landscaping and grounds maintenance on the Lots as further provided in this Declaration.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, jointly and severally covenants and agrees to pay to the Association: (a) annual assessments to fund Common Expenses for the general benefit of all Lots; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration.

All such assessments, together with late charges, interest at the rate of ten percent (10%) per annum on the principal amount due, and costs, including, without limitation, reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made in favor of the Association and the Association shall be entitled to file a document evidencing such lien in the public registry of the county in which the Lot is located. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage. Second mortgages from any source shall be subordinate to the

lien for such assessments. All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such public registry shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Each such assessment, together with late charges, interest, costs, including, without limitation, reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

The Association shall, within five (5) business days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

Annual assessments shall be levied at a uniform rate per Lot, and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in annual installments.

Section 3. Annual Assessment. The maximum annual assessment for the 2006 calendar year shall not exceed One Thousand Two Hundred Sixty Dollars ($1,260.00) per Lot. From and after the 2006 calendar year, the annual assessment effective for any subsequent year may be increased the succeeding year by the Board of Directors, without a vote of the membership, by a percentage which may not exceed ten percent (10%) above the maximum assessment for the previous year. From and after the 2006 calendar year, the annual assessment may be increased by a percentage greater than permitted by this Section 3 by an affirmative vote of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose.

The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum for all Lots.

Section 4. Computation. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the assessments to be levied against each Lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year (or, if the assessment has not been established at the time an Owner purchases such Owner's Lot, at least thirty (30) days prior to the due date of the first installment in the case of the initial budget). Notwithstanding the foregoing, however, in the event the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Within 30 days after adoption of any proposed budget for the planned community, the Board of Directors shall provide to all Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Board of Directors shall set a date for a meeting of Owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all Owners in the association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by Owners shall be continued until such time as Owners ratify a subsequent budget proposed by the Board of Directors.

Section 5. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments provided, however, any such assessment shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Any such special assessments shall be paid as determined by the Board, and the Board may permit such special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than ten days (10) shall incur a late charge in a reasonable amount as the Board may from time to time determine. The Association may cause a notice of delinquency to be given to any of its respective members who have not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include interest at the rate of ten percent (10%) per annum on the principal amount due from the date first due and payable, all late charges, all costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents, the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the right, but not the obligation, to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

Section 7. Date of Commencement of Assessments. The assessments provided for herein shall commence as to a Lot when a certificate of occupancy has been issued by the appropriate governmental entity for such Lot. Assessments shall be due and payable in a manner and on a schedule as the Board may provide. Notwithstanding the above, any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Lot is approved for use as a model home and is not occupied for residential purposes.

Section 8. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article XII, Section 1 of this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible under Article V, Sections 1 and 2 of this Declaration shall be specific assessments. The Board may also specifically assess Owners for the following Association expenses:

(a) expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and

(b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Section 9. Notice and Quorum for Any Action Authorized Under Sections 3 and 5. Written notice of any meeting called for the purpose of taking any action required under Article IV, Sections 3 and 5 of this Declaration shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 10. Initiation Fee. Upon the closing of each sale of every Lot to an Owner who will individually or through tenants or assigns occupy a Lot (whether or not such Lot has been previously occupied as a residence), an initiation fee in the amount of Seventy-Five Dollars ($75.00) shall be collected from the new Owner at the closing of such sale for the benefit of the Association.

ARTICLE V
MAINTENANCE; CONVEYANCE OF PROPERTY TO ASSOCIATION

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Property, except any portion of such property which is maintained on an ongoing basis by a local governmental entity. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. The Association shall also be responsible for maintenance of and all liability associated with all drainage detention and retention ponds and areas originally maintained by Declarant, to the extent such responsibility has not been assumed on an ongoing basis by a local governmental entity. The Association shall also maintain: (a) all entry features for the Community including the expenses for landscaping (whether such landscaping is on a Lot or public right-of-way) irrigation systems, water and electricity, if any, provided to all such entry features; (b) streetscapes located at other street intersections within the Community; (c) all cul-de-sac or median islands located in the Community; and (d) all property outside of Lots located within the Community which was originally maintained by Declarant.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community, where the Board has determined that such maintenance would benefit all Owners.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, invitees or contractors of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof 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 of such Owner.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

Section 2. Association's Responsibility for Maintenance on Individual Lots. In addition to the maintenance of the Common Property, the Association shall provide maintenance upon each Lot which is subject to assessment hereunder, as follows: trees, shrubs, grass, walks, mailboxes, fences installed by the Declarant or Association, and other exterior improvements. Such maintenance shall not include glass surfaces, screens, awnings, any portion of the window or window frame (with the exception of painting the exterior thereof), any portion of any door or door frame (with the exception of painting the exterior thereof). If permitted by the Architectural Control Committee, the Association shall not be responsible for the maintenance, repair or reconstruction of any approved (or unapproved) additions to dwellings made after completion of the initial dwelling or for the maintenance, repair or reconstruction of any improvements to any Lot beyond the original construction. Further, the Association shall not be responsible for maintenance, repair or reconstruction of any damage to any Lot, the cost of which repair or reconstruction would be covered by casualty insurance, whether or not a policy of casualty insurance is in effect.

The Owner of any Lot may, at his election, plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions of all of his rear yard, provided that such maintenance by the Owner does not hinder the Association in performing its maintenance of the remaining yard spaces. No such maintenance by an Owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Board of Directors, the Owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the Owner's maintenance rights for the rear yard. The Owner shall not plant any

vegetation in the front yard except with the prior written approval of the Association's Architectural Control Committee.

Section 3. Owner's Responsibility. Except as provided in Sections 1 and 2 above, 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 the Community-Wide Standard and this Declaration. If the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair, or replacement, or, if such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot. The remedies provided in this Section shall be in addition to, and not in lieu of, other remedies provided in this Declaration for a violation of the Declaration.

It shall be the responsibility of each lot owner to prevent and correct unclean, unsightly or unkempt conditions of building or lots. All lots shall be kept clean and free of garbage, junk, trash, debris, non-operable vehicles and apparatus, and any substance and conditions that might contribute to an unsightly condition, health hazard or the breeding and habitation of snakes, rats or insects. The owners of lots shall be responsible for the mowing of their lawn as needed, the maintenance and protection of landscaping including trees within the street right of way, the proper drainage of the lot so as to prevent soil erosion, and the maintenance of the home and other structures and improvements located on said lot so as to insure their good conditions and appearance. "Lot" as used in this section also includes that portion of the lot between the right of way and the pavement.

Section 4. Conveyance of Property by 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 Common Property 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 VI
USE RESTRICTIONS AND RULES

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may only be amended in the manner provided in Article XII, Section 4 hereof regarding amendment of this Declaration. The Board may, from time to time, without consent of the members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless (a) modified or deleted by the Board as provided above, or (b) overruled, cancelled, or modified in a regular or special meeting by a majority of the Total Association Vote.

Section 2. Residential Use. All Lots shall be used for residential purposes exclusively. No business or business activity shall be carried on, in or upon any Lot at any time except with the written approval of the Board. Leasing of a Lot shall not be considered a business or business activity. However, the Board may, but shall not be obligated to, permit a Lot to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or Bylaws, does not create a disturbance and does not unduly increase traffic flow or parking congestion. The Board may issue rules regarding permitted business activities.

Section 3. Architectural and Landscaping Standards. No exterior construction, alteration, addition, erection or landscaping of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition, erection, alteration or landscaping shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, color, texture and location shall have been submitted in writing to and approved by an Architectural Control Committee ("ACC").

The ACC may be established such that it is divided into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. The Board may employ architects, engineers, or other Persons as it deems necessary to enable the ACC to perform its review. The ACC may, from time to time, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the committee for all matters delegated. Written design guidelines and procedures may be promulgated for the exercise of this review, which guidelines may provide for a review fee. So long as Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community, Declarant shall have the right to appoint all members of the ACC. Upon the expiration or earlier surrender in writing of such right, the Board shall appoint the members of the ACC.

If the ACC fails to approve or to disapprove submitted plans and specifications within sixty (60) days after the completed plans and specifications have been submitted to it, the foregoing will be deemed approved. However, all activities commenced pursuant to such plans which have been deemed approved shall be consistent with such plans. In addition, no approval, whether expressly granted or deemed granted as provided herein, shall be inconsistent with this Declaration or any design guidelines promulgated hereunder unless a variance has been granted in writing pursuant to Article XII, Section 15 of this Declaration.

As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the ACC, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The ACC shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in Article XII, Section 1 hereof, record in the appropriate public registry a notice of violation naming the violating Owner.

PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ACC, THE MEMBERS THEREOF, 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 ACC, 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 ACC, 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 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 4. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the ACC except (a) when offering a Lot or residence for sale or for lease, not more than one (1) professionally lettered "For Sale" or "For Rent" sign consistent with the Community-Wide Standard and having a maximum area of four (4) square feet and a maximum height of four (4) feet above ground level, (b) professional security signs consistent with the Community-Wide Standard, (c) any signs required by legal proceedings, and (d) signs erected by Declarant. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs.

Section 5. Vehicles/Garages. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, limousines and automobiles. Vehicles shall not be parked on any street within the Community or on any portion of a Lot other than in the garage; provided, however, if, and only if, the Occupants of a Lot have

more vehicles than the number of garage parking spaces, those excess vehicles which are an Occupant's primary means of transportation on a regular basis may be parked on the driveway of the Lot.

Notwithstanding the above, no towed vehicle, trailers, boat, boat trailer, recreational vehicle, motor home, mobile home, bus, truck with camper top, trucks (except pick-up trucks or sport utility vehicles), commercial vehicles (including, without limitation, vehicles with commercial writing on their exteriors), motorcycle, minibike, scooter, go-cart or similar recreational vehicles shall be permitted on any Lot, except if kept in an enclosed garage, for periods longer than forty-eight (48) consecutive hours (the intent of this provision is that the aforementioned vehicles may not be stored on a Lot except if in a garage and the temporary removal of such vehicle from a Lot to break the continuity of the forty-eight (48) consecutive hours shall not be sufficient to establish compliance with this restriction).

All single-family detached homes shall contain a garage unless special exception is granted by the Declarant; carports shall not be permitted.

No vehicle may be left upon any portion of the Community, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Any such vehicle shall be considered a nuisance and may be removed from the Community.

No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board. All parking shall be subject to such rules and regulations as the Board may adopt.

Section 6. Leasing. Lots may be leased for residential purposes. All leases shall have a minimum term of at least twelve (12) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, the Bylaws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing, and the lease shall provide that the violation of any provision of this Declaration, the Bylaws, use restrictions and rules and regulations of the Association shall be a breach of said lease, subjecting the tenant to termination of the lease and eviction.

Section 7. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 8. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, except that dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board, may be kept on a Lot; provided, however, those pets which, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of any Lot or the owner of any property located adjacent to the Community, may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community. No structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for such structure have been approved by the ACC in accordance with this Declaration.

Section 9. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

Section 10. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community except in an enclosed garage.

Section 11. Antennas. The Board may issue rules regarding the erection of exterior antennas, including, without limitation, satellite dishes; provided such rules do not prevent reception of acceptable quality signals or cause an unreasonable delay or cost. 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 Community, including any Lot; provided such screening and location do not prevent reception of acceptable quality signals or cause an unreasonable delay or cost. In no event shall any such antenna or satellite dish in excess of one (1) meter in size be permitted in the Community except if installed by the Declarant or the Board as provided in this Section. Declarant and the Board 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 Community. 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. Tree Removal. No trees that are more than four (4) inches in diameter (twelve and one-half (12 1/2) inches in circumference) at a point four and one-half (4 1/2) feet above the ground shall be removed without the prior written consent of the ACC except (a) dead or diseased trees, (b) trees that are located within ten (10) feet of a drainage area, a septic field, a sidewalk, a residence or a driveway, (c) trees removed by Declarant, or (d) trees removed during the construction of the original dwelling on a Lot. No trees shall be planted in the Community without the prior written consent of the ACC.

Section 13. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for the benefit of Declarant (for as long as the Declarant owns property for development and/or sale in the Community) and the Association and their respective successors and assigns (perpetually) an easement across the Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of

interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 14. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 15. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property; provided, however, if rubbish, garbage or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on the evening before a pick-up is to be made as necessary to provide access to Persons making such pick-up. All rubbish, trash, and garbage shall be regularly removed (no less frequently than weekly) and shall not be allowed to accumulate. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community except by Declarant or a builder during the original construction on a Lot.

Section 16. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the ACC. 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 Community pursuant to Article IX, Section 1 of this Declaration. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations and shall not constitute a violation of Section 2 of this Article VI of the Declaration.

Section 17. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, bows and arrows, sling shots and small firearms of all types.

Section 18. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the ACC. The ACC may issue guidelines detailing acceptable fence styles or specifications but in no event may an uncoated chain link or barbed wire fence be approved.

Section 19. Utility Lines. Except as may be permitted by the ACC, no overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

Section 20. Air-Conditioning Units. No window air conditioning units may be installed except as may be permitted by the ACC, but in no event shall a window air conditioning unit be installed in any dwelling so as to be visible from the front of any Lot or any adjoining street.

Section 21. Lighting. Except as may be permitted by the ACC, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) one decorative post light, (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights from Thanksgiving to the following New Year's Day; or (e) front house illumination of model homes.

Section 22. Artificial Vegetation, Exterior Sculpture, Exterior Statuary and Similar Items. No artificial vegetation or plastic animal decorations, such as pink flamingos, etc., shall be permitted on the

exterior of any property. Exterior sculpture, fountains, flags, bird baths, bird houses, and similar items must be approved by the ACC; but in no event shall be located so as to be visible from the front of any Lot or any adjoining street.

Section 23. 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 ACC.

Section 24. Swimming Pools. No swimming pool or outside jacuzzi or hot tub shall be constructed, erected or maintained upon any Lot without the prior written consent of the ACC, and in no event shall any above-ground swimming pool be permitted.

Section 25. 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 ACC.

Section 26. Mailboxes. All mailboxes and mailbox posts shall be of a similar style and color as that installed initially by the original homebuilder.

Section 27. Exteriors. Any change to the exterior color, finish or texture of any improvement located on a Lot, including, without limitation, the dwelling, the roof on any dwelling or any fence, must be approved by the ACC.

Section 28. Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

Section 29. Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the ACC.

Section 30. Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose.

Section 31. 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 Community.

Section 32. Outbuildings and Similar Structures. No structure of a temporary nature, unless approved in writing by the ACC, shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn or other structure may be used as a residence, either temporarily or permanently. However, this Section shall not be construed to prevent Declarant and those engaged in development, construction, marketing, property management or sales from using sheds, trailers or other temporary structures for any of the foregoing purposes. In addition, nothing in this Declaration shall be construed to prevent Declarant or any builder from developing, constructing, marketing, or maintaining model homes or speculative housing within the Community.

Section 33. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans

and specifications, require the use of certain means of preventing and controlling of such erosion or siltation.

ARTICLE VII
INSURANCE AND CASUALTY LOSSES

Section 1. Insurance by Association. As provided in Section 47F-3-113 of the North Carolina Planned Community Act, it shall be the duty of the Association to obtain and maintain in effect at all times a policy of casualty insurance on all improvements located on the Common Property. The amount of such policy shall be in an amount that is no less than eighty percent (80%) of the replacement cost of the improvements to be insured with deductibles in amount to be determined by the Board of Directors. The Board or the duly authorized agent of the Association shall have the authority to and shall obtain or cause to be obtained insurance for all insurable improvements, whether or not located on the Common Property, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million Dollars ($1,000,000.00).

The Board is hereby authorized, but not required, to contract with or otherwise arrange to obtain the insurance coverage required hereunder through Declarant and to reimburse Declarant for the cost thereof, and Declarant shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and its members upon Declarant and the Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant in obtaining such coverage. Notwithstanding anything contained in this Declaration to the contrary, the Board shall not be required to comply with the provisions of this Article if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through Declarant.

Premiums for all insurance shall be Common Expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee for the respective benefited parties. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in North Carolina.

(b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(c) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if these are reasonably available, and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.

(e) The Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

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

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

(iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, subjected to non-renewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be cancelled, subjected to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be determined in the directors' best business judgment, and, if available, shall at least equal three (3) months' assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled, subjected to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs ("VA"), or the U.S. Department of Housing and Urban Development ("HUD").

Section 2. Damage and Destruction -- Insured by Association.

(a) In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or

restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote otherwise agree.

If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of its members, levy a special assessment against all Owners subject to its jurisdiction in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community in a neat and attractive condition. In the event that it shall be so decided not to repair or reconstruct any such damage or destruction, the proceeds of any insurance as may become payable to the Association as a result of such damage or destruction shall be applied to such purposes as may be determined by the Board of Directors for the Association.

Section 3. Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XII, Sections 1 and 2 of this Declaration.

Section 4. Insurance Deductible. The deductible for any casualty insurance policy shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the purchase of such insurance, for maintenance of the damaged or destroyed property.

ARTICLE VIII
CONDEMNATION

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, at least

seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of Article VII, Section 2 above, applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE IX
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 shall have the unilateral right, privilege, and option from time to time at any time until seven (7) years after the recording of this Declaration to annex and subject such additional real property which is contiguous to the boundary of Avalon Springs Community as shown on Exhibit "B" attached hereto and by reference made a part hereof, 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 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 unless otherwise provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, Declarant may include additional restrictions and limitations affecting any such annexed real property. Such additions must not collectively total more than 200 acres, must be approved by the Town of Fuquay Varina and may not conflict with legal declarations recorded in the Office of the Register of Deeds of Wake County.

Section 2. Other Annexation. Subject to the consent of the owner(s) thereof and the consent of Declarant (so long as Declarant has the right unilaterally to annex additional property to the Community), upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots (other than Lots owned by Declarant so long as the consent of Declarant is required), 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 therein.

Section 3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration at any time until seven (7) years after the recording of this Declaration for the purpose of removing any portion of the Community then owned by the Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

ARTICLE X
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to this Declaration and the Bylaws notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or the Bylaws which is not cured within sixty (60) days;

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

(d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

Section 2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 3. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. VA/HUD Approval. As long as Declarant has the right to appoint and remove the directors of the Association, the following actions shall require the prior approval of the VA, so long as the VA is guaranteeing any Mortgage in the Community, and HUD, so long as HUD is insuring any Mortgage in the Community: annexation of additional property to the Community, except for annexation by Declarant in accordance with Article IX, Section 1 hereof pursuant to a plan of annexation previously approved by the VA and/or HUD, as applicable; dedication of Common Property to any public entity; mortgaging of Common Property; mergers and consolidations; dissolution of the Association; and material amendment of the Declaration, the Bylaws, the Articles of Incorporation of the Association.

Section 5. Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or North Carolina law for any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Section 7. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

ARTICLE XI
EASEMENTS

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant or the Association.

Section 2. Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to such Lot, subject to the following provisions:

(i) the right of the Association to suspend the right of an Owner to use and enjoy the Common Property for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid provided such suspension does not inhibit access to such Owner's Lot; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

(ii) the right of the Association to borrow money for the purpose of improving the Common Property or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property if approved by the affirmative vote of the members entitled to at least two-thirds (2/3) of the votes appurtenant to the Lots then subject to the Declaration; provided, however, the lien and encumbrance of any such Mortgage shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant, or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community (Any provision in this Declaration or in any such Mortgage to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant, or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community.);

(iii) the right of the Association to dedicate or grant licenses, permits or easements over, under and through the Common Property to governmental entities for public purposes;

(iv) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the affirmative vote of the Owners of at least two-thirds (2/3) of the Lots (other than Lots of Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as Declarant has the right unilaterally to annex additional property to the Community).

(v) the Declarant and Association do hereby grant an easement in favor of the applicable party across, in, under, over and through the Common Property for the purposes of the construction, installation, repair, maintenance and use of all utility and drainage facilities as exist on the date of this Declaration and as may exist from time to time; and

(vi) the Declaration and Association do hereby grant an easement across, in, under, over and through the Common Property for the purposes of access and maintenance of the Stormwater Control Measures.

(b) Any Lot Owner may extend such Owner's right of use and enjoyment granted hereunder to the members of such Owner's family and to such Owner's tenants and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases such Owner's Lot shall be deemed to have delegated all such rights to the lessee of such Lot.

Section 3. Easements for Utilities. There is hereby reserved to Declarant and the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which Declarant or the Association might decide to have installed to serve the Community. It shall be expressly permissible for Declarant, the Association, or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement. Within any easements for the installation and maintenance of utilities and drainage facilities shown on a recorded plat of any portion of the Community, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of waters through drainage channels in the easements.

Section 4. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XII, Section 2 hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security, and safety reasons, which right may be exercised by the manager, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

Section 5. Easement for Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association as are necessary to allow for the maintenance required under Article V. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 6. Easement for Entry Features. There is hereby reserved to Declarant and the Association an easement for ingress, egress, installation, construction, landscaping and maintenance of entry features and similar streetscapes for the Community, over and upon each Lot in the Community on which entry features and similar streetscapes have been installed by Declarant. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features.

Section 7. Construction and Sale Period Easement. Notwithstanding any provisions contained in this Declaration, the Bylaws, the Articles of Incorporation of the Association, use restrictions, rules and regulations, design guidelines, and any amendments thereto, for as long as Declarant owns any property in the Community for development and/or sale or has the right unilaterally to subject additional property to the Declaration, Declarant reserves an easement across all property described on Exhibit "B" and any other real property later annexed to this Declaration for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such builder's or developer's development, construction, and sales activities related to property described on Exhibit "B" and any other real property later annexed to this Declaration for Declarant to this Declaration, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Lot; the right to tie into any portion of the Community with driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to grant easements over, under, in or on the Community, including, without limitation, the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, model residences, and sales offices. Declarant and any such builder or developer may use residences, offices, or other buildings owned or leased by Declarant or such builder or developer as model residences and sales offices and may also use recreational facilities, if any, within the Community as a sales office without charge. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without Declarant's express written consent until Declarant's rights hereunder have terminated as hereinabove provided.

Section 8. Easements Over the Lots. The Lots shall be subjected to, and the Declarant does hereby grant to the appropriate grantees thereof, the following easements:

(a) Each Lot shall be subject to all easements which are shown and depicted on any recorded plat as affecting and burdening such Lot;

(b) Each Lot shall be subject to an easement for slope control purposes, including the right to grade and plat slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;

(c) Each Lot shall be subject to the easements necessary for maintenance of the Stormwater Control Measures;

(d) Those Lots shown on the Subdivision Plat as having a "sign easement" shall be subject to an easement for the installation, maintenance and repair of an entrance monument or sign by the Association;

(e) Those Lots shown on the Subdivision Plat as having a "landscape easement" shall be subject to an easement for the installation and maintenance of the landscaping, walls and fences located on the area designated on the Subdivision Plat. No members, his contractors, tenants or family members shall remove or damage any landscape situation within the landscape easement;

(f) Those Lots shown on the Subdivision Plat as having a "pedestrian access easement" shall be subject to an easement for access across, over and through the area designated on the Subdivision Plat;

(g) Each Lot shall be subject to a non-exclusive perpetual access easement for the repair, maintenance or reconstruction of any dwelling located on n adjoining Lot where the dwelling is located closer than five (5) feet from the lot line common to such adjoining lots. The repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the owner of the benefited Lot shall restore the adjoining burdened Lot to as near the same condition as that which prevailed prior to the commencement of such repair work as is reasonably practicable.

ARTICLE XII
GENERAL PROVISIONS

Section 1. Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed to such Owner's Lot, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws, or any applicable rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or, in a proper case, by an aggrieved Owner. In any such action for damages or injunctive relief brought by the Association, the Association shall be entitled to recover reasonable attorney's fees actually incurred and court costs incurred by the Association in bringing such action. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions, or design guidelines and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing. The Association shall also have the right to suspend the voting rights of a Lot Owner for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for an infraction of the Declaration, the Bylaws or any rules and regulations applicable to such Owner for a period no longer than sixty (60) days after the infraction has been corrected.

Section 2. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of the Community to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law; provided, however, so long as, and to the extent that, North Carolina law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision shall be (a) automatically extended (to the extent allowed by applicable law) for successive periods of twenty (20) years, unless a written instrument reflecting disapproval signed by the then Owners of at least two-thirds (2/3) of the Lots and Declarant (so long as Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community) has been recorded within the year immediately preceding the beginning of a twenty (20) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended as otherwise provided by law. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Declarant has the right unilaterally to annex additional property to this Declaration as provided in Article IX hereof, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owners hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots (other than Lots of Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. No provision of this Declaration which reserves or grants special rights to Declarant shall be amended without Declarant's prior written approval so long as Declarant owns any property for development and/or sale in the Community, or subject to annexation to the Community.

Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in the appropriate court in the county in which the Community is located within one (1) year of the recordation of such amendment in the public registry of the county in which the Community is located.

Section 5. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 6. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 7. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 8. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such

provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 9. Indemnification. To the fullest extent allowed by applicable North Carolina law, the Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The right to indemnification of officers and directors provided herein shall not apply to any liability of such officers or directors by reason of being or having been a member in the Association. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

Section 10. Books and Records.

(a) Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by the duly appointed representative of any member and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to such Person's interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

Section 11. Financial Review. A review of the books and records of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the financial statements at the annual meeting, by a majority of the Total Association Vote, the Owners may require that the accounts of the Association be audited as a Common Expense by an independent certified public accountant. Upon written request of any institutional holder of a first Mortgage

and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements within ninety (90) days of the date of the request.

Section 12. Notice of Sale or Lease. In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sale or lease, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably request.

Section 13. Agreements. Subject to the prior approval of Declarant (so long as Declarant has the right unilaterally to annex additional property to the Community), all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community. Notwithstanding anything to the contrary herein, and pursuant to Section 47F-3-105 of the North Carolina Planned Community Act, the Association shall have the unqualified right to terminate any contracts and/or leases entered into by the Declarant, or by its appointed Board of Directors during the period of Declarant control, without penalty, provided a minimum of ninety (90) days notice is given.

Section 14. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 15. Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from the provisions of Article VI of this Declaration, and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 16. Security. The Declarant or the Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety in the Community. Notwithstanding the providing of any such measures or taking of any such action by Declarant or the Association, each Owner, for himself or herself and his or her tenants, guests, licensees and invitees, acknowledges and agrees that neither the Declarant nor the Association is a provider of security and shall have no duty to provide security in the Community. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide security shall lie solely with each Lot Owner. Neither the Declarant nor the Association shall be held liable for any loss or damage by reason of the failure to provide adequate security or ineffectiveness of security measures undertaken or provided.

Section 17. Stormwater Control Measures. The Town of Fuquay Varina requires stormwater runoff form Avalon Springs Property to be controlled and nitrogen loading from stormwater runoff from Avalon Springs Property be reduced. To comply with the Town requirements, Stormwater Control Measures will be installed and maintained. On behalf of each Member, the Association shall maintain, repair, replace and reconstruct the Stormwater Control Measures so that at all times the Stormwater Control Measures shall perform as designed and at all times shall comply with all applicable laws, ordinances, regulations, rules and directive of governmental authorities.

IN WITNESS WHEREOF, the undersigned, Declarant herein, hereby executes this instrument by and through its duly authorized representatives and under seal this 24 day of October, 2005.

AVALON SPRINGS, LLC,
A North Carolina Limited Liability Company

By: _____

_____, Member-Manager

VIRGINIA
~~NORTH CAROLINA~~
~~WAKE COUNTY~~ NEWPORT NEWS

I, a Notary Public of the County and State aforesaid, certify that Lewis A. McMurran, III, personally appeared before me this day and acknowledged that he is a Member-Manager of AVALON SPRINGS, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by him as Member-Manager.

Witness my hand and official stamp or seal, this 24th day of October, 2005.

(STAMP/SEAL)

_____
NOTARY PUBLIC

My Commission Expires: 6/30/06

IN WITNESS WHEREOF, the undersigned, Declarant herein, hereby executes this instrument by and through its duly authorized representatives and under seal this 24th day of Oct., 2005.

AVALON SPRINGS, LLC,
A North Carolina Limited Liability Company

By: _____

_____, Member-Manager

~~NORTH CAROLINA~~ VIRGINIA
~~WAKE COUNTY~~ NEWPORT NEWS CITY

I, a Notary Public of the County and State aforesaid, certify that LEWIS A. McMURRAN, III _____, personally appeared before me this day and acknowledged that he is a Member-Manager of AVALON SPRINGS, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by him as Member-Manager.

Witness my hand and official stamp or seal, this 24 day of Oct., 2005.

(STAMP/SEAL)

JOAN M. SMITH NOTARY PUBLIC COMMONWEALTH OF VIRGINIA

_____
NOTARY PUBLIC

My Commission Expires: 6/30/06

Consented to by Mortgagee:

BANK OF AMERICA, N.A.

BY: LaVery I. Brown
LaVery I. Brown, Vice President

PRLAP, INC., TRUSTEE for Bank of America

By: _____, SVP President

STATE OF ~~NORTH CAROLINA~~ VIRGINIA
~~COUNTY~~ City OF Norfolk

I, a Notary Public of the County and State aforesaid, certify that LAVery I T. Brown personally appeared before me this day and acknowledges that ~~he~~ she is Vice President of BANK OF AMERICA, N.A., and that by authority duly given and as the act of the Bank, the foregoing instrument was signed in its name by ~~him~~ her as its Vice President.

Witness my hand and official stamp or seal, this 5th day of May, 2006.

(STAMP/SEAL)

NOTARY PUBLIC

My Commission Expires: June 30, 2009

STATE OF Virginia
COUNTY OF Norfolk

I, a Notary Public of the County and State aforesaid, certify that Russell A. Carter personally appeared before me this day and acknowledged that he is SV President of PRLAP, Inc., Trustee for Bank of American, N.A., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its corporation name by him as SV President.

Witness my hand and official stamp or seal, this 5th day of May, 2006.

(STAMP/SEAL)

NOTARY PUBLIC

My Commission Expires: June 30, 2009

Consented to by Mortgagee:

BANK OF AMERICA, N.A.

BY: LaVeryl T. Brown
LaVeryl T. Brown Vice President

PRLAP, INC., TRUSTEE for Bank of America

By: _____, SVP President

STATE OF ~~NORTH CAROLINA~~ VIRGINIA
~~COUNTY OF~~ CITY NORFOLK

I, a Notary Public of the County and State aforesaid, certify that LAVeryl T. BROWN personally appeared before me this day and acknowledges that ~~he~~ she is Vice President of BANK OF AMERICA, N.A., and that by authority duly given and as the act of the Bank, the foregoing instrument was signed in its name by him as its Vice President.

Witness my hand and official stamp or seal, this 5th day of MAY, 2006.

(STAMP/SEAL)

NOTARY PUBLIC

My Commission Expires: June 30, 2009

STATE OF VIRGINIA
~~COUNTY~~ CITY OF NORFOLK

I, a Notary Public of the County and State aforesaid, certify that Russell A. Carter personally appeared before me this day and acknowledged that he is S.V. President of PRLAP, Inc., Trustee for Bank of American, N.A., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its corporation name by him as S. V. President.

Witness my hand and official stamp or seal, this 5th day of May, 2006.

(STAMP/SEAL)

NOTARY PUBLIC

My Commission Expires: June 30, 2009.

EXHIBIT "A"

DEFINITIONS

The following words, when used in this Declaration or in any Supplementary Declaration (unless the context shall prohibit), shall have the following meanings:

(a) "Association" shall mean Avalon Springs Homeowners Association, Inc., a nonprofit North Carolina corporation, its successors and assigns.

(b) "Board of Directors" or "Board" of the Association shall be the appointed or elected body, as applicable, having its normal meaning under North Carolina law.

(c) "Bylaws" shall refer to the Bylaws of Avalon Springs Homeowners Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference.

(d) "Class A" shall mean that committee of the Board of Directors for the Association as more particularly described in the Bylaws.

(e) "Class B Committee" shall mean that committee of the Board of Directors for the Association as more particularly described in the Bylaws.

(f) "Common Expenses" shall mean the expense anticipated or actually incurred by the Association in maintaining, repairing, replacing, insuring and operating the Common Property, including, without limit, the payment of ad valorem taxes and assessments levied against the Common Property, and otherwise for the benefit of all Lots. Common Expenses shall specifically include, but shall not be limited to, payment of all costs and expenses incurred in connection with the maintenance and repair of the Stormwater Control Measures; payment of all costs and expenses incurred in connection with the maintenance and repair of the Stormwater Control Measures.

(g) "Common Property" shall mean any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

(h) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto, and (i) such additions thereto as may be made by Declarant by Supplementary Declaration of all or any portion of the real property; and (ii) such additions thereto as may be made by the Association by Supplementary Declaration of other real property.

(i) "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by Declarant.

(j) "Declarant" shall mean and refer to Avalon Springs, LLC, and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all of the remaining undeveloped or unsold portions of the real property described in Exhibit "B", attached hereto, or any properly annexed additions thereto, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the Declarant hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former

Declarant in and to such status as "Declarant" hereunder shall cease. The signature and consent of any mortgagee to this Declaration does not create status as Declarant for such mortgagee.

(k) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property, which shall include, without limitation, membership in the Association.

(l) "Mortgage" means any mortgage, deed to secure debt, deed of trust, and any and all other similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

(m) "Mortgagee" shall mean the holder of a Mortgage.

(n) "Occupant" shall mean any Person occupying all or any portion of a residence or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

(o) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(p) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, limited liability company, or other legal entity.

(q) "Stormwater Control Measures" shall mean and refer to all detention pond(s) located on Avalon Springs Property, their dam(s), embankments and spillway, if any, private storm drainage and access easement, private storm drainage easement, storm drainage and access easement, stormwater management area and stormwater management easement on the recorded plats, together with other stormwater measures including storm drainage pipes, which serve Avalon Springs Property and are located outside the public street rights-of-way (excluding those pipes and stormwater measures serving a single Lot).

(r) "Supplementary Declaration" means 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.

(s) "Total Association Vote" means all of the votes attributable to members (including votes of Declarant), and the consent of Declarant so long as Declarant has the right to unilaterally annex additional property to the Community.

EXHIBIT "B"

PROPERTY SUBMITTED

TRACT 1 PROPERTY DESCRIPTION

Beginning at a concrete monument located at the southwest corner of Raychem Corporation (Wake County PIN #0666.02-65-6310); thence N86°49'37"W, a distance of 376.84 feet to a point; thence N86°48'00"W, 609.96 feet to a point; thence N86°36'54"W, 699.15 feet to a point; thence N86°02'44"W, 150.51 feet to a point; thence N04°12'02"E, 154.39 feet to a point; thence N48°16'32"E, 259.77 feet to a point; thence N17°50'14"E, 320.72 feet to a point; thence N49°39'43"E, 71.61 feet to a point; thence N75°15'06"W, 896.56 feet to a point; thence N36°30'57"E, 292.33 feet to a point; thence S75°14'52"E, 2316.40 feet to a point; thence S06°12'30"W, 662.31 feet to a point of beginning, containing 1,602,593 square feet / 36.79 acres, more or less.

TRACT 2 PROPERTY DESCRIPTION

Beginning at a concrete monument located at the southwest corner of Raychem Corporation (Wake County PIN #0666.02-65-6310); thence S86°51'38"E, a distance of 600.04 feet to a point; thence S01°24'21"W, 1156.92 feet to a point; thence N85°33'18"W, 51.21 feet to a point; thence S01°24'21"W, 197.83 feet to a point; thence N83°37'17"W, 126.20 feet to a point; thence N83°42'47"W, 78.90 feet to a point; thence N84°24'48"W, 44.68 feet to a point; thence N85°58'35"W, 59.44 feet to a point; thence N88°51'01"W, 55.33 feet to a point; thence S88°09'21"W, 50.91 feet to a point; thence S84°57'50"W, 56.60 feet to a point; thence S82°50'23"W, 43.14 feet to a point; thence S80°35'26"W, 30.61 feet to a point; thence N01°10'45"E, 199.98 feet to a point; thence S83°19'36"W, 199.84 feet to a point; thence N86°38'19"W, 165.43 feet to a point; thence N05°21'42"E, 443.37 feet to a point; thence N07°55'01"E, 31.58 feet to a point; thence N09°32'45"E, 51.69 feet to a point; thence N16°28'23"E, 44.99 feet to a point; thence N18°52'49"E, 60.73 feet to a point; thence N13°09'53"E, 62.41 feet to a point; thence N02°48'37"E, 50.29 feet to a point; thence N08°41'58"W, 41.93 feet to a point; thence N13°19'13"W, 52.58 feet to a point; thence N08°50'14"W, 49.30 feet to a point; thence N05°24'11"W, 56.17 feet to a point; thence N00°06'25"W, 266.52 feet to a point; thence S86°49'37"E, 316.74 feet to a point of beginning, containing 1,175,964 square feet / 27.00 acres, more or less.

EXHIBIT "C"

BYLAWS

OF

AVALON SPRINGS
HOMEOWNERS ASSOCIATION, INC.

BYLAWS
OF
AVALON SPRINGS HOMEOWNERS ASSOCIATION, INC.

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BYLAWS
OF
AVALON SPRINGS HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
NAME, MEMBERSHIP, AND DEFINITIONS

Section 1. Name. The name of the Association shall be AVALON SPRINGS HOMEOWNERS ASSOCIATION, INC. (the "Association").

Section 2. Membership. The Association shall have three (3) classes of voting membership, Class A members, Class B members, and the Class C Member, as more fully set forth in that DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVALON SPRINGS (this Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

ARTICLE II
ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

Section 2. First Meeting and Annual Meetings. An annual or special meeting shall be held within one (1) year from the date the Declaration is recorded. Annual meetings shall be set by the Board so as to occur no later than sixty (60) days after the close of the Association's fiscal year.

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of the Board of Directors or upon a petition signed by at least twenty-five percent (25%) of the Total Association Vote (the consent of the Declarant shall not be required). The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Owner of record of each Lot a notice of each annual or special meeting of the Association stating the time and place where it is to be held, and in the notice of a special meeting, the purpose thereof. If an Owner wishes notice to be given at an address other than his or her Lot, he or she shall have designated by notice in writing to the Secretary such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Unless otherwise provided by the Declaration, notices shall be served not less than ten (10) nor more than thirty (30) days before a meeting. Notice of meetings may also be sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the Member.

Section 5. Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members,

either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 7. Voting.

(a) Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. If only one (1) co-Owner attempts to cast the vote for a Lot, it shall be conclusively presumed that such co-Owner is authorized on behalf of all co-Owners to cast the vote for such Lot. In the event of disagreement between or among co-Owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted.

(b) In the event an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust or other legal entity shall be eligible to represent such entity or entities in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity or entities which are the Owner, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving to be filled by the Board.

(c) No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board, if that Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Declaration, these Bylaws, or any rule of the Association. If the voting rights of an Owner have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a majority or a quorum or for purposes of amending these Bylaws or the Declaration.

(d) Cumulative voting shall not be allowed.

Section 8. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his or her Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. Unless otherwise provided by the Declaration, the presence, in person or by proxy, of ten percent (10%) of the total eligible Association vote shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may

continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 10. Action Without A Formal Meeting. Any action to be taken at a meeting of the members or any action that may be taken at a meeting of the members may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by the members holding the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by the Declarant if required. Such action shall be effective upon receipt by the Association of a sufficient number of such consents executed by current members unless a later effective date is specified therein. Each signed consent shall be delivered to the Association and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

ARTICLE III
BOARD OF DIRECTORS

Section 1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the directors must reside in the Community and shall be members or spouses of such members; provided, however, no person and his or her spouse may serve on the Board at the same time. Corporate Owners may serve on the Board only if the person designated by the corporation to represent its interests resides in the Community.

Section 2. Directors Appointed by Declarant. Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) December 31, 2015; (b) the date on which certificates of occupancy have been issued for seventy-five percent (75%) of the Lots which are to be developed on the real property described in Exhibit "B" of the Declaration; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Declarant such authority to appoint and remove directors and officers of the Association. The directors selected by the Declarant need not be Owners or residents in the Community.

Section 3. Number of Directors. The affairs of the Association shall be managed by a Board of three (3) directors.

Section 4. Term of Office. At the first annual meeting following the termination of the Declarant's right to appoint directors as provided in Section 2 of this Article, the members shall elect one director for a term of one year, one director for a term of two years and one director for a term of three years. At each annual meeting thereafter the Members shall elect one director for a term of three years, such that the terms of directors are staggered.

Section 5. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members who elected that director to office, who are voting in person or by proxy at a meeting duly called for this purpose. In the event of death, resignation or removal of a

director, his successor shall be selected by the remaining members of the Board who were elected from the vacating director's Class of Membership, and such successor shall serve for the unexpired term of the predecessor. Any director appointed by the Declarant may be removed by the Declarant.

Section 6. **Compensation**. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 7. **Action Taken without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors. Approval by electronic mail shall constitute "written approval" for purposes of this Section.

ARTICLE IV
NOMINATION AND ELECTION OF DIRECTORS

Section 1. **Nomination**. Nomination for election to the Board of Directors shall be made from the floor at the annual meeting.

Section 2. **Election**. Election to the Board of Directors shall be by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of these Bylaws or the Declaration. In any given election, the person(s) receiving the highest number of votes within his or her particular Class shall be elected. Cumulative voting shall not be allowed.

ARTICLE V
MEETINGS OF DIRECTORS

Section 1. **Regular Meetings**. Regular meetings of the Board of Directors shall be held at least annually without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. **Special Meetings**. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any director, after not less than three (3) days notice to each other director. Notice may be sent by first-class mail, by telephone or by electronic mail.

Section 3. **Quorum**. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VI
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. **Powers.**

The Board of Directors shall have the power to do all of the following:

(a) adopt, formulate, amend and publish rules and regulations governing the use of the Common Property and facilities, as well as the Lots, and the personal conduct of the Members and their guests thereon, and to establish fines and penalties for the infraction thereof pursuant to the provisions of Section 47F-3-102 of the North Carolina Planned Community Act;

(b) suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of published rules and regulations:

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; and

(f) exercise such other powers as are conferred upon the Association by the Articles of Incorporation or the Declaration.

Section 2. Duties:

It shall be the duty of the Board of Directors to do all of the following:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the Members, or at any special meeting at which such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; and

(2) send written notice of each change in the annual assessment to every Member subject thereto at least thirty (30) days in advance of each annual assessment period;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any assessment has been paid. A reasonable charge may be made by the Board for the. issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) cause the Common Property, Stormwater Control Measures, landscape easement areas, Landscaped Rights-of-Way and Entry Features to be maintained as more fully provided in the Declaration;

(f) to perform all other duties imposed by the Articles of Incorporation and the Declaration;

(g) to procure and maintain adequate liability and hazard insurance on the Common Property, if the Board deems it necessary, and create a reserve collect the same for payment of premiums therefor and to

(h) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and to

(i) pay any license fees or governmental charges levied or imposed against the Common Property or other property, real or personal, owned by the Association.

ARTICLE VII
OFFICERS AND THEIR DUTIES

Section 1. **Enumeration of Offices.** The offices of this Association shall be that of President, Treasurer and Secretary, which shall at all times be held by members of the Board of Directors.

Section 2. **Election of Officers.** The election of officers of the Association shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. **Term.** Each officer of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise shall be disqualified to serve.

Section 4. **Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine necessary.

Section 5. **Resignation and Removal.** Any officer of the Board may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. **Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. **Multiple Offices.** The offices of President and Secretary of the Association may not be held by the same person. Any other office described herein, including the case of special offices created pursuant to Section 4 of this Article, may be held simultaneously by the same person.

Section 8. **Duties.** The duties of the officers are as follows:

President

The President shall preside at all meetings of the board of Directors; shall see that orders and resolutions of the board are carried out; shall sign all eases, mortgages, deeds of trust, deeds and other written instruments.

Secretary

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association. The Treasurer shall disburse such funds as directed by action of the Board; shall sign all checks; keep proper books of account; cause an annual audit of the Association's books to be made by a certified independent public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Members at the regular annual meeting of the Association, and deliver a copy of each to the Members. The Board, by majority vote, may delegate the check-writing responsibility of the Treasurer to a professional management company employed by the Association.

ARTICLE VIII
BOOKS AND RECORDS

The Association keep books and records in the same manner that the Association is required to keep books and records as a nonprofit corporation under the provisions of Chapter 55A of the North Carolina General Statutes.

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, lenders, holders, insurers and guarantors of any first mortgage encumbering the Common Property or any Lot. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE IX
ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments, including specific assessments against individual lots as may be provided for in the Declaration. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall be subject to such

interest, late charges and actions as shall be established therefor in the Declaration. No Member may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Property or abandonment of his Lot.

ARTICLE X
AMENDMENTS

Section.1. These Bylaws may be amended at a regular or special meeting of the Members by a vote of a majority of a quorum of Members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XII
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

CERTIFICATE OF ADOPTION OF BYLAWS
OF
AVALON SPRINGS HOMEOWNERS ASSOCIATION, INC.

I, the undersigned, being the Secretary of AVALON SPRINGS HOMEOWNERS ASSOCIATION, INC., do hereby certify that the foregoing Bylaws were unanimously adopted by Written Consent of the Board of Directors of the Corporation, effective the 2nd day of JUNE, 2006.

_____, Secretary

APPROVED:

_____, President



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Laura M. Riddick
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