

RECORDED  
AND  
VERIFIED  
JGP

Return to: S. Stephen Davidson

BK 1304 PG 663

312-125

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Filed for record 10-14-99  
Date 3:00 P.M.  
Time 3:00 P.M.  
JUDY G. PRICE, Register of Deeds  
Union County, Monroe, North Carolina

DECLARATION OF COVENANTS,  
CONDITIONS & RESTRICTIONS

SAVANNAH WAY

0005532

Record only  
Date 9-27-98  
Time 12:00 P.M.  
JUDY G. PRICE, Register of Deeds  
Union County, Monroe, North Carolina

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this the 20th day of August, 1999, by WILLIAMS DEVELOPMENT, INC., a North Carolina corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the real property shown on maps of SAVANNAH WAY, which maps are recorded in Plat Cabinet F, File 685, in the Union County Registry, which property is more particularly described in Section I of Article II hereof, and desires to create thereon an exclusive residential community of single-family homes to be named SAVANNAH WAY; and

WHEREAS, Declarant desires to insure the attractiveness of the subdivision and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect, and enhance the values and amenities of all properties within the subdivision and to provide for the maintenance and upkeep of the Common Area, as hereinafter defined; and, to this end desires to subject the real property shown upon the aforesaid map, together with such additions as may hereafter be made thereto to the covenants, conditions, restrictions, easements, charges, and liens hereafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation, protection, and enhancement of the values and amenities in said subdivision and to insure the residents of enjoyment of the specific rights, privileges and easements in the Common Area, as herein defined, and to provide for the maintenance and upkeep of the Common Area, to create an organization to which will be delegated and assigned the powers of owning, maintaining, and administering the Common Area and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under North Carolina law SAVANNAH WAY HOMEOWNERS ASSOCIATION as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property shown on the aforesaid map of SAVANNAH WAY and

Re-recorded to correct owner's Names

S. Stephen Davidson, Jr.

such additions thereto as may be hereafter made, pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions and restrictions, easements, charges and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

#### ARTICLE I DEFINITIONS

Section 1. "Homeowners Association" shall mean and refer to SAVANNAH WAY HOMEOWNERS ASSOCIATION, a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the "Initial Property" described in Article II, Section I, hereof, and any additions thereto as are or shall become subject to this Declaration and brought within the jurisdiction of the Homeowners Association under the provisions of Article II hereof.

Section 4. "Common Area" shall mean all real property and improvements (including a pool and clubhouse) thereon owned by the Homeowners Association for the common use and enjoyment of the owners which declarant will construct on the common property. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats of record or to be recorded in the Union County Public Registry and designation thereof as "Common Areas," but shall exclude all lots as hereinafter defined and all public streets shown thereon. "Common Area" shall include all private streets shown on such plat or plats hereinafter recorded in the Union County Public Registry. The Common Area shown on each map to be recorded shall be owned by the Association and will be deeded to the Association.

Section 5. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Williams Development, Inc. and shall also mean and refer to any successor in title to Williams Development, Inc.

Section 7. "Successor Declarant" shall mean and refer to The Williams Company and Noel Williams Masonry, Inc.

Section 8. "Member" shall mean and refer to every person or entity who holds membership in the Homeowners Association.

Section 9. "Board of Directors" shall mean and refer to an initial five member board which shall be appointed by the Declarant and later elected by the Association, as further defined in the By Laws of the Homeowners Association which shall include a President, Vice-President, Treasurer and Secretary among the five board members, vested with the responsibility of managing and/or directing the management of the Association.

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION AND  
WITHIN THE JURISDICTION OF  
THE SAVANNAH WAY HOMEOWNERS ASSOCIATION

ADDITIONS THERETO

Section 1. The Initial Properties are described as follows:  
BEING all of that real property as shown on maps recorded in Plat Cabinet F, File 685, in the Union County Public Registry.

Section 2. Additions to Initial Property. Additional land may be brought within the scheme of this Declaration and the jurisdiction of the Homeowners Association in the following manner:

(a) Additional land within the area described in Schedule "A" and attached hereto as well as other properties adjacent to said land and acquired by the Declarant may be annexed to the initial property by Declarant in future stages of development, without the consent of the Owners, the Homeowners Association or its Members. Declarant may remove all or any property from Schedule "A" description prior to its annexation by filing a written declaration or removal in the appropriate County Public Registry;

(b) The additions authorized under Subsection (a) above shall be made by filing of record Supplementary Declarations of Covenants, Conditions, and Restrictions with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the Homeowners Association to such properties and thereby subject such additions to the benefits, agreements, restrictions, and obligations set forth herein, including, but not limited to, assessments as herein determined, to pay for the Homeowners Association's expenses. Notwithstanding the above, Declarant reserves the right to vary the use restrictions contained in Article VIII so long as the changes are more restrictive and not less restrictive than set forth herein.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a Member of the Homeowners Association. Membership shall be apportioned to and may not be separated from ownership of a lot which is subject to assessment.

Section 2. The voting rights of the membership shall be apportioned to the ownership of the lots. There shall be two classes of lots with respect to voting rights and membership in the Homeowners Association.

#### (a) Class A Lots.

Class A Lots shall be all lots except Class B Lots as the same are hereinafter defined. Each class A Lot shall entitle the Owner(s) of said lot one (1) vote. When more than one person owns an interest (other than a leasehold or a security interest) in any lot, all such persons shall be Members and the voting rights apportioned to said lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any one Class A Lot.

#### (b) Class B Lots.

Class B Lots shall be all lots owned by Declarant or Successors which have not been converted to Class A Lots as provided in (a) above. The Declarant or Successor Declarant shall be entitled to five (5) votes for each Class B Lot owned by it.

Section 3. In the event that the Member owner of any residence ceases to occupy that residence as his own personal living quarters or in the event that any property within the development is leased for rental purposes to tenants, the votes of those member owners, if voted in a block, shall not be entitled to any weight greater than forty-nine percent (49%) on any matter pending before the Homeowners Association.

#### ARTICLE IV PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area, which shall be apurtenant to and pass with the title to every lot, subject to assessment, subject to the following:

(a) The right of the Homeowners Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area and to limit the use of said facilities to Members who occupy a residence on the Properties as their principal residence in Union County, North Carolina, and to their families, tenants, contract purchasers, and guests, as provided in Section 2 of this Article IV.

(b) The right of the Homeowners Association to suspend the voting rights and rights to use of the recreational facilities of a Member for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Homeowners Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least two-thirds (2/3) of the votes apurtenant to each class of lots (Class A and Class B) agree to such dedication or transfer and signify their agreement by a signed and recorded written instrument, provided that this subsection shall not preclude the Board of Directors of the Homeowners Association from granting easements to public authorities or others for the installation and maintenance of sewerage utilities, and drainage facilities upon, over, under and across the Common Area without the consent of the membership when, in the sole opinion of such Board, such easements do not interfere with the use and enjoyment of the Properties;

(d) The right of the Homeowners Association, with the written consent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each class of Lots (Class A and Class B), to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Member in Section 1 of this Article IV may be exercised by members of the Member's family who occupy the residence of the Member within the Properties as their principal residence in Union County, North Carolina.

(b) Tenants or Contract Purchasers. The right and easement of enjoyment granted to every Member in Section 1 of this Article may be delegated by the Member to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Union County, North Carolina.

(c) Guests. Recreational facilities situated upon the Properties may be utilized by guests or Members, tenants, or contract purchasers subject to the rules and regulations of the Homeowners Association, as may be established by its Board of Directors, governing said use.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Properties, hereby covenants with each Owner of any other Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Homeowners Association: (1) monthly assessment or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, shall be a continuing lien upon the property against with each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the

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Member who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title, personally, unless expressly assumed by them, however, the lien for same shall remain upon the Property.

Section 2. Purposes of Assessments. The assessments levied by the Homeowners Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties in connection with the use and enjoyment of the Common Area, including, but not limited to, the cost of repair, replacement, or additions thereto, the cost of labor, equipment, materials, management, and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Homeowners Association, when necessary, and such other needs as may arise.

Section 3. Maximum Monthly Assessment. Until January 1 of the year immediately following the conveyance of the First Lot subject to assessment to an Owner, the maximum annual assessment shall be \$120.00 per Class A Lot and \$30.00 per Class B Lot. On the first day of the month immediately following the completion of the swimming pool and/or clubhouse, the maximum annual assessment shall be \$400.00 per Class A Lot and \$50.00 per Class B Lot. Assessments for Lots conveyed by Declarant to a Successor Declarant shall not be assessed until the end of the 180th day of from the date of the deed to such Successor Declarant or upon the date of the deed from such Successor Declarant to a Member/Owner, whichever occurs first. Assessments shall be prorated on a calendar year basis and payable on the date of assessment.

(a) From and after January 1 of the year immediately following the conveyance of the First Lot subject to assessment to an Owner, the maximum monthly assessment above established may be increased, effective January 1 of each year, without a vote of the membership, but subject to the limitation that any such increase shall not exceed the percentage increase, if any, in the Consumer Price Index (published by the Department of Labor, Washington, D.C. for all cities over the immediately preceding twelve (12) month period which ended on the previous October 1.)

(b) From and after January 1 of the year immediately following the conveyance of the First Lot to an Owner, said maximum monthly assessments may be increased without limitation, if such increase is approved by Members entitled to no less than sixty percent (60%) of the votes (apportioned to each voting class of lots) represented in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the monthly assessments at an amount not in excess of the maximum, but the ratio of the assessment established for each Class A lot to the assessment established for each Class B lot shall always be eight (8) to one (1).

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessments authorized above, the Homeowners Association may levy, in any assessment applicable to that year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures, or replacement of a capital improvement upon the Common Area, including fixtures, and personal property related thereto, provided that any such assessment shall have the same assent of the Members as provided in Section 3 (b) of this Article.

Section 5. Assessment Rate. Both monthly and special assessments must be fixed at a uniform rate for all Lots within each class and may be collected on a monthly basis, quarterly or annual basis as determined by the Board of Directors.

Section 6. Notice and Quorum for Any Action Authorized Under Section 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 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 per cent (60%) of the votes appurtenant to each Class of Lots (Class A and Class B) 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 six (6) days following the preceding meeting.

Section 7. Date of Commencement of Monthly Assessment; Due Dates; Certificate of Payment.

The monthly assessments provided for herein shall commence as to all Lots subject to assessment on the first day of the month following the conveyance to the Homeowners Association of the Common Area shown on Plats referred to in Article II, Section 1 above.



Section 8. Effect of Nonpayment of Assessments; Remedies of the Homeowners Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight per cent (8%) per annum or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, whichever is greater. In addition to such interest charge, the delinquent Member shall also pay such late charge as may have been therefore established by the Board of Directors of the Homeowners Association to defray the costs of late payment. The Homeowners Association may bring an action at law against the Member personally obligated to pay the same or foreclose the lien against the property, and interest, late payment fee, costs, and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages.

The liens provided for herein shall be subordinated to the lien of any first mortgage, mortgages, first deed of trust, or deeds of trust on a lot. Sale or transfer of any lot which is subject to any mortgage or deed of trust, pursuant to the foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust, or deeds of trust.

ARTICLE VI  
ARCHITECTURAL AND LANDSCAPING CONTROL

Section 1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements including without limitation, site preparation on any lot or Tract, change in grade or slope of any lot or Tract, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in flags (other than the United States official flag), yard ornamentation, fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any lot or Tract, shall be commenced, erected or maintained on any portion of the Property, until: (a) the Architectural Control Committee (herein called the "Architectural Control Committee"), appointed as hereinafter provided, has approved the plans and specifications therefore and the location

of such improvements and has given its written approval for commencement of construction; (b) the fees set forth in this Article VI have been paid; and (c) the agreements set forth in this Article VI have been executed. In addition to any standards established pursuant to this Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. The provisions of this Article VI shall not apply to the construction of any improvements commenced, erected or maintained by Declarant on any Lot or Tract or upon any of the Common Areas or Maintenance Areas.

The Board may delegate to the Architectural Control Committee any powers of authority reserved or granted to the Board under this Article VI.

Section 2. Composition of Architectural Control Committee. So long as Declarant owns any Lot, Tract or other portion of the Property, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot, Tract or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than seven (7) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Project. In the event of the death or resignation of any member of the Architectural Control Committee, the body then having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint a successor. Members of the Architectural Control Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee as described in this Article VI.

Section 3. Architectural and Landscape Guidelines. (a) The Architectural Control Committee shall, from time to time, publish and promulgate architectural and design guidelines. Such architectural and design guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements. Such architectural and design guidelines shall also set out, among other things the procedures for submission, review and approval of plans and specifications to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee, as more specifically described in Section 8 hereof, and the Approved Builders as more specifically described in Section 9 hereof. In any event, such architectural and design guidelines shall not be binding upon the Architectural Control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials submitted to the Architectural Control Committee for approval.

(b) The Architectural Control Committee shall promulgate and amend from time to time landscape guidelines which shall establish approved standards, methods and procedures for landscaping, landscape management and landscape maintenance in the Property, including the removal of trees. Such authorized standards, methods and procedures shall be utilized by Owners, and their contractors and sub-contractors and the approval by the Architectural Control Committee of any landscaping plan or other Improvement in connection with landscaping on a Lot, Tract or other portion of the Property shall be based upon the conformity of such plan or Improvement with such landscape guidelines. In any event, such landscape guidelines shall not be binding upon the Architectural Control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of landscaping plans, specifications and other materials submitted to the Architectural Control Committee for approval.

(c) The Architectural Control Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all Owners and builders performing work or construction Improvements on the Property.

(d) The architectural and design guidelines described in (a) above, the landscape guidelines described in (b) above and the construction rules described in (c) above shall herein collectively be referred to as the "Architectural and Landscape Guidelines". The Architectural Control Committee may publish and promulgate different Architectural and Landscape Guidelines for different Phases, sections or portions of the Property.

Section 4. Definition of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a lot or Tract, including but not limited to the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, etc.), storage sheds or areas, roofed structures, parking areas, fences, "invisible" pet fencing, pet "runs", lines and similar tetherers or enclosures, walls, landscaping (including cutting of trees), hedges, mass plantings, poles, driveways, ponds, lakes, changes in grade or slope, site preparation, swimming pools, hot tubs, jacuzzis, tennis courts, treehouses, basketball goals, skateboard ramps, and other sports or play apparatus, signs, exterior illumination and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided that such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 5. Enforcement. It is Declarant's intent that the architectural control provisions of this Declaration and any Additional Declarations are to permit control of the architectural design and landscaping and to establish quality standards for construction and construction activity in the Project and to help preserve values of properties in the Project. All owners by purchasing property subject to this Declaration acknowledge that a violation of any such provisions could result in irreparable harm and damage to Owners of property in the Project and Declarant, and to the values of their properties, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but no obligation) to enforce and/or to prevent any violation of the provisions contained in this Article VI by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and

grants unto the Architectural Control Committee the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee of the Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Architectural Control Committee, the terms of the Architectural and Landscape Guidelines, the terms of this Declaration or any Additional Declaration, or any amendments hereto or thereto.

(b) As to nonconforming or unapproved Improvements, the Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvement) if such Improvements were commenced or constructed in violation of this Article VI. In addition, the Association may, but has no obligation to cause such restoration, demolition and removal and levy the amount of the cost thereof as a Special Individual Assessment against the Lot, Tract or portion of the Property upon which such Improvements were commenced or constructed. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of the Architectural and Landscape Guidelines, the Association shall be entitled to the recovery of court costs, attorneys' fees and expenses incurred by the Association and/or the Architectural Control Committee in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the Lot, Tract or other portion of the Property upon which such Improvement was commenced or constructed.

Section 6. Failure of the Architectural Control Committee to Act. If the Architectural Control Committee fails to approve or disapprove any plans and specifications and other submittals which conform (and which relate to Improvements which will conform) with the requirements hereof or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Architectural and Landscape Guidelines, of all items that were to have been submitted to the Architectural Control Committee, and provided the Architectural Control Committee shall again fail to approve or disapprove of such plans, specifications and other submittals within ten (10) days after additional written request to act on such items is delivered to Architectural Control Committee following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the Architectural Control Committee has approved such conforming

plans and specifications and other submittals, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration or any Additional Declaration, and EXCEPT FURTHER, that the Architectural Control Committee shall not be deemed to have waived any of the requirements set forth in Sections 8. 9. and 10. below. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 7. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Control Committee has not expressly and in writing, approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration, against any other Owner.

Section 8 Fees Required by Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each Person submitting plans and specifications for Improvements to the Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant as a condition to commencement or construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established and set forth in the Architectural and Landscape Guidelines.

Section 9. Approved Builders. The Architectural Control Committee may require, in its sole discretion, that each Person submitting plans and specifications for improvements to the Architectural Control Committee shall submit a contract with a builder who is approved by the Board or the Architectural Control Committee, in their sole discretion (hereinafter, the "Approved Builder") as a condition to commencement of construction of any improvements. The Architectural Control Committee shall provide a list of Approved Builders in accordance with the provisions of the Architectural and Landscape Guidelines.

Section 10. No Construction Without Payment of Fees and Use of an Approved Builder. Notwithstanding anything contained in this Article VI to the contrary, plans and specifications for improvements to be constructed on a lot, tract or other portion of the Property shall not be deemed to have been properly submitted unless and until any and all fees required by the Architectural Control Committee to be paid in connection with such improvements, as provided in Section 8 above, shall have been paid to the Architectural Control Committee or Declarant as required. In addition, such plans and specifications shall not be deemed to have been properly submitted unless a contract with an Approved Builder for construction of such improvements (if required by the Architectural Control Committee), as provided in Section 9 above, shall have been submitted to the Architectural Control Committee.

Section 11. Notices and Submittals. Notices and submittals to the Architectural Control Committee shall be in accordance with the notice provisions set forth from time to time in the Architectural and Landscape Guidelines.

Section 12. Limitation of Liability. No member of the Architectural Control Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article VI. Neither the Architectural Control Committee, nor the members thereof, nor the Association, nor any Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Every person who submits plans or specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, any Association, the Architectural Control Committee, the Board, or the officers, directors, members,



employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quit claims 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. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 13 Miscellaneous. Members of the Architectural Control Committee, in the sole discretion of the body appointing such Members (Declarant or the Board, as the case may be) may be compensated for their services. The Association shall reimburse members of the Architectural Control Committee for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee including those incurred in connection with their enforcement or other powers as provided herein, shall be borne by the Association; provided however, that nothing herein shall be deemed to negate the Association's right to an award of court costs, attorneys' fees and expenses in accordance with Section 5 hereof.

#### ARTICLE VII USE RESTRICTIONS AS TO ALL LOTS

Section 1. Land Use. All lots in the tract shall be known and described as residential Lots. No structure shall be erected, altered, placed, or permitted to remain on any residential building plot other than a single-family dwelling not to exceed two and one-half stories in height excluding basements and a private garage for each unit for not less than two cars and other accessory structures customarily incidental to the use of the Lot. All garages will be accessed by a concrete drive to a contiguous street.

Section 2. Building Lines. No building shall be located nearer to the front or side lines than the building setback lines shown on the recorded plat, if such lines are shown. In any event, no building shall be placed nearer to any front, side or rear setback line as required by the Union County Zoning Ordinances or any other applicable zoning ordinance.

Unintentional violations not exceeding ten per cent (10%) of the minimum building line requirements herein set forth shall not be considered a violation of this Section.



Section 3. Subdivision of Lots. No person or entity may subdivide or re-subdivide any lot or lots without the prior consent of the Declarant.

Section 4. Size of Structure. No residential structure shall be erected or placed having a finished floor area of less than 1600 square feet.

Unintentional violations not exceeding three percent (3%) of the minimum foot requirements herein set forth shall not be considered a violation of this Section.

Section 5. Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any lot unless and until permission for the same has been granted by the Homeowners Association, or its designated agent or representative. This section shall not be applicable to temporary construction trailers, sales offices, and material storage facilities used during construction.

Section 6. Use of Common Area. The Common Area shall not be used in any manner except as shall be approved or specifically permitted by the Homeowners Association.

Section 7. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any lot or in any other unenclosed area (including patios) within the Properties.

Section 8. Regulations. Reasonable regulations governing the use of the Common Area may be made and amended from time to time by the Board of Directors of the Homeowners Association; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the Owners before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Homeowners Association upon request.

Section 9. Nuisances. It shall be the responsibility of each Owner and Occupant of a lot or Tract to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No lot or Tract within the project shall be used, in whole or in part, for the deposit, storage or burial of any property or thing that will cause such property 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 upon any lot or Tract, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property with the Project. There shall not be maintained on any lot or Tract any plants or animals or device or thing of any sort whose activity or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project. 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 or Tract unless required by law.

Section 10. Temporary Residences. No trailer, basement, tent, shack, garage, barn, or other outbuilding erected on the tract shall be at any time used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Section 11. Satellite Dish Antennas. No satellite dish antenna shall be erected, installed, or in any way placed on any lot in excess of 21" in diameter. Any such antenna shall only be maintained so as not to be visible from the front street.

Section 12. Harmony of Structures. No structure shall be constructed or moved onto any lot unless it shall conform to and be in harmony with existing structures in the tract, and approved as provided hereinbefore Article VII.

Section 13. Easements. A perpetual easement is reserved over the rear ten (10) feet of each lot for utility installment and maintenance and/or as shown on recorded map. A perpetual easement is reserved over the side five (5) feet and rear ten (10) feet of each lot for public storm drain and/or as shown on record map.

Section 14. Signs. No sign of any kind shall be displayed to the public view on any lot except (1) professional sign of not more than one (1) square foot; one sign of not more than five (5) square feet, advertising the property for sale or rent; or one (1) sign not more than four (4) feet by eight (8) feet used by a builder to advertise the property during the construction and initial sales period.

Section 15. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other customary household pets may be kept, provided that they are not kept, bred, or maintained for any commercial, do not exceed three (3) in number, and are confined to the property or kept on a leash.

Section 16. Trash Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or waste and same shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 17. Fences. No fences shall be erected on any lot nearer to any street line than the building setback line shown on the recorded map, nor shall any fence be erected except in accordance with the Architectural Control provisions of Article VII hereof. No fence of greater height than five (5) feet will be allowed in the subdivision except on the perimeter of the Subdivision as approved by provisions provided within Article VII. No fence shall be allowed on any lot near to the street than the front outside corner of the residence on said lot.

Section 18. Sight Line Limitations. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

Section 19. 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 on any lot or Tract other than in enclosed garages.

Section 20 Diligent Construction. All construction, landscaping or other work which has been commenced on any lot or Tract must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any lot or Tract,

except during such reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved by the Architectural Control Committee. Any damage to the streets, curbs, or sidewalks or any part of any Common Area, Maintenance Area or any utility system caused by an Owner or Owner's builder or his subcontractors shall be repaired by such responsible Owner. Any builder of Improvements and his Subcontractors on any portion of the Property shall keep such portion of the Property free of unsightly construction debris, in accordance with the construction rules established by the Architectural Control Committee (or, in the absence of such rules, in accordance with standard construction practices), and shall similarly keep contiguous public and private areas free from any garbage, trash, or other debris which is occasioned by construction of Improvements. The Board may levy a Special Individual Assessment against an Owner's property in the Project to pay for the cost of repairing any damage to streets, curbs or sidewalks or any part of any Roadway, Common Area, Maintenance Area or utility system, to pay for the cost of cleaning public and private areas, including the Roadways in the Project, and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or his subcontractors during the construction of Improvements. Declarant and/or Successor Declarant will be held harmless from any dirt or mud incidentally deposited upon the streets due to typical construction activity.

#### Section 21. Parking.

(a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any street within the Property.

(b) Commercial-use vehicles, and trucks not involved with construction activity on the Property and with carrying capacity and/or size designation greater than or equal to three-fourths (3/4th) ton, shall not be permitted to park overnight on the streets, driveways or otherwise within the Property, unless stored in an enclosed garage. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Property at any time. No vehicles that are not in a condition to be normally operated or that do not have a current registration tag may be stored or situated on any lot for more than thirty (30) days unless stored in an enclosed garage.

(c) The owner of each lot will be responsible for providing on each lot sufficient paved parking area for all vehicles normally parked and/or situated on or in regard to such lot.

(d) No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home, or "camper" vehicle may be maintained, stored or kept on any portion of the Property, except in enclosed garages or in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee.

(e) All vehicles must be parked so as not to impede traffic or damage vegetation.

(f) No construction office trailers may be placed, erected or allowed to remain on any lots during construction, except as approved in writing by the Architectural Control Committee. Provided, however, that nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto lots owned by Declarant to be used as construction or sales offices. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any lot or street) only in accordance with such rules as may be established by the Architectural Control Committee.

Section 22. Governmental Requirements. Nothing contained herein shall be deemed to constitute a waiver of any governmental requirements applicable to any lot, Tract or other part of the Property and all applicable governmental requirements or restrictions relative to the construction of improvements on and/or use and utilization of any lot, Tract or portion of the Property shall continue to be applicable and shall be complied with in regard to each lot, Tract or portion of the Property.

Section 23. Unrestricted Property. It is distinctly understood and agreed that nothing contained in this Article shall be taken and construed as imposing any Conditions or Restrictions upon any of the remaining land of the Declarant not initially covered by these Declarations or specifically covered by any Supplemental Declarations filed with the respective offices of the Register of Deeds of Union County.

Section 24. Minimum Square Footage. No home shall be built in Savannah Way containing less than 1600 sq. ft. heated and less than a 380 sq. ft. garage. No home shall be built with less than 25% of its exterior surface area covered by brick, stucco or stone.

ARTICLE VIII  
EASEMENTS

Section 1. Easements for the installation and maintenance of driveway, walkway, parking area, water line, gas line, telephone, electric power line, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat. The Homeowners Association may reserve and grant easements for the installation and maintenance of sewerage, utility, and drainage facilities over the Properties as provided in Article IV, Section 1 (c) of this instrument. Within any such easements above provided for, no structure, planting, or other material shall be placed or permitted to remain which may interfere with the installation of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements.

Section 2. Street Access. Vehicular access to the subdivision streets shall be restricted to the frontage of each lot. No easement shall be granted allowing vehicular access to subdivision streets from outside the boundaries of the Property except with the approval of the Declarant. Direct access from lots to Fowler-Secret Road is prohibited.

ARTICLE IX  
MAINTENANCE BY OWNERS

Section 1. Duty of Maintenance. Except for those portions, if any, of a lot or Tract which the Association or an Association may elect to maintain or repair hereunder or under any applicable Additional Declaration, the Owner of any lot or Tract shall have the duty and responsibility, at such Owner's sole cost and expense to keep the lot(s) or Tract(s) owned by such Owner, including improvements thereon and ground and drainage easements or other rights-of-way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any applicable Additional Declaration, in accordance with the provisions of the Architectural and Landscape Guidelines, and in a well-maintained, safe, clean and attractive condition at all times. Such maintenance, as to improved lots, shall include, but shall not be limited to, the following:

- (1) Prompt removal of all litter, trash, refuse and waste;
- (2) Keeping land, including any lawns and shrub beds, well maintained and free of trash, uncut grass and weeds;

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- (3) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's property; and
- (4) Complying with all governmental health and police requirements.

In addition, such maintenance, as to improved lots, shall include, but shall not be limited to the following:

- (1) Lawn mowing on a regular basis;
- (2) Tree and shrub pruning;
- (3) Watering by means of a lawn sprinkler system and/or hand watering as needed;
- (4) Keeping exterior lighting and mechanical facilities in working order;
- (5) Keeping lawn and garden areas alive;
- (6) Removing and replacing any dead plant material;
- (7) Maintenance of natural areas and landscaping in accordance with the Architectural and Landscape Guidelines;
- (8) Keeping parking areas and driveways in good repair;
- (9) Repainting of Improvements; and
- (10) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the lot or Tract on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with plans and specifications approved by the Architectural Control Committee and otherwise in accordance with the terms and provisions of this Declaration and of each Additional Declaration applicable thereto) or remove such damaged Improvements and restore the lot or Tract to its condition existing prior to the construction of such Improvements.

Notwithstanding anything contained herein to the contrary, the above-described maintenance responsibilities as to any lot or Tract shall commence only upon a plat showing such lot or Tract being recorded in the Office of the Register of Deeds of Union County and upon the conveyance of such lot by Declarant.

Section 2. Enforcement. If an Owner of any Lot or Tract has failed in any of the duties or responsibilities of such Owner as set forth in this Article IX, then the Board, and Declarant, jointly and severally, may give such Owner written notice of such failure and such Owner must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner as described in this Article IX. Provided, however, that this cure period shall be extended for a time not to exceed sixty (60) days so long as Owner shall have commenced to cure such nonconformity and shall diligently prosecute the same. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or Declarant (so long as it owns any portion of the property), acting through its authorized agent or agents, jointly or severally, shall have the right and power to enter onto the premises of such Owner and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owner of the Lot or Tract on which such work is performed shall be liable for the cost of such work, together with interest on the amounts expended by the Association or Declarant in performing such work computed at the highest lawful rate as shall be permitted by law from the date(s) such amounts are expended until repayment to the Association or Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliances of such Owner with his duties and responsibilities hereunder, and such Owner shall reimburse the Association or Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Owner shall fail to reimburse the Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Owner of a statement for such costs and expenses, then, without limitation of any other rights of the Association or Declarant, the Association may impose a Special Individual Assessment against such Owner.

ARTICLE X  
GENERAL PROVISIONS

Section 1. Enforcement. The Homeowners Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.



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Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and affect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety per cent (90%) of the Lots and by the Declarant, so long as the Declarant still owns any Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five per cent (75%) of the Lots. Any amendment must be properly recorded. For the purpose of this section, additions to existing property, as provided for in Article II, Section 2, hereof, shall not be deemed an "Amendment."

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