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NORTH CAROLINA; UNION COUNTY

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR WINDY RIDGE SUBDIVISION

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR WINDY RIDGE SUBDIVISION is made this 11th day of March, 2004, by Design Builders of Charlotte, Inc., hereinafter referred to as Declarant, with the joinder of Windy Ridge Homeowners Association of Monroe, Inc. and Branch Banking and Trust Company, Inc. and any and all persons, firms, or corporations hereinafter acquiring any of the within described property or any of the property hereinafter made subject to this Declaration.

Please Note: This Declaration provides for annual and special assessments (please see pages 9, 10 and 11). Annual Assessments are first payable on purchase by the first residential owner. Special assessments to fund working capital are payable by builders and other lot owners on first purchase of lots. This Declaration also provides for the imposition of fines upon failure to cure violations (please see pages 29, 30 and 31).

WITNESSETH:

WHEREAS, Declarant is the fee simple owner of a tract of land in the City of Monroe, Union County, North Carolina, containing approximately 53.52 acres which it intends to develop as Windy Ridge Subdivision (the "Subdivision"). Declarant intends to develop the Subdivision in phases and at the time the Plat for each phase is recorded, the Lots and other property shown on such Plat shall be made subject to this Declaration; and

WHEREAS, Declarant desires to enhance the value and provide for the uniform development of the Subdivision;

NOW, THEREFORE, Declarant has recorded two Plats showing all of Phase One of the Subdivision, recorded in Plat Cabinet H. File 990 and Plat Cabinet H. File 001. Declarant hereby

declares that all of the lots and other property either shown on such Plats or shown on one or more additional Plats and/or described in one or more Supplemental Declarations shall be held, conveyed, encumbered, used, occupied and improved subject to the following covenants, restrictions and easements, all of which are in furtherance of a general plan of development for the Subdivision, including the improvement and sale of real property therein located, all of which promulgated under the authority and auspices of the "Act" (as herein defined). The Subdivision created pursuant to this Declaration is established for the purpose of enhancing the value, desirability and attractiveness of the real property and every part thereof. The covenants, restrictions and easements set forth herein shall run with the land and shall be binding on all parties having or acquiring any right, title or interest therein or thereto, and shall, subject to the limitations herein provided, inure to the benefit of the Declarant and each "Owner" (as herein defined), and their respective heirs, personal representatives, successors and assigns.

ARTICLE I DEFINITIONS

The following terms, when used herein, shall have the meaning ascribed thereto below:

1.1 "Act" means the North Carolina Planned Community Act being Chapter 47F of the North Carolina General Statutes, as such act may be amended from time to time.

1.2 "Architectural Review Committee" means the committee established pursuant to Article V to supervise compliance with the "Design Standards."

1.3 "Articles" means the Articles of Incorporation of the "Association," as amended from time to time.

1.4 "Assessment" means an "Owner's" share of the charges, fees or other expenses from time to time assessed against an "Owner" by the "Association" in the manner herein provided.

1.5 "Assessment Year" means the calendar year, with the first Assessment Year commencing on January 1 of the year immediately following the "Commencement Date."

1.6 "Association" means Windy Ridge Homeowners Association, Inc., a North Carolina nonprofit corporation, or any successor thereof, charged with the duties and obligations of the Association hereunder, its successors and assigns. The Association shall be formed prior to Declarant's first sale of a Lot.

1.7 "Board" means the Board of Directors of the Association and is its "executive board", duly elected and acting pursuant to the Articles and the "Bylaws."

1.8 "Builder" means any residential building company that purchases one or more Lots for the purpose of construction and sale of homes to "Owners".

1.9 "Bulk Sale" means a sale of more than one Lot to a Builder.

1.10 "Bylaws" means the Bylaws of the Association as amended from time to time.

1.11 "Commencement Date" means the date designated by Declarant, upon which "Lots" become subject to Assessments.

1.12 "Committee" means the Architectural Review Committee.

1.13 "Common Property" means all real and all personal property, other than Lots, in which the Association owns an interest for the common use and enjoyment of all the "Owners." Said interest or interests may include, without limitation, estates in fee, estates for a term of years, usufructs or easements. The Association's present or future ownership may be designated on one or more of the Plats.

1.14 "Costs of Collection" means all costs incurred by the Association in collecting Assessments and enforcing this Declaration, including the reasonable costs of attorneys fees and expenses at trial and on appeal.

1.15 "Declarant" means: Design Builders of Charlotte, Inc. a North Carolina corporation or any assignee and successor in title to the Declarant to whom the Declarant has transferred its special declarant for all or a portion of the Subdivision by a writing in which the transferee is named the Declarant as to such property and has assumed the obligations of the Declarant arising under this Declaration and the Act.

1.16 "Design Standards" means the written guidelines for the design, colors, and materials developed by the Architectural Review Committee reflecting its judgment on recurring questions which have come before the Committee which standards may be modified, amended or revoked, in whole or in part, and are to be enforced by the Architectural Review Committee as provided for by Article V.

1.17 "Governmental Requirements" means all laws, ordinances, rules, and regulations of any governmental authority, presently in effect or hereafter enacted, as amended from time to time.

1.18 "Land Records" means the public records documenting the conveyance of land and interests therein as maintained by Register of Deeds of Union County, North Carolina.

1.19 "Lot" means a parcel of land designated as a lot on a "Plat "

1.20 "Majority Vote" or "Majority" means the affirmative vote of at least fifty (50%) of the Persons entitled to vote plus one.

1.21 "Mortgage" means any deed of trust or mortgage and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

1.22 "Mortgagee" means the holder (the beneficiary) of a Mortgage.

1.23 "Notice" means a written communication to a Person, which if between an Owner and the Declarant shall be governed by Section 11.6 hereof.

1.24 "Occupant" means any Person who is in possession of a Lot.

1.25 "Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot; provided, in the case where fee simple title has been transferred as security for the repayment of a loan, the Owner is the Person who would be the record owner upon payment of such loan in full. To the extent permitted by law, the Declarant is not and "Owner" for the purpose of having any obligations imposed by this Declaration upon Owners and shall be exempt from paying all Assessments whether or not it owns any Lots. Upon acquiring title to a Lot, a Builder becomes an Owner and has the duties of an Owner except as explicitly limited by the provisions hereof.

1.26 "Plans" mean the complete plans and specifications for the construction of, or proposed changes to, the single-family residence and/or other improvements on a Lot. Plans are to comply with the Design Standards and require the written approval of the Architectural Review Committee.

1.27 "Plat" means a subdivision plat with respect to the Subdivision which is recorded or to be recorded in the Land Records.

1.28 "Person" means a natural person, corporation, business trust, estate, trust, limited or general partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, other legal or commercial or charitable entity, and any other form of entity however or wherever formed or created.

1.29 "Restrictions" means the covenants, restrictions, easements, and other obligations created or imposed by this Declaration.

1.30 "Rules" mean rules and regulations adopted by the Association through its Board.

1.31 "Special Declarant Rights" means rights reserved herein for the benefit of the Declarant which shall include, without limitation, the right (i) to complete improvements indicated on the Plat filed in the Land Records; (ii) to control the Board and the Association; (iii) to control the Architectural Control Committee; (iv) to exercise any development right; (v) to maintain sales offices, management offices, signs advertising the planned community, and models; (vi) to use easements through the Common Property for the purpose of making improvements within the Subdivision or within real estate which may be added to the Subdivision; (vii) to make the Subdivision part of a larger planned community or group of planned communities; (viii) to make the Subdivision subject to a master association; and (ix) to appoint or remove any officer or executive board member of the Association or any committee thereof during any period of Declarant control.

1.32 "Structure" means: (a) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including, by way of illustration and not of limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; (b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (c) any change in the grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 1.31 applies to such change.

1.33 "Supplemental Declaration" or "Supplement" means a supplement to the Declaration which is to be recorded in the Land Records and by which additional real property is to be subjected to the Declaration.

1.34 "Subdivision" means the real property that is made subject to this Declaration by its original recording and by the recording of additional Plats and/or Supplemental Declarations Supplements whereby such property becomes part of Windy Ridge Subdivision.

1.35 "Two-Thirds Vote" means a favorable vote by at least sixty-seven percent (67%) of the Owners who are voting in accordance with the provisions of the Bylaws of the Association, this Declaration and/or applicable law, provided, however, when such vote is required to amend this Declaration, Two-Thirds Vote means the affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

ARTICLE II

2.1 Conveyance of Common Property.

2.1.1 From time to time Declarant may convey real and/or personal property to the Association, or grant easements to the Association, to be held by the Association as Common Property. In connection with the conveyance of Common Property, Declarant may also assign and set over to the Association its interest, as landlord, in any property that is to be made part of the Common Property. The Association hereby covenants and agrees to accept delivery of such conveyances of Common Property from Declarant, and shall be deemed automatically to have accepted such delivery upon the Declarant recording one or more deeds in the Land Records whereby such Common Property is conveyed. Upon any such conveyance, the Association shall become responsible for the obligations incident to ownership whether arising under this Declaration or otherwise. Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the property it contemplates to convey to the Association in accordance with this Declaration at any time prior to conveyance to the Association.

2.1.2 Declarant's conveyance of property to the Association will carry with it, whether or not specifically expressed, that assignment to the Association its rights and the delegation of its duties and obligations in any or all agreements required by governmental authorities, or deemed necessary or appropriate by Declarant for the use and development of the portion of the Common Property so conveyed, including easements for utilities and access, indemnification agreements, agreements in connection with surface water management. Upon such conveyance and assignment, the Association shall assume and perform all of the duties and obligations of Declarant and hold Declarant harmless from and against all damage and liability arising under such instruments from and after the effective date of such assignment. Unless Declarant has assigned its rights and delegated its duties and obligations to the Association under any such agreement within three (3) years following the execution of such agreement, the assignment, delegation and assumption shall be automatically deemed to have occurred on the third (3rd) anniversary thereof.

2.1.3 In addition to the property described in Section 2.1.2, Declarant may convey to the Association such other real and personal property as Declarant may determine to be appropriate as Common Property.

2.1 Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Subdivision owned by Declarant and designated as Common Property, future Common Property or designated for public use shall be reserved to Declarant until such time as the same shall be conveyed to the Association or to any third party, municipality or other governmental body, agency or authority.

2.2 Association's Maintenance Obligations. The Association shall maintain and keep in good repair the Common Property, including by way of illustration and not in limitation, maintenance, repair, and replacement, of walking paths, playgrounds, entranceway features and medians and cul-de-sac islands and other landscaping and improvements situated on the Common Property. 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 Subdivision, if the Board determines that such maintenance would benefit all Owners.

2.3 Owners' Rights in Common Property. Every Owner shall have a right and privilege to use and enjoy the Common Property, which right and privilege shall be deemed an easement appurtenant to and passing with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by other Owners. The Association may permit Persons who are not Owners to use and enjoy part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section 2.3 is subject to suspension by the Association as herein provided.

2.4 Easements Over Common Property. The Declarant and every Owner and such Owner's invitees shall have a non-exclusive right and easement of ingress, egress, and regress over and across the Common Property and over the roads within the Subdivision, for the purpose of providing access to and from such Lots and for the purpose of his, her and their non-exclusive use and enjoyment of the Common Property, subject however to the limitations on such use and enjoyment of the Common Property as provided for in this Declaration and by the Board's such reasonable Rules; provided however, if ingress, egress or regress to any Lot is over, through or across the Common Property, then any conveyance or encumbrance of the Common Property shall be subject and subordinate to the easements hereinabove granted to all Owners and reserved to the Declarant. Every Owner, and the members of such Owner's family who reside with such Owner or are overnight guests of such Owner, shall have the right to use the recreational areas, if any, within the Common Property, subject however to such Owner paying when due the Assessments and abiding by all Rules of the Association, including without limitation those governing the use of the recreational areas and the Common Property; provided that the Association shall have the right to suspend both the voting rights (as hereinafter provided for) and the right to use and enjoy the Common Property during any period for which any Assessment remains unpaid.

2.5 Delegation of Use and Assumption of Obligations. Each Owner shall be deemed to have given permission to his immediate family members, invitees and tenants in possession to use and enjoy the Common Property subject to the provisions of this Declaration; and each such family member, invitee or tenant, upon using the Common Property shall be deemed to have agreed to comply with this Declaration and the Rules governing the use of the Common Property.

2.6 Rights of the Association. The rights and privileges conveyed in this Article shall be subject to the right of the Association acting through the Board, in its discretion, to exercise any of the powers set forth in Section 47F-3-102 of the Act; and, in addition, the Association may

(a) adopt Rules relating to the use, operation and maintenance of the Common Property;

(b) borrow money for the purpose of carrying out the activities of the Association and the maintenance of its Common Property, and in aid thereof, to encumber by deed of trust, mortgage or other security interest any or all of the Association's property including Common Property and revenues from Assessments, user fees and other sources, provided such borrowing shall require the prior written approval of Declarant so long as Declarant retains any title or estate in the Subdivision and the prior written approval of persons entitled to cast at least eighty percent (80%) of the votes in the Association as required by Section 47F-3-112 of the Act;

(c) grant easements or rights-of-way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(d) dedicate or transfer, with or without the right of reverter, all or any part of the Common Property or interests therein to any part of the Common Property to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Association and such grantee, provided such agreement, dedication and/or transfer shall require the prior written consent of (i) the Declarant so long as Declarant retains any title or estate in the Subdivision and (ii) the persons entitled to cast at least eighty percent (80%) of the votes in the Association, which agreement shall include a provision that such property or interest shall, if such dedication or transfer is so approved by Declarant and such eighty (80%) percent vote shall upon such transfer neither be subject to this Declaration nor all or any part of the Restrictions for such period of time as such municipality or other governmental body, agency or authority holds title to such property or interest;

(e) charge reasonable fees in connection with the admission to and use of its facilities or services; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes;

(f) suspend the voting rights of any Owner and the right of enjoyment granted or permitted by Article;

(g) subject to paragraph (d) above and the provisions of Section 47F-3-112, sell, lease or otherwise convey all or any part of its properties and interests therein; and

(h) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof.

2.7 Types of Common Property. When Declarant conveys, by deed or easement, an interest in real property to Association to be used as Common Property, Declarant may, subject to the applicable

land use ordinances of the county or other governmental entity having authority over the Subdivision, designate or limit in the instrument of conveyance the specific or general purpose or purposes for which such real property or portion thereof may be used by the Association, in which case such property or interest may not be used for any different purpose or purposes without a Two-Thirds Vote and the Declarant's prior written consent.

ARTICLE III THE ASSOCIATION

3.1 Purposes, Powers and Duties of The Association. The Association has been formed to comply with the Act, to perform functions in connection with the use and ownership of the Common Property, to exercise architectural control and to promote the desirability and attractiveness of the Subdivision. The Association shall have: (a) all of the powers of a corporation organized under the North Carolina Nonprofit Corporation Act; and (b) all of the rights, powers and privileges provided for by the Act, this Declaration and the Association's Bylaws.

3.2 Membership in the Association. Every Owner shall automatically be a Member of the Association and such membership shall terminate only as provided in this Declaration.

3.3 Voting Rights. There shall be two classes of membership: Class A and Class B. All Owners, other than the Declarant shall be Class A members and each such member shall be entitled to one (1) vote for each Lot owned. The Declarant shall be the sole Class B member and shall be entitled to the identical number of votes as the total number of Class A votes plus one (1) additional vote. If an Owner consists of more than one Person and only one of those Persons is present at a meeting of the Association, that Person shall be entitled to cast the vote of all Persons constituting such Owner. If more than one of such Persons is present, such vote shall be cast in accordance with their unanimous agreement, and such agreement shall be conclusively presumed if any one of such Persons purports to cast the vote of such Owner without protest being made forthwith to the individual presiding over the meeting by any of the other Persons present who comprise such Owner. If such Persons are unable to reach unanimous agreement as to how the vote of such Owner shall be cast, no vote may be cast by such Owner. The Class B membership shall cease and be converted to Class A membership at such time as Declarant no longer retains the "special declarant rights" as provided for by Section 3.8.

3.4 Board of Directors. The affairs of the Association shall be managed by the Board. The number of Directors and the method of election of Directors shall be as set forth in the Bylaws.

3.5 Suspension of Membership. The Board may suspend the voting rights of any Owner and/or the right of enjoyment of the Common Property of any Person who: (a) fails to remedy a violation or breach of this Declaration or the Design Standards within thirty (30) days after having received notice of such breach; (b) is delinquent in the payment of any Assessments; or (c) violates the Rules of the Association relating to the use, operation and maintenance of the Common Property. Such suspension shall be for the balance of the period in which such Owner or Person shall remain in violation, breach or default. No such suspension shall prevent an Owner's ingress to or egress from his Lot nor suspend or in any way diminish an Owner's obligation to pay Assessments. Suspension of Membership is in addition to and not in lieu of the other remedies available to the Association of any such violation, failure to cure or delinquency.

3.6 Termination of Membership. Membership shall cease only when a Person ceases to be an Owner.

3.7 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the Owners shall be governed by this Declaration, the Act, the North Carolina Nonprofit Corporation Act, the Articles and the Bylaws.

3.8 Control by Declarant. The Declarant shall have all "special declarant rights" provided for or permitted by the Act. On behalf of the Association, Declarant shall have the right to accept all deeds of gift of Common Property to the Association. Declarant shall have the right to control the Association including the right to appoint and remove any member or members of the Board, the Architectural Review Committee and all officers and committee members of the Association until such time as the first of the following events shall occur: (a) June 30, 2012; (b) the date on which (i) Declarant has conveyed all Lots to Owners other than Builders, or (ii) such sooner date mandated by the Veterans Administration ("VA"), if the VA guaranteeing any Mortgage in the Subdivision, or the Department of Housing and Urban Development ("HUD"), if HUD is insuring any Mortgage in the Subdivision, as the case may be; or (c) the recording of an amendment to this Declaration executed by Declarant surrendering this authority to control the Association. Upon the expiration of the period of Declarant's control of the Association, such control shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots. A special meeting of the Association shall be called at such time at which the Owners shall elect a new Board and Declarant shall deliver to such Board the books, accounts and records, if any, which Declarant has kept on behalf of the Association. Each Owner by acceptance of a deed to or other conveyance of Lot vests in Declarant such authority to appoint and remove directors and officers of the Association and otherwise control the Association as provided for in this Declaration.

ARTICLE IV ASSESSMENTS

4.1 Covenant for Assessments and Creation of Personal Obligation and Lien. Excluding the Declarant, each Owner, jointly and severally, for himself, his heirs, legal representatives, successors and assigns, agrees that by acceptance of a deed for each Lot, whether or not the covenants contained herein shall be expressed in any such deed, covenants and agrees as follows:

(a) to pay to the Association annual Assessments as and when levied by the Association;

(b) to pay to the Association all special Assessments for capital improvements and other charges as and when levied by the Association;

(c) that there is hereby created a continuing charge and lien upon each of Owner's Lots to secure payment of the Assessments and the Costs of Collection and any interest thereon;

(d) that such continuing charge and lien on such Lots binds and encumbers such Lots in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by

judgment or decree or by any agreement, contract, mortgage, deed of trust or other instrument, except such liens as are made superior by applicable law, including Section 47F-3-116 of the Act;

(e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lots from liability for any Assessment thereafter assessed;

(f) all annual and special Assessments (together with interest thereon as provided in this Declaration and Costs of Collection), in addition to being a continuing charge, lien and encumbrance against each Lot, shall be a personal obligation of the Owner thereof, which obligation shall survive any sale or transfer of the Lots by the Owner and shall, immediately upon transfer, become the personal obligation of such Owner's successor-in-title to the same extent as if expressly assumed by such successor subject only to the express provisions of the Act, if any, to the contrary;

(g) when an Owner buys a Lot upon which a home has been completed, such Owner shall pay the Association his prorated portion of the then current calendar year's annual Assessment and shall be liable to pay the Seller's share of current year's Assessments and all prior years' unpaid Assessments if, at the closing of the purchase of the Lot, such Owner fails to have such prorated and unpaid Assessments collected from the seller's sales proceeds and remitted to the Association; and

(h) the initial Assessments to be paid pursuant to this Declaration are made on behalf of the Association and are common expenses assessments as provided for by Section 47F-3-115 of the Act.

4.2 Purpose of Assessment. The Assessments levied by the Association shall be used for the purpose of paying the costs and expenses of the Association, including, but not limited to, security services and systems, the acquisition, construction, improvement, maintenance, operation and equpage of Common Property, insurance costs, the costs of engaging attorneys, accountants and other professions, and the performance of all duties and obligations of the Association, the enforcement of this Declaration and the payment of all principal and interest on all debts owed by the Association and the payment of the costs necessary to cover any deductible or exclusion under an insurance policy purchased by the Association.

4.3 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of Assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.4 Annual Assessments.

4.4.1 Beginning on the date of this Declaration (herein referred to as the "Commencement Date") and continuing thereafter until January 1 of the year immediately following the Commencement Date, each Lot shall be subject to an annual Assessment of Two Hundred Fifty Dollars (\$250.00). In the event that the Commencement Date falls on a day other than January 1, the annual Assessment for such year shall be prorated so that each Owner pays an annual Assessment proportional to

the number of days remaining in the calendar year from and after the date of acquiring title to the Lot. For all purposes, the Assessment levied pursuant to this Section 4.4.1 shall be considered the "first common expense assessment" as provided for under Section 47F-3-115 of the Act.

4.4.2 Annual Assessments are first payable when an Owner other than a Builder purchases a Lot; provided a Builder must begin to pay Annual Assessments upon violating Section 6.3 hereof. Annual Assessment is prorated as provided for in Section 4.4.1 hereof. The Declarant does not pay Annual Assessments.

4.4.3 Commencing with the first Assessment Year and continuing thereafter (i) the maximum annual Assessment may be increased at any time and from time to time during each Assessment Year by no more than ten percent (10%) above the annual Assessment for the previous calendar Assessment Year without a vote of the Owners; and (ii) the annual Assessment can be increased by more than ten percent (10%) of the prior year's only if the full amount of such assessment is approved by a Two-Thirds Vote.

4.5 Special Assessments for Working Capital Fund and Capital Improvements. In addition to the annual Assessments authorized by this Article IV, the Association may levy Special Assessments which:

(a) are a one time charge payable by the first purchaser of a Lot, regardless of whether a Builder or other Owner and are not prorated and are not assessed against Lots or other property owned by the Declarant,

(b) shall be in an amount to be determined by Declarant, but not to exceed Two Hundred Dollars (\$200.00), and which are to be collected at the closing of such first sale; and

(c) are to be levied for the purpose of paying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of one or more capital improvements on the Common Property, provided that any such Special Assessment shall have been approved by a Two-Thirds Vote.

4.6 Assessment Procedure.

4.6.1 The Board shall establish the annual Assessment for each Assessment Year at an amount not in excess of the maximum annual Assessment as determined by the provisions of this Article IV, and shall also establish the date during the Assessment Year on which the annual Assessment shall be due and payable (the "Due Date"). At least thirty (30) days in advance of the Due Date, the Board shall cause the Association to send to each Owner written notice setting forth the amount of the annual Assessment and the day of the Due Date. The annual Assessment shall become due on the later of the thirtieth (30th) day following such written notice or the Due Date. The Board may establish reasonable payment procedures to allow or require payment of the annual Assessment in monthly or quarterly installments during the Assessment Year. The Board shall also establish payment procedures for payment of any special Assessments which it levies.

4.6.2 The Board will give all Owners written notice not less than thirty (30) nor more than sixty (60) days in advance of any meeting of the Owners at which the Board proposes to put to a vote taking action pursuant to Section 4.4.3 or Section 4.5. Such written notice shall specify under which Section or Sections the Board will seek to move. For the purposes of this Section 4.6, the presence of Members or of proxies entitled to cast sixty percent (60%) of all of the votes shall constitute a quorum. If the required quorum is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement, and the required quorum at such second meeting shall be fifty percent (50%) of the quorum required by the Bylaws for the first meeting. No such second meeting shall be held more than sixty (60) days following the first meeting.

4.7 Uniform Rate of Assessment Both annual and special Assessments must be fixed at a uniform rate for all Lots, except as set forth below in Section 4.13.

4.8 Effect of Nonpayment of Assessments Any annual Assessment which is not paid on or before the Due Date and any special Assessment which is not paid on or before the date set by the Board shall bear interest after the Due Date with respect to annual Assessments, and the date set by the Board with respect to special Assessments, at eighteen percent (18%) per annum or at such other lawful rate of interest as the Board may from time to time establish; provided, in no event shall the Board have the power to establish a rate of interest in violation of North Carolina law. In the event of default in the payment of any one or more installments of an Assessment, the Board may declare any remaining balance of the Assessment at once due and payable. If an Owner fails to pay fully any portion of any Assessment when due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and the Costs of Collection shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Lot enforceable in accordance with the provisions of this Declaration and the Act.

4.9 Statement of Account Any Owner, Mortgagee or Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of Assessments and other charges due and unpaid, including any late charges, interest, fines, and the Costs of Collection, if any, against such Lot. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding Ten Dollars (\$10.00), as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of Assessments other charges due and unpaid, including any late charges, interest, fines, and the Costs of as of the date specified therein.

4.10 Approval by Declarant Notwithstanding anything to the contrary contained herein, no Assessment shall be made without the approval of Declarant until Declarant's Special Declarant Rights terminate.

4.11 Declarant's Exemption Unless required as a matter of law, the Declarant shall not at any time be subject to the Assessments described in this Article IV excepting only Assessments respecting any Lots owned by Declarant rented to one or more residential Occupants.

4.12 Declarant's Loans Declarant may, in its discretion, from time to time, lend to, or guarantee the loan to, the Association of such amounts as Declarant deems necessary to assist the

Association in payment of its operating expenses not covered by Assessment and other the income of the Association. In determining whether such a deficit exists, paper expenses, such as depreciation shall not be taken into consideration. All such loans shall be on terms and conditions satisfactory to Declarant, with the interest rate payable thereon not to exceed three (3) percentage points in excess of the "prime rate" publicly announced by Bank of America, Charlotte, North Carolina, from time to time. All such loans may be repaid by the Association out of its working capital reserves, including without limitation the special Assessments made under Section 4.5 hereof.

4.13 Allocation of Liability for Common Expenses. The Board may specifically assess Lots for the following Association expenses:

- (a) Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among the Lots which are benefitted according to the benefit received.
- (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.
- (c) Assessments to pay a judgment against the Association shall be made only against the Lots shown on Record Plats existing on the date the judgment was made of public record by docketing in the Clerk of Court's Office, provided if the judgment is caused by the negligent or willful act or omission of any Owner or such Owner's tenant, invitee or family member, the Association may assess the cost of satisfying such judgment exclusively against the Owner and, if unpaid, the Owner's Lot.
- (d) Expenses of the Association occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots may, in the Board's discretion, be specially assessed against such Lot or Lots.

ARTICLE V

Architectural Review

5.1 Architectural Review Committee - Creation and Composition.

5.1.1 As a "Special Declarant Right", the Declarant shall control the Architectural Review Committee (the "Committee"), appoint such members and establish such Rules as it deems advisable until its special declarant rights terminate as provided by Section 3.8 hereof. During the period of its control, Declarant is authorized to exercise all of the Committee's powers and rights, conduct all of its activities and approve or disapprove plans, determine the existence of Violations, grant certificates of compliance and otherwise conduct the business of the Committee as set forth in this Article.

5.1.2 Upon the expiration of Declarant's control, the Committee shall be composed of three (3) members. The Chairman of the Board shall be the Chairman of the Committee. The other two members of the Committee shall be appointed by the Board. Any voting deadlock shall be broken by the Board. All members of the Committee shall serve at the pleasure of the Board; provided, the Board may elect to act as the Committee subject to the provisions of this Article.

5.1.3 Excepting the Chairman, the membership terms of Committee members shall be staggered, having the second member's term running from the date of appointment to the end of the first full calendar year following appointment and having the third member's term running to the end of the second full calendar year from the date appointed. Thereafter each of the members of the Committee, excepting the Chairman, shall be appointed for a two year term. If any vacancy shall occur in the Committee's membership by reason of death, incapacity, resignation or removal, then the remaining members of the Committee shall continue to act and such vacancy shall be filled by the Board or Declarant, as the case may be. Any Committee member may resign at any time by giving written notice of such resignation to the Board and such resignation shall take effect on receipt thereof by the Chairman. Any member of the Committee may be removed at any time with or without cause by Declarant (or the Board if at such time the Board has the right to appoint members of the Committee). This Section 5.1.3 shall be suspended during the Board acts as the Committee.

5.2 Purpose, Powers and Duties of the Architectural Review Committee.

5.2.1 The purposes of the Committee are to seek (i) conformity with Design Standards of the exteriors of Structures on initial construction or installation and upon remodeling, alteration and reconstruction, and (ii) aesthetic compatibility between and among the exteriors of new construction, and additions and alterations to existing Structures.

5.2.2 To accomplish its purposes, the Committee shall be and is hereby vested with the authority and responsibility to control exterior design, color compatibility and location of Structures in Windy Ridge by its review of Plans for constructing, re-constructing, adding to or remodeling Structures. The Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incident to, the accomplishment of its purposes. The Committee shall have the duty to review Plans and to approve, recommend changes to reject Plans. No Structures shall be constructed, altered or added to, nor changes of colors or materials of exterior surfaces of any Structures be made without the Owner first obtaining the Committee's written permit for such construction, alterations, additions and exterior color changes. In cases involving new construction as well as exterior alterations, additions or remodeling, the Owner shall submit Plans for approval. In cases involving changes in exterior colors or materials the Owner shall submit color or material samples.

5.2.4 From its inception, all costs of operating the Committee shall be borne by the Association.

5.3 Design Standards. The initial Design Standards are the special use conditions and residential design standards, including, by way of illustration, but not limitation, the Residential Design Standards set forth in eleven (11) numbered paragraphs on the Preliminary Plan for the Subdivision by The Isaacs Group, last revised October 16, 2002 and the Land Development Plan Objectives and Strategies imposed by the City of Monroe under the Special Use Permit for Project 02-111-00012 and the R-12SU zoning of the Subdivision; provided, the Committee shall consider the total design of each Structure under review and shall not restrict its review only to subjects covered by any such Design Standards. The Committee shall have the right to amend the existing the Design Standards and create additional ones. The Committee shall also have the right to develop a color palette that sets out exterior surface colors by way of paint chips. Use of one or more of the colors on such palette will be approved but does not eliminate the need for a permit from the Committee prior to painting.

5.4 Officers, Subcommittees and Compensation. The members of the Architectural Review Committee may appoint from among their number such other officers and subcommittees of members of the Committee as they shall from time to time determine necessary. The members of the Committee shall be reimbursed by the Association for reasonable out of town traveling expenses and other reasonable out-of-pocket costs incurred in the performance of their duties as members of the Committee. In all cases, the necessity for such travel shall be approved in advance by the Board. The pool of candidates for membership need not be limited to Owners.

5.5 Operations of the Architectural Review Committee. The Architectural Review Committee shall, as required, make findings and determinations as to whether or not Plans submitted to it for approval conform with the Design Standards adopted pursuant to Section 5.3 hereof. The Committee shall, as required, issue permits and approvals, which may include specified requirements, the satisfaction of which are conditions precedent to such permits or approvals becoming effective.

5.5.1 Meetings. The Architectural Review Committee shall hold meetings when necessary to conduct its business and perform its duties. Upon the expiration of Declarant's control, meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the Committee then in office. Meetings of the Committee shall be held at such time and at such place as the Committee shall specify. Notice of each meeting of the Committee shall be mailed to each member thereof (if such member has requested in writing that such notice be given to him) at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of meetings need not specify the purpose or purposes for which the meetings are called. Notice of a meeting need not be given to any member of the Committee who signs a waiver of notice either before, at or after the meeting. Attendance of a member of the Committee at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at the beginning of the meeting, any such objection or objections to the transaction of business.

5.5.2 Quorum and Records. At each meeting of the Committee, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the Committee present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the Committee. In the absence of a quorum, any member of the Committee present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The Committee shall maintain both a record of votes and minutes for each of its meetings. The Committee shall make such records and minutes available at reasonable places and times for inspection by Owners.

5.5.3 Taking Actions. The favorable vote of two (2) members of the Committee is required to take any action and to exercise authority of the Committee with respect to all or specified matters, excepting the adoption, modification or cancellation of Design Standards which requires the majority vote of the Board. Each applicant shall be given notice of the results any action taken within five (5) business days. Any action required to be taken at a meeting of the Committee, or any action which may be taken at a meeting of the Committee, may be taken without a meeting if written consent, setting

forth the action so taken, shall be signed by all the members of the Committee and filed within the minutes of the proceedings of the Committee. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the Committee.

5.5.4 Appeal. Except in the case where the Board has not appointed a Committee and is responsible for the duties thereof, if any application for any permit, approval or authorization is rejected or accepted with conditions, the applicant shall have an automatic right to appeal to the Board. Within five (5) business days of deciding on an application, the Committee, shall give the applicant written notice of its decision to the applicant. The applicant may, within ten (10) days after receipt of such notice file a written appeal to the Board for review of the Committee's decision. Timely filed appeals shall be reviewed by the Board promptly, and in any event, no event later than thirty (30) days after filing.

5.6 Submission of Plans. Neither shall any Structure be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall the exterior appearance of any existing Structure be altered in any way without the prior written approval of the Committee. To obtain approval, the Owner or his Architect or Builder must submit two sets of the Plans to the Committee. Such approval shall be evidenced by written notation on one set of the Plans which are returned to the applicant. Such Plans shall be in such form and shall contain such information as may be reasonably required by the Committee, including, but not limited to: (a) a site plan showing the location of all proposed and existing Structures, including building setbacks, open space, driveways, walkways and parking spaces, including the number thereof; (b) a foundation plan; (c) a floor plan showing the heated square footage under roof; (d) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all backfilling and landscaping are completed; (e) specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and (f) plans for landscaping and grading.

5.7 Approval of Plans and Specifications.

Upon approval by the Committee, one copy of the Plans, as approved, will remain in the permanent records of the Committee, and one set of Plans bearing such approval, in writing, together with any conditions imposed, will be returned to the applicant. If no conditions are imposed such Plans will be designated as the "Applicant's Approved Set." Any conditions imposed to the Applicant's Plans must be first submitted for the Architectural Review Committee's approval prior to construction. Approval for use in connection with any Lot or Structure of Plans shall not be deemed a waiver of the Architectural Review Committee's right, in its discretion, to disapprove use of such Plans in connection with any other Lot or Structure. Approval of the Plans shall be final with respect to the Lot for which application was made and such approval may not be revoked or rescinded thereafter if construction conforms to such Plans and any conditions attached to any such approval.

5.8 Disapproval of Plans and Specifications. The Committee shall have the right to disapprove any submitted Plans due to any of the following: (a) the failure to include such information in such Plans required herein or as may have been reasonably requested by the Committee; (b) the failure of such Plans to comply with this Declaration or the Design Standards; or (c) any other matter which, in the judgment of the Committee, would be likely to cause the proposed installation, construction or alteration of a Structure; (d) to fail to conform with the Design Standards; or (u) if a change of color, to be incompatible with Structures in range of sight of the place where the color will be applied or if deemed by the Committee in

its discretion to be aesthetically unpleasing or incompatible with the locale. In any case in which the Committee shall disapprove any Plans, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.9 Failure to Act.

5.9.1 At the time a Builder applies for a building permit, it shall apply for the Committee's approval of its Plans by delivering to the Committee two sets of its Plans showing the items required in this Article. The Committee shall not unreasonably withhold, delay or condition its approval of such Plans if they comply with the original Design Standards, and in any event, such approval shall be deemed unconditionally given if the Committee fails to give written notice to the Builder of any deficiencies in such Plans within seven (7) business days of the Committee's receipt of such Plans.

5.9.2 If the Committee or its designated representative fails to approve the Plans, with or without conditions, within thirty (30) days after the application, its approval will not be required and Section 5.6 will be deemed complied with.

5.9.3 Notwithstanding the above provisions of this Section 5.9, nothing herein shall authorize anyone to construct, modify or maintain any Structure or improvement that is otherwise in violation of this Declaration or Governmental Requirements.

5.10 Inspection Rights. Any employee or agent of the Association or the Architectural Review Committee may, after reasonable notice, at any reasonable time or times enter upon any Lot and unoccupied Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Association, nor the Committee, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

5.11 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in substantial accordance with the Plans approved by the Committee, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without approval, and the Committee shall notify the Board. If the Board agrees with the Committee respecting such violation, then the Association shall have the rights set forth in Article VIII.

5.12 Certification of Compliance.

5.12.1 Upon completion of the erection, installation, construction or alteration of any Structure in substantial accordance with approved Plans, the Committee shall, upon written request of the Owner or upon the Committee's own initiative, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the Plans have been approved and that such Structure complies with such Plans. A copy of said Certificate shall be filed with the permanent records of the Association.

5.12.2 Any Certificate of Compliance issued in accordance with the provisions of this Section 5.12 shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article; provided, however, that the Certificate shall in no way be construed to certify, represent or warrant the acceptability, sufficiency or approval by the Committee of the actual construction of the Structures or the workmanship or materials incorporated therein, or to represent or warrant to anyone the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment or the fitness or suitability for habitation or any other purpose.

5.12.3 The issuance of a Certificate of Compliance with respect to any Structure shall in no way be construed to certify to any party that such Structure has been built in accordance with the governing building code or any other Governmental Requirements.

5.13 Fees. The Architectural Review Committee may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to this Declaration. The fee shall be established from time to time by the Board and published in the Design Standards.

5.14 Nondiscrimination by Architectural Review Committee. The Committee shall not discriminate against any applicant requesting its approval of Plans because of such applicant's race, color, sex, religion, age or national origin. Further, the Committee in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against Persons of a particular race, color, sex, religion, age or national origin.

5.15 Liability for Defects. Neither Declarant, the Association, members of the Board, officers of the Association, the Committee, any subcommittee thereof, nor any committee or subcommittee members thereof, shall be liable in damages to anyone submitting Plans for approval under the Architectural Review provisions, or to any Owner or other Person by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any Plans or by reason of such Plans, as approved, failing to be satisfactory for construction purposes. Every Person who submits Plans for approval agrees by the submission of same, and every Owner agrees, that he will not bring any action or suit against Declarant nor any of the above-described parties responsible for operating the Association and enforcing the Restrictions to recover for any alleged damages for any of the above reasons or for the failure of such Plans to be sufficient or suitable for purposes of constructing or altering the intended Structure for which such Plans were made. If any action or other proceeding is brought seeking any such damages, Section 5.12 and Section 5.15 may be plead in bar thereof.

ARTICLE VI

GENERAL COVENANTS AND RESTRICTIONS

6.1 Residential Use

(a) Except as expressly provided herein to the contrary, each Lot shall be used for single-family residential purposes only, and no trade or business of any kind may be conducted in or from

a Lot or any part of the Subdivision, including business activities ancillary to a primary residential use except (a) such activities or uses as are in compliance with the ordinances of the City of Monroe, (b) the business activity does not involve regular visitation of the Lot by employees, clients, customers, suppliers or other business invitees; provided, however, this provision shall not preclude delivery of materials or items by United States Postal delivery or by other customary courier and parcel delivery services (U.P.S., Federal Express, etc.); and (c) the business activity does not materially change the residential character of the Subdivision and does not constitute a nuisance or a hazardous or offensive use.

(b) The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Lot by a Builder or real estate agent for on-site sales efforts is expressly permitted.

6.2 Residential Design Standards. The permanent Structures on all Lots shall comply with the Residential Design Standards set forth in eleven (11) numbered paragraphs on the Preliminary Plan for the Subdivision by The Isaacs Group, last revised October 16, 2002 and the Land Development Plan

Objectives and Strategies imposed by the City of Monroe under the Special Use Permit for Project 02-111-00012 and the R-12SU zoning of the Subdivision, including but not limited to the following requirements:

- (a) not more than one single-family dwelling shall be erected on any Lot having a minimum of 1,450 square feet of heated living area exclusive of garages, porches, decks, patios or similar appurtenances;
- (b) each dwelling shall have a standard two-car garage;
- (c) all driveways shall have asphalt or concrete pavement and be able to accommodate four cars in the space between the ten (10) foot wide front set backs for sidewalks and utilities shown on the Plans and the front of the garage doors;
- (d) all houses built on slab shall have a minimum four course brick masonry veneer skirt, using bricks of standard brick size, extending up the face of the slab;
- (e) the wall located on the architectural front of the dwelling on each Lot should not run unbroken (unarticulated) for a distance greater than twenty-four linear feet and all wall offsets shall be at least of one foot in depth;
- (f) The exterior walls of all houses shall be made of wood, brick, vinyl, stone, stucco or similar materials. The exterior use of masonry and other high maintenance materials is discouraged.
- (g) twenty five percent of the architectural front wall area (including windows and doors but excluding foundations) of any house with exterior vinyl siding must have a brick, stucco or stone finish;

(b) a majority of all roof areas must have a minimum 6/12 roof pitch; and

(i) all exposed chimneys must be of brick or brick veneer;

6.2.10 The front yard of each lot shall contain at least two trees suitable for healthy growth in Piedmont North Carolina. Each such tree must have a minimum caliper of one and one half inches measured at a height of six inches above ground level.

6.2.11 A planting strip of ten feet in width shall be placed between the street curb and the sidewalk with one tree planted for each interior lots. For corner lots, one tree per lot shall be planted along the front planting strip and two trees along the side street planting strip, except that corner lots adjacent to cul-de-sacs shall have only one tree planted on the side street planting strip. Lots having a sanitary or storm drainage easement along the lot lines where one or more trees would otherwise be required shall be exempt from this requirement. No sidewalk, planting strip or street trees shall be installed on any Lots abutting streets having right of way widths of 45 feet. All trees that are planted must have a minimum caliper of one and one half inches measured at a height of six inches above ground level.

6.3 Duty to Build Within Eighteen Months of Acquiring Title.

6.3.1 Within eighteen (18) months of the record date of obtaining title to a Lot, the Owner thereof must have (i) obtained the issuance of a building permit from governmental authority for the construction of a single-family residence on such Lot, (ii) obtained approval of the Owner's Plans from the Committee and (iii) in good faith commenced construction of a single family residence.

6.3.2 The Committee shall have the right to recommend to the Board that the Association should take action due to the failure of any Owner to complete any Structures, including landscaping, within one (1) year from the date of issuance of the building permit, which action could include imposing fines for such failure and/or taking appropriate court action, whether at law or in equity to compel the immediate completion of such Structures. The remedies provided for in this Section 6.3.2 are in addition to the obligation to commence to pay Annual Assessments imposed under Section 4.4.

6.4 Walls and Fences. No fence or wall shall be erected, placed, or altered on any Lot, unless approved in writing by the Committee. No fences shall be permitted to extend beyond the front facade of any house. Prior to construction or erection of any wall or fence at, upon or near any Lot, the Owner must submit to the Committee a plan showing the height of any proposed wall or fence and example(s) of the materials, color(s) and design to be used. In no event shall any such wall or fence be more than sixty (60) inches in height measured from finished ground level. Prior to erection, every Owner must obtain the written approval of the Committee as to the location, height, design and material respecting any and all dog kennels, dog pens, fences and walls that an Owner intends to have erected, whether located on such Owner's Lot or on a common property line or on any neighboring property. Absent such prior written consent of the Committee, permission granted from an Owner's neighbor to locate a fence or wall upon such neighbor's Lot or a common property line shall make the neighbor, along with the Owner, jointly and severally responsible for the sanctions that can arise upon failure to comply with this Section. Failure to comply may arise either from failure to obtain the Committee's prior written consent or failure to

construct or erect any fence or wall in compliance with the written consent granted by the Committee. The exposed part of retaining walls and foundations shall be made of brick, natural stone, landscaping timbers, railroad ties, stucco (parged or painted), cultured stone, or veneered with brick or natural stone. No chain link fences shall be permitted. Split rail fences with wire inserts will be permitted. Typically, the maximum height of any fence shall not be more than five feet above finished ground level.

6.5 Subdivision of Lots. One or more Lots or parts thereof may be subdivided or combined to form one single building Lot when approved, in writing, by the Committee. Otherwise, subdivision or combination of Lots is prohibited. Approval to subdivide or combine does not carry with it permission to return such Lot or Lots to the condition that existed prior to granting such approval.

6.6 Terraces, Eaves, Etc. For the purpose of determining compliance or non-compliance with the building line and natural, undisturbed buffer requirements set forth on the Plat, terraces, cantilevers, patios, drainage facilities, detention ponds, lawn furniture and recreational equipment shall not be considered as a part of the Structure.

6.7 Garages and other Outbuildings. Garages may be attached or detached, but must be large enough to accommodate at least two automobiles, and garage interiors shall be sheetrocked and painted. All garages shall have doors the design of which must be approved by the Committee. The exterior design and quality of garages and other outbuildings of a permanent nature shall conform to the residence on each Lot and their design, size, location and orientation shall be subject to the prior approval of the Committee. Prior to commencing construction, the Plans for any such Structures must be submitted to the Committee for approval.

6.8 Delivery Receipts and Property Identification Markers. The Architectural Review Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receipts for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receipts, as well as property identification markers. The Committee may establish uniform criteria for such receipts. If it does so, all Owners shall be required to change out their receipts to comply with such criteria. Once the Owners comply with such criteria, such criteria may not thereafter be changed without a vote of a simple majority of the Owners.

6.9 Use of Outbuildings and Similar Structures. Except as otherwise provided in this Section 6.9, no Structure of a temporary nature shall be erected or allowed to remain on any Lot, unless approved in writing by the Committee, and no trailer, camper, shack, tent, shed, barn or other structure of a similar nature shall be situated on any Lot, either temporarily or permanently, unless approved in writing by the Committee. Provided, however, that Declarant and others engaged in construction on the Lots may use sheds or other temporary structures during construction for purposes of construction without the approval of the Committee, and may maintain temporary real estate offices for the sale of Lots or homes in the Subdivision, without the approval of the Committee. No fuel tanks shall be located on any Lot.

6.10 Pets.

6.10.1 No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Subdivision, as determined in the Board's discretion.

6.10.2 No Owner or Occupant may keep, breed or maintain any pet or other animal for any commercial purpose. Pets other than cats may not be left unattended outdoors unless confined by visible or invisible fences that effectively restrict such pets to the Owner's Lot. No structure or fencing for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Subdivision without prior written Board approval. When outdoors and off of the Owner's Lot, a dog must be kept on a leash and be under the physical control of a responsible person at all times. Feces left by dogs anywhere within the Subdivision, including portions of an Owner's Lot not enclosed by approved dog runs or other approved fencing, must be removed by the owner of the dog or the person responsible for the dog.

6.10.3 The Board, in its discretion, shall have the right to adopt Rules which expand or restrict the provisions of Section 6.10.

6.11 Offensive Activities. No noxious, offensive or illegal activities shall be carried on upon any Lot or the Common Property, nor shall anything be done thereon which is or may become an annoyance or nuisance to other Owners.

6.12 Signs. Except as may be required by legal proceedings, no signs advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on any Lot or elsewhere on the Subdivision without the prior written consent of the Committee, except the following: (i) one professional security sign or decal not to exceed four (4") inches by four (4") inches in size may be displayed from within a dwelling on a Lot on each side of the dwelling house, and (ii) one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed such size in width, length and height as the Committee shall designate, which sign may be displayed in such location or locations as the Committee shall designate on a Lot or within the dwelling thereon as being offered for sale or for lease. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

6.13 Screening of Window Air Conditioning Units. No window air conditioning units shall be visible from any street.

6.14 Antennae. Without the prior written consent of the Architectural Review Committee, no radio or television transmission or reception antennae shall be erected on any Lot, whether mounted on a residence or free standing. Except as required by federal law, no satellite dishes shall be permitted on any Lot.

6.15 Parking.

6.15.1 The Board, by Rules it adopts, shall have the right to (i) limit to a reasonable number the vehicles any Owner may keep on his Lot or bring onto the Subdivision, and (ii) the areas

where vehicles may be parked other than an Owner's driveway or garage, and such special occasions, if any, when street parking is permitted.

6.15.2 Disabled and stored vehicles are prohibited from being parked on the Subdivision. Boats, boat trailers, trucks with a load capacity of one and one-half (1.5) tons or more, full-size vans (excluding mini-vans or utility vehicles used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked on the Subdivision, except in garages or other areas designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the streets and Common Property during normal business hours for the purpose of serving any Lot or the Common Property; provided, that, without the written consent of the Board, no such vehicle shall be authorized to remain on the Common Property overnight or for any purpose except serving a Lot or the Common Property. For purposes of this Section, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains in its same location on the Subdivision without being moved for fourteen (14) or more days without prior written consent of the Board.

6.15.3 If any vehicle is parked on any portion of the Subdivision in violation of this Section or in violation of the Association's Rules, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle is subject to being towed at Owner's cost. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be placed on such vehicle stating the name and telephone number of the person or entity which will do the towing. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within three (3) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

6.15.4 If a vehicle is parked in a fire lane, is blocking another vehicle or a driveway or fireplug, or is obstructing the flow of traffic, or is parked in any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately.

6.15.5 If a vehicle is towed in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any person for any loss, claim of damage or injury to any person, any person's property, the vehicle or its contents as a result of the towing activity and this Section may be plead in bar of any action brought respecting any such claims. The Association's right to tow is in addition to, and not in limitation of, all other rights of the Association, including the right to assess fines. The Board may elect to impose fines or use other available sanctions, in addition to or in lieu of exercise of its authority to tow.

6.16 Garbage and Refuse Disposal

6.16.1 No Person shall dump rubbish, garbage, or any other form of waste on any Lot or on the Common Property.

6.16.2 Except during approved construction, no Person shall burn rubbish, garbage, or any other form of waste on any Lot or on the Common Property.

6.16.3 Except for building materials employed during the course of construction of any Structure, no lumber, metals, bulk materials, debris or waste of any kind shall be kept, stored, or allowed to accumulate on any Lot unless screened or otherwise handled in the manner approved in writing by the Committee. If such debris, waste or materials are found on any Lot, the same will be removed by the Owner of such Lot, at the Owner's expense, upon written request of the Committee, and if an Owner fails to comply with such request, the Board shall have the right to cause such waste and/or materials to be removed and the costs thereof charged to the Owner as a special Assessment, and the Association shall have the liens rights and other remedies available for the collection of Assessments.

6.16.4 During the course of construction, no building materials shall be unloaded upon or stored for any period of time upon the paved surface of any street within the Subdivision.

6.16.5 If rubbish, garbage, or any other form of waste is being disposed of by being collected on a regular and recurring basis, sanitary containers may be placed in the open on any day that a pick-up is to be made, in order to provide access to Persons making such a pick-up. At all other times such containers shall be screened, kept in garages or otherwise enclosed in the manner approved by the Committee.

6.17 Changing Elevations. Except during the construction of permanent improvements thereon, no Owner shall excavate or extract earth from any Lot for any business, commercial or other purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots, unless approved in writing by the Committee.

6.18 Utility Facilities. Declarant reserves the right to approve the location for the construction, installation and maintenance of underground utility facilities, including but not limited to water, storm water, telephone, gas, electricity, cable television and sewerage systems, which may be at variance with these Restrictions.

6.19 Abandoned Personal Property.

6.19.1 Personal property, excluding vehicles and other property that are governed by Section 6.15, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written consent of the Board.

6.19.2 If the Board, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Property in violation of this Section, then the Board may remove and either discard or store the personal property in a location which the Board may determine, and, provided the Owner thereof is known to the Board, the Board shall place a notice on the personal property and/or on the front door of the Lot of the Owner of such property specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored by the Board in a location which the Board may determine. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation. If the Violation continues for two (2) days after such notice, or

thereafter occurs again within six (6) months of such notice, the personal property may be removed in without further notice.

6.19.3 If the Board determines that an emergency situation exists, the personal property abandoned or stored in violation of this Section may, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board at a location selected by the Board; provided, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

6.19.4 If personal property is removed in accordance with this Section 6.19, neither the Association nor any officer or agent to the Association shall be liable to any person for any claim of damage resulting from the removal activity and the owner thereof shall bear costs of removal and storage. The Person who provides storage shall have a lien on such property for his costs. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

6.20 Buffers. Areas designated on the Plats as "Buffers" shall not contain Structures, except for: (a) uses granted with the Board's prior written permission; and (b) development Structures required due to engineering considerations such as detention ponds, underground utilities and the streets and driveways as shown on the Plat. Swimming pools shall not be constructed in the "Buffers."

6.21 Maintenance of Lots. Each Lot shall be maintained in a tidy and sanitary condition and grass and landscaping shall be properly maintained. Such maintenance shall include without limitation the care and maintenance of any portions of the Lot labeled or used as drainage easements; provided, however, the Association shall be responsible for the cleaning, maintenance and repair of any detention ponds labeled as such on any of the Plats. Should any Owner fail or refuse to maintain his Lot in such condition, the Association shall be entitled to provide written notice to such Owner of the deficiencies in maintenance. If such deficiencies are not corrected within thirty (30) days after receipt of such written notice by such Owner, the Association may, at the expense of the Owner, enter the Lot and perform such maintenance. The cost of such maintenance may be specially assessed against the Owner of such Lot, and the Association shall have lien rights therefor as in the case of other Assessments. The provisions of this Section permitting the Association to perform maintenance and assess the cost thereof shall not apply to any Lots owned by Declarant.

6.22 Entrance Monuments. Declarant shall have the right to construct entrance monuments, including, but not limited to, walls, gateways, landscaping, signage, lighting, irrigation, and decorative features, at each entrance to the Subdivision, without the prior approval of the Committee.

6.23 Clotheslines. No outside clotheslines placed on any Lot shall be visible from any adjacent Lot, Common Property or street.

6.24 Recreational Equipment. Recreational and playground equipment placed or installed on any Lot shall be located only behind the residence as such residence fronts on a street, unless otherwise

approved in writing by the Committee. For Lots which are adjacent to two or more streets, recreational and playground equipment shall be screened so that the same is not visible from either street.

6.25 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without compliance with Governmental Requirements. The Committee may, as a condition or approval of such Plans, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices of controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the Committee.

6.26 Nuisance and Noise. Noxious, destructive or offensive activity shall not be carried on upon the Subdivision. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause a nuisance or annoyance to other Owners or Occupants. No Owner or Occupant of a Lot may use or allow the use of a Lot or any portion of the Subdivision in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or Occupants of a portion of the Subdivision, or in such a way as to constitute a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights. No Owner or Occupant of a Lot may use or allow the use of the Lot or the Common Property in any manner which creates disturbing noises between the hours of 11:00 p.m. and 7:30 a.m. that will, in the Board's sole discretion, unreasonably interfere with the quiet enjoyment, use, comfort or convenience of the Owners or Occupants.

ARTICLE VII

EASEMENTS, ZONING AND OTHER RESTRICTIONS

7.1 Easements Granted or Reserved by Declarant. In addition to the Easements granted and/or reserved in Article II hereof, Declarant hereby expressly reserves to itself, and its successors and assigns, and grants to the Association, the Owners of Lots, and for the suppliers of utility and CATV services and their respective successors and assigns, in each case where appropriate, permanent easements, unless otherwise expressly limited, all as provided for in this Article.

7.2 Easements for Utilities, Storm Drainage, Slopes and Landscaping. Declarant reserves in perpetuity the right to create perpetual easements in, on, over and under any part of the Subdivision for any purpose which Declarant deems necessary, including, by way of example, and not of limitation, the following: (a) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities; (b) the erection, installation, construction and maintenance of storm-water drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function; (c) the creation of slope control purposes, including the right to grade and seed and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow; (d) the planting or replanting of hedges, shrubbery, bushes, trees, flowers and plants; and (e) the maintenance of entrance monuments.

7.3 Easements Over Roads and Sidewalks. Each Owner and Declarant for so long as Declarant owns an interest or estate in the Subdivision shall have a nonexclusive and perpetual easement for access, ingress and egress of vehicular and pedestrian traffic over and across such roads and sidewalks located on the Subdivision. The rights granted herein are subject to relocation, reconstruction, repair and maintenance, to such an extent as Declarant deems necessary or desirable, and are further subject to such nondiscriminatory and reasonable traffic regulations as Declarant deems necessary or desirable for the safe and efficient flow of such traffic. If such roads are dedicated to the public use, the easement rights with respect thereto shall automatically terminate.

7.5 Easements for Signs, Entrance Features, Landscaping, Etc. Declarant reserves for its benefit and grants to the Association and Lot Owners, where appropriate, permanent non exclusive easements:

(a) over all Lots and Common Property for a distance of ten (10) feet behind the front property lines of such property paralleling all streets (whether public or private) for the purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, plantings, street lights, entrance features and/or "theme areas," lighting, stone, wood, or masonry wall features and/or related landscaping;

(b) Declarant reserves certain easement areas for the erection and maintenance of entrance monuments and features, subdivision signs, walls, fences and other structures for the benefit of the Owners shown on one or more Plats which, on the recording thereof, shall become part of the Common Property. Such easement areas shall be perpetual in duration and shall include the right to erect, maintain, repair, replace and re-erect such structures within the easement areas, as well as the right to cut, remove and plant, maintain and irrigate trees, shrubbery, grass, plants, flowers, and other vegetation and grade and landscape the land within said easement. Any Owner taking title to any Lot upon which such an easement lies will take title subject to the easement rights set forth herein, as well as such rights as may be set forth on the Plat(s) or in any deed conveying such easement areas to the Association.

7.6 Access Easements Over Lots to Common Property. In its discretion, the Declarant, by the recording of one or more Plats may establish one or more easements granting to the Association and its members the right of pedestrian access over and across portions of one or more Lots owned by the Declarant so that the Association's members may access one or more parcels of Common Property, and the purchasers of such Lots shall take title subject to such easements.

7.7 Reciprocal Encroachment Easements. Declarant hereby grants and reserves reciprocal appurtenant easements upon all of the Lots for the benefit of the Owners thereof for surface and subsurface support and overhang and for the maintenance, repair and replacement of all Structures and portions thereof, including by way of illustration and not limitation, all eaves, roof overhangs, balconies, siding and porches, that are hereinafter erected or placed on any Lot that encroaches onto or over or extend into the air space above any portions of the Common Property, and, conversely, there is hereby granted to the Association appurtenant easements for surface and subsurface support and for the maintenance, repair and replacement of all Structures and portions thereof constructed on the Common Property that encroach onto or over each and every portion of the Lots. All such encroachment easement hereby granted and shall exist for so long as such encroachments exist.

7.8 Drainage Easements. Declarant hereby reserves for itself and the Association perpetual easements across all Lots and Common Property for the purpose of correcting, repairing, and altering drainage and water flow. These rights and easements shall include, but are not limited to, altering swales, installing drains, drainage ditches, pipes, inlets, headwalls, and altering channeling or piping waterflow across any Lot or any property in the Subdivision, and expressly include the right to cut any trees, bushes and shrubbery, grade the land, and take any other similar action reasonably necessary, following which Declarant shall restore the affected property to its original condition as near as practicable. Declarant shall give reasonable notice of intent to take such action to affected Owners, unless in the opinion of Declarant an emergency exists which precludes such notice.

7.9 Easements for Public Safety and Emergencies A right of entry on any Lot or Common Property is hereby granted to law enforcement officers, and fire and rescue personnel and their vehicles as needed to carry out their duties.

7.10 Association's Easements to Exercise Rights and Discharge Duties. The Association by and through its employees, agents and contractors, is hereby granted an easement and right-of-entry through, over and upon each Lot for the purpose of discharging and performing any duty imposed, or exercising any right granted, by this Declaration, including but not limited to the duty or right of maintenance or replacement imposed upon either the Association or upon any Owner.

7.11 Entry by Declarant. Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each "Easement Area" (as defined in this Section) for any of the purposes for which such Easement Area is reserved. The words "Easement Area" means those areas on any Lot with respect to which easements are shown on a recorded deed or the Plat relating to the Lots shown thereon.

7.12 Construction and Sale Period Easement. As long as Declarant owns any property subjected now or in the future to the Declaration, as amended and/or supplemented, Declarant reserves and shall have easements across the Subdivision for the benefit of Declarant and any Persons approved by Declarant to maintain and carry on construction and/or sales activities, which reserved easement shall include an easement for such facilities and activities which, in the sole opinion of Declarant, may be required, convenient or incidental to the development, construction and sales of Lots, including, without limitation:

- (a) The right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in any portion of the Subdivision excepting all Lots that are subject to residential occupancy;
- (b) The right to tie into any portion of the Subdivision with driveways, parking areas, and walkways;
- (c) The right to tie into or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any devise which provides utility or similar services;

- (d) The right to construct recreational facilities on Common Property;
- (e) The right to carry on sales and promotional activities in the Subdivision;
- (f) The right to place direction and marketing signs on any portion of the Subdivision, including any Lot or Common Property;
- (g) The right to construct and operate business offices, construction trailers, model residences, and sales offices incidental to the construction, development and sales activities, and the right to erect directional signs to the location of all such facilities;
- (h) The right for Declarant and any Builder or other Person approved by Declarant to use residences, or other buildings owned or leased by Declarant or such Builder or Person as model residences and sales offices, and the right to use without charge recreational facilities for sales or marketing purposes.

7.12 No Trespass. The entry by any Person upon any Lot or other area encumbered by an easement shall not be deemed a trespass or other violation of law absent a breach of the peace in so doing.

7.13 Zoning and Private Restrictions; Resolving Conflicts. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

7.14 Reservation of Rights Do Not Impose Duties. The reservation of rights and easements in this Declaration do not by inference or otherwise impose any duties on the holder of such rights and easements. Rights exercised pursuant to reserved easements shall be exercised with a minimum of interference to the quiet enjoyment of affected Owners, and reasonable steps shall be taken to protect property from damage. Any damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent until the Special Declarant's Rights hereunder have terminated.

ARTICLE VIII

RULE MAKING AND ENFORCEMENT

8.1 Authority and Enforcement

(a) Property located in the Subdivision shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable Rules governing the conduct, use and enjoyment of Lots and the Common Property; provided, copies of all such Rules shall be furnished to all Owners and Occupants. Any Rule may be repealed by Declarant until its Special Declarant Rights terminate, and thereafter by the affirmative vote or

written consent of the Owners by a Two-Thirds Vote by written consent or at an annual or special meeting of the membership.

(b) Every Owner and Occupant shall comply with the Declaration, Bylaws and Rules of the Association and the rules and regulations of the Architectural Review Committee, and any lack of compliance (a "Violation") shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to obtain compliance and enforce the terms of the Declaration, Bylaws, Rules and the determinations of the Architectural Review Committee.

(c) Subject to the provisions of Section 8.2 hereof, the Board shall have the power to impose reasonable fines for such lack of compliance not to exceed One Hundred Dollars (\$100.00) per day for each day the Owner fails to remedy or cure the same, which fine shall constitute a lien upon the Owner's Lot. In addition, the Board shall have the right to suspend an Owner's right to vote or to use the Common Property, provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. If a fine is imposed, notice of such violation shall be sent to the Owner and Occupant, and the fine may first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Lot Owner shall have the duty to pay such fine upon notice from the Association. In all cases, fines shall be Assessments and liens against the Lots of Owners until paid. The failure of the Board to enforce any provision of the Declaration or any Rule shall not be deemed a waiver of the Board's right of enforcement.

8.2 Fining and Suspension Periods. The Board shall not impose a fine or suspend the right to vote or to use the Common Property unless and until notice of the violation is given as provided in subsection (a) below; provided if an 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, such suspensions shall be automatic.

(a) Notice of Violation. If any provision of the Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall serve the violator with written notice sent certified mail, return receipt requested, which shall state: (i) the nature of the alleged violation; (ii) the monetary amount of such fines or and a description of such other sanctions to be imposed and whether such fines will run on a per diem basis; (iii) that the violator may challenge the fact of the occurrence of a violation, the proposed sanction, or both, by written notice of appeal and request for a hearing before the Board, which request must be received by the Board within ten (10) days of the date of the notice; (iv) that if the alleged violator appeals, he shall have the right at the Board hearing to give testimony, produce documents and other evidence, and bring forward and question witnesses; (v) the name, address, and telephone number of a person to contact to challenge the proposed action; (vi) a description of the action that the violator must take or desist from taking in order to cure or remedy the violation; and (vii) the amount of time that the violator shall have to prosecute such cure to completion.

(b) Hearing to Appeal Violation. If an alleged violator elects to challenge the occurrence of the violation or the proposed sanctions, he must give timely written notice requesting a hearing before the Board, and if such notice is given, a hearing before the Board shall be held in executive

session to hear the alleged violator's appeal. The hearing shall be set by the Board giving Notice to such appellant of the time, date and place for a hearing which shall not be less than ten (10) days of the date of such appellant's notice unless the appellant specifically requests a hearing on an earlier date. This Section shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirement contained herein are not technically followed. Upon conclusion of an appeal, the Board shall decide by a simple majority whether the fact of the violation occurred and whether the proposed sanction is appropriate under the circumstances, and the Board's minutes shall state such determinations.

(c) Dismissal of Sanctions. Fines and other sanctions will be dismissed if (i) the alleged violator cures the violation within the time period given for cure in the notice of the violation, or (ii) upon hearing the appeal of the alleged violator, the Board determines that no violation occurred.

(d) Finality of Board's Decision. The Board's decision after the close of any hearing shall be final and binding on the parties and their respective heirs, personal representatives, successors and assigns unless the decision was procured by corruption, fraud or other undue means.

(e) Imposition of Sanctions; Continuing Violations. Fines and other sanctions shall be as stated in the notice given in subparagraph (a) of this Section if the violator fails to cure the noticed violation in the grace period provided in the notice. The Board, in its discretion, may reduce the amount of such fines and other sanctions on appeal, but in no event shall the Board increase the amount or severity of such fines and other sanctions in excess of those set out in the notice described in paragraph (a) of this Section. If the alleged violator fails to cure the violation within the time period given for cure in the notice of the violation, fines and other sanctions stipulated in the notice provided under paragraph (a) shall commence to run on the date the grace period for cure expired. If the alleged violator challenges the imposition of such fines and sanctions, and, on appeal, the Board determines that a violation has occurred due to the act(s) or omission(s) of the alleged violator, then such fines and other sanctions shall commence to run from the date of the Board's determination. In either case, if the nature of the violation is continuing, each day the violation continues or occurs again shall constitute a separate offense, and fines shall be imposed on a per diem basis without further notice to the violator.

8.3 Abatement and Self Help.

(a) In addition to the other remedies available to the Association, the Association, acting through the Board, may elect to enforce any provision of the Declaration, the Bylaws, or the Rules by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of Rules respecting parking) or by in equity to enjoin any violation or at law to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 8.2 of this Article.

(b) The Association shall have the power to enter upon any Lot or the Common Property to abate or remove any structure, thing or condition which is the source of non compliance or otherwise violates the Declaration or Rules. All costs of such self-help, including Costs of Collection shall be assessed against the violating Owner as a fine, which fine shall be an Assessment and a lien against the Owner's Lot or Lots until paid.

(c) In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. The rights set forth in this Section 8.3 are herein referred to collectively and singly as the "Right of Abatement."

8.4 Collection of Assessments and Enforcement of Lien. For each month any Assessments is not paid within thirty (30) days of its due date, its shall be delinquent, and the past due amount together with fees, interest and the Costs of Collection shall be a lien upon the Lot or Lots upon filing a claim of lien therefor in the Office of the Clerk of Court of the County wherein the Subdivision is located. For each such month that such Assessment goes unpaid, it shall incur a late charge of ten percent (10%) of the overdue Assessment. The Association shall have the right to foreclose the claim of lien at any time after filing in accordance with the provisions of Section 47F-3-116 of the Act.

8.5 No Waiver. The failure of the Declarant, the Association, the Owner of any Lot, or his legal representatives, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

8.6 Finality of Board's Decision. The Board's decision on any appeal shall be final and conclusive.

ARTICLE IX DURATION, TERMINATION AND AMENDMENT

9.1 Duration and Termination. This Declaration and the Restrictions contained herein shall run with and bind the Subdivision for a period that runs concurrently with the Subdivision's existence as a planned community created pursuant to the Act. This Declaration and the existence of the Subdivision as a planned community may be terminated only by agreement of Owners to which 80% of the votes in the Association are allocated. Such agreement must be signed and recorded as provided by G. S. §47-F-2-118.

9.2 Amendments and Supplemental Declarations.

9.2.1 During any period in which the Declarant retains the right to appoint and remove any directors and officers of the Association, the Declarant may amend this Declaration (an "Amendment") and add additional property to the Subdivision by executing and filing one or more Amendments and/or Supplements in the Land Records without the approval of any Owner or Mortgagee; provided, however, that (a) in the event that such instrument materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Property as set forth in this Declaration or if such instrument adversely affects the title to any Lot, such instrument shall be valid only upon the written consent thereto by the Owners affected thereby; or (b) in the event that such instrument would materially and adversely affect the security title and interest of any Mortgagee, such instrument shall be valid only upon the written consent thereto of all such Mortgagees so affected. Any instrument made pursuant to this Section 9.2.1 shall be certified by the Declarant as having been duly approved by the

Declarant, and such Owners and Mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the instrument itself.

9.2.2 Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such Amendments and Supplements as are permitted by this Section 9.2.2 and further agrees that, if requested to do so by the Declarant, such Owner will consent in writing such Amendment(s) and Supplement(s) or any other instruments relating to the Subdivision: (a) if such instrument(s) are necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of the Act or any other applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith; (b) if such instrument(s) are necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration; (c) if such instrument(s) are 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 any Lot subject to this Declaration; (d) if any instrument(s) are necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; or (e) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

9.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 9.2 hereof, shall be proposed and adopted in the following manner: (a) Notice of the subject matter of the proposed amendment shall be delivered to each Owner; (b) a resolution adopting a proposed amendment may be proposed by either the Board or by Owners. If the subject matter of the proposed amendment is to be voted on at a regular or special meeting of the Members, notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered; however, a meeting is not required to be held provided that the provisions of this Declaration and/or applicable law pertaining to action to be taken by written consent is followed. Such amendment must be approved by a Two-Thirds Vote; provided, however: (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee; and (ii) during any period in which the Special Declarant Rights exist, every amendment must be approved by the Declarant; and (c) the required percentage of the Owners and, where required, the Declarant and any Mortgagee, shall execute the Amendment, provided if the Declarant's Special Declarant Rights have expired, the Declarant shall not sign the Amendment, and in lieu thereof, the President of the Association shall execute an affidavit stating that the Special Declarant Rights have expired and the Declarant's execution of the Amendment is not required. Any such Amendment shall become effective only when recorded in the Land Records or at such later date as may be specified in the amendment itself.

9.4 Challenges to Amendments. Any action to challenge the validity of an Amendment or Supplement adopted under this Article must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

ARTICLE X
INSURANCE

10.1 Requirements. Commencing no later than the first conveyance of a Lot to a Person other than the Declarant, the Association's Board or its duly authorized agent shall have the authority and the duty to obtain property and liability insurance under the provisions herein set forth and by the provisions of G. S. §47F-3-113 of the Act, including, without limitation, that such policies shall:

(i) Be written with a company licensed to do business in North Carolina;

(ii) Be for the benefit of the Association and its Members;

(iii) Provide that exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(iv) Provide that in no event shall such insurance be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and in all events insurance carried by the Association shall be primary.

(v) Provide in all property insurance policies an inflation guard endorsement and an agreed amount endorsement if these are reasonably available.

(vi) As required by §47-F-3-113, such insurance policies that will provide for the following:

(A) a waiver of rights of subrogation by the insurer as to any claims against the Declarant, the Board and the Association's manager and Members and their respective heirs, personal representatives, successors and assigns, along with the tenants, servants, agents, and guests of the Declarant, the Association and the Members;

(B) waiver of rights of subrogation against all Owners and members of such Owners' families and their respective tenants, servants, agents, and guests; and no act or omission by any such persons having waivers, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under such policies;

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

(D) each Lot Owner is in an insured person to the extent of such Owner's insurable interest;

(E) a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any act or omission by one or more individual Owners;

(F) a provision that if at the time of loss under the policy, there is other insurance in the name of an Owner, covering the same risk covered by the policy, the Association's policy shall be the primary insurance;

(G) a provision that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any defect or the conduct of any director, officer, manager, agent or employee of the Association 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;

(H) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration as primary insurance;

(viii) No policy may be canceled or substantially modified or subjected to nonrenewal without at least thirty (30) days' prior written notice to the Association.

10.2 Bi-Annual Review. All insurance coverage obtained by the Board shall be reviewed bi-annually by one or more qualified person.

10.3 Loss Adjustment. Any loss covered by property insurance policies written pursuant to this Article shall be adjusted with the Association, but the insurance proceeds if due to property loss or damage shall be payable to an insurance trustee designated for such purpose, and if not due to such loss or damage to the Association, and in no case to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and lienholders as their interests may appear. The insurance proceeds shall be disbursed first for the repair and/or restoration of the damaged property, and neither Owners nor lienholders are entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property is repaired and/or restored, or the Declaration and the planned community thereby created is terminated as herein provided;

10.4 Other Insurance. 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 or dishonesty insurance, if reasonably available, on directors, officers, employees, and other persons handling or responsible for the Association's funds, with coverage in an amount as prudently determined by the Board, but not be less than three (3) months assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond or such dishonesty insurance; provided, however, fidelity coverage herein required may be reduced based on financial controls which take one or more of the following forms: (a) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (c) two Board members must sign any

checks written on the reserve account. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, substantially modified, or subjected to nonrenewal 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 or the Federal National Mortgage Association.

10.5 Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Lot or a Lot and the Common Property, the cost of the deductible may be apportioned and assessed equitably by the Board among the parties suffering loss in accordance with the total cost of repair, unless the insurance policy provides that the deductible will apply to each Lot separately. If any Owner or Owners fail to pay the deductible when required under this Section, then the Association can pay the deductible and assess the cost to the Owner or Owners, provided, however, no Owner shall be assigned more than one thousand (\$1,000.00) dollars as the cost of the deductible for any one occurrence.

ARTICLE XI MISCELLANEOUS

11.1 Rights of First Mortgages.

(a) First Mortgagees of Lots in the Subdivision may, jointly or singly, pay taxes or other charges which are in default and which have become a charge against the Association's Common Property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Property and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Despite any other provision of this Declaration which may be interpreted otherwise, it is expressly intended that no Owner or any other party have priority over any rights of the first Mortgagee of a Lot pursuant to its mortgage or security deed in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Association Common Property.

(b) In addition to the rights of Mortgagees elsewhere provided, each first Mortgagee of a Lot, upon request, shall (i) be entitled to written notice from the Association of any default of an Owner in the performance of his obligations under this Declaration which is not cured within sixty (60) days; (ii) be entitled to attend and observe all meetings of Owners, but not meetings of the Board; (iii) be furnished copies of annual financial reports made to the Owners; and (iv) be entitled to inspect the financial books and records of the Association during reasonable business hours.

11.2 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

11.3 Partial Invalidity; Severability. A determination by a court of competent jurisdiction that any provision hereof is void, invalid or unenforceable shall not affect the validity of the remainder of this

Declaration which shall remain in full force and effect, and such void, invalid or unenforceable provisions shall be deemed severed here from.

11.4 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

11.5 Capitalized Words and Terms; Gender. Words and Terms that are capitalized are defined in this Declaration, chiefly in Article I hereof. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

11.6 Notices. All notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consents of any kind made pursuant to this Declaration (a "Notice"), whether made by Declarant, the Association, the Committee, an Owner, or any other Person, shall be in writing. All such Notices shall be deemed to have been duly given or made if either delivered personally or mailed by Certified Mail, Return Receipt Requested, addressed to the parties, at the addresses set forth below:

Declarant: Design Builders of Charlotte, Inc.
8720 Red Oak Blvd., Suite 420
Charlotte, NC 28217

Owners: Each Owner's Address as registered with the Association in accordance with the Bylaws or, if no address has been registered, at the Owner's Lot

Each Notice shall be deemed received by the party to whom addressed on the date appearing on the return receipt therefor. Rejection or other refusal to accept or inability to deliver because of a changed address of which no notice has been received by the other party shall constitute receipt of the notice, demand or request sent. Any item delivered by personal delivery shall be deemed received on the date of personal delivery.

11.7 No Liability. Declarant has, using reasonable efforts and due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other Person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability. Neither the Association, the Board, or the directors, officers or manager of the Association, nor Declarant shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever of any such Persons, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud. The Owners shall indemnify, defend and hold harmless each of such Persons, and their respective devisees, legatees, heirs, executors, personal representatives, successors and assigns, in accordance with the provisions of the Bylaws. No Person who succeeds to the Special Declarant Rights and other rights and privileges of the Declarant, whether such succession is due to operation of law or through purchase of Declarant's interest in the

Subdivision, (or any part thereof, by negotiated sale or at foreclosure, sale under power, or by deed in lieu of thereof, shall be liable for any act, omission or matter occurring, or prior to the time such successor succeeded to the interest of Declarant.

11.8 Indemnification. In accordance with the North Carolina Nonprofit Corporation Act, and to the full extent allowed in the North Carolina Business Corporation Act, and in accordance with the provisions contained therein, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or contemplated action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association or as a member of the Committee against any and all expenses, including attorneys' fees, imposed upon or reasonably incurred in connection with any action, suit, or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized (as provided in Section 14-3-110 of the North Carolina Nonprofit Corporation Act) in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

11.9 Partition. The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners and without the written consent of all holders of all Mortgages encumbering the Lots and Common Property.

11.10 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.

11.11 Notice of Sale or Lease. In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, Notice of the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

11.12 Agreements. Subject to the prior approval of Declarant, so long as Declarant has an Special Declarant Rights, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Subdivision or the privilege of possession and enjoyment of any part of the Subdivision.

11.13 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles, 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.

11.14 Reservation of Rights Do Not Impose Duties. The reservation of rights in this Declaration do not by inference or otherwise impose any duties on the holder of such rights. Rights exercised pursuant to reserved easements shall be exercised with a minimum of interference to the quiet enjoyment of affected property, and reasonable steps shall be taken to protect such property from damage.

11.15 Variances. Notwithstanding anything to the contrary contained herein, the Board or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws 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 Subdivision.

11.6 VA/HUD Approval. So long as Declarant has an option unilaterally to subject property to this Declaration as provided in Article XI, and so long as Declarant has the power to elect and remove officers and directors of the Association, the following actions shall require the prior approval of the Veterans Administration ("VA") if the VA is guaranteeing any Mortgage in the Subdivision, and the Department of Housing and Urban Development ("HUD") if HUD is insuring any Mortgage in the Subdivision: annexation of additional property to the Subdivision, except for annexation by Declarant in accordance with Article X, Section 10.1 hereof pursuant to a plan of annexation previously approved by the VA and HUD; dedication of Common Property to any public entity; and amendment of the Declaration, Bylaws or Articles.

11.17 Constructive Notice. Each Owner, by his acceptance of a deed or other conveyance of a Lot, acknowledges for himself, his heirs, legal representatives, successors and assigns, that he is bound by the provisions of this Declaration.

11.18 Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Subdivision; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security within the Subdivision. 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 Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

11.19 Dispute Resolution. Any Lot Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Association, the Board, any officer or director, or the property manager of the Association or member of the Committee. The Owner or Occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the person requesting the hearing. This Section

shall have no application to disputes respecting failure of any Person to comply wit this Declaration, the By-laws, the Rules or the determinations of the Architectural Review Committee as a procedure for resolution of such disputes is provided for under Article VIII hereof.

IN WITNESS WHEREOF, the Declarant and the Association have caused this Declaration to be duly executed and the Declarant's mortgagee has consented to the priority of this Declaration, each effective on the day and year first above written.

THE DECLARANT:

Design Builders of Charlotte, Inc.

By: Robert F. Stahl

Its: ✓ President

THE ASSOCIATION:

Windy Ridge Homeowners Association of Monroe, Inc.

By: Robert F. Stahl

Its: ✓ President

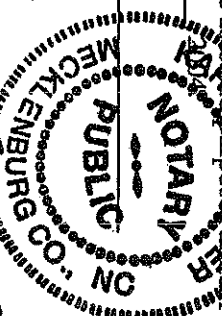
STATE OF NORTH CAROLINA; COUNTY OF MECKLENBURG

Affix Official Seal or Stamp
Below:

Personally appeared before me the within named ROBERT E. STALK known by me or properly identified, who certified that he is PRESIDENT President of Design Builders of Charlotte, Inc., a North Carolina corporation, and that in such capacity and with authority duly given and as the act and deed of the said Robert F. Stahl designed, sealed and delivered the within Declaration for the use and purposes therein mentioned. This the 11 day of MARCH

My Commission Expires: My Commission Expires March 21, 2004

Karen A Kocher
Notary Public



STATE OF NORTH CAROLINA; COUNTY OF MECKLENBURG

Affix Official Seal or Stamp
Below:

Personally appeared before me the within named ROBERT E. STALK known by me or properly identified, who certified that he is PRESIDENT President of Windy Ridge Homeowners Association of Monroe, Inc., a North Carolina not for profit corporation, and that in such capacity and with authority duly given and as the act and deed of the said corporation, he signed, sealed and delivered the within Declaration for the uses and purposes therein mentioned. This the 11 day of MARCH 2004.



Karen A Kocher
Notary Public

My Commission Expires: My Commission Expires March 21, 2004

CONSENT AND SUBORDINATION OF MORTGAGEE

Branch Banking and Trust Company, a North Carolina banking corporation ("Beneficiary"), is the holder of that certain note secured by certain deed of trust and security agreement dated March 7, 2003, and recorded the same date in Book 2088, Page 159, in the Office of the Register of Deeds, Union County, North Carolina (the "Deed of Trust") and BB&T Collateral Service Corporation, a North Carolina corporation ("Trustee") is the trustee thereof. The Beneficiary and Trustee hereby each consents to all of the terms, conditions, and covenants in the foregoing Declaration and agrees that the lien of Deed of Trust and the interest of the beneficiary therein, are subject and agree that such Deed of Trust and the lien thereby created are the subordinate to the terms, conditions, covenants and easement contained in said Declaration, including the Supplemental Declarations and all exhibits and amendments to such Declaration and Supplemental Declarations.

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed this 17 of February, 2004.

(CORPORATE SEAL)

Branch Banking and Trust Company

By 

Sherry Thomas, Vice President
[please print name and title]

(CORPORATE SEAL)

BB&T Collateral Service Corporation

By 

Al Lerby, Vice President
[please print name and title]

STATE OF NORTH CAROLINA, COUNTY OF Union

Affix Official Seal or Stamp

Personally appeared before me the within named Sherry Thomas
Below: Vice known by me or properly identified, who
certified that he is Vice President of Branch Banking and Trust
Company, a North Carolina banking corporation, and that in such capacity and
with authority duly given and as the act and deed of the said entity, he signed,
sealed and delivered the within Consent to this Declaration for the uses and
purposes therein mentioned. This the 17 day of February, 2004.

My Commission Expires:
12/1/2005

Michael Monroe
Notary Public

STATE OF NORTH CAROLINA; COUNTY OF Wake

Affix Official Seal or Stamp

Personally appeared before me the within named Michael Monroe
Below: known by me or properly identified, who
certified that he is W.C. President of BB&T Collateral Service
Corporation, a North Carolina corporation, and that in such capacity and with
authority duly given and as the act and deed of the said entity, he signed, sealed
and delivered the within Consent to this Declaration for the uses and purposes
therein mentioned. This the 11 day of February, 2004.

My Commission Expires:
12/1/2005

Michael Monroe
Notary Public

NORTH CAROLINA; UNION COUNTY

The foregoing Certificate(s) of _____
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the
Book and Page shown on the first page hereof. This the ____ day of _____, 2004.

By

Deputy/ Assistant Register of Deeds

Document Name: C:\WSM\CLIENTS\ISAACS\Windy Ridge - Monroe\Windy Ridge CCRs v03
MS WORD.doc
Editor: W. S. Michael; Last Revision: February 6, 2004 (10:42AM)