

**Harvest Ridge of Johnston County Homeowners' Association, Inc.**

**Declaration of Restrictive Covenants  
& By-Laws**

**Registered November 30, 2004**

FILED  
JOHNSTON COUNTY  
CRAIG OLIVE  
REGISTER OF DEEDS

Johnston County, North Carolina  
CRAIG OLIVE Register of Deeds  
The following certificate(s) of  
TRACIE B BEASLEY

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START PAGE 0343  
END PAGE 0380  
INSTRUMENT # 54018

notary/notaries public  
is/are certified to be correct.  
*Tracie B Beasley*

Deputy - Assistant - Register of Deeds

*file*

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DECLARATION  
OF  
RESTRICTIVE COVENANTS  
&  
BY-LAWS  
FOR  
**HARVEST RIDGE SUBDIVISION**  
&  
**HARVEST RIDGE HOMEOWNERS' ASSOCIATION, INC.**

CROSSROADS DEVELOPMENT CORPORATION, Developer

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Restrictive Covenants of Harvest Ridge Subdivision

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**NORTH CAROLINA  
JOHNSTON COUNTY**

**DECLARATION  
OF RESTRICTIVE COVENANTS FOR  
HARVEST RIDGE SUBDIVISION**

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 12<sup>th</sup> day of November, 2004, by Crossroads Development Corporation, a North Carolina Corporation (hereinafter referred to as "Developer").

**WITNESSETH:**

WHEREAS Developer is the Owner of all that real property known as Harvest Ridge Subdivision, being all of the lots of Harvest Ridge Subdivision, according to a plat entitled "Final Subdivision Plat, Harvest Ridge Subdivision, Property of Crossroads Development Corporation," by Krause Surveying Associates, Inc., dated September 28, 2004 and recorded in Plat Book 65, at Pages 106, 107, and 108, Johnston County Register, reference to which is hereby made for a more complete and accurate description.

WHEREAS Developer desires to impose restrictions, conditions and covenants upon all owners within said Subdivision; and

WHEREAS Developer desires to submit additional property to the terms and conditions of this Declaration and may so impose these restrictions as well as other conditions upon the additional annexed lands according to this Declaration; and

WHEREAS those additional lands are described herein in the attached Exhibit A.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that Crossroads Development Corporation, Developer and Owner of Harvest Ridge Subdivision, does hereby agree and covenant with all persons, firms or corporations now owning or hereafter acquiring any property in Harvest Ridge Subdivision, according to a map of same recorded in Plat Book Pages , Johnston County Registry, that they are subject to the following restrictions as to the use thereof, which shall run with the land by whomever owned and shall be binding upon all parties having any right, title or interests in the described properties or any part thereof, their heirs, successors and/or assigns, which shall necessarily include the Harvest Ridge Homeowners' Association, to wit:

**ARTICLE I: DEFINITIONS**

The terms in this Declaration and the exhibits hereto shall generally be given their natural, commonly accepted definitions except as otherwise specified.

1. "Areas of Common Responsibility" shall mean and refer to the Common Area, Open Space, Play Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants or contract become the responsibility of the Association.

2. "Articles of Incorporation" or "Articles" shall refer to the Articles of Incorporation of Harvest Ridge Homeowners' Association, Inc., as filed with the Secretary of State of the State of North Carolina.



3. "Association" shall refer to the Harvest Ridge Homeowners' Association, Inc., a North Carolina non-profit corporation, its successors or assigns.

4. "Base Assessment" shall refer to assessments levied on all lot owners subject to assessment under Article X, to fund the common expenses for the general benefit of all lot owners, as is more particularly described herein.

5. "Board of Directors" or "Board" shall be the body responsible for the administration of the Association, selected as provided in the By-laws and generally serving the same role as the board of directors under North Carolina corporate law.

6. "Builder" shall mean any person, which purchases one or more lots or parcels of land within the Subdivision for the purpose of constructing improvements thereon for resale in the ordinary course of such person's business.

7. "By-laws" shall refer to the By-laws of Harvest Ridge Homeowners' Association, Inc., which is attached hereto as Exhibit B and is incorporated herein by reference, as they are and as they may be amended from time to time.

8. "Class B Control Period" shall refer to the period of time during which the Class B member is entitled to appoint a majority of the members of the Board of Directors, as provided in the By-laws.

9. "Common Area" shall mean all real and personal property, which the Association now or hereafter owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

10. "Common Expenses" shall mean the actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all lot owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-laws and the Articles of Incorporation of the Association, but shall not include any development costs incurred during the Class B control period for initial development, original construction, installation of infrastructure, original capital improvements or other original construction costs unless approved by Voting Members representing a majority of the total Class A vote of the Association.

11. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. The Board of Directors may more specifically determine such standard.

12. "Developer" shall refer to Crossroads Development Corporation, a North Carolina Corporation, or its successors-in-title or assigns who takes title to any portion of the real property known as Harvest Ridge Subdivision or the lands described in attached Exhibit A for the purpose of development and/or sale in the ordinary course of such person's business and who is designated as the Developer in a recorded instrument executed by the immediately preceding Developer.

13. "Member" shall refer to a person entitled to membership in the Association, as provided herein.

14. "Mortgage" shall refer to a mortgage, a deed of trust, a deed to secure debt or any other form of security debt.

15. "Mortgagee" shall refer to a beneficiary or holder of a mortgage.

16. "Mortgagor" shall refer to any person who gives a mortgage.

17. "Owner" shall refer to one or more persons who hold the record title to any lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the owner.

18. "Person" shall mean a natural person, a corporation, a partnership, a trustee or any other legal entity.

19. "Properties" shall mean and refer to the real property described as all the lots, Harvest Ridge Subdivision, as recorded in Plat Book 65, Pages 106, 107, and 108, Johnston County Registry, the property described in attached Exhibit A, together with such additional property as is hereafter subjected to this Declaration.

20. "Special Assessment" shall refer to any special and extraordinary expense levied against the members of Harvest Ridge Homeowners' Association, as is set forth in more particularity below.

21. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration filed pursuant to these provisions, which subjects additional property to this Declaration and/or imposed, expressly or by reference, additional restrictions and obligations on the land described therein.

22. "Lot" shall mean a portion of the properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy as a detached residence for a single family. "Lot" shall mean that portion of land as is referred to as Lots on the recorded Plat of Harvest Ridge Subdivision, but shall not include common areas owned by the Association.

**ARTICLE II: PROPERTY RIGHTS**

Common Area. Every owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the common area, subject to:

- (a) This Declaration and any other applicable covenants, as they may be amended from time to time and subject to any restrictions or limitations contained in any deed conveying such property to the Association;
- (b) The right of the Board to adopt rules regulating the use and enjoyment of the common area, including rules restricting use of recreational facilities within the common area to the occupants of lots and their guests and rules limiting the number of guests who may use the common area;
- (c) The right of the Board to suspend the right of an owner to use recreational facilities within the common area (i) for any period during which any charge against such owner's lot remains delinquent and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation of the Declaration, any applicable Supplemental Declaration, the By-laws or rules of the Association after notice and a hearing pursuant to Article III of the By-laws;
- (d) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the common area pursuant to Article IV hereof;
- (e) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the common area;
- (f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements as set for in Article XIV hereof

Any owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board in accordance with procedures it may adopt. An owner who leases his or her lot shall be deemed to have assigned all such rights and obligations of such lot owner.



**ARTICLE III: ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS**

01. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the common area. In addition, the Association shall be responsible for enforcement of this Declaration and such reasonable rules regulating use of the properties as the Board may adopt, and for administering and enforcing the architectural standards and controls set forth in this Declaration and in the design guidelines set forth herein. The Association shall perform its functions in accordance with this Declaration, the By-laws, the Articles and North Carolina law.

02. Membership. Every owner shall be a member of the Association. There shall be only one membership per lot; if a lot is owned by more than one person, all co-owners shall share the privileges of membership, subject to reasonable Board regulations and the restrictions on voting set forth herein and in the By-laws and all such co-owners shall be jointly and severally obligated to perform the responsibilities of owners. The member or the member's spouse may exercise the membership rights and privileges of an owner who is a natural person. The membership rights of an owner, which is a corporation or other legal entity, may be exercised by the individual designated from time to time by the owner in a written instrument provided to the Secretary of the Association.

03. Voting. The Association shall have two classes of membership: Class "A" and Class "B".

(a) Class "A" members shall be all owners except the Class "B" member, if any Class "A" members shall be entitled to one vote per lot in which they hold the interest required for membership. There shall be only one vote per unit, regardless of how many persons may hold an ownership interest. When a lot is owned by more than one person or entity, then they must notify the Secretary of the Association as to who will be exercising the vote, and must do so in writing prior to the vote on a matter.

(b) Class "B" member shall be the Developer of the Subdivision. The rights of the Class "B" member, including the right to approve, or withhold approval of, actions proposed under this Declaration and the By-laws, are specified elsewhere in the Declaration and the By-laws. Initially, the Class "B" member shall be entitled to 73 votes; this number shall be decreased by one vote for each Class "A" membership outstanding at any given time. The Class "B" member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" control period, as specified herein. After termination of the Class "B" control period, the Class "B" member shall have the right to disapprove certain actions of the Board of Directors and committees as provided herein.

The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

(1) two years after the expiration of the Class "B" control period; or

(2) when, in its discretion, the Developer so determines and declares in a recorded instrument.

**ARTICLE IV: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

01. Common Area. The Association shall be responsible for the exclusive management and control of the common areas and all improvements thereon, including, without limitation, furnishings, equipment, and common landscaped areas, and shall keep them in good, clean, attractive and sanitary condition, order and repair, consistent with this Declaration and the community-wide standard.

02. Personal Property and Real Property for Common Use. The Association, through actions of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property, subject to such restrictions as are set forth herein, in the By-law and in the Articles of

Incorporation. The Developer may convey to the Association improved or unimproved real estate located within the properties of the Subdivision, personal property and leasehold or other property interests. Upon conveyance or dedication by the Developer to the Association, such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expenses for the benefit of its members, subject to any restriction set forth in the deed of conveyance. The Developer may convey the initial common area to the Association prior to the conveyance of a lot to any person other than a builder or developer holding title for the purpose of development and resale.

03. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the properties, in addition to further defining, or limiting, the rights, covenants and restrictions set forth in this Declaration. Such rules and regulations shall be binding upon all lot owners, occupants, invitees and licensees, if any, until and unless overruled, canceled or modified in a meeting of the Association by the vote of voting members representing a majority of the total Class "A" votes in the Association and by the Class "B" member, so long as such membership exists.

04. Enforcement. The Association shall be authorized to impose sanctions for violations of this Declaration, the By-laws or rules and regulations. Sanctions may include reasonable monetary fines and suspensions of the right to vote and to use any recreational facilities within the common areas. In addition, the Association, through the Board, in accordance with the provisions herein, shall be entitled to suspend any service provided by the Association to any other in the event the owner is more than 30 days delinquent in paying any assessment or other charge due to the Association. The Board shall have the power to seek relief in any Court for violations or to abate nuisances. Sanctions shall be imposed as provided in the By-laws.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county and city ordinances, if applicable, and to permit Johnston County to enforce ordinances on the properties for the benefit of the Association and its members.

05. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-laws, or reasonably implied from the existence of or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-laws or Articles, all rights and powers of the Association may be exercised by the Board of Directors without a vote of the membership.

06. Governmental Interests. For so long as the Developer owns any property described herein or in attached Exhibits, the Association shall permit the Developer to designate and redesignate sites within the Subdivision for fire, police, water and sewer facilities, public schools and parks, and other public facilities. The sites may include common areas owned by the Association, and in such cases no membership approval shall be required and the Association shall dedicate and convey the designated site as requested by the Developer.

07. Indemnification. The Association shall indemnify every officer, director (which includes the Developer) and committee member against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member.

The officers, directors (including the Developer) and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful malfeasance, misfeasance, misconduct or bad faith. The officers and directors (including the Developer) shall have no personal liability with respect to any contract or other commitment by them in good faith on behalf of the Association (except to the extent that they may be members of the Association).



The Association shall indemnify and forever hold each such office, director (including the Developer) and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

09. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Subdivision designed to make the property safer than it otherwise might be. NEITHER THE ASSOCIATION, THE DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL IN ANYWAY BE CONSIDERED INSURERS OR GUARANTORS or SECURITY WITHIN THE SUBDIVISION, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SUCH SYSTEMS OR SECURITY SYSTEMS CAN NOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS GUESTS AND TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DEVELOPER AND ANY SUCCESSOR DEVELOPER ARE NOT INSURERS AND THAT EACH PERSON USING THE SUBDIVISION AND ANY PART THEREOF ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS AND/OR PROPERTIES RESULTING FROM ACTS OF THIRD PARTIES.

#### **ARTICLE V: MAINTENANCE**

01. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. The area of Common Responsibility shall include, but need not be limited to:

- (a) all landscaping and other flora, parks, lakes, structures, and improvements, including any private streets, bike and pedestrian pathways/trails, situated upon the Common Area;
- (b) landscaping within public rights-of-way within or abutting the Properties, and landscaping and other flora within any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto);
- (c) all street lighting within the Subdivision; and Common Area;
- (d) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any declaration of easements and covenants, if any, or any contract or agreement for maintenance thereof entered into by the Association;
- (e) all ponds, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise)- retaining water therein, and any fountains, lighting, pumps conduits, and similar equipment installed therein or used in connection therewith; and
- (e) any property and facilities owned by the Developer and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such

property and facilities to be identified by written notice from the Developer to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Developer.

The Association may maintain other property, which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

02. Owner's Responsibility. Each Owner shall maintain his or her lot and all landscaping, structures, parking areas, sidewalks, and other improvements within the boundaries of the lot. Each Owner shall maintain the driveway serving his or her lot whether or not lying entirely within the lot boundaries, and shall maintain all landscaping on that portion of the Common Area or public right-of-way between the lot boundary and the nearest curb or pavement edge of the adjoining streets(s). Owners of lots, which are adjacent to any portion of the Common Area on which Developer-approved decorative walls or fences have been constructed, shall also maintain that portion of the Common Area which lies between such wall or fence and the lot boundary. Owners of lots which abut the bank or water's edge, or abut a portion of the Common Area abutting the bank or water's edge, of any lake, pond, stream, or wetlands area within the Properties shall maintain all landscaping between the lot boundary and such bank or water's edge; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XI hereof.

An owner shall be excused from its responsibility hereunder to the extent that such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such lot. In addition to any other enforcement rights available to the Association, if any Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the lot and the Owner in accordance with Article X, Section 4(b) of this Declaration. However, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when immediate entry is required due to an emergency situation.

03. Builder Responsibility During Ownership. In addition to these duties and responsibilities imposed upon the lot owners herein, the Builder shall also have the following responsibilities during the construction phase of the house and, thereafter, until the house sold:

(a) Builder shall place crush and run or gravel on the lot driveway at such time as construction begins, and said driveway shall be used by all contractors as much as is reasonably possible during the entire construction process;

(b) Builder shall keep the lot neat and orderly during the construction process and shall be responsible for maintaining the lot at all times until the house is sold to a purchaser for value; and



during the construction process, the Builder shall place a storage container on the property site to place waste materials in until same is hauled off of the site;

(c) Builder shall maintain the appropriate builders' risk insurance at all times during the construction process;

(d) Builder is responsible for protecting all drainage features including intermittent streams, drainage ways, storm water runoff and subsurface water on each individual lot. Also, it is the builder's responsibility to install driveway pipes sized according to Engineer's design and any applicable Johnston County ordinances for each lot. It is the builder's responsibility to re-seed and mulch all denuded areas on lots as soon as possible to avoid erosion into streams and rivers.

(e) Builder shall not cause damage to the shoulders of the subdivision nor any other common areas of the subdivision and shall repair any damages that is done thereon and shall be solely responsible for the costs of same. Parking on shoulders of the streets during construction is to be avoided.

(f) Builder is responsible for seeding, grading, and/or mulching from the edge of pavement to the front of the house. The driveway pipe must be inspected by Developer prior to back-fill. The yard is to be inspected by the Developer prior to closing on houses.

04. Standard of Performance. Unless otherwise specifically provided herein or in other instruments assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association, and/or an Owner shall not be liable for any damage or injury occurring on, or arising out of the condition of, property, which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities hereunder.

#### ARTICLE VI: INSURANCE AND CASUALTY LOSSES

01. Association Insurance. The Association, acting through its Board of Directors or its duly authorized agent, shall have the authority to and shall obtain, as a Common Expense, blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that the Association has assumed responsibility for maintenance, repair and/or replacement thereof in the event of a casualty. If blanket "all-risk" coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage, including coverage for vandalism and malicious mischief shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured peril.

The Board also shall obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members against claims for all damage or injury caused by the negligence of the Association, any of its Members, its employees or agents while acting on behalf of the Association. If reasonably available, the public liability policy shall have at least a One Million (\$1,000,000.00) Dollar combined single limit as respects bodily injury and property damage, at least a Two Million (\$2,000,000.00) Dollar limit per occurrence in the aggregate.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss; the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Association By-Laws, that the loss is the result of the negligence or willful

conduct of one or more lot owners, then the Board may specifically assess the full amount of such deductible against such owner(s) and their lots pursuant to Article X, Section 4(b).

All insurance coverage obtained by the Board of Directors, shall be governed by the following provisions:

- (a) All policies shall be written with a company authorized to do business in North Carolina which holds a Best's rating of B or better and is assigned a financial size category of IX or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.
- (b) All insurance shall be written in the name of the Association as trustee for the benefited parties. Policies on the Common Area shall be for the benefit of the Association and its Members.
- (c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.
- (e) All property insurance policies shall have an inflation guard endorsement, if reasonably available. If the policy contains a co-insurance clause, it also shall have an agreed amount of endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Johnston County, North Carolina area.
- (f) The Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:
  - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;
  - (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash
  - (iii) a statement that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any one or more individual Owners
  - (iv) a statement that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any curable defect or violation without prior demand in writing delivered to the Association to cure the defect or violation and the allowance of a reasonable time thereafter within which it may be cured by the Association, its manager, any Owner, or Mortgagee;
  - (v) a statement that any "other insurance" clause in any policy excludes individual Owners' policies from consideration; and
  - (vi) a statement that the Association will be given at least 30 days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to other insurance required by this Section, the Association shall obtain, as a Common Expense, worker's compensation insurances if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, and flood insurance, if advisable.

The Association also shall obtain, as a Common Expense, a fidelity bond or bonds, if reasonably available, covering all persons responsible for handling Association funds. The amount of fidelity coverage shall be determined in the Board of Directors' best business judgment but, if reasonably available, may not be less than one-sixth (1/6) of the annual Base Assessments on all Units plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least 30 days' prior written notice to the Association of any cancellation, substantial modification or nonrenewal.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures comprising his lot, the Owner shall proceed promptly to repair or to reconstruct the



damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration and thereafter shall maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs of repair or reconstruction, which are not covered by insurance proceeds.

02. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other peril to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property, Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other peril, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Voting Members representing at least seventy-five (75%) percent of the total Class "A" votes in the Association, and the Class "B" Members, if any, decide within 60 days after the loss not to repair or reconstruct.

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

(c) If it is determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected portion of the Properties shall be cleared of all debris and ruins. Thereafter the Properties shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

03. Disbursement of Proceeds. Any insurance proceeds remaining after defraying such costs of repair or reconstruction, or if no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a lot and may be enforced by such Mortgagee.

04. Repair and Reconstruction. If the insurance proceeds are insufficient to defray the costs of repairing or reconstructing the damage to the Common Area, the Board of Directors may, without the necessity of a vote of the Voting Members, levy a special assessment against those Lot Owners responsible for the premiums for the applicable insurance coverage under Section I of this Article. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

#### ARTICLE VII: NO PARTITION

Except as is permitted in this Declaration or amendments hereto, there shall be no judicial partition of the Common Area or any part thereof. No Person acquiring any interest in the Properties or any part thereof shall seek any judicial partition unless the Properties or such portion thereof have been removed from the provisions of this Declaration. This Article shall not be

constructed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property, which may or may not be subject to this Declaration.

#### **ARTICLE VIII: CONDEMNATION**

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least sixty-seven (67%) percent of the total Class "A" votes in the Association and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B") by an authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available, unless within 60 days after described in Exhibits "A" or "B" of this Declaration, and Voting Members representing at least seventy-five (75%) percent of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the provisions in Article VI hereof regarding the disbursement of funds for the repair of casualty damage or destruction shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

#### **ARTICLE IX: ANNEXATION AND WITHDRAWAL OF PROPERTY**

01. Annexation Without Approval of Membership. The Developer shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit A attached hereto, has been subjected to this Declaration or December 31, 2025, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit A. The Developer shall have the unilateral right to transfer to any other person the right, privilege, and option to annex additional property which is herein reserved to Developer, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or any supplemental declaration and that such transfer is memorialized in a written, recorded instrument executed by the Developer.

Such annexation shall be accomplished by filing a Supplemental Declaration annexing such property in the County Clerk Official Records of Johnston County, North Carolina. Such Supplemental Declaration shall not require the consent of Voting Members, but shall require the consent of the owner of such property, if other than Developer. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

02. Future Annexation of Additional Property Without Approval of Membership. The Developer may annex real property other than that described on Exhibit A, and following the expiration of the right in Section 1, any property described on Exhibit A or any other, property Developer wishes to annex, to the provisions of this Declaration and the jurisdiction of the Association. Such annexation



shall not require the affirmative vote of Voting Members representing a majority of the Class "A" votes of the Association.

Annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the County Clerk Official Records of Johnston County, North Carolina. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

03. Withdrawal of Property. Subject to the terms of Article XIV, the Developer reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the community pursuant to Section I of this Article IX, without prior notice and without the consent of any person, for the purpose of removing certain portions of the Properties then owned by the Developer or its affiliates or the Association from the provisions of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Properties desired to be effected by the Developer, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

04. Additional Covenants and Easements. The Developer may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or alter the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Developer.

05. Amendment. This Article shall not be amended without the prior written consent of Developer so long as the Developer owns any property described in Exhibits A.

#### **ARTICLE X: ASSESSMENTS**

01. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 7 of this Article. There shall be three types of assessments: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; (b) Special Assessments as described in Section 4 below; and (c) Benefited Assessments as described in Section 5 below. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by North Carolina law) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon each lot against which the assessment is made until paid, as more particularly provided in Section 7 of this Article. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, also shall be the personal obligation of the Person who was the Owner of such lot at the time the assessment arose. In the event of a transfer of title to a lot, the grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. However, no first Mortgagee who obtains title to a lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments, which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular lot. Such certificate shall be conclusive evidence of

payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Assessments shall be paid in full once a year, at such time to initially be set by the Developer and then at such time annually as set forth by the Board. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself from liability for the assessments, including, by way of illustration and not imitation, by non-use of Common Area or abandonment of the lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

During the Class "B" Control Period, the Developer may annually elect either to pay regular assessments on its unsold lots or to pay to the Association the difference between the amount of assessments collected on all other lots subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. Unless the Developer otherwise notifies the Board of Directors in writing at least 60 days before the beginning of each fiscal year, the Developer shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of such election, the Association shall have a lien against all lots owned by the Developer to secure the Developer's obligations under this paragraph, which lien shall have the same attributes and shall be enforceable in the same manner as the Association's lien against other lots under this Article. The Developer's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or a combination of these.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Developer or other entities for the payment of some portion of the Common Expenses.

02. Computation of Base Assessment. It shall be the duty of the Board, at least 60 days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared as provided in Section 3 of this Article.

The Base Assessment shall be levied equally against all lots and shall be set at a level, which is reasonably expected to produce the total income of the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of lots subject to assessment under Section 7 hereof on the first day of the fiscal year for which the budget is prepared and the number of lots reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Developer has the right unilaterally to annex additional property pursuant to Article IX hereof, the Developer may elect on an annual basis, but shall not be obligated, to reduce the resulting Base Assessment for any fiscal year by payment of a subsidy (in addition to any



amounts paid by Declarant under Section 1 above), which may be either a contribution, an advance against future assessments due from Developer, or a loan, in the Developer's discretion. Any such subsidy shall be conspicuously disclosed as a line item in the Common Expense budget and its characterization shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Developer to continue payment of such subsidy in future years, unless provided for in a separate written agreement between Developer and the Association.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment to be levied against each lot for the following year to be delivered to each Owner at least 30 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Voting Members representing at least seventy-five (75%) percent of the total Class "A" votes in the Association and seventy-five (75%) percent of the total number of Voting Members, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members as provided for special meetings in Article II, Section C, of the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined, the budget in effect for the immediately preceding year shall continue for the current year.

03. Reserve Budget and Capital Contribution. The Board of Directors shall annually prepare reserve budgets for general purposes, which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments, as appropriate, over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 2 and 3 of this Article.

04. Special Assessments.

(a) Unbudgeted Expenses. In addition to other assessments authorized hereunder, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall have the affirmative vote or written consent of Voting Members (if a Common Expense) representing at least fifty-one (51%) percent of the total votes allocated to Lots which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Costs to Cure Non-compliance. The Association may levy a Special Assessment against any lot to reimburse the Association for costs incurred in bringing the lot into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and the Association rules and regulations. Such Special Assessments may be levied upon the vote of the Board after notice to the Lot Owner or the Voting Member(s) from the Neighborhood, as applicable, and an opportunity for a hearing in accordance with the procedures set forth in Article III, Section E of the By-Laws.

05. Benefited Assessments. The Board shall have the power to assess expenses of the Association in the amount of the benefit received against lots receiving benefits, items, or services not provided to all lots within the Properties (a) that are incurred upon request of the Owner of a lot for specific items or services relating to the lot or (b) that are incurred as a consequence of the conduct of less than all Owners, their licensees, invitees, or guests.

06. Lien for Assessments. The Developer does hereby establish, reserve, create and subject each lot to a perfected contractual lien in favor of the Association to secure payment of delinquent assessments owed on account of such lot, as well as interest (subject to the limitations of North Carolina law), late charges and costs of collection (including, without limitation, attorneys fees). Such lien shall be prior and superior to all other liens, except (a) the lien of all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (b) the lien or charge of any first Mortgagee of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Developer hereby assigns such lien to the Association without recourse. The lien shall be self-operative, and shall continue in inchoate form without being reserved or referenced in any deed or other document and without any other action required. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure in accordance with North Carolina law.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any lot the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The lien may be foreclosed through judicial or, to the extent allowed by law, nonjudicial foreclosure proceedings in accordance with North Carolina law and as it may be amended, in like manner of any deed of trust on real property. Each Owner hereby grants to the Association, whether or not it is so expressed in the deed or other instrument conveying such lot to the Owner, a power of sale to be exercised in accordance with North Carolina law and as it may be amended. At any foreclosure proceeding, any Person, including but not limited to Developer, the Association, and any Owner shall have the right to bid for the lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

The sale or transfer of any lot shall not affect the assessment lien or relieve such lot from the lien for any assessments thereafter becoming due. However, the sale or transfer of any lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien as to any installments of such assessments which became due prior to such sale or transfer. Where the Mortgagee holding a first Mortgage of record or other purchaser of a lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be personally liable for the share of the Common Expenses or assessments by the Association chargeable to such lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all lots subject to assessment under Section 8 below, including such acquirer, its successors and assigns.

07. Date of Commencement of Assessments. The obligation to pay the assessments provided for herein shall commence as to each lot on the first day of the month following: (a) the month in which



the Lot is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment, if any, levied on each lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the lot.

08. Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is levied, at which time any shortfalls in collections may be assessed retroactively by the Association.

09. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments and Special Assessments:

(a) All property dedicated to and accepted by any governmental authority or public utility, including without limitation public schools, public streets, and public parks, if any.

#### ARTICLE XI: ARCHITECTURAL STANDARDS

01. General. No structure shall be placed, erected, or installed upon any lot, and no construction or modification (which shall include staking, clearing, excavation, grading and other site work, exterior alteration or modification of existing improvements, and plantings or removal of plants, trees, or shrubs other than as may be permitted in Article XII, Section 15) shall take place except in strict compliance with this Article, until the requirements below have been fully met, and approval of the appropriate committee has been obtained pursuant to Section 2 below. No permission or approval shall be required to repaint in accordance with originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his house, or to paint the interior of his house any color desired. However, modifications or alterations to the interior of screened porches, patios, and similar portions of a lot visible from outside the lot shall be subject to approval.

No house having less than 1400 square feet, heated, cooled space, (or Johnston County Standard Ordinance) excluding garages, porches and unfinished areas within the house, shall be constructed on any lot.

All houses, buildings and structures shall have setbacks from the property lines according to those setbacks as they appear on the recorded plat or to Johnston County Standards.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or professional building designer and must be built to completion within eighteen months of Builder purchasing the lot, save and except for a variance in the timeframe due to exigent circumstances.

This Article shall not apply to the activities of the Developer, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

This Article may not be amended without the Developer's written consent so long as the Developer owns any land subject to this Declaration or subject to annexation to this Declaration.

02. Building Location. No building shall be located on any lot nearer to the front line than 30 feet, provided, however, that on a corner lot, a dwelling may be located not nearer than 25 feet to one street if it is at least 35 feet from the other street. No building shall be located nearer than 15 feet to an interior lot line except that a 75 foot side yard may be permitted for a garage or other permitted accessory building located 100 feet or more from the minimum building setback line. For the purpose of this covenant, eaves and steps shall not be considered a part of the building, provided

that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. When any permitted detached accessory building is located at least 125 feet from the front property line, if the lot abuts two or more streets, then it shall be located at least 35 feet from the right-of-way line of the side street. The Declarant reserves the right to waive minor violations (up to 10 percent) of the setback and side line requirements set forth in this Article. Nothing herein shall mean that the Architectural Committee cannot withhold its approval of the location of a building regardless of the fact that such building meets the requirements of this paragraph.

03. Road Maintenance. The Declarant shall construct the roads within the subdivision to meet specification required by the North Carolina Department of Transportation for State maintenance of the roads, and Declarant shall maintain the roads in a condition acceptable to the Department until the State agrees to accept the roads for State maintenance.

04. Guidelines and Procedures. In the event that Developer fails to approve or to disapprove any application within 30 days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Review Guidelines unless a variance has been granted in writing by the Developer pursuant to Section 4 below.

05. No Waiver of Future Approvals. The approval of the Developer of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of same, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters subsequently or additionally submitted for approval or consent.

06. Variance. The Developer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to the restrictions set forth in this Declaration; or (c) estop the Developer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship requiring a variance.

07. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Developer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, appropriateness or effectiveness of drainage or compliance with any master drainage plan, nor for ensuring compliance with building codes and other governmental requirements. Neither the Developer, the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any lot.

08. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Developer, Owners shall, at their own cost and expense, remove such construction, alteration, or other work or bring it into compliance. Should an Owner fail to remove or correct as required hereunder, the Board or its designees shall have the right to enter the property, remove or cure the violation. All costs (including, without limitation, attorneys fees), together with the interest at the maximum rate then allowed by law, may be assessed against the benefited lot and collected as a Special Assessment pursuant to Article X, Section 4(b) hereof.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Review Guidelines' may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained



in the By-Laws. In such event, neither the Association, its officers, nor directors shall be held liable to any Person for exercising the rights granted by this paragraph. In addition to the foregoing, the Board of Directors and/or Developer shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Developer.

09. Driveways. All driveways on lots shall be transit mixed concrete, however, all such driveways must be gray in color; no asphalt paving shall be allowed. No gravel driveways except during construction phase.

10. Garages. All houses must have at least a double enclosed garage capable of storing two (2) mid-sized cars. Garage must have a minimum 16 feet (16') wide door.

## **ARTICLE XII: USE RESTRICTIONS**

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Developer or the Association consistent with this Declaration, any Supplemental Declaration, and amendments to either), The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

01. Signs. No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except signs installed or approved by Developer. If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering, and placement of such sign. The Board of Directors and the Developer shall have the right to erect signs, as they, in their discretion, deem appropriate. Except as provided above, no signs, flags, banners, or similar items advertising or providing directional information with respect to activities being conducted within or outside the Properties shall be displayed or posted within the Properties.

02. Parking and Prohibited Vehicles. Tractors, mobile homes, recreational vehicles (including, but not limited to, jet skis, four-wheelers, motorcycles), trailers (either with or without wheels), campers, and camper trailers shall be parked only in enclosed garages and areas, if any, designated by the Board or the Developer. These vehicles may be parked in the requisite areas and driven in the Subdivision only for the purpose of ingress into and egress from the Subdivision grounds. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purpose of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for 14 consecutive days without the prior approval of the Board. Service and delivery vehicles may be parked in the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a lot or the Common Areas. No trucks, pickups, boats, trailers or motor homes shall be parked on public streets of the subdivision. No tractor-trailer trucks, either with or without the trailer, shall be parked overnight anywhere in the subdivision. Any boats or recreational vehicle must be parked in the back yard and stored and screened in such a manner as to not be visible from the street. No cars which are not in working condition, regularly used, licensed and insured shall be parked overnight anywhere in the subdivision. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article III, Section P(i) of the By-Laws.

03. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties. No pet pigs are allowed. However, a number of two dogs, cats, or other usual and common household pets may be permitted in a lot. The foregoing limitations on the

number of pets shall not apply to hamsters, small birds, fish, or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted animal prior to the time that the animals in such litter are three months old. No pets may be tied permanently outside the home. Any pet which, in the sole discretion of the Association, endangers the health, makes objectionable noise, or constitute an nuisance or inconvenience to the Owners of other lots or the owner of any portion of the Properties shall be removed upon request of the Board. No pets shall be kept, bred, or maintained for any commercial purpose. All dogs shall at all time whenever they are outside a lot be confined on a leash held by a responsible person. The Board shall also have the authority, but not the obligation, to restrict or prohibit the keeping of breeds of dogs with a known history of dangerous or vicious behavior.

04. Quiet Enjoyment. Nothing shall be done or maintained on any part of a lot, which emits foul or obnoxious odors outside the lot or creates noise or other conditions, which tends to disturb the peace, quiet, safety, comfort, or serenity of the occupants and invitees on other lots. There shall not be maintained any plants or animals or devices or things of unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants and invitees of other lots. No outside burning of trash or garbage shall be permitted within the Properties. No speaker, horn, whistle, bell, intercom, paging or other sound device audible from outside the lot, except alarm devices and entryway intercoms used exclusively for security purposes, shall be installed or operated on any lot. The use and discharge of firecrackers and other fireworks is prohibited within the Properties, except with prior approval of the Board.

05. Unsightly or Unkept Conditions. All portions of a lot outside of enclosed structures shall be kept in a clean and tidy condition at all times. Nothing shall be done, maintained, stored, or kept outside of enclosed structures on a Lot which, in the determination of the Board of Directors, causes an unclean, unhealthy, or untidy condition to exist or is obnoxious to the senses. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve hours.

No Person shall dump grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, street or gutter, or anywhere on the Common Areas. Such materials shall not be disposed of on any portion of the Properties without the prior permission of the owner thereof.

Any unsightly or unkempt conditions not corrected by the lot owner after notification to them by the Board, may be cleaned up and/or rectified by the Association and the costs for same levied against the lot owner.

06. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals, save and except the 18" satellite dish, of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any lot, without the prior written consent of the Board or its designee, unless completely contained within the dwelling on the lot so as not to be visible from outside the dwelling. Any apparatus permitted by the Board or its designee must be screened from view of, adjacent lots by an approved fence or other approved structure no more than six feet in height. The Developer and/or the



Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite, or other signals for the benefit of all or a portion of the Properties.

07. Clotheslines, Garbage Cans, Tanks, Etc. All clotheslines are prohibited. All garbage cans, mechanical equipment, and other similar items on lots shall be located or screened so as to be concealed from view of neighboring lots, streets, and property located adjacent to the lot. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate.

08. Subdivision of Unit and Time Sharing. No lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Developer, however, hereby expressly reserves the right to subdivide, change the boundary line of, and replat any lot(s) owned by Developer. Any such division, boundary line change, or replating shall not be in violation of the applicable subdivision and zoning regulations.

No lot shall be made subject to any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the lot rotates among members of the program on a fixed or floating time schedule over a period of years.

09. Firearms. The discharge of firearms and use of bows and arrows within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section; however, their failure to do so does not nullify their right to enforce this provision on any other occurrence of a violation of this Section.

10. Pools. No above ground swimming pools shall be erected, constructed or installed on any lot. Jacuzzis, whirlpools, or spas approved pursuant to Article XI shall not be considered an above ground pool for the purpose of this Section.

11. Irrigation. Sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, ponds, wetlands, or other surface waters within the Properties are prohibited. However, the Developer and the Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility. All private wells shall be subject to approval in accordance with Article XI of this Declaration, and if a lot owner places a well on the property, he shall have placed over the well a cover which is in conformity with the house built on the property.

12. Tents, Mobile Homes, and Temporary Structures. Except as may be permitted by the Developer during initial construction within the Properties, no tent, shack, mobile home, storage shed or structure of temporary nature shall be placed upon a lot or any part of the Properties without prior approval pursuant to Article XI hereof, except that party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board,

13. Grading, Drainage and Septic Systems. No person shall alter the grading of any lot without prior approval pursuant to Article XI of this Declaration. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. The Developer hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. However, the exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any adjacent property without the Owner's consent. Septic tanks and drain fields, other than those installed by or with the consent of the Developer, are prohibited within the Properties.

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

15. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and high voltage lines.

16. Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed in any lot.

17. Lighting. Except for traditional holiday decorative lights, which may be displayed for two months prior to and one month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Article XI of this Declaration.

18. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation or permanent flagpole shall be permitted on the exterior of any portion of the Properties. No exterior sculpture, fountains, flags and temporary flagpoles, birdhouses, birdbaths, other decorative embellishments, or similar items shall be permitted unless approved in accordance with Article XI of this Declaration.

19. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof. No windmills, wind generators, or other apparatus for generating power from the wind shall be erected or installed on any lot.

20. Wetlands, Lakes, and Other Water Bodies. All wetlands, lakes, ponds, and streams within the Properties, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing, or use of personal floatation devices, shall be permitted. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of authorized or unauthorized use of lakes, ponds, or streams within the Properties. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such may be constructed by the Developer or the Association.

21. Playground and Recreational Equipment. No jungle gyms, swing sets, similar playground equipment, basketball backboards, tennis courts, or such other recreational equipment shall be erected or installed on any lot without prior written approval in accordance with Article XI hereof. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user. The Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

22. Fences. No hedges, walls, dog runs, animal pens, or fences; except, four (4) feet high, black chain link fence in the back yard only, (back yard by definition is from back corners of house to the back property line.) Fence can be constructed within on foot (1') of the property line on the side and back.

23. Business Use. No business, trade, garage sale, moving sale, rummage sale, or similar activity may be conducted in or from any lot, except that an Owner or occupant residing in a lot may conduct business activities within the lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the lot; (b) the business activity conforms to all zoning requirements for the Properties (c) the business activity does not involve regular visitation of the lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent



with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be constructed 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: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

Notwithstanding the above, the leasing of a lot shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Developer or a Builder approved by the Developer with respect to its development and sale of the Properties or its use of any lots which it owns within the Properties.

24. On-Site Fuel Storage. No on-site storage of gasoline, heating, or other fuels shall be permitted on any part of the Properties. However, up to five gallons of fuel may be stored on each lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment.

25. Leasing of Units. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Lots may be leased only in their entirety, once a completed house is erected on said lot. The vacant lot may not be leased to another. No fraction or portion of the house and lot may be leased. No transient tenants may be accommodated in a lot. All leases shall be in writing and shall be for an initial term of no less than 30 days, except with the prior written consent of the Board of Directors. Notice of any lease, sublease or assignment of a lease, together with such additional information as may be required by the Board, shall be given to the Board by the Lot owner within 10 days of execution of the lease, sublease or assignment. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

26. Laws and Ordinances. Every Owner and occupant of any lot, their guests and invitees, shall comply with all laws, statues, ordinances, and rules of federal, state, and municipal governments applicable to the Properties. Any violation may be considered a violation of this Declaration. However, the Board shall have no obligation to take action to enforce such laws, statues, ordinances, and rules.

27. Single Family Occupancy. No lot shall be occupied by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption, or marriage living with not more than one person who is not so related as a single household unit, or no more than two persons who are not so related living together as a single household unit, and the household employees of either such household unit.

28. Mineral Operations. No derrick or other structure designed for use in boring for water, oil, natural gas, or other minerals shall be erected and maintained or permitted on any lot.

29. Mailboxes. All mailboxes shall be uniform and constructed according to that which is decided upon by the Developer. The Builder on each lot shall be responsible for placing same on the lot prior to the sale of said property to an Owner, and the purchaser of said lot and house shall pay for same. Mailbox and post shall be black in color with gold straps.

ARTICLE XIII: EASEMENTS

01. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachments, between each lot and any adjacent Common Area and between adjacent lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of an Owner, occupant, or the Association.

02. Progress Energy. The Declarant reserves the right to subject the real property in this subdivision to a contract with Progress Energy for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Progress Energy by the owner of each building unit. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 10 feet of each lot unless shown in excess of such distances on recorded plat, in which case the plat shall control. Within these easements, no structures, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The Declarant reserves a permanent and construction easement extending fifteen (15) foot from the right-of-way line perpendicularly into each lot along each street or roadway as an easement for the maintenance of the existing street and road systems and the supporting cuts, ditches or slopes therefore.

03. Easements for Utilities, Etc. There are hereby reserved unto Developer, so long as the Developer owns any property described on Exhibit "A" or any supplement of this Declaration, the Association, and the designees of each (which may include, without limitation, Johnston County, North Carolina and any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties. Notwithstanding anything to the contrary herein, these easements shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a lot, and any damage to a lot resulting from the exercise of these easements shall promptly be repaired by, and at the expense of, the Person exercising these easements. The exercise of these easements shall not unreasonably interfere with the use of any lot.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier easements across all the Common Area for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes.



However, the exercise of this easement shall not extend to permitting entry into the dwelling on any lot. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Developer.

04. Easements to Serve Additional Property. The Developer and its duly authorized agents, representatives, and employees, as well as its successors, assigns, licensees, and Mortgagees shall have and hereby reserves an easement over the Common Area for the purposes of enjoyment, use, access, and development of the additional property described in any supplement incorporated herein, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such permanent access to the additional property and such property or any portion thereof is not made subject to this Declaration, the Developer, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving the additional property. Such agreement shall provide for sharing of costs based on the ratio which the number of residential dwellings on that portion of the additional property which is served by the easement and is not made subject to this Declaration bears to the total number of residential dwellings within the Properties and on such portion of the additional property.

05. Right of Entry. The Association shall have the right, but not the obligation, to enter any lot for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof; and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, By-Laws, and rules and regulations, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon a lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner except by emergency personnel acting in their official capacities.

#### **ARTICLE XIV: DEVELOPER'S RIGHTS**

Any or all of the special rights and obligations of the Developer set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or in the By-Laws, as applicable. Furthermore, no such transfer shall be effective unless it is in a written instrument signed by the Developer and duly recorded in the County Clerk Official Records of Johnston County, North Carolina. Nothing in this Declaration shall be construed to require the Developer or any successor to develop any of the property set forth in any supplement hereto in any manner whatsoever.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and sales of lots by Developer and Builders shall continue, it shall be expressly permissible for the Developer and Builders authorized by Developer to maintain and carry on upon portions of the Common Area such facilities and activities as, in sole opinion of the Developer, may be reasonably required, convenient, or incidental to the offices, signs, and sales offices. The Developer and Builder(s) authorized by Developer shall have easements for access to and use of

such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use lots owned or leased by the Developer or a Builder and any clubhouse or community center which may be owned by the Developer or the Association, as models and sales offices, respectively.

So long as the Developer continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of the Properties without Developer's review and written consent. Any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by written consent signed by the Developer and recorded in the public records.

This Article may not be amended without the express written consent of the Developer. However, the rights contained in this Article shall terminate upon the earlier of (a) 30 years from the date this Declaration is recorded, or (b) upon recording by Developer of a written statement that all sales activity has ceased.

#### **ARTICLE XV: COMPLIANCE WITH COUNTY STORM WATER ORDINANCE**

No more than 4700 square feet of any lot, excluding that portion of the right-of-way between the edge of the pavement of the road and the front lot line, shall be covered by impervious structures including asphalt, concrete brick, stone, slate or similar materials, but not including wood decking or the surface of swimming pools. This covenant is intended to insure continued compliance with the storm water permit issued by Johnston County. The covenant may not be changed or deleted without the consent of Johnston County.

#### **ARTICLE XVI: GENERAL PROVISIONS**

01. Term. The covenants and restrictions of this Declaration shall run with and bind the properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Properties, their respective legal representatives, heirs, successors, and assigns, for a term of 30 years from the date this Declaration is recorded. After such time the covenants and restrictions shall be automatically extended for successive periods of 10 years unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of 10 years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

02. Amendment.

(a) By Developer. Until conveyance of the first lot by Developer, Developer may unilaterally amend this Declaration for any purpose. Thereafter, the Developer may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulations or judicial determination (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the lots; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the lots; (iv) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the lots; or (v) otherwise necessary to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any lot unless the Owner shall consent



thereto in writing. So long as the Developer still owns property described in Exhibits A or on any supplement hereto for development as part of the Properties it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Owners. Except as provided above and otherwise specifically provided herein, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing sixty-seven (67%) percent of the votes held by Members other than the Developer, and the consent of the Developer, so long as the Declarant Declaration pursuant to Article IX. In addition, the approval requirements set forth in Article XIV hereof shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. To be effective, any amendment must be recorded in the Register of Deeds of Johnston County, North Carolina.

If an Owner consents to any amendment to this Declaration or the By-Laws it will be consecutively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of the Developer without the written consent of the Developer or the assignee of such right or privilege.

03. Severability. Invalidation of any provision or portion of a provision of this Declaration by judgment of court order shall in no way affect any other provisions, which shall remain in full force and effect.

04. 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 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

05. Litigation. Except as otherwise specifically provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Voting Members representing seventy-five (75%) percent of the total Association vote and by seventy-five (75%) percent of the Voting Members. In the case of such a vote, and Incorporation, or By-Laws to the contrary, a Voting Member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by Owners of seventy-five (75%) percent of the Lots represented by the Voting Member. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article X; (c) proceedings involving challenges to advalorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceeding as provided above.

06. Use of the "Harvest Ridge" Word and Mark. No Person shall use the word "Harvest Ridge" or any logo or derivative in any printed or promotional material without the prior written consent of the Developer. However, the Association shall be entitled to use the word "Harvest Ridge" in its name.

07. Compliance. Every Owner and occupant of any lot shall comply with all lawful provisions of this Declaration, the By-Laws and the rules and regulations of the Association. Failure to comply


shall be grounds for an action to recover sums due for damages or injunctive relief; or for any remedy available at or in equity, maintainable by the Association or, in proper case, by any aggrieved Lot Owner(s). In addition, the Association may avail itself of any and all remedies provided in this Declaration or the By-Laws.

08. Notice of Sale or Transfer Of Title In the event that any Owner desires to sell or otherwise transfer title to his or her lot, such Owner shall give the Board of Directors at least seven days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the lot coming due prior to the date upon which such notice is received by the Board of Directors including assessment obligations, notwithstanding the transfer of title to the Lot.

IN WITNESS WHEREOF the undersigned Owner and Developer has hereunto caused this instrument to be signed by itself as Owner and Developer on this the 12<sup>th</sup> day of ~~August~~ NOVEMBER 2004.

**CROSSROADS DEVELOPMENT CORPORATION**

By:

  
\_\_\_\_\_  
Joseph D. Coates, President

Attested:

  
\_\_\_\_\_  
Michael R. Coates, Secretary

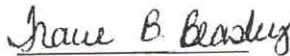
North Carolina

Johnston County

I, Tracie B. Beasley Notary Public for said County and State, certify that Michael R. Coats personally came before me this day and acknowledged that he is Secretary of Crossroads Development Corporation, a corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President, and attested by himself as its Secretary.

Witness my hand and official seal, this the 12<sup>th</sup> day of November 12, 2004.

My Commission Expires: 10-17-09

  
\_\_\_\_\_  
Notary Public





**EXHIBIT A**  
*Additional Property Subject to Annexation*

**EXHIBIT B**

BY-LAWS

OF

**HARVEST RIDGE HOMEOWNERS' ASSOCIATION, INC.**  
A NORTH CAROLINA NONPROFIT CORPORATION

**ARTICLE I: OFFICES**

The office of the Corporation shall be located in the City and State designated in the Articles of Incorporation. The Corporation may also maintain offices at such other places within or without the United States as the Board of Directors may, from time to time, determine.

**ARTICLE II: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES**

**A. Membership:** The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

**B. Annual Meetings:** The annual meeting of the Corporation shall be held within one year after the date of the incorporation of the Association, for the purpose of electing directors, and transacting such other business as may properly come before the meeting and on the same date for each consecutive year thereafter.

**C. Special Meetings:** Special meetings of the Corporation may be called at any time by the Board of Directors or by the President and shall be called by the President or Secretary at the written request of ten per cent (10%) of the Class "A" voting members, or as otherwise required under the provisions of the Corporate Law of the State.

**D. Place of Meetings:** All meetings of Corporation shall be held at the principal office of the Corporation, or at such other places as shall be designated in the notices or waivers of notice of such meetings.

**E. Notice of Meetings:** (a) Written notice of each meeting, whether annual or special, stating the time, when and place where it is to be held, shall be served either personally or by mail, not less than ten or more than fifty days before the meeting, upon each voting member of record entitled to vote at such meetings, and to any other person to whom the giving notice may be required by law. Notice of a special meeting shall also state the purposes or purposes for which the meeting is called, and shall indicate that it is being issued by, or at the direction of, the person or persons calling the meeting. If mailed, such notice shall be directed to each such voting member at his address, as it appears in the Minutes of the Corporation, unless he shall have previously filed with the Secretary of the Corporation a written request that notices intended for him be mailed to some other address, in which case, it shall be mailed to the address designated in such request. (b) Notice of any meeting need not be given to any person who may become a voting member of record after the mailing of such notice and prior to the meeting, or to any voting member who



attends such meeting, in person or by proxy, or to any voting member who, in person or by proxy, submits a signed waiver of notice either before or after such meeting. Notice of any adjourned meeting need not be given, unless otherwise required by statute.

**F. Quorum:** Except as otherwise provided herein, or by statute, or in the Articles of Incorporation (such Articles and any amendments thereof being hereinafter collectively referred to as the "Articles of Incorporation"), at all meetings of the Corporation, the presence at the commencement of such meetings in person or by proxy of voting members representing one-third (1/3) of the total votes of the Corporation and entitled to vote, shall be necessary and sufficient to constitute a quorum for the transaction of any business. The withdrawal of any voting member after the commencement of a meeting shall have no effect on the existence of a quorum, after a quorum has been established at such meeting.

**G. Voting:** The voting rights of the members shall be set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**H. Proxies:** Voting members may not vote by proxy but only in person or through their designated alternatives.

### **ARTICLE III. BOARD OF DIRECTORS**

**A. Governing Body; Composition:** The affairs of the Corporation shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Class "B" members, the directors shall be voting members; provided, however, no person and his or her spouse may serve on the board at the same time. In the case of a member which is not a natural person, the person designated in writing to the secretary or the Corporation as the representative of such member shall be eligible to serve as a director.

**B. Number, Selection and Term of Office:** (a) The number of the directors of Corporation shall be not less than three (3) or more than five (5), unless and until otherwise determined by vote of a majority of the entire Board of Directors. (b) Subject to the provisions of Section 1 below, the directors shall be selected by the Class "B" members acting in their sole discretion and shall serve at the pleasure of the Class "B" members until the first of the following shall occur: (1) when seventy-five (75%) percent of the total number of lots of the Subdivision as described in the Declaration have certificates of occupancy issued thereon and have been conveyed to persons other than the builders; or (2) December 31, 2033; or (3) when, in their discretion, the Class "B" members so determine. (c) Each director shall hold office until the annual meeting of the shareholders next succeeding his election, and until his successor is elected and qualified, or until his prior death, resignation or removal.

**C. Duties and Powers:** The Board of Directors shall be responsible for the control and management of the affairs, property and interest of the Corporation, and may exercise all powers of the Corporation, except as are in the Articles of Incorporation or by statute expressly conferred upon or reserved to the shareholders.

**D. Annual and Regular Meetings; Notice:** (a) A regular annual meeting of the Board of Directors shall be held immediately following the annual meeting of the voting members at the place of such annual meeting of the voting members. (b) The Board of Directors, from time to time, may

provide by resolution for the holding of other regular meetings of the Board of Directors, and may fix the time and place thereof. (c) Notice of any regular meeting of the Board of Directors shall be given at least three (3) days prior to the meeting, unless such notice shall be waived in the manner set forth herein.

**E. Special Meetings; Notice:** (a) Special meetings of the Board of Directors shall be held whenever called by the President or by one of the directors, at such time and place as may be specified in respective notices or waivers of notice thereof. (b) Notice of special meeting shall be mailed directly to each director, addressed to him at his residence or usual place of business, at least two (2) days before the day on which the meetings is to be held, or shall be sent to him at such place by telegram, radio or cable, or shall be delivered to him personally or given to him orally, not later than the day before the day on which the meeting is to be held. A notice, or waiver of notice, except as required herein, need not specify the purpose of the meeting. (c) Notice of any special meeting shall not be required to be given to any director who shall attend such meeting without protesting prior thereto or at its commencement, the lack of notice to him, or who submits a signed waiver of notice, whether before or after the meeting. Notice of any adjourned meeting shall not be required to be given.

**F. Chairperson:** At all meetings of the Board of Directors the Chairperson of the Board, if any and if present, shall preside. If there shall be no Chairpersons or the Chairperson shall be absent, then the President shall preside, and in his absence, a Chairperson chosen by the Directors shall preside.

**G. Quorum and Adjournments:** (a) At all meetings of the Board of Directors, the presence of a majority of the entire Board shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by law, by the Articles of Incorporation or by these By-Laws. (b) A majority of the directors present at the time and place of any regular or special meeting, although less than a quorum, may adjourn the same from time to time without notice until a quorum shall be present.

**H. Right to Disapprove Actions:** So long as the Class "B" membership exists, the Class "B" members shall have a right to disapprove any action, policy or program of the Corporation the Board, or any committee which, in the judgment of the Class "B" members, would impair rights of the Developer or builders under the Declaration or these Bylaws, or interfere with development, construction of any portion of the Subdivision or diminish the level of services being provided by the Association.

No such action, policy or program shall become effective or be implemented until and unless: (a) The Class "B" members shall have been given written notice of all meetings and proposed actions approved at such meeting of the Corporation, the Board or any committee thereof by certified mail, return receipt requested or by personal delivery to the said members; and (2) after such notice has been given, the Class "B" members approve the action, policy or program in writing to the Board of Directors.

**I. Nomination of Directors:** Except with respect to directors selected by the Class "B" members, nominations for election to the Board of Directors shall be made by a Nominating Committee. The nominating committee shall consist of a Chairperson, who shall be a member of the Board of Directors, and three (3) or more members of the Corporation. The Committee shall be named at least thirty (30) days prior to the annual meeting, and then at such meeting, the committee



shall make its nomination(s) known at the annual meeting. Nominations from the floor of the meeting may also be heard, and all nominees shall have the opportunity to be heard on his or her nomination.

Within thirty (30) days after the time that Class "A" members other than the Builders own 50% of the lots proposed in the Subdivision, or whenever the Class "B" members so determine, the Association shall call a special meeting at which the voting members shall be entitled to elect one of the three directors, with the Class "B" members retaining the remaining 2 board seats.

At the first annual meeting after the Class "B" control period has terminated, then the number of Board of Directors shall increase to five (5) and an election held for those 5 positions, with each voting member casting one vote each. There shall be no cumulative voting. Three directors shall be elected for a two-year period and two directors shall be elected for one year. At the expiration of the initial term of office of each member of the Board of Directors and at each annual meeting thereafter, a successor shall be elected to serve for a term of two years. Directors may be elected to serve any number of consecutive years.

**J. Vacancies:** Any vacancy in the Board of Directors occurring by reason of any increase in the number of directors, or by reason of the death, resignation, disqualification, removal at the meeting at which the removal was effected or inability to act of any directors, or otherwise, shall be filled for the unexpired portion of the term by majority vote of the remaining directors, though less than a quorum, at any regular meeting or special meeting of the Board of Directors called for that purpose.

Any director elected by the voting members who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than 30 days may be removed by the Board.

Meetings to fill any vacancies shall only be held with prior written notice to the voting members of Class "A" and Class "B" at least 5 days prior to said meeting.

**K. Resignation:** Any director may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Corporation. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or such officer, and the acceptance of such resignation shall not be necessary to make it effective.

**L. Removal:** Any director may be removed with or without cause at any time by the Board of Directors, at a special meeting of the Board called for that purpose.

**M. Salary:** No stated salary shall be paid to directors, or such, for their services, but by resolution of the Board of Directors a fixed sum and expenses of attendance if any, may be allowed for attendance at each regular or special meeting of the Board. A director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

**N. Contracts:** (a) No contract or other transaction of this Corporation and any other Corporation shall be impaired, affected or invalidated nor shall any director be liable in any way by reason of the fact that any one or more of the directors of this Corporation is or are interested in, or is a director or officer, or are directors or officers of such other Corporation, provided that such facts are disclosed or made known to the Board of Directors. (b) My director, personally and individually, may be a party to or may be interested in any contract or transaction of this Corporation, and no director shall be liable in any way by reason of such interest, provided that the fact of such interest be disclosed or made known to the Board of Directors, and provided that the

Board of Directors shall authorize, approve or ratify such contract or transaction by the vote (not counting the vote of any such director) of a majority of a quorum, notwithstanding the presence of any such director at the meeting at which such action is taken. Such director or directors may be counted in determining the presence of a quorum at such meeting. This Section shall not be construed to impair or invalidate or in any way affect any contract or other transaction which would otherwise be valid under the law (common, statutory or otherwise) applicable thereto.

**O. Committees:** The Board of Directors, by resolution adopted by a majority of the entire Board, may from time to time designate from among its members an executive committee and such other committees, and alternate members thereof, as they deem desirable, each consisting of three or more members, with such powers and authority (to the extent permitted by law) as may be provided in such resolution. Each such committee shall serve at the pleasure of the Board.

**P. Powers and Duties:** The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do or cause to be done all acts and things as are not, by the Declaration, Articles or these By-laws, directed to be done and exercised exclusively by the voting members or the membership generally. The Board may delegate to one or more of its members the authority to act on behalf of the Board of Directors on all matters relating to the Association.

The Board of Directors shall also be responsible for performing or causing to be performed, the following, by way of explanation, but not limitation:

- (a) preparation and adoption of annual budgets;
- (b) making assessments, establishing the means and methods of collecting such assessments and establishing the period of the payments of same, unless previously set forth in other Association documents;
- (c) providing for the operation, care, upkeep and maintenance of the common areas;
- (d) designating, hiring and dismissing the personnel necessary for the operation of the Association and maintenance of the common areas and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds in a bank depository and generally overseeing the financial matters of the Association;
- (f) making and amending rules and regulations;
- (g) opening of bank accounts on behalf of the Association and designating the signatures required;
- (h) making or contracting for the making of repairs, additions and improvements to or alterations of the common areas;
- (i) enforcing by legal means the provisions of the Declaration, these By-laws and the rules and regulations adopted by it;
- (j) obtaining and carrying insurance against casualties and liabilities and paying the premium costs thereof;
- (k) paying the cost of all services rendered to the Association or its members and not chargeable directly to the specific owners;
- (l) keeping books with detailed accounts of the receipts and expenditures affecting the Association.



(m) borrowing money for the purpose of maintenance, repair and restoration of the common areas and for any other purposes approved by the voting members in the same manner provided herein for other such approval;

(n) imposing reasonable fines, which shall constitute a lien on the property of the violating owner, and to suspend an owner's right to vote or use of the common areas for violation of any duty imposed under the Declaration, these By-laws or any rules and regulations duly adopted hereunder. The failure of the Board to enforce any provision shall not be deemed a waiver of the right of the Board to do so thereafter; however, prior to the imposition of any sanction hereunder, the Board shall serve the alleged violator with written notice of the alleged violation at least ten (10) days prior to the imposition of the fine or sanction, and the alleged violator may request a hearing on this matter, which shall be set and heard before the Board of Directors at a specially held meeting. At such meeting any parties may be heard, a decision rendered and the violator may then appeal the decision in accordance with NC laws regarding appellate procedure.

#### **ARTICLE IV. OFFICERS**

**A. Number, Qualifications, Elections and Term of Office:** (a) The officers of the Corporation shall consist of a President, a Vice-President, a Secretary and a Treasurer, and such other officers, including a Chairperson of the Board of Directors, and one or more Vice Presidents and Assistant Secretaries, as the Board of Directors may from time to time deem advisable. Any officer other than the Chairperson of the Board of Directors may be, but is not required to be, a director of the Corporation. Any two or more offices may be held by the same person, except the offices of President and Secretary. (b) The officers of the Corporation shall be elected by the Board of Directors. (c) Each officer shall hold office until the annual meeting of the Board of Directors next succeeding his election, and until his successor shall have been elected and qualified or until his death, resignation or removal.

**B. Resignation:** Any officer may resign at any time by giving notice of such resignation to the Board of Directors, or to the President or the Secretary of the Corporation. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or by such officer, and the acceptance of such resignation shall not be necessary to make it effective.

**C. Removal:** Any officer may be removed, either with or without cause, and a successor elected by the Board at any time.

**D. Vacancies:** A vacancy in any office by reason of death, resignation, inability to act, disqualification, or any other cause, may at any time be filled for the unexpired portion of the term by the Board of Directors.

**E. Duties of Officers:** Officers of the Corporation shall, unless otherwise provided by the Board of Directors, each have such powers and duties as generally pertain to their respective offices as well as such powers and duties as may be set forth in these By-Laws, or may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Corporation.

**F. Sureties and Bonds:** In case the Board of Directors shall so require, any officer, employee or agent of the Corporation shall execute to the Corporation a bond in such sum, and

with such surety or sureties as the Board of Directors may direct, conditioned upon the faithful performance of his duties to the Corporation, including responsibility for negligence and for the accounting for all property, funds or securities of the Corporation which may come into his hands.

**G. Agreements, Contracts, Deeds, Leases, Checks, Etc.:** All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board of Directors. Except, during the Class "B" control period, it shall be necessary for only one such officer to sign these documents, checks and other instruments.

**H. Compensation:** Compensation of officers shall be subject to the same limitations as compensation for Directors as set forth herein.

#### **ARTICLE V: CORPORATE SEAL**

The corporate seal, if any, shall be in such form as shall be approved from time to time by the Board of Directors.

#### **ARTICLE VI: AMENDMENTS**

**A. By Developer:** Prior to the conveyance of the first lot by Developer, Developer may unilaterally amend these By-laws. After such conveyance, the Developer may unilaterally amend these By-laws if such amendment necessary to bring any provision hereof into compliance with applicable governmental statutes, rules or regulations or judicial determination or if it is necessary to enable any title insurance company to issue title insurance on the property or if it is necessary to allow a lot owner to obtain financing because is required by an institutional or governmental lender. So long as it still owns property described in Exhibit A of the Declaration for development as part of this Subdivision, the Developer may unilaterally amend these By-laws for any other purpose, provided the amendment has no material adverse effect upon any right of any lot owner.

**B. By Owners:** Except as provided above and otherwise specifically provided herein, these By-laws may be amended only by the affirmative vote or written consent, or any combination thereof, of voting members representing sixty-seven percent (67%) of the total votes in the Association, including 67% of the votes held by members other than the Developer, and the consent of the Developer is also required, so long as the Developer has a right to annex additional property to the Declaration. No amendment may remove, revoke or modify any right or privilege of Developer without the written consent of Developer or the assignee of such right or privilege.

#### **ARTICLE VII: MISCELLANEOUS**

**A. Fiscal Year:** The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

**B. Parliamentary Rules:** Except as may be modified by Board resolution, **Robert's Rules of Order**, (current edition) shall govern the conduct of the Association proceedings when not in conflict with North Carolina law, the Articles of Incorporation and the By-laws.

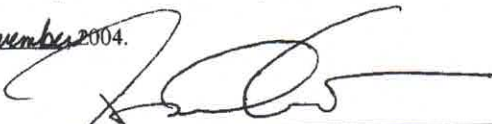


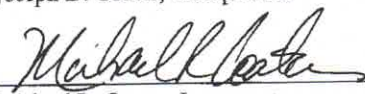
C. Conflicts: If there are conflicts between the provisions of NC law, the Articles of Incorporation, the Declaration or these By-laws, then the provisions of North Carolina law, the Declaration, the Articles of Incorporation and the By-laws (in that order) shall prevail.

D. Inspection of Books and Records: Any and all interested persons shall have the right to inspect the books and records of the Association upon written request to the Board, and a designated time and place shall be set for such review.

The undersigned Incorporator certifies the foregoing by-laws have been adopted as by-laws of the Corporations in accordance with the requirements of the Corporation law.

This the 12<sup>th</sup> day of November 2004.

  
\_\_\_\_\_  
Joseph D. Coates, Incorporator

  
\_\_\_\_\_  
Michael R. Coates, Incorporator

**Harvest Ridge of Johnston County Homeowners' Association, Inc.**

**Amendment to Articles of  
Incorporation  
Name Change**

**Registered July 21, 2008**



State of North Carolina  
Department of the Secretary of State

ARTICLES OF AMENDMENT  
NONPROFIT CORPORATION

Pursuant to §55A-10-05 of the General Statutes of North Carolina, the undersigned corporation hereby submits the following Articles of Amendment for the purpose of amending its Articles of Incorporation.

1. The name of the corporation is: HARVEST RIDGE OF CLAYTON HOMEOWNERS' ASSOCIATION, INC.

2. The text of each amendment adopted is as follows (*state below or attach*):

ARTICLE I is hereby amended to read: The name of the corporation is HARVEST RIDGE OF JOHNSTON COUNTY HOMEOWNERS'  
ASSOCIATION, INC., hereafter called "the Association."

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The date of adoption of each amendment was as follows: \_\_\_\_\_

July 15, 2008

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. (*Check a, b, and/or c, as applicable*)

a.  The amendment(s) was (were) approved by a sufficient vote of the board of directors or incorporators, and member approval was not required because (*set forth a brief explanation of why member approval was not required*) an amendment such as this does not require member approval pursuant to N.C.G.S. Section 55A-10-02(a)(3).

\_\_\_\_\_  
\_\_\_\_\_

b. \_\_\_\_\_ The amendment(s) was (were) approved by the members as required by Chapter 55A.

c. \_\_\_\_\_ Approval of the amendment(s) by some person or persons other than the members, the board, or the incorporators was required pursuant to N.C.G.S. §55A-10-30, and such approval was obtained.

5. These articles will be effective upon filing, unless a date and/or time is specified: \_\_\_\_\_

This the 17 day of July, 2008

HARVEST RIDGE OF CLAYTON HOMEOWNERS' ASSOCIATION, INC.

Name of Corporation

Michael V. Ellis

Signature

Michael V. Ellis, Director/Secretary

Type or Print Name and Title

Notes:

1. Filing fee is \$25. This document and one exact or conformed copy of these articles must be filed with the Secretary of State.



**Harvest Ridge of Johnston County Homeowners' Association, Inc.**

## **First Amendment**

**Registered December 7, 2009**

Prepared by and return to:  
Howard S. Kohn, Esq.  
Kohn Law, P.L.L.C.  
205 W. Millbrook Road, Suite 210  
Raleigh, NC 27609

STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

FIRST AMENDMENT TO DECLARATION OF  
RESTRICTIVE COVENANTS FOR HARVEST  
RIDGE SUBDIVISION

THIS FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS FOR HARVEST RIDGE SUBDIVISION made this 21st day of September, 2009, by Harvest Ridge of Johnston County Homeowners' Association, Inc, a North Carolina non-profit corporation (hereinafter, the "Association" or "Corporation" as the context requires).

WITNESSETH:

WHEREAS, Crossroads Development Corporation, as Declarant, recorded a Declaration of Restrictive Covenants for Harvest Ridge Subdivision, on November 30, 2004, in Book 2804, Page 343, Johnston County Registry (hereinafter, the "Declaration"), pursuant to Chapter 47F of the North Carolina General Statutes, commonly known as the "North Carolina Planned Community Act" (hereinafter, the "Planned Community Act" or the "Act"); and

WHEREAS, the Declarant wishes to convey to the Association all of the Areas of Common Responsibility, including the areas designated as "Open Space" as shown on the recorded plat of the subdivision, such property to be accepted by the Association and maintained by the Association at its expense for the benefit of the members, all in accordance with the Declaration and the Act; and

WHEREAS, the Declaration contemplates, and the Act requires, that the Association be incorporated as a non-profit corporation, no later than the date the first lot in the planned community was conveyed; however, due to oversight, the Association was not incorporated at that time, and in rectifying that oversight so that the Areas of Common Responsibility could be conveyed to the Association, the Declarant discovered that the name originally chosen for the Association and appearing in the Declaration and By-Laws was already taken by a homeowners' association in Guilford County, North Carolina; and

WHEREAS, the Association has now been incorporated under the name of Harvest Ridge of Johnston County Homeowners' Association, Inc., and the Declarant has executed and delivered to the Association a deed for the common areas; and

WHEREAS, the Owners wish to revise and amend the Declaration (and, to the extent necessary to accomplish the same results, the Association's By-Laws, which are attached to the Declaration as Exhibit "B" thereto and incorporated therein) in the following respects: (1) to change the name of the Association in the Declaration and By-Laws to correspond with the name of the Association as incorporated with the North Carolina Secretary of State's Office; and (2) to correct several typographical, drafting or clerical errors in the Declaration and By-Laws; and

WHEREAS, Article XVI, Section 2(b) of the Declaration provides that the Declaration may be amended by affirmative vote or written consent, or any combination thereof, of Voting Members representing sixty-seven percent (67%) of the votes held by Members other than the Developer; and

WHEREAS, Section 47F-2-117(a) of the Act provides that the Declaration may be amended by 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; and

WHEREAS, between the dates of July 16, 2008, and September 1st 2009, the Board of Directors of the Association circulated a written petition to approve this First Amendment to all of the Voting Members of the Association with the result that at least sixty-seven percent (67%) of the Voting Members signed the petition in approval thereof; and

WHEREAS, the Association's Board of Directors has attached hereto a Certificate of Validity of Amendment by the Association, signed by the President of the Association;

NOW, THEREFORE, the Association, upon the written agreement of not less than sixty-seven percent (67%) of the Voting Members, does hereby declare that the following amendments shall be binding upon all parties having or acquiring any right, title or interest in the real property subject to the Declaration or any part thereof, and shall inure to the benefit of each lot owner or successor in interest or assignee thereof:

1. The third and fourth paragraphs of the recitals beginning with "WHEREAS" on page 3 of the Declaration are hereby deleted, in that there are no lands described on Exhibit A to the Declaration as "Additional Lands Subject to Annexation", and the fifth paragraph, beginning "NOW, THEREFORE" is amended to insert the missing book and page numbers of the recorded plat of the subdivision: Plat Book 65, Pages 106, 107 and 108, Johnston County Registry.

2. Article I, Sections 2, 3, 7 and 20 of the Declaration and the By-Laws are hereby amended to define and refer to the name of the Association as "Harvest Ridge of Johnston County Homeowners' Association, Inc."

3. Article I, Section 19 of the Declaration is hereby amended to delete the clause "the property described in attached Exhibit A," and to define and refer to the Properties as all of the real property known as Harvest Ridge Subdivision according to the above-referenced recorded plat of the subdivision.

4. Article X, Section 2, is hereby amended to delete the word "fluid" in the last sentence in the first paragraph thereof and to substitute the word "fund" in its place.

5. This Amendment shall be effective from the date of recordation in the Johnston County Registry.

6. Except as specifically amended hereinabove, the remaining provisions of the Declaration are ratified and affirmed and shall remain in full force and effect in all respects and applicable to all lots, dwellings and homeowners within Harvest Ridge Subdivision.

IN WITNESS WHEREOF, the Association has caused this instrument to be executed by authority duly given, and the Association has attached hereto it "Certificate of Validity of Amendment", in accordance with the provisions of the Act, all as of the date and year first above written.

HARVEST RIDGE OF JOHNSTON COUNTY HOMEOWNERS' ASSOCIATION, INC.

By: [Signature]  
Name: [Signature]  
Title: President



CERTIFICATE OF VALIDITY OF AMENDMENT TO DECLARATION FOR HARVEST RIDGE SUBDIVISION

By authority of its Board of Directors, the Harvest Ridge of Johnston County Homeowners' Association, Inc., does hereby certify that it has reasonably assured itself that this Amendment has in fact been duly approved and adopted by a vote and/or written agreement of not less than sixty-seven percent (67%) of the Voting Members and owners of lots subject to the Declaration, and that the foregoing Amendment is therefore a valid amendment to the Declaration.

HARVEST RIDGE OF JOHNSTON COUNTY HOMEOWNERS' ASSOCIATION, INC.

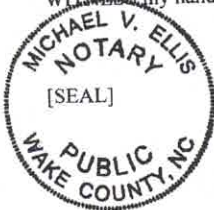
By: [Signature]  
Name: RONALD McDONALD  
Title: President

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, MICHAEL V. ELLIS, the undersigned Notary Public of the State and County aforesaid, do hereby certify that RONALD McDONALD personally appeared before me this day and acknowledged that he/she is President of Harvest Ridge of Johnston County Homeowners' Association, Inc., a North Carolina non-profit corporation (the "Corporation") and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by him/her as its President.

WITNESS my hand and notarial stamp/seal, this the 21<sup>st</sup> day of September, 2009



Michael V. Ellis  
Official Signature of Notary Public

MICHAEL V. ELLIS  
Typed of Printed Name of Notary Public

My Commission Expires: July 27<sup>th</sup>, 2011

# **Amendment**

**Registered April 14, 2010**

**Note, this amendment removes and replaces  
Article XI , Architectural standards in its entirety.**

Prepared by and Mail to: Steven E. Black, Forman Rossabi Black PA  
P.O. Box 41027, Greensboro, NC 27404

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NORTH CAROLINA AMENDMENT TO THE  
JOHNSTON COUNTY DECLARATION OF RESTRICTIVE COVENANT AND  
BYLAWS FOR HARVEST RIDGE SUBDIVISION  
AND HARVEST RIDGE HOMEOWNERS' ASSOCIATION, INC. aka HARVEST  
RIDGE OF JOHNSTON COUNTY HOMEOWNERS' ASSOCIATION, Inc.

THIS AMENDMENT TO THE DECLARATION OF RESTRICTIVE COVENANTS AND BYLAWS FOR HARVEST RIDGE SUBDIVISION AND HARVEST RIDGE HOMEOWNERS' ASSOCIATION, INC. (hereinafter the "Declaration") is made this the 17 day of April, 2010, by the Harvest Ridge of Johnston County Homeowners' Association, Inc., (hereinafter referred to as the "Association.")

WITNESSETH THAT

WHEREAS, all lots within the jurisdiction of the Association at the time of the recording of this Amendment are reflected on the following Plat Books and Pages, recorded with the Johnston County Register of Deeds:

Plat Book 63, Page 429;  
Plat Book 65, Page 106;  
Plat Book 65, Page 107;  
Plat Book 65, Page 108;  
Plat Book 66, Page 18;  
Plat Book \_\_\_\_\_, Page \_\_\_\_\_;  
Plat Book \_\_\_\_\_, Page \_\_\_\_\_;



WHEREAS, Crossroads Development Corporation, a North Carolina corporation caused the Declaration to be recorded in **Book 2804, Page 343** of the Johnston County Register of Deeds;

WHEREAS, the First Amendment to Declaration of Restrictive Covenants for Harvest Ridge Subdivision was recorded in **Book 3789, Page 38** of the Johnston County Register of Deeds; and

WHEREAS, Article XVI, Section 2B of the Declaration provides that the Declaration may be amended by affirmative vote or written consent, or in combination thereof, of voting members representing sixty-seven percent (67%) of the votes held by members other than the developer;

WHEREAS, the required number of signatures has been obtained to further amend the Declaration. The Officers of the Association executing this Amendment have certified that the requisite Owner approval has been obtained; said Certification can be found attached hereto as Exhibit A.

NOW THEREFORE, the Declaration of Restrictive Covenants and Bylaws for Harvest Ridge Subdivision and Harvest Ridge Homeowners' Association, Inc. recorded in **Book 2804, Page 343** of the Johnston County Register of Deeds shall be amended as follows:

**Article XI: Architectural Standards is hereby deleted in its entirety and replaced with the following:**

1. **General**

- a. No structure shall be placed, erected, or installed upon any lot, and no construction or modification (which includes staking, clearing, excavation, grading, and other site work) shall take place without fully compliance of this Article's stipulations in conjunction with architectural approval from the Association Board or designated committee, prior to the commencement of any said actions.
- b. All lots shall be kept mowed, weeded, free of garbage, waste, debris, etc., this shall be the responsibility of the person(s), company(s), corporation(s) that own the lot. In the event same

would like to plant trees on their lot, it is their responsibility to have all immediate neighbors signatures (any neighbor owning the adjoining lot to the one to be planted on, as well as any neighbor across the street from the length of the lot to be planted on) along with the date on a sketch, drawing, or the like, indicating planting locations and type(s) of trees. Association Board approval is not necessary to plant trees. However, a copy of the sketch, drawing, or the like with tree locations and types, signed and dated by all necessary neighbors shall be sent to the Association Board upon request. In the event that a lot owner cannot get neighbor approval, they can request a vote by the Association board, or by the Association (whichever they choose) to proceed with planting without said signature. It is the lot owner's responsibility to keep this record, as well as any other record pertaining to their property.

- c. All person(s), company(s), corporation(s), etc., shall meet the requirements in this Article and follow the approval procedure below prior to the commencement of any new construction (which includes staking, clearing, excavation, grading, and other site work) on all lots in the subdivision.
  - i. Two(2) full sets of hard copies of the plans that are filed with the appropriate governing agency, containing an architect's stamp, as well as a copy of the city set the builder's name and contact information, the owner's name and contact information (if the builder is not the owner), as well as physical samples of all exterior materials and colors shall be submitted to the Association Board for review and approval (said plans shall contain the specifications for the exterior materials and colors that are to be submitted as physical samples).
  - ii. A meeting shall take place to review any and all required modifications to the plans and samples are seen fit by the Association Board or designated committee.
  - iii. Said person(s), company(s), corporation(s), etc., will make all required modifications to both sets of plans and submit new physical samples if a change to them has been made.
  - iv. Said person(s), company(s), corporation(s), etc., sign and date both sets of plans upon making all required modifications to the plans and the satisfaction of the Association Board or designated committee, and deliver them to the Association Board or designated committee.

- v. All approved physical samples shall stay in the possession of the HOA Board to be stored or discarded at their discretion, at the completion of the project.
  - vi. Commencement of any kind shall not begin until the said person(s), company(s), corporation(s), etc., has received one (1) set of said plans marked "Approved", signed, and dated by the Association Board member or designated committee member.
  - vii. It is the responsibility of this individual(s) to have the original "Approved", signed and dated set of plans on-site until the completion of the project.
  - viii. Association Board members and/or designated committee members shall have the right to periodically inspect all work for compliance throughout the life of the project.
- d. All new construction dwellings shall be one family and shall be stick built on site. No modular, manufactured, etc. homes shall be permitted and/or approved.
- e. In addition to previously and subsequently stated criteria, all new construction, modifications, and additions shall meet the following criteria.
- i. In compliance with all Articles in this covenant, as well as any amendments, additions, deletions, etc., made to this covenant.
  - ii. All lots to commence new construction (or modifications and/or additions as seen fit by the Association Board or designated committee) shall have a crush and run or gravel driveway installed prior to commencement. This driveway shall be used by all types of contractors throughout the construction process. General Contractors, Contractors, and Sub Contractors shall not park their vehicles in the street.
  - iii. All mailboxes shall match the majority of the existing mailboxes in the subdivision ( white 4x4 post with black mailbox)



- iv. All siding shall be vinyl of similar quality to the majority of existing houses. Siding is to be an earth tone, specific color to be approved during the approval process as outlined above in section c. Siding is to be installed in a similar fashion to the majority of existing homes (i.e. horizontally on the main portion of the home). The exact pattern of installation shall be specified on the plans that are submitted for approval.
- v. All house trim shall be white vinyl. All trim shall match the majority of existing houses.
- vi. All house gutters shall be white or black, only.
- vii. All exterior doors, lighting and windows shall be specified (material, color, size, etc.) on the plans submitted for approval.
- viii. All houses shall have a fireplace, propane gas, natural gas or wood burning (exterior style, material, and colors to be included on the plans submitted for approval). In the event a wood fireplace is approved and installed, wood storage shall be concealed from public view; placement and method to be included on the plans submitted for approval by the Association Board or designated committee during the approval process.
- ix. All houses shall have a crawl space (to be under the entire house, except for under the garage) of similar height to the majority of the existing houses. Additionally, all foundations shall be constructed of brick, color to match the majority of the existing houses.
- x. All houses shall have architectural shingle roofs. Roofing material and color shall match the majority of existing houses.
- xi. All houses shall have a screened back yard porch, covered back yard porch, and/or back yard deck. In the event a deck is installed, it shall be no less than twelve (12) feet by Ten (10) feet, constructed of pressure treated wood, placement shall be approved during the approval process. Placement, material, style and color of screened back yard porch and/or covered back yard porch shall be approved during the approval process.

- xii. All houses constructed must meet the following size requirements. The square footage requirements listed below refer to heated and cooled space, excluding all garages, porches, and unfinished areas within the house. These square footage size requirements shall be for all lots.
  - One story houses will be no less than 1800 square feet
  - Two story houses will be no less than 2100 square feet
  
- f. All homeowners shall meet the requirements in this Article and follow the approval procedure below prior to the commencement of any addition, modification, etc., that will change the appearance of the exterior of the house in any way (i.e. new addition, shed, added deck, screened porch, driveway extension, fence, etc.). If there is no existing house, they shall follow the approval procedure for new construction as outlined in this Article.
  - i. Plans, sketches, or drawings (site, foundation, floor, roof, etc.) as deemed necessary by the Association Board or designated committee, shall be submitted to the Association Board for review and approval (said plans, sketches, or drawings shall contain the specifications for materials to be utilized). In the event the Association Board or designated committee requests additional information (i.e. material photos, physical samples, color samples, etc.,) they must be submitted, as well.
  - ii. If modifications are required, a letter indicating the required modifications will be sent to the homeowner, or a meeting shall be scheduled to review any and all required modifications to the project as seen fit by the Association Board or designated committee.
  - iii. The homeowner shall make all required modifications to both sets of plans, sketches, or drawings and resubmit them with any additionally requested information (when applicable).
  - iv. If the project is approved, the homeowner will receive written approval from the Association Board or designated committee.

- v. Commencement of any kind shall not begin until the said homeowner has received approval, in writing, from the Association Board or designated committee.
  - vi. It is the responsibility of the homeowner to maintain the original written approval for their records.
  - vii. Association Board members and/or designated committee members shall have the right to inspect all work for compliance at the completion of the project.
- g. Permissions are not required to re-build, due to damage or normal aging, a structure to its original condition, provided the structure was built under the guidance of the Developer, or was previously approved by the Association Board or designated committee. In the event prior approval was received, it is the responsibility of the homeowner to provide proof upon request by the Association Board or designated committee.
- h. Nothing contained herein shall limit the right of a homeowner to remodel the interior of his/her house (including painting of any color of the interior). However, modifications, additions, or alterations to the interior of screened porches, patios, and similar portions of a lot that are visible from the outside, shall be subject to approval by the Association Board or designated committee.
- i. All houses, buildings, and structures shall have setbacks from the property lines according to those setbacks as they appear on the recorded plat, to meet or exceed Johnston County Standards.
- j. All dwellings constructed on any portion of a lot shall be designed by a licensed architect or professional building designer. Additionally, construction shall be in accordance with the plans and specifications as determined by said architect/professional building designer and is to be performed by a licensed and insured builder. Construction shall be completed within one (1) year, of receiving approval from the Association Board or designated committee (date indicated on approved plans with signature of Association Board member or designated committee member {refer to section c. of this Article for clarification}) except for a variance in the time frame granted, in writing, by the Association Board or designated committee.
- k. This Article shall not apply to the activities of the Developer, nor to construction, improvements, and/or modifications to the Common Area by or on behalf of the Association.



1. This Article may not be amended without the Developer's written consent so long as the developer owns any land subject to this declaration or subject to annexation to this declaration.

2. Building Location

- a. No building/structure shall be located on any lot nearer to the front lot line than thirty (30) feet, provided, however, that on a corner lot a dwelling shall be located not nearer than twenty five (25) feet to one street, if it is at least thirty five (35) feet from the other street. No building/structures (attached or detached) shall be located nearer than fifteen (15) feet to an interior lot line and ten (10) feet to a back lot line that is not an interior lot line ( i.e. it does not meet another lot in the Association owned by another member). Location allowances of detached buildings/structures on corner lots will be determined through the approval process on an individual basis, to ensure the right-of-way line of the side street. Detached accessory building locations are to be determined during the approval process; however, they shall meet all criteria stipulated throughout this covenant. Nothing herein shall mean that the Architectural Committee cannot withhold its approval of the location of a building, regardless of the fact that such building meets the requirements of this paragraph.

3. Road Maintenance

- a. The Developer shall construct the roads within the subdivision to meet the specifications required by the North Carolina Department of Transportation for State maintenance of the roads, and the Developer shall maintain the roads in a condition acceptable to the Department until the State agrees to accept the roads for State maintenance. Any homeowner, lot owner, or builder who causes any damage to the roads is responsible to contact the appropriate agency for repairs, and is also responsible to ensure repairs are made in a timely fashion. In the event this happens, the homeowner, lot owner, or builder shall copy the Association Board on all communications with this agency, and keep the Association Board apprised of the anticipated schedule for repairs.

4. Guidelines and Procedures

- a. Refer to individual sections throughout this Article, as appropriate.

5. No Waiver of Future Approvals

- a. The approval of the Association Board or designated committee for any proposals or plans and specifications or drawings for any work completed or proposed, or in connection with any other matter requiring approval of same, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

6. Variance

- a. Approval for any variances required due to the inability to comply with this Article must be requested by following the appropriate procedures, as outlined in this article. Such variances shall only be granted, when unique circumstances dictate, and no variance shall be effective, unless it is in writing. For purposes of this section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship requiring a variance.

7. Limitation of Liability

- a. Review and approval of any request or application pursuant to this Article is made on the basis of aesthetic considerations only and the Association Board or delegated committee shall not bear any responsibility for ensuring the structural integrity, soundness of approved construction or modifications, appropriateness or effectiveness of drainage or compliance with any master drainage plan, nor for ensuring compliance with building codes and other governmental requirements. Neither the Developer, the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any lot.

8. Enforcement

- a. Any construction, alternation, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Association Board or delegated committee, owner(s) shall at their own cost and expense, remove such construction, alteration, or other work, or bring it into compliance. The Association Board or its designees shall have the right to enter a property to remove or cure the following circumstances.
- i. The lot does not have a completed dwelling located on it.
  - ii. The Lot has a house that is not inhabited.
  - b. All costs (including, without limitation, attorney(s) fees), together with the interest at the maximum rate then allowed by law, may be assessed against the benefited lot and collected as a Special Assessment pursuant to Article X.
  - c. Any contractor, sub contractor, agent, employee, or other invitee of an owner who fails to comply with the terms and provisions of this Article and the Design Review Guidelines' may be excluded by the Association Board from the Properties, subject to the notice and hearing procedures

contained in the By-Laws. In such event, neither the Association, its officers, committee members, nor directors shall be liable to any person for exercising the rights granted by this paragraph. In addition to the foregoing, the Association Board and/or its designee(s) shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Association Board and/or designated committee and/or the Developer.

9. Driveways

a. All driveways on lots shall be transit mixed concrete, gray in color. No asphalt paving shall be allowed. No gravel driveways, except during the construction phase, as stipulated previously in this Article. Approval of alternate materials to replace existing driveways may be considered by the Association Board.

10. Garages

a. All houses must have at least a double enclosed garage capable of storing two (2) mid-sized cars. Garage must have a minimum sixteen (16) feet wide door, to be white, with windows on the top panel only. Garage must also have a pedestrian door.

**Article XII: Use Restrictions, subsection 22 entitled Fences shall be deleted in its entirety and replaced with the following:**

22. Fences

- a. All fences require Association Board approval prior to construction. Procedures for approval are listed in Article XI: Architectural Standards.
- b. No hedges in lieu of a fence, no walls, unless they are for decorative landscaping purposes and approved by the Association Board or designated committee, or fences, with the exception of a four (4) foot high black chain link fence or four (4) to six (6) feet high white vinyl fence.
- c. In the event of unique circumstances (i.e. a safety issue), the Association Board may grant approval of a fence that does not meet the specifications herein. Approval for any variances required due to unique circumstances must be requested by following the appropriate procedures as outlined in Article XI: Architectural Standards. Such variances shall only be granted,



when unique circumstances dictate, and no variance shall be effective, unless it is in writing.

- d. Fence can be constructed from either the front corners of the house (not to surpass any porch), or the back corners of the house, and can run within one foot (1') of the property line on the side and back yards. The layout, as well as the specific style and materials to be used must be approved by the Association Board or designated committee.
- e. A dog kennel or pen can be constructed behind the fence line, provided it is concealed from view of neighboring lots, streets and property located adjacent to the lot at ground level. Any dog kennel or pen that is not commercially manufactured for that purpose will require approval by the Association Board or designated committee.

This the 13 day of Nov 2010.

Harvest Ridge of Johnston County Homeowners' Association, Inc.

By: [Signature]  
President

ATTEST:

[Signature]  
Secretary

Consented to by all Board members:

[Signature]  
Name

x [Signature]  
Name

[Signature]  
Name

[Signature]  
Name

[Signature]  
Typed Name

NORTH CAROLINA  
JOHNSTON COUNTY

I, the undersigned Notary Public, do hereby certify that Ron McDonald  
personally appeared before me this day and acknowledged that s/he is the President of  
Harvest Ridge of Johnston County Homeowners' Association, Inc., and that s/he has  
executed the foregoing instrument as its President.

WITNESS my hand and seal this the 13 day of April 2010.

Michelle Williams  
Notary Public

My commission expires:

12/15/2012

Michelle Williams  
Printed Name



NORTH CAROLINA  
JOHNSTON COUNTY

I, the undersigned Notary Public, do hereby certify that Paula Hively  
personally appeared before me this day and acknowledged that s/he is the Secretary of  
Harvest Ridge of Johnston County Homeowners' Association, Inc., and that s/he has  
executed the foregoing instrument as its Secretary.

WITNESS my hand and seal this the 13 day of April 2010.

Michelle Williams  
Notary Public

My commission expires:

12/15/2012

Michelle Williams  
Printed Name



NORTH CAROLINA  
JOHNSTON COUNTY

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_  
Board members of Harvest Ridge personally appeared  
before me this day and acknowledged they are the duly elected Board members of the  
Harvest Ridge of Johnston County Homeowners' Association, Inc. and that they are  
expressly providing their consent to the foregoing Amendment.

WITNESS my hand and seal this the 13<sup>th</sup> day of April 2010.

Michelle Williams  
Notary Public

My commission expires:  
12/15/2012

Michelle Williams  
Printed Name





**EXHIBIT A**

**CERTIFICATION OF VALIDITY OF AMENDMENT TO DECLARATION FOR  
HARVEST RIDGE OF JOHNSTON COUNTY HOMEOWNERS' ASSOCIATION,  
INC.**

By authority of its Board of Directors, Harvest Ridge of Johnston County Homeowners' Association, Inc., does hereby certify that it has reasonably assured itself that this Amendment has in fact been duly approved and adopted by a vote and/or written agreement of not less than sixty seven percent (67%) of the Voting Members and owners of Lots subject to the Declaration, and that the foregoing Amendment is therefore a valid Amendment to the Declaration.

This the 13 day of April, 2010.

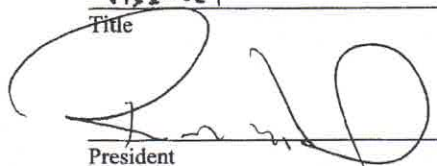
HARVEST RIDGE OF JOHNSTON COUNTY HOMEOWNERS' ASSOCIATION,  
INC.

\_\_\_\_\_

By:

Rob McDonald  
Name

President  
Title

  
President

ATTEST:

Paula Herzog  
Secretary

**Harvest Ridge of Johnston County Homeowners' Association, Inc.**

# **Third Amendment to Declaration**

**Registered December 9, 2011**

Prepared by and Mail to: Steven E. Black, Forman Rossabi Black PA  
P.O. Box 41027, Greensboro, NC 27404

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NORTH CAROLINA  
JOHNSTON COUNTY

THIRD AMENDMENT TO THE DECLARATION  
OF RESTRICTIVE COVENANT AND BYLAWS  
FOR HARVEST RIDGE SUBDIVISION AND  
HARVEST RIDGE HOMEOWNERS'  
ASSOCIATION, INC. aka HARVEST RIDGE OF  
JOHNSTON COUNTY HOMEOWNERS'  
ASSOCIATION, INC.

THIS AMENDMENT TO THE DECLARATION OF RESTRICTIVE  
COVENANTS AND BYLAWS FOR HARVEST RIDGE SUBDIVISION AND  
HARVEST RIDGE HOMEOWNERS' ASSOCIATION, INC. (hereinafter the  
"Declaration") is made this the 0<sup>th</sup> day of 2011, 2011, by the Harvest  
Ridge of Johnston County Homeowners' Association, Inc., )hereinafter referred to as the  
"Association.")

WITNESSETH THAT

WHEREAS, Crossroads Development Corporation, a North Carolina corporation  
caused the Declaration to be recorded in **Book 2804, Page 343** of the Johnston County  
Register of Deeds;

WHEREAS, the First Amendment to Declaration of Restrictive Covenants for  
Harvest Ridge Subdivision was recorded in **Book 3789, Page 38** of the Johnston County  
Register of Deeds;



WHEREAS, an Amendment to the Declaration of Covenant and Bylaws for Harvest Ridge Subdivision and Harvest Ridge Homeowners Association, Inc. aka Harvest Ridge of Johnston County Homeowners Association, Inc. was recorded in Book 3833, Page 742 of the Johnston County Register of Deeds; and

WHEREAS, all lots within the jurisdiction of the Association at the time of the recording of this Amendment are reflected on the following Plat Books and Pages, recorded with the Johnston County Register of Deeds:

- Plat Book 63, Page 429;
- Plat Book 65, Page 106;
- Plat Book 65, Page 107;
- Plat Book 65, Page 108; and
- Plat Book 66, Page 18

WHEREAS, Article XVI, Section 2B of the Declaration provides that the Declaration may be amended by affirmative vote or written consent, or in combination thereof, of voting members representing sixty-seven percent (67%) of the votes held by members other than the developer;

WHEREAS, the required number of signatures has been obtained to further amend the Declaration. The Officers of the Association executing this Amendment have certified that the requisite Owner approval has been obtained; said Certification can be found attached hereto as Exhibit A.

NOW THEREFORE, the Declaration of Restrictive Covenants and Bylaws for Harvest Ridge Subdivision and Harvest Ridge Homeowners' Association, Inc. recorded in Book 2804, Page 343 (as amended) of the Johnston County Register of Deeds shall be amended as follows:

Article XI, (1)(E)(iv) is deleted in its entirety and replaced with the following:

All siding shall be vinyl or approved material and be consistent with the majority of existing homes. Specific colors and/or textures to be approved during the approval process as outlined in section c. Siding to be installed in a similar fashion to the majority of the existing homes (i.e. horizontally on the main portion of the home). The exact pattern of installation shall be specified on the plans that are submitted for approval.

This the 8th day of December 2011.

Harvest Ridge of Johnston County Homeowners' Association, Inc.

By:   
President

ATTEST:

Kenn Allen acting Secretary  
Secretary

Consented to by all Board members:

Kenn Allen  
Board Member Signature

[Signature]  
Board Member Signature

[Signature]  
Board Member Signature

[Signature]  
Board Member Signature

[Signature]  
Board Member Signature

NORTH CAROLINA  
JOHNSTON COUNTY

I, the undersigned Notary Public, do hereby certify that [Signature] personally appeared before me this day and acknowledged that s/he is the President of Harvest Ridge of Johnston County Homeowners' Association, Inc., and that s/he has executed the foregoing instrument as its President.

WITNESS my hand and seal this the 9th day of December 2011.

Michele Williams  
Notary Public

My commission expires:

12/15/12



Michele Williams  
Printed Name

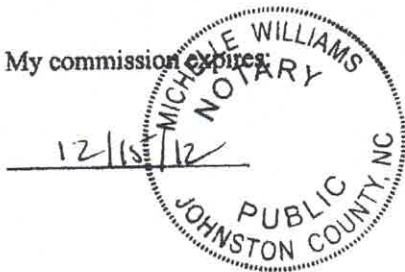
NORTH CAROLINA  
JOHNSTON COUNTY

I, the undersigned Notary Public, do hereby certify that Kim Allen  
personally appeared before me this day and acknowledged that s/he is the Secretary of  
Harvest Ridge of Johnston County Homeowners' Association, Inc., and that s/he has  
executed the foregoing instrument as its Secretary.

WITNESS my hand and seal this the 8th day of December 2011.

Michele Williams  
Notary Public

My commission expires:



MICHELE WILLIAMS  
Printed Name



NORTH CAROLINA

JOHNSTON COUNTY

I, the undersigned Notary Public, do hereby certify that:

[Signature]  
Board Member Name

Kern Allen  
Board Member Name

[Signature]  
Board Member Name

Mary Okunich  
Board Member Name

Kenn C. Krone  
Board Member Name

personally appeared before me this day and acknowledged they are the duly elected Board members of the Harvest Ridge of Johnston County Homeowners' Association, Inc. and that they are expressly providing their consent to the foregoing Amendment.

WITNESS my hand and seal this the 8<sup>th</sup> day of December 2011.

[Signature]  
Notary Public

My commission expires

12/15/12



Michelle Williams  
Printed Name

**Harvest Ridge of Johnston County Homeowners' Association, Inc.**

# **Annexation Declaration Phase II**

**Registered November 13, 2020**

Prepared by and return to: Howard S. Kohn, Esq.  
Kohn Law, P.L.L.C.  
205 West Millbrook Road, Suite 210  
Raleigh, NC 27609

STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

ANNEXATION DECLARATION SUBJECTING ADDITIONAL  
LAND TO THAT DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR HARVEST RIDGE  
SUBDIVISION RECORDED IN BOOK 2804, PAGE 343,  
JOHNSTON COUNTY REGISTRY

~~THIS~~ <sup>November</sup> THIS ANNEXATION DECLARATION, made and effective as of the <sup>5<sup>th</sup></sup> day of ~~October~~, 2020, by CROSSROADS DEVELOPMENT CORPORATION, a North Carolina corporation, whose mailing address is 12400 NC HWY 50 North, Willow Spring, NC 27592 (hereinafter, the "Declarant") and joined in by Golden Properties and Development, Inc., a North Carolina corporation, and Carroll Construction Homes, Inc., a North Carolina corporation, as an owner or owners of one or more of the lots in Harvest Ridge Subdivision, Phase 2, more particularly described hereinafter (hereinafter, collectively, the "Lot Owners").

WITNESSETH:

WHEREAS, Declarant recorded a Declaration of Restrictive Covenants for Harvest Ridge Subdivision, on November 30, 2004, in Book 2804, Page 343, Johnston County Registry, as amended by instruments recorded in Book 3789, Page 38, Book 3833, Page 742, Book 4055, Page 864, and Book 4081, Page 129, all of the aforesaid registry (hereinafter, collectively, the "Declaration"), pursuant to Chapter 47F of the North Carolina General Statutes, commonly known as the "North Carolina Planned Community Act" (hereinafter, the "Planned Community Act" or the "Act"); and



WHEREAS, the Declarant has the right to annex real property other than that described on Exhibit A to the original Declaration, as amended, without requirement of the affirmative vote of Voting Members representing a majority of the Class "A" votes of the Association; and

WHEREAS, the annexation shall be accomplished by filing a supplemental declaration describing the property being annexed in the Johnston County Registry, such supplemental declaration being signed by the President and the Secretary of the Association, and by the owners of the property being annexed, such annexation to be effective upon filing unless otherwise provided; and

NOW, THEREFORE, Declarant and Lot Owners hereby declare that the hereinafter described tracts of real property located in Johnston County, North Carolina, and being a portion of Harvest Ridge Subdivision, shall be annexed to, held, transferred, sold and conveyed subject to the Declaration for Harvest Ridge Subdivision recorded in Book 2804, Page 343, Johnston County Registry, as amended:

BEING Lots 79 through 101, Harvest Ridge Subdivision, Phase 2, as shown on plat entitled "Final Plat Subdivision Plat – Phase 2, Harvest Ridge Subdivision" prepared by Stancil & Associates, Professional Land Surveying, P.A., and recorded in Plat Book 90, Pages 338-339, Johnston County Registry.

The above-described property, hereinafter referred to as the "Annexed Property," shall be subject to all of the terms, covenants, requirements and conditions of the aforesaid Declaration, the provisions of which are specifically incorporated herein by reference, and all references therein to the Properties shall be deemed to include and encompass the Annexed Property as if the same were, and had been, described in the legal description of the Properties when the Declaration was originally recorded. Title to the Common Area that is included within the Annexed Property shall be conveyed in fee simple without any encumbrances except drainage, greenway, utility and conservation easements and the Declaration. Open Space in the Annexed Property is subject to all Code and Declaration provisions relating to Open Space.

PROVIDED, HOWEVER, that the Declarant, in the exercise of its development rights, desires to subject the Annexed Property to complementary additions and modifications to the terms of the Declaration as are necessary and desirable to reflect the different character and/or changed conditions of the Annexed Property; and certain terms, covenants, requirements and conditions of the aforesaid Declaration shall be amended, restated, or supplemented as follows:

1. Section (1) (e) (ix) of Article XI of the Second Amendment to the Declaration shall be and hereby is amended to allow slab-built homes, without brick foundations, as an alternative to homes built on crawl space, provided that

the quality of slab-built homes be as good or better than existing homes in Harvest Ridge Subdivision.

2. Section (1) (e) (xii) of Article XI of the Second Amendment to the Declaration shall be and hereby is amended to reduce the allowable minimum square footage of One and/or Two Story Houses to 1,500 square feet per dwelling.
3. Section (1) (e) (iii) of Article XI of the Second Amendment to the Declaration shall be and hereby is amended to allow cluster mail box kiosk as required by Johnston County Code.
4. Section (1) (e) (xi) of Article XI of the Second Amendment to the Declaration shall be and hereby is amended to allow installation of concrete or brick patios no less than twelve (12) feet by ten (10) feet, at ground level as an alternative to wooden decks.
5. Section 10 of Article XI of the Second Amendment to the Declaration shall be and hereby is amended to recite that garage doors may be white or match the trim color of the house and to eliminate the requirement that all garages must have a pedestrian door.

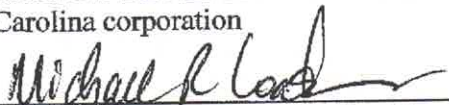
The terms of this Annexation Declaration shall control over any contradictory or conflicting terms as may be contained in the Declaration for Harvest Ridge. Except as amended hereby, the terms of the aforesaid Declaration are hereby ratified and shall remain in full force and effect.

IN TESTIMONY WHEREOF, the Declarant and Lot Owners have executed this Annexation Declaration the day and year first above written.

DECLARANT:

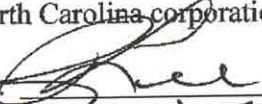
CROSSROADS DEVELOPMENT CORPORATION, a  
North Carolina corporation

By:

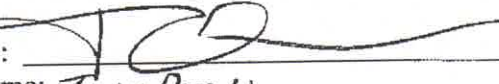
  
Michael R. Coates, Vice-President

LOT OWNERS:

GOLDEN PROPERTIES AND DEVELOPMENT, INC., a  
North Carolina corporation

By:   
Name: RON LEE  
Title: MEMBER

CARROLL CONSTRUCTION HOMES, INC., a  
North Carolina corporation

By:   
Name: Tony Carroll  
Title: Member

[notary acknowledgements on following pages]



State of North Carolina

County of Johnston

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated:

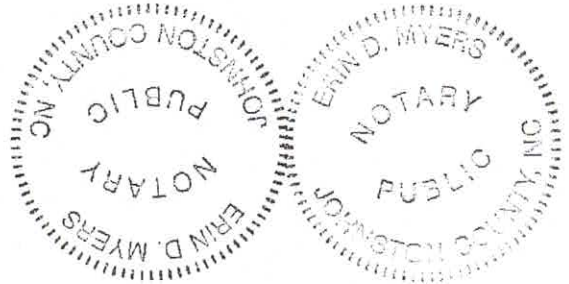
Michael R. Coates, Crossroads Development Corporation  
name(s) of principal(s).

Date: 11/6/2020

Erin W. Myers  
Official Signature of Notary Public  
Erin D. Myers  
(Printed or Typed Name of Notary Public)

(Official Seal)

My commission expires: 03/04/2024



State of North Carolina

County of Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated:

Ron Lee - Member  
name(s) of principal(s).

Date: 11-5-2020

Jessica Lee  
Official Signature of Notary Public  
Jessica Lee  
(Printed or Typed Name of Notary Public)



My commission expires: 7-29-23

State of North Carolina

County of Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated:

Tony Carroll Member  
name(s) of principal(s).

Date: 11-5-2020

Jessica Lee  
Official Signature of Notary Public  
Jessica Lee  
(Printed or Typed Name of Notary Public)



My commission expires: 7-29-2020

CONSENTED TO:

HARVEST RIDGE OF JOHNSTON COUNTY HOMEOWNERS' ASSOCIATION,  
INC.

By: Janette Schmidt  
10/30/2020, President

By: Kimberly Graham Oyster  
10/30/2020, Secretary