

PREPARED BY & HOLD FOR:
THE LAW FIRM OF HUTCHENS, SENTER & BRITTON

NORTH CAROLINA

JOHNSTON COUNTY

**DECLARATION OF RESTRICTIVE COVENANTS
AND HOMEOWNERS' ASSOCIATION
MIDDLE CREEK LANDING SUBDIVISION**

THIS DECLARATION AND AGREEMENT is entered into this 25 day of ~~September~~ ^{October},
2007 between **GFG Properties, LLC** (hereinafter "Declarant") and all parties hereafter acquiring
any of the described property.

WITNESSETH:

WHEREAS, Declarant is the owner and developer of all lots within a subdivision of the
County of Johnston, State of North Carolina, known as **Middle Creek Subdivision** and being
that certain tract or parcel more particularly described by map and survey in **Plat Book 70, Page
424-425** of the Johnston County Registry; and

WHEREAS, it is in the best interest of the Declarant and to the benefit, interest and
advantage of every party hereinafter acquiring any of the described property that certain
covenants, conditions, easements, assessments, liens and restrictions governing and regulating the
use and occupancy of the property be established; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities
and the desirability and attractiveness of said property; and for the continued maintenance and
operation of any recreational and/or common area; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the
State of North Carolina, a non-profit corporation known as "MIDDLE CREEK HOA, INC.,"
(hereinafter referred to as "Association") for the purpose of exercising the functions
aforesaid, and which are hereinafter fully set forth.

NOW, THEREFORE, in consideration of the premises, the Declarant agrees with all
parties hereafter acquiring any of the property hereinafter described, that it shall be and is hereby
subject to the following restrictions, covenants, conditions, easements, assessments and liens
relating to the use and occupancy thereof, which shall be construed as covenants running with
the land which shall be binding on all parties acquiring any right, title or interest in any of the
properties and which shall inure to the benefit of each owner thereof .

ARTICLE I

PROPERTIES SUBJECT TO THIS DECLARATION

The property which shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County of Johnston, State of North Carolina, and is more particularly described as being all of that property shown on map and survey recorded in **Plat Book 70, Page 424-425**, Johnston County Registry, plus all utility and access easements as shown on the aforesaid map. The Declarant hereby subjects the heretofore described property to this Declaration. Additional properties may be subjected to and annexed by the Declarant within twenty (20) years from the date of this instrument subject to the approval of Johnston County.

ARTICLE II

PURPOSE

The real property hereinbefore described is subject to the protective covenants and restrictions hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of such lots against improper use of surrounding lots as will depreciate the values of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes, to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on lots; to prevent haphazard and inharmonious improvement of lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures, and in general to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of lots therein. The term "single family" as used herein means persons who are related by blood, adoption or marriage or living together by not more than two unrelated adults. Nothing in this document shall be deemed to prohibit the conversion of a lot to a street.

ARTICLE III

MIDDLE CREEK HOA

A. *PROPERTY RIGHTS*

Section 1. **Owners' Easements of Enjoyment.** Every owner shall have a right and easement of enjoyment in and to the common area, including the rights of ingress and egress, which shall be appurtenant to and shall pass with the title to every assessed lot, subject to each of the following provisions:

- a. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area;
- b. The right of the Association to suspend the voting rights of and right to use of the recreational facilities by an Owner for any period during which

any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

- c. The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures;
- d. The right of the Association to formulate, publish, and enforce rules and regulations as provided herein;
- e. The right of the Association, in accordance with its Articles and Bylaws, to borrow money from any lender for the purpose of improving and/or maintaining the common area and facilities, and providing services authorized herein and in aid thereof to mortgage said properties provided, however, that such mortgage is with the prior consent of two-thirds (2/3) of the votes of each class of members of the Association entitled to be voted, which consent may be evidenced by petition or by an affirmative vote of such two-thirds (2/3) by members voting in person or by proxy at a duly called meeting of the Association.
- f. The right of the Association, acting through its Board, to exchange Common Area, providing such exchange is agreed to by two-thirds (2/3) of each class of members as evidenced by a written instrument.
- g. The right of the Association to dedicate or transfer all or any part of the common area, if any, to any governmental or public agency, authority or public or private utility for such purposes and subject to such conditions as may be agreed to by two-thirds (2/3) of each class of members as evidenced by a written instrument.
- h. The instrument effecting such dedication, transfer, conveyance, exchange or mortgage shall be sufficient if executed by appropriate officers of the Association containing a recital that the provisions regarding assent of two-thirds (2/3) of each class of members as evidenced by a written instrument has been complied with.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the common area, if any, and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title, at no cost to the Association, and subject to (i) this Declaration of Covenants and Restrictions (ii) all other restrictions and limitations of record at the time of conveyance (iii) any restrictions, limitations, conditions, or determinations as to the purposes and uses of the conveyed properties as stipulated in said Deed, those common properties described in ARTICLE I, except such common properties as are required to be deeded to any governmental agency as designated in the Master Plan, to the Association, free and clear of all liens and encumbrances, at the time of or prior to the conveyance of the first lot in each respective parcel, except utility, drainage and access easements and easements to governmental authorities.

Similarly, the Declarant will convey to the Association Common Area, if any, which are parts of Middle Creek Subdivision as those portions are annexed in the future.

B. MEMBERSHIP

Every person who is record owner of a fee or undivided fee interest in any lot which is subject to assessment by the Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of any obligations, shall be a member of Middle Creek HOA, Inc. Ownership of such interest shall be the sole qualification for such membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. The Board of Directors may make reasonable rules regarding proof of ownership.

C. VOTING RIGHTS

Section 1. Classes. The Association shall have the following two classes of voting membership:

- a. Class A. Class A members shall be all owners, other than Declarant; however, Declarant shall be a Class A member to the extent provided in (b) hereinafter. Class A members shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot the vote for such lot shall be exercised as the owners thereof determine, but in no event shall more than one vote be cast with respect to any lot, and no fractional vote may be cast with respect to any lot.
- b. Class B. The Class B member shall be the Declarant, and during its existence, it shall be entitled to a majority vote on all Association issues. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
 - i. When the Declarant declares, in writing, the termination of its Class B membership; or
 - ii. On January 1, 2030.

D. COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the property hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges;
- b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the lot and improvements against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the lot at the time the assessment fell due. The personal obligation of an owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for promoting the recreation, health, safety, and welfare of the residents and for the improvement and maintenance of the Common Area; enforcing these covenants and the rules of the Association; and providing the services and facilities as provided for herein.

Section 3. Amount of Assessment.

- a. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be \$10.00 per month, but billed yearly in the amount of \$120.00.
- b. Increase by Association. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment effective for any year may be increased by the Board of Directors, without a vote of the membership, by a percentage which may not exceed ten percent (10%) above the maximum assessment for the previous year.
- c. Increase by Members. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- d. Criteria for Establishing Annual Assessment. The Association is required to set the annual assessment high enough to enable the Association to establish and maintain an adequate reserve fund out of the annual assessments for the periodic maintenance, repair and replacement of improvements to the common areas. In establishing the annual assessment for any assessment year, the Board of Directors shall set the annual assessment high enough to cover all current costs and expenses of the Association, any accrued debts, and reserves for future needs.
- e. Declarant and Assessments. The Declarant shall never be responsible for paying any dues or assessments with regard to this Subdivision.

- Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, repair or replacement, of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
- Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots, on a per lot basis, and will be collected on a yearly basis until Developer owns no more lots.
- Section 6. Quorum for any Action Authorized Under Section 3 and 4. At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting members or of proxies entitled to cast sixty percent (60%) of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth in Sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall be paid in full yearly payments and the assessment shall commence as to each lot upon its occupancy by a resident thereof. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The Board of Directors shall establish the due dates. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.
- Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or portion thereof which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the same shall bear interest from the date of delinquency at the rate of eight (8%) percent per annum or the maximum lawful rate, whichever is less. The Association may bring action against the owner personally obligated to pay the same or foreclose the lien against the property, and, in either event, interest and costs of any such action, including reasonable attorney's fees, shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the common area or abandonment of his lot.
- Section 9. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein on any lot shall be subordinate to the lien of the

first mortgage, and ad valorem taxes on such lot. Sale or transfer of any lot shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

E. ARCHITECTURAL CONTROL

No building, fence, wall, swimming pool, tennis court, or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to, or change, or alteration therein be made until the plans and specifications showing the nature, kind, shape, color, heights, quality, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant until he turns control over to the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board, that being the Declarant until such times as all lots have been sold. The Board may set a reasonable review fee for any submission for review.

It is the intent of this Declaration that all buildings and structures within the properties shall be constructed of attractive exterior materials of high quality. In its review of submissions, the Declarant or Architectural Review Board, as defined herein at Section 5. following, shall evaluate the construction standards and building materials for all proposed construction on the lots to insure that they are in conformance with such objectives. Accessory buildings, enclosures, appurtenant structures to, or extrusions from any building or structure on any lot shall be of similar or compatible materials, design and construction. Exterior finishes once approved shall not be altered without the express consent of the Declarant or the Architectural Review Board.

F. FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Properties. The Association shall be authorized to own and/or maintain common properties, equipment, furnishings and improvements devoted to the following uses:

- a. For roads, roadways, roadway medians, roadway islands, and parkways along said roads or roadways, cul-de-sac islands and neighborhood or other area entrances (including signs) through the properties;
- b. For sidewalks, walking paths or trails, bicycle paths, pedestrian underpasses, and bridle paths through the properties;
- c. For providing any of the services which the Association is authorized to offer under this Declaration;
- d. For purposes set out in deeds by which common properties are conveyed to the Association;

- e. For indoor and outdoor recreational and community facilities, including, but not limited to tennis courts, platform tennis courts, handball courts, squash courts, basketball courts, swimming pools, and any showers, locker rooms, or other club facilities associated with such uses, putting greens, playgrounds, ball fields, spectator viewing pavilions, gazebos, picnic shelters, picnic tables, parks, walking trails, bike trails, boardwalks, decks, wildlife conservancies and feeding stations, nature interpretive areas, amphitheaters, community meeting facilities and all restroom facilities, parking lots, boat storage, service buildings and concession-type food services associated with all such uses;
- f. For water and sewage facilities and any other utilities, if not adequately provided by a provided utility, Johnston County;
- g. For the cleaning, landscaping and maintenance of all roadway medians and islands, parkways along cleaning, landscaping and maintenance of all roadway medians and islands, parkways along said roadways, cul-de-sac islands and neighborhood and other area entrances (including signs).

Section 2. Services. The Association shall be authorized, but not required except as specified in Section 3, to provide the following services:

- a. Cleaning and maintenance of all roads, roadways, parkways, lakes, parks, sidewalks, walking trails, bike trails, common properties, and also all public properties which are located within or in a reasonable proximity to the properties such that their deterioration would affect the appearance of the properties as a whole;
- b. Landscaping and beautification of roads, roadways, parkways, lakes, parks, sidewalks, walking paths, bike trails, common properties;
- c. Lighting of roads, signs, landscaping, sidewalks, walking paths, bike trails, parking lots and any recreational and community facilities located within the properties;
- d. Police protection and security, including, but not limited to, the employment of police and security guards, maintenance of electronics and other security devices and control centers for the protection of persons and property within the Property, and assistance in the apprehension and prosecution of persons who violate the laws of the State of North Carolina, or the County of Johnston, North Carolina, within the Properties;
- e. Fire protection and prevention;
- f. Garbage and trash collection and disposal;
- g. Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the

service provided by the state and local governments;

- h. The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;
- i. To take any and all actions necessary to enforce all Covenants and Restrictions affecting the properties and to perform any of the functions or services delegated to the Association in any Covenants or Restrictions applicable to the properties;
- j. To set up and operate an Architectural Review Board of the purposes outlined herein;
- k. To provide day care and child care services;
- l. To conduct instructional, recreational, sports, crafts, social and cultural programs of interest to members, their families and guests;
- m. To provide safety equipment for storm emergencies;
- n. To construct improvements on common properties for use for any of the purposes authorized in this Article, or as may be required to provide any of the services authorized in this Article;
- o. To provide administrative services, including, but not limited to, legal, accounting and financial; and communication services, including, but not limited to community newsletters and newspapers to inform members of activities, notices of meetings, referendums, and other issues and events of community interest;
- p. To provide liability and hazard insurance covering improvements and activities on the common properties;
- q. To provide water, sewage, and any necessary utility services not provided by a public body, private utility or the Declarant;
- r. To construct mailboxes, signs and other standard features for use throughout the properties;
- s. To provide any or all of the above listed services to another association of owners of real property under a contract, the terms of which must be approved by the Board of Directors.

Section 3. Minimum List of Functions and Services. The "Minimum List of Functions and Services" shall establish and define the minimum level of functions and services which the Association must furnish or cause to be furnished to its members. So long as the Declarant is engaged in the development of properties which are subject to the terms of this Declaration, the Association shall not reduce the level of functions and services it furnishes to its members below such minimum level

without the proper written consent of the Declarant. The "Minimum List of Functions and Services" is as follows:

- a. The Association shall provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation of the Association and the Bylaws of the Association, including, but not limited to, legal, accounting, financial and communications services;
- b. The Association shall administer and enforce the Covenants and Restrictions established in this Declaration, including, but not limited to, the following:
 - i. The Association shall set assessments, levy cash assessments, notify the Members of such assessments and collect such assessments;
 - ii. The Association shall prepare accurate indexes of Members Property Classifications, Votes, Assessments, the Cumulative Maximum Number of Residential Lots and Family Dwelling Units Authorized in the Properties, and the Maximum Regular Assessment;
 - iii. The Association shall operate an Architectural Review Board, as set forth in Section E hereinabove.
- c. The Association shall provide appropriate liability and hazard insurance coverage for improvements and activities on all common properties;
- d. The Association shall provide appropriate directors' and officers' legal liability insurance, and indemnify persons pursuant to the provisions of the Bylaws of the Association;
- e. The Association shall keep a complete record of all its acts and corporate affairs;
- f. The Association shall (except where such services are adequately provided by governmental agencies) provide regular cleanup of all roads, roadways, roadway medians, roadways islands, parkways, cul-de-sac islands, neighborhood and other entrances, greenways, open space, and walking trails throughout the properties, including, but not limited to, mowing grass on all roadsides, cul-de-sac and roadway islands, entrances, parks, greenways, walking trails; sweeping all roads, landscape maintenance on all roadsides, cul-de-sac and roadways islands, entrances, parks, greenways, walking trails; pick up and disposal of trash.

Section 4. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with the prior consent of two-thirds (2/3) of each class of the members of the Association, which consent may be evidenced by petition or by an

affirmative vote of said two-thirds (2/3) of the Association. Provided that if ingress or egress to any residence is through the common area, any conveyance or encumbrance of such area is subject to lot owner's easement.

- Section 5. Review Board. The Architectural Review Board shall be composed of three (3) members - two designated by Declarant and one from HomeTowne Realty. Until such time as the Class B membership is terminated as provided in Section 1 of Provision C, said Architectural Review Board shall be solely comprised of Declarant and/or its assigns. Said approval by the Board will require two (2) signatures of approval.
- Section 6. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from Declarant and/or the Association contemplated under this Declaration, Declarant and/or the Association shall not be liable to an owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an owner or such other person and arising out of or in any way relating to the subject matter of any review, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld.
- Section 7. Management and Contract Rights of Association. Declarant may enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. However, no such contract shall be binding upon the Association except through express adoption or ratification of the terms and conditions of such contract. Any contract or lease entered into by Declarant or by the Association while the Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract without justification or penalty after transfer of management by the Declarant to the Association.

G. RIGHTS OF FIRST MORTGAGEES

Any institutional holder of a first mortgage on a lot will, upon request in writing to the Association, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings, (c) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the lot securing its mortgage, (d) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the owner of any lot on which it holds the mortgage, (e) receive written notice of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (f) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, and (g) be furnished with a copy of any insurance policy owned by the Association, and (h) to be furnished with at least one copy of the annual Financial Statement and Report of the Association. The Association may require the payment of expenses incurred in preparing copies and mailing of documents furnished to first mortgage holders pursuant to this Article.

ARTICLE IV

USE RESTRICTIONS

- Section 1. Land Use and Building Type. No portion of the Properties (except for temporary offices of the Declarant and/or any model used by the Declarant) shall be used except for residential purposes and for purposes incidental or accessory thereto. No building or structure shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling, not to exceed three (3) stories in height, a private garage for not more than three (3) cars, and (with the approval of the Architectural Committee) an accessory building or structure for storage or other appropriate uses, as set below.
- Section 2. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.
- Section 3. Dwelling Specifications. No dwelling shall be constructed or permitted to remain on any lot having an area of the main structure, heated and finished, exclusive of open porches and decks, of less than one thousand two hundred (1,200) square feet with a five (5) percent variance. All yard and setback requirements shall comply with the County setback.
- No one and one-half story or split level dwelling shall be permitted on any building lot unless such dwelling has a heated floor area, exclusive of basement, porches, garages, and storage areas of not less than 1200 square feet finished living area. No dwelling with 2 or more full stories of finished living area shall be constructed on any building lot having less than 1200 square feet of heated, finished living area exclusive of basement, porches, garages, and storage areas.
- Section 4. Accessory Buildings. Owners shall secure Architectural Committee approval prior to construction of any accessory building, including sheds, or permanently installed playhouses. A detached garage is not considered an accessory building and its construction shall require Architectural Committee approval on a case-by-case basis. Accessory buildings shall meet the following criteria:
1. An accessory building must be of the same color, material, and architectural style as the main residence of color, material, and style that is generally recognized as complimentary to that of the main residence. No aluminum, metal, or plastic buildings shall be permitted.
 2. Any utilities services accessory to the building shall be installed underground.
 3. Accessory buildings generally shall be located in the rear of the yard and must be screened by a fence or vegetation.
- Section 5. Temporary Structures. Except as hereinbefore set forth, no trailer, motor home, tent, shack, barn or other out building erected on the tract shall at any time be used as a residence temporarily or permanently nor shall any structure of a temporary character be used as a residence on the property. No slab, mobile homes, manufactured, or modular homes shall be permanently or temporarily

located on a lot. All houses shall be "stick-built" and no house shall be moved onto any lot.

- Section 6. Garages. Garages that are constructed independent from the home require Architectural Committee approval. Such garages shall be compatible with and complimentary to the main residence in architectural style, material, color and location. Review shall be made on a case-by-case basis.
- Section 7. Antennae and Communication Dishes. One small and inconspicuous satellite dish antennae having a diameter of 18" or less, which is installed adjacent to any residence and is integrated with the residential structure and surrounding landscape, does not require approval. Such equipment shall be located only in side or rear yards. Other satellite dish antennae having a diameter of more than 18", and all television antennae, or other electronic signal-receiving or transmitting equipment are prohibited, unless a variance is approved for such equipment by the Architectural Committee.
- Section 8. Building Location. Building locations shall be in accordance with county requirements.
- Section 9. Lot Area and Width. All lots as shown on the recorded map hereinbefore referred to are hereby approved. Adjustments may be made, however, in the line between any two lots so long as the area of any lot is not reduced by more than ten (10) percent and so long as all other restrictions herein set forth are observed. Upon any recombination of lots, the setbacks and side clearances from new lines shall be applicable and set backs from former lot lines shall no longer be required. No recombination of lots may be made in a manner that results in any increase in the number of lots above those existing when these covenants became effective.
- Section 10. Mailboxes. All mailboxes shall be picked out by the Declarant and all builders shall be responsible for buying like mailboxes for their respective lots. All mailboxes in said subdivision shall continue to be like form until such time as these restrictions expire.
- Section 11. Uses. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No commercial or business activity of any nature, including any manufacturing or professional services shall be conducted on any lot. No business activity or trade of any kind whatsoever shall be permitted, which shall include but not be limited to the operation of a child day care facility; beauty/hair stylist shop; fraternity house; rooming house; boarding house; antique shop; automobile or engine repair shop. In house business may be conducted but only if customers or suppliers do not visit the business; it is operated solely by the homeowners; and no outside signs or advertising is done. The storage or accumulation of any type of trade materials is prohibited in the subdivision. No trade materials or inventories (other than materials used for construction of dwellings or other approved structures on the lots) may be stored upon any lot and no tractors, inoperable motor vehicles, rubbish, trash, or unsightly materials of any kind may be stored, regularly placed, or allowed to remain on any lot.

- Section 12. Signs. No sign of any kind, including billboards and yard sale signs, shall be displayed to the public view on any lot except one professional sign of not more than four (4) square feet advertising the property for sale, or signs used by builders or developers to advertise the property during the construction and sales period. The installation or relocation of all other signs requires Architectural Committee approval.
- Section 13. In-House Businesses. In-House businesses may be conducted so long as (1) the business is conducted solely by the homeowners or occupants, (2) no outside signs or other advertisement is done, and (3) the business is not visited by customers or suppliers.
- Section 14. Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or permitted on any lot, with the exception of the following pets: (2) dogs; (2) cats; (2) birds; and (2) other usual or common household pets. No more than two (2) of the aforementioned pets shall be allowed inside or outside of the home. Pets are not permitted to roam free or endanger the health of the community, make objectionable noise; or constitute a nuisance or inconvenience. All doghouses shall be in the rear of the house and not closer than fifteen (15) feet to a side property line and not closer than twenty (20) feet to the back property line. No pets shall be kept, bred, or maintained for any commercial purpose. All pets are the responsibility of the individual lot owners. And no pets that are known for vicious behavior shall be permitted on any lot.
- Section 15. Appearance. Communication towers are expressly prohibited. Stick-built homes are expressly required; that is, no prefabricated or manufactured homes are permitted on any lot. Flat roofs are prohibited, unless approval in writing is obtained from the Board or Architectural Committee. No inoperable motor vehicles may be parked on any lot.
- All driveways and walks must be concrete or brick, as approved by the Review Board as established herein. All lots on which a dwelling unit is approved and built shall be landscaped in accordance with County specifications. Landscaping must be finished upon completion of the dwelling unit for occupancy. Total construction time, from the date of final approval of plans by the Board or Architectural Committee to the completion of the dwelling unit for occupancy, shall not exceed nine (9) months. All buffer areas are to be according to the County requirements.
- Section 16. Site Appearance During Construction of Dwelling. All sites must be maintained in a clean and orderly manner at all times. The storage of materials should be in an inconspicuous location within the site and stored neatly and orderly. All construction debris shall be cleared at the end of each working day.
- Section 17. Conduct During Construction of Dwelling. The owner of any lot must ensure that all contractors and/or subcontractors control the conduct of their employees while working in Middle Creek Landing Subdivision. Loud music, profanity, and other behavior which is unbecoming of a quality operation will not be tolerated. Employees violating this policy may be asked to leave the premises and may be denied access at the construction entrance.

- Section 18. All-terrain Vehicles. No ATV's, dirt bikes, go carts or similar recreational vehicles will be allowed off the Homeowner's property and are only allowed on the Homeowner's property for storage purposes. They will not be allowed on ANY property or roads of the subdivision nor ANY adjoining property owned by the Developer.
- Section 19. Firearms. Discharging of firearms of any kind is strictly prohibited anywhere in the subdivision or on any adjoining property owned by the developer. The use of any firecrackers or firecracker-type device is also strictly prohibited.
- Section 20. Flagpoles. Flagpoles are not allowed. Decorative or seasonal flags must be mounted on the main residential dwelling and shall not exceed the roof line of the main residential dwelling. There shall be no flags displayed that are rebel flags, or the like, or in any way or fashion considered offensive or obscene in nature. Declarant and the Review Board reserve the right to deny the use of any flag within said Subdivision.
- Section 21. Garbage, Clotheslines, Woodpiles, and Maintenance. All lots, whether occupied or unoccupied, shall be well-maintained, mowed and cut and no unattractive growth or accumulation of rubbish, debris, woodpiles, or other building materials shall be permitted. Should any lot owner fail to maintain a lot in a neat, clean and well-mowed fashion, then either the Declarant or Architectural Committee shall have the lot cleaned up and the lot owner shall be responsible for the costs incurred. Trash, garbage or other waste shall not be kept except in sanitary containers. All garbage containers and other similar items shall be located or screened so as to be concealed from view of neighboring lots, streets, or passing vehicles; provided garbage containers may remain on the curb for up to twelve (12) hours on days of scheduled curbside pick up. No lot shall have a clothesline or similar obstruction used for the drying of clothing. All lot owners shall upkeep and maintain the grass, vegetation and landscaping for each lot, whether the lot is occupied or unoccupied.
- Section 22. Roadways and Ditches. All builders or lot owners will be responsible for the shoulders and the ditches from the property line to the edge of the pavement, during construction of houses. Once sold to Homeowner, each Homeowner will be responsible for maintaining the shoulders and ditches from the right-of-way to the edge of the pavement. This includes mowing and any other maintenance required.
- Section 23. Grading. Owners shall not grade their property so as to interfere with the established drainage pattern over any property except as approved in writing by the Architectural Committee. Owners should work with the natural contours and seek solutions that minimize the impact of grading with respect to major alterations of existing grades. Owners may create berms, slopes, and swales for the purpose of defining space and screening undesirable views, noise, and high winds. Grassed slopes or berms are suggested not to exceed three (3) feet of horizontal distance to one foot of rise or vertical height (3 to 1 slope) in order to permit greater ease of mowing and general maintenance. Any berms must be approved by the Architectural Committee.

Section 24. Retaining Walls and Fences. All retaining walls and fences require approval by the Architectural Committee: (1) no fence, wall, or hedge shall be erected, placed, or altered on any lot nearer to and street fronting such lot than the back building corner of the main dwelling constructed on such lot and shall not exceed five (5) feet in height; and (2) unless written consent is given by the Architectural Committee. All fences on lots shall be maintained at all times in a structurally sound and attractive manner and in a good state of repair. All fences on lots must be approved by the Architectural Committee and no fence shall be constructed, placed, or allowed to remain on any lot until the owner thereof had obtained approval for such fence from the Architectural Committee. No chain link fences shall be allowed. Vinyl fences are allowed subject to the approval of the Architectural Committee.

Also, on all corner lots, the fencing in the side and rear of the property must be at least fifteen (15) feet off of the right of way of the corner of said property line.

Section 25. Vehicle Parking. The owner of each lot shall provide for adequate parking space on the lot for vehicles of all types and all other apparatus designed for movement over and upon streets or highways (whether self-propelled or not) and regularly used by the residents of the single-family residence on the lot. No automobiles, trucks, vans, travel trailers, other trailers or any other apparatus designed for movement over and upon streets or highways (whether self-propelled or not) shall be parked on the streets within or adjoining the property and trucks with tonnage in excess of one (1) ton shall not be permitted to park overnight. Parking overnight of any vehicles other than a duly licensed passenger vehicle in the front and side yard is prohibited.

Section 26. Playhouses. A playhouse shall be considered an accessory building if it measures more than Twenty-four (24) square feet, and/or is more than six (6) feet high from peak to ground, or is constructed on a concrete slab or footing. Such a playhouse can only be erected with the approval of the Architectural Committee.

Section 27. Pools. Architectural Committee approval is required for the construction or installation of pools. Pools shall be an integral part of the deck or patio area and/or the rear yard landscaping. A pool shall be located in the rear or side yard, shall be installed in such a way that it is not immediately visible to adjacent property owners. Pools shall be fenced for safety purposes and Owners are required to install safety features such as locks or covers for these items when they are not in use. Pools require a valid building permit and are governed under the jurisdiction of Johnston County. All pools must be code compliant.

Section 28. Recreational Equipment. Installation of all basketball backboards, whether garage-mounted or free standing pole-mounted, require Architectural committee approval. Freestanding pole-mounted backboards are prohibited in the front yard whether permanent or sleeve-set. The review of rear and side yard pole-mounted backboard shall be based upon, but not limited to, the following considerations: proximity of goal to property lines and proximity of goal to neighbor's living areas, landscaping and vehicles.

Approval is required for the installation of play and sports equipment taller than seven (7) feet. Ten-foot portable basketball goals may be permitted, provided such goals are stored out of view when not in use. Owners shall exercise consideration toward neighbors, any such equipment shall be set back a reasonable distance from adjacent property lines so as to avoid disturbance from neighbors. Tree houses are prohibited.

Section 29. Damaged Property. Any dwelling or out building on any lot which may be destroyed in whole or in part by fire, wind, storm, or from any other cause or act of God, must be rebuilt or all debris removed. The lot must be restored to a sightly condition as above enumerated forthright or no later than within three (3) months of the destruction.

ARTICLE V

EASEMENTS

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 installation of street lighting, either or both of which may require an initial payment and/or continuing monthly payment to Progress Energy by the owner of each building unit.

Easements for installation and maintenance of utilities and drainage facility are reserved along each property line of each lot in the subdivision to a width of 10 feet of each line unless such shown easements are depicted on the recorded plat, in which case the plat shall control. Within these easements, no structure, fence, 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 the 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 for which a public authority or utility company is responsible.

With respect to that area designated as 20-foot sewer easement or area used as septic lots, said area shall be used only by the Contractor and Owner of that property which said easement traverses. Absolutely no dog pens, buildings or other types of storage shall be permitted on these sewer easements, and/or lots designated for off site septic systems or repair area.

ARTICLE VI

IMPERVIOUS MATERIALS

Impervious Materials. Any impervious material placed upon lots shall not exceed the percentage that is required by the Codes of the County of Johnston. "Impervious material" is defined as rooftops of homes, garages, outbuildings, and paved or concrete driveways, walkways and patios.

ARTICLE VII

ENFORCEMENT

Enforcement shall be the responsibility of the homeowners of the subdivision, but the Declarant, the Architectural Committee or any lot owner shall also have the right to bring enforcement proceedings. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages, or both. The prevailing party in any enforcement proceeding shall be entitled to recover from the adverse party a reasonable sum for reimbursement of attorney's fees and court costs incurred in enforcing or defending matters related to these covenants in an amount to be determined by the court.

ARTICLE VIII

SEVERABILITY

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect, and the failure of any person or persons to take action to enforce the violation of any of these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

ARTICLE IX

AMENDMENT

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed, by authority of its Board of Directors, this ~~25~~ day of ~~September~~, 2007.

October

GFG PROPERTIES, LLC

BY: *Charles B. Gordon, Jr.*
Charles B. Gordon, Jr., Member/Manager

DARRYL D. EVANS, INC., Property Owner

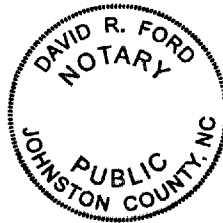
BY: *Darryl D. Evans*
Darryl D. Evans, President

NORTH CAROLINA
JOHNSTON COUNTY

I, the undersigned, a Notary Public of the County and State aforesaid, do hereby certify that **Charles B. Gordon, Jr.** personally appeared before me this day and acknowledged that he is Member/Manager of **GFG Properties, LLC**, a North Carolina LLC, and by authority duly given and as an act of said entity, he signed the foregoing instrument on behalf of said entity in such capacity.

Witness my hand and official stamp or seal on this the 25th day of ~~September~~, 2007.
October 29

David R. Ford
NOTARY PUBLIC
My Commission Expires: 10-12-2009



NORTH CAROLINA
JOHNSTON COUNTY

I, the undersigned, a Notary Public of the County and State aforesaid, do hereby certify that **Darryl D. Evans** personally appeared before me this date and acknowledged that he is **President of Darryl D. Evans, Inc.**, a North Carolina Corporation, and by authority duly given and as an act of said entity, he signed the foregoing instrument on behalf of said entity in such capacity.

Witness my hand and official stamp or seal on this the 11 day of ~~September~~ October 2007.

Angela B Nicol

Notary Public

My commission expires: 11-26-2011

