



NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

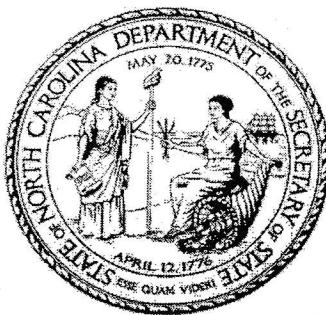
I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

SHEARON FARMS OWNERS ASSOCIATION, INC.

the original of which was filed in this office on the 3rd day of December, 2003.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 3rd day of December, 2003

Elaine F. Marshall
Secretary of State

STATE OF NORTH CAROLINA
DEPARTMENT OF THE SECRETARY OF STATE
ARTICLES OF INCORPORATION
(NONPROFIT CORPORATION)

Pursuant to §55A-2-02 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation.

1. The name of the corporation is: **Shearon Farms Owners Association, Inc.**
2. The Corporation is not a charitable or religious corporation.
3. The street address (and mailing address, if different) and county of the Corporation's initial registered office and the name of the Corporation's registered agent are:

Street Address: **4509 Creedmoor Drive, Ste. 202**
Raleigh, NC 27612
County: **Wake**
Mailing Address: **P.O. Box 31568, Raleigh, NC 27622**
Name: **John R. Lancaster**

4. The name and address of each incorporator is as follows:

James M. Day
c/o Burns, Day & Presnell, P.A.
P.O. Box 10867
Wake County
Raleigh, NC 27605

5. The Corporation shall have members as provided by the bylaws.
6. Any other provisions which the corporation elects to include are attached.
7. The street address (and mailing address, if different) and county of the Corporation's initial principal office are:

Street Address: **4509 Creedmoor Drive, Ste. 202**
Raleigh, NC 27612
County: **Wake**
Mailing Address: **P.O. Box 31568, Raleigh, NC 27622**

8. These articles will be effective: **January 1, 2004**

This DECEMBER 1, 2003.


James M. Day, Incorporator

**ATTACHMENT TO ARTICLES
OF SHEARON FARMS OWNERS ASSOCIATION, INC.
ADDITIONAL PROVISIONS**

- The purpose(s) for which the Corporation is organized are:
 - (a) to operate as a homeowners association and otherwise qualify as a "Residential Real Estate Management Association" as defined in Section 528 of the Internal Revenue Code of 1954 as amended; and,
 - (b) to engage in any lawful act or activity for which corporations may be organized under the North Carolina Nonprofit Corporation Act in furtherance of the purpose described.
- As described above, this Corporation is organized and shall be operated exclusively as a homeowners association and not for profit. No part of the earnings of this Corporation or the funds contributed by any person or corporation shall insure to the benefit of any director, officer, or member of the Corporation, or any private individual other than by a rebate of excess membership dues, fees, or assessments, except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes. In the event of the liquidation or dissolution of the Corporation, either voluntary or involuntary, no director or officer of the Corporation or any private individual shall be entitled to any distribution or division of its remaining property or its proceeds. Subject to the provisions of that Declaration of Covenants and Restrictions for Shearon Farms Subdivision regarding the transfer of the Common Areas (as defined in that document, which is incorporated into this instrument), upon a Liquidation or Dissolution of the Corporation the Balance of All Money and Other property received by the Corporation from any source, after the payment of all debts and obligations of the Corporation, shall be used or distributed exclusively to an entity or entities whose purposes are substantially similar to those set forth in these Articles of Incorporation and within the intent of Section 528 of the Internal Revenue Code of 1954 and the regulations thereunder as the same now exist or as they may be hereafter amended from time to time or to an appropriate public agency to be or used for purposes similar to those stated in these Articles of Incorporation or to an organization which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended. Anything to the contrary notwithstanding, the Corporation shall not possess or exercise any power or authority either, by implication or by operation of law, that will prevent it at any time from qualifying as a "Residential Real Estate Management Association" as defined in Section 528 of the Internal Revenue Code of 1954 as amended and the regulations thereunder, or shall it engage directly or indirectly in any activity which would cause the loss of such qualification or deny it such election under such section of the Internal Revenue Code.
- Notwithstanding the preceding to the contrary, upon a liquidation or dissolution of the Corporation
- To the extent permitted by G.S. §55A-2-02(b)(4) no director shall have any personal liability arising out of any action whether by or in the right of the Corporation or otherwise for monetary damages for breach of any duty as a director.
- The Corporation shall indemnify its directors, officers, and employees to the full extent permitted by G.S. §55A-8-57.

**BYLAWS
OF
SHEARON FARMS OWNERS ASSOCIATION, INC.**

ARTICLE I

1. DEFINITIONS. Except where specifically indicated to the contrary in these Bylaws, the capitalized terms shall have the same meaning as used in that Declaration of Covenants, Conditions and Restrictions for Shearon Farms, to be recorded in the Wake County Registry, (the "Declaration"), which is incorporated into this document by this reference, and references to Section numbers are references to Sections of this document. For purposes of these Bylaws, the reference to "NCNCA" refers to the North Carolina Nonprofit Corporation Act as it may be amended from time to time.

**ARTICLE II
OFFICES**

2.1. Principal Office. The principal office of the Association shall be located at 407 Glenwood Avenue, Raleigh, NC 27603.

2.2. Registered Office. The registered office of the Association required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

2.3. Other Offices. The Association may have offices at such other places, either within or without the State of North Carolina, as the Association Board may designate or as the affairs of the Association may require from time to time.

**ARTICLE III
MEMBERSHIP/MEETINGS**

3.1. Membership. Ownership of a Lot shall be the sole qualification for membership in the Association. When more than one person holds an interest in any Lot, all such persons will be Members. Any person, including Declarant, on becoming an Owner, will automatically become a Member and be subject to these Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Such membership will terminate without any formal Association action whenever such person ceases to own a Lot, but such termination will not relieve or release any such former Owner from any liability or obligation incurred under the Declaration or in any way connected with the Association during the period of such ownership, or impair any rights or remedies which the Association Board or others may have against such former Owner arising out of ownership of the Lot and membership in the Association and the covenants and obligations incident thereto. Any person, on becoming an Owner, will furnish to the Manager or to the Secretary of the Association a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest, which instrument will remain in the files of the Association. An Owner will not be deemed a Member of the Association in good standing and will not be entitled to vote at any annual or special meeting of the Members unless this requirement is first met. The Association's Board may make other reasonable rules relating to the proof of ownership of a Lot.

3.2. Classes of Membership. There shall be two classes of voting membership in the Association: (i) "Class A Member" - all Owners, with the exception of the Declarant, shall be Class A Members; provided that Declarant shall, to the extent it is also an Owner, be a Class A member upon termination of its Class B membership; and (ii) "Class B Member" - the Declarant shall be a Class B Member.

3.3. Membership Certificates. No certificates of stock will be issued by the Association, but the Association Board may, if it so elects, issue membership cards to Owners. Such membership card will

be surrendered to the Secretary of the Association whenever ownership of the Lot designated on the card is terminated.

3.4. Place of Meetings. All meetings of Members shall be held at the principal office of the Association or at such other place, either within or outside of Wake County, North Carolina, as shall be designated on the notice of the meeting or agreed upon by a majority of the votes of the Members entitled to vote thereat. Members may participate in any meeting of the Members by means of a conference telephone or similar communications equipment provided all persons participating in the meeting can hear one another. Participation in that manner shall constitute presence in person at the meeting.

3.5. Annual Meetings. The annual meeting of Members for the election of directors and the transaction of other business shall be held at anytime in the year 2003 as selected by Declarant and thereafter in January of each year, commencing with the year 2004, on any day (except a Saturday, Sunday or legal holiday) in that month as determined by the Association Board.

3.6. Substitute Annual Meeting. If the annual meeting shall not be held on the day designated by the Bylaws, a substitute annual meeting may be called in accordance with the provisions of **Section 3.7.** A meeting so called shall be designated and treated for all purposes as the annual meeting.

3.7. Special Meeting. Special meetings of the Members may be called at any time by the President, the Declarant (until the Rights Termination Date), the Association Board, or by any Member pursuant to the written request of the holders of not less than twenty percent (20.0%) of the votes in the Association.

3.8. Notice of Meetings.

3.8.1. Written notice stating the time and place of the meeting shall be delivered not less than ten (10) nor more than fifty (50) days before the date of any Members' meeting, either personally or by mail postage prepaid, by or at the direction of the President, the Secretary, or other authorized person calling the meeting, to each Member of record entitled to vote at such meeting; provided that such notice must be given not less than twenty (20) days before the date of any meeting at which a merger, dissolution or consolidation is to be considered. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his address as it appears on the record of Members of the Association, with postage thereon prepaid. Notwithstanding the preceding to the contrary, if notice of an annual meeting is given by mail and is sent other than first class, registered or certified mail, notice must be given no less than thirty (30) and no more than sixty (60) days before the meeting date. Each Member agrees to keep the Association informed of his address at any time and any notice sent or delivered to that address shall be sufficient. Notices shall be addressed to the addresses provided by the Members or, if none, to the address noted on the most recent Wake County tax records for the Owner of the Lot. Notice to the person designated in a valid, still effective proxy shall be deemed notice to all Members represented by that proxy.

3.8.2. In the case of a special meeting, the notice of meeting shall specifically state the purpose(s) for which the meeting is called; but, in the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless such a statement is required by the provisions of NCNCA.

3.8.3. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty days in any one adjournment, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

3.8.4. Waiver of notice of a meeting of the Members will be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, will be deemed waiver by such Member of notice of the time, date and place of the meeting unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting will also be deemed waiver of notice of all business transacted at the meeting unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

3.8.5. Notice given to any one tenant in common, tenant by entirety or other joint Owner of a Lot shall be deemed notice to all joint Owners of that Lot.

3.9. Voting Lists. At least ten days before each meeting of Members the Secretary of the Association shall prepare an alphabetical list of the Members entitled to vote at such meeting or any adjournment thereof, with the address of an number of votes held by each, which list shall be kept on file at the registered office of the Association for a period of ten days prior to such meeting. This list shall be subject to inspection by any Member at any time during the usual business hours. This list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection by any Member during the whole time of the meeting.

3.10. Quorum. Except as otherwise provided by the Bylaws, one-fifth (1/5) of the votes of each class of the Association entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of Members. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. In the absence of a quorum at the opening of any meeting of Members, such meeting may be adjourned from time to time by a vote of the majority of the votes voting on the motion to adjourn; and at any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting.

3.11. Proxies. Votes may be voted either in person or by one or more agents authorized by a written proxy executed by the Member or by his duly authorized attorney in fact. To be valid, the proxy must be dated, signed by all Owners of the Lot, and filed with the Secretary of the Association at or before the appointed time of the meeting at which the proxy will be voted. No proxy will be valid if it purports to be revocable without notice. No Member shall be entitled to vote more than one proxy at any one meeting. A proxy is not valid after the expiration of eleven (11) months from the date of its execution, unless the person executing it specifies therein the length of time for which it is to continue in force or limits its use to a particular meeting, but no proxy shall be valid after ten (10) years from the date of its execution.

3.12. Voting.

3.12.1. Class A Members shall be entitled to one (1) vote for each Lot owned. The Class B Member(s) shall be entitled to three (3) votes for each Lot owned. Notwithstanding the preceding to the contrary, the Class B Membership shall cease and be converted to Class A Membership upon the earlier of: (i) when the total votes outstanding in Class A Membership equal the total votes outstanding in Class B Membership, but provided that the Class B Membership shall be reinstated if thereafter additional lands are annexed to the Property by the Declarant as provided in the Declaration; and (ii) expiration of the Declarant Control Period. Fractional voting of a Lot's vote is prohibited. The vote for a Lot will be exercised by the Member. If the fee simple title to any Lot is owned of record by two or more persons or entities (whether individually or in a fiduciary capacity), the vote with respect to that Lot may be cast by any one of the joint Owners in person or by proxy, as the Owners among themselves determine, except that the holder(s) of a life estate in a Lot shall have the sole right to cast the votes allocated to that Lot. If

more than one of the multiple Owners are present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only in accordance with the agreement of a Majority in Interest of the Owners, and if a Majority in Interest of the Owners cannot agree, then the Owners of such Lot will not be entitled to vote. If more than one of the joint Owners votes, the unanimous action of all joint Owners voting shall be necessary to effectively cast the votes allocated to the particular Lot. Except as otherwise specifically provided in a valid proxy, there is deemed to be majority agreement if any one of the multiple Owners casts the vote allocated to its Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. A Member shall not be entitled to vote and his vote(s) shall be ignored in determining the total number of eligible votes: (a) on a vote to determine whether that Member's Owner is in default under this Declaration; or (b) until the default is cured, if the Member's Owner is in default under this Declaration.

3.12.2. The vote of a majority of the votes on any matter present at a meeting of Members at which a quorum is present, regardless of class, shall be the act of the Members on that matter, unless the vote of a greater number is required by law or by the Articles, Declaration or Bylaws.

3.12.3. Provided it otherwise complies with the requirements of the Act and the NCNCA, each as amended from time to time, voting by mail is permitted for any action which may be taken at any annual, substitute annual, or special meeting. In the case of a vote by mail, the Secretary of the Association will give written notice to all Members, which notice will include a proposed written resolution setting forth a description of the proposed action, a statement that the Members are entitled to vote by mail for or against such proposal, a statement of a date not less than 20 days after the date such notice will have been given by which all votes must be received, and the specified address of the office to which all votes must be sent. Votes received after that date will not be effective. Delivery of a vote in writing to the designated office will be equivalent to receipt of a vote by mail at such address for the purpose of this section.

3.12.4. If title to a Lot is held in whole or in part by a firm, corporation, partnership, association, limited liability company or other legal entity, the voting privilege appurtenant to that ownership may be exercised only by a valid proxy executed on behalf of such party, appointing and authorizing one person or alternate persons to attend all annual and special meetings of the Members and to cast the vote allocated to that Lot at those meetings.

3.13. Action Without a Meeting. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept as part of the Association's records.

3.14. Presiding Officer. The President of the Association, or in the absence of the President, the Vice-President shall preside at all meetings of the Members and the Secretary of the Association shall act as the secretary thereof. In the absence of the secretary, the President shall designate some other person to act as the secretary of the meeting. In the absence of both the President and the Vice President, the Members present at the meeting shall elect a Presiding Officer for the meeting.

3.15. Order of Business. The order of business at the annual meeting and at any special meeting of the Members shall be as follows:

- (a) The calling of the meeting to order;
- (b) The calling of the roll;
- (c) The announcement by the Presiding Officer of the purpose of the meeting and of the nature of the business which may be presented by it;

(d) The reading and approval of the minutes of any former meeting of the Members, the Minutes of which have not been previously read and approved;

(e) The presentation of and action, if required, upon reports of officers and committees;

(f) Unfinished business;

(g) New business, including the election of directors for the forthcoming year if the meeting be an annual meeting; and

(h) Adjournment.

Roberts' Rules of Order (Revised) shall govern the conduct of the meetings except where the Declaration specifically require a different procedure.

ARTICLE IV BOARD OF DIRECTORS

4.1. Number, Term and Qualification. The number of directors constituting the initial Association Board shall be two (2). Subject only to the requirements of the Act, until the Rights Termination Date, the Declarant shall determine the number of directors and the person who shall serve as directors. Thereafter, the number of directors constituting the Association Board shall be not less than one (1) nor more than five (5) as may be fixed by resolution duly adopted by the Members or by the Association Board prior to the annual meeting at which such directors are to be elected. In the absence of such a resolution, the number of directors shall be the number elected at the preceding annual meeting. Any directorships not filled by the Members shall be treated as vacancies to be filled by and in the discretion of the Association Board. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor shall have been elected and qualified. Directors need not be residents of the State of North Carolina or Members of the Association.

4.2. Nomination. Except for those directors designated by Declarant as provided in these Bylaws, nomination for election to the Association Board shall be made by the Association Board. Nominating may also be made from the floor at the annual meeting. The Association Board shall make as many nominations for election to the Association Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. The nominations may be made from among Members or non-members. Any Member in good standing may nominate one or more candidates to the Association Board by a petition in writing signed by that Member presented to the Secretary of the Association.

4.3. Election of Directors.

4.3.1. Except as specifically provided to the contrary in these Bylaws, the directors shall be elected at the annual meeting of Members and those persons who receive the highest number of votes shall be deemed to have been elected. If any Member so demands, the election of directors shall be by secret ballot. Cumulative voting is not permitted.

4.3.2. Until the Rights Termination Date, the Declarant shall have the right to appoint all Association Board members. After the Rights Termination Date, a special meeting of the Association will be called, at which Declarant will turn control of the Association over to the other Members as provided in the Act. The Members will elect a new Association Board, and any terms of directors appointed by Declarant that have not expired will terminate at that time. Subsequently, Directors will be elected by the Members at each annual meeting of the Members as otherwise provided in these Bylaws. The term of office for this initial full slate of directors elected by the Members will be fixed at the time

of their election as they themselves will determine in order to establish a system of three-year terms in which at least one-third of the Board is elected each year and the Board will identify in which year the directorships for each category of representation are subject to election. For example, if the number of directors on the initial Association Board is set at three (3), one director will serve for a one-year term, one director will serve for a two-year term, and one director will serve for a three-year term. At the expiration of the initial term of office of each respective director, a successor will be elected to serve three (3) years. Each director will hold office until such director's successor is elected by the Members and qualified to take over the office.

4.3. Removal. Other than directors appointed by Declarant, any director may be removed at any time, with or without cause, by a vote sixty-seven percent (67%) of all persons present and entitled to vote at any meeting of Members at which a quorum is present. If any directors are so removed, new directors may be elected at the same meeting. Until the Rights Termination Date, Declarant may remove director(s) appointed by it from the Association Board and appoint new director(s) in their place.

4.4. Vacancies. Until the Rights Termination Date: (i) if a Director appointed by Declarant dies, becomes disabled or resigns, Declarant will appoint a new Director to serve the balance of the term of the resigning, disabled or deceased Director; and (ii) if a Director elected by the Members dies, becomes disabled or resigns, the remaining Directors will appoint a new Director from among the Members other than Declarant to serve the remainder of the term of that vacating Director. After the Rights Termination Date, any vacancy occurring in the Association Board may be filled by the affirmative vote of a majority of the remaining directors even though less than a quorum, or by the sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of any increase in the authorized number of directors shall be filled only by election at an annual meeting or at a special meeting of Members called for that purpose.

4.5. Chairman of Board. There may be a Chairman of the Association Board elected by the directors from their number at any meeting of the Board. The Chairman shall preside at all meetings of the Association Board and perform such other duties as may be directed by the Board.

4.6. Compensation. No member of the Association Board shall receive compensation for acting as a director. However, with the prior approval of the Association Board, a director may be reimbursed for any expenses incurred by him/her in attending regular and special meetings of the Board or in performance of his/her duties as a director.

ARTICLE V MEETINGS OF DIRECTORS

5.1. Regular Meetings. A regular meeting of the Association Board shall be held immediately after, and at the same place as, the annual meeting of Members. In addition, the Association Board may provide, by resolution, the time and place, either within or without the State of North Carolina, for the holding of additional regular meetings.

5.2. Special Meetings. Special meetings of the Association Board may be called by or at the request of the President, the Declarant (until the Rights Termination Date), or any two directors. Such a meeting may be held either within or without the State of North Carolina, as fixed by the person or persons calling the meeting.

5.3. Notice of Meetings. Regular meetings of the Association Board may be held without notice. The person or persons calling a special meeting of the Association Board shall, at least five (5) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called.

5.4. Waiver of Notice. Any director may waive notice of any meeting. The attendance by a director at a meeting shall constitute a waiver of notice of that meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5.5. Quorum. A majority of the number of directors fixed by the Bylaws shall constitute a quorum for the transaction of business at any meeting of the Association Board.

5.6. Manner of Acting. Except as otherwise provided in the Articles, the Bylaws, the Declaration, or the NCNCA the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Association Board.

5.7. Presumption of Assent. A director who is present at a meeting of the Association Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such act.

5.8. Action Taken Without a Meeting. Action taken by the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action taken.

5.9. Committees of the Board. The Association Board may appoint other committees, consisting of one (1) or more directors, as it deems appropriate. The designation of any committee and the delegation thereto of authority shall not operate to relieve the Association Board, or any director, of any responsibility or liability imposed upon him/her by law.

ARTICLE VI **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

6.1. Powers. The Association Board will have the powers and duties necessary for the administration of the affairs of the Association. Except as provided by these Bylaws, the Declaration or the Act, the Association Board may do all such acts and things which are not specifically required to be done by the Members and may otherwise act in all instances on behalf of the Association. Without limiting the foregoing, the Association Board will have the following powers and duties, in each case subject only to applicable requirements of the Act:

- (a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration;
- (b) To adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the Owners and their Occupants, and to establish penalties/fines for the infraction thereof as provided in the Declaration;
- (c) To suspend the voting rights and right of an Owner and Occupants to use the Common Areas as provided in the Declaration;
- (d) To all powers, duties and authority vested in or delegated to the Association by the Declaration or the NCNCA and not specifically reserved to the membership;

(e) To declare the office of a member of the Association Board to be vacant in the event the director shall be absent from three (3) consecutive regular meetings of the Association Board;

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

(g) To borrow money on behalf of the Association when required in connection with the operation, maintenance, repair, restoration, improvement, alteration and replacement of the Common Areas; provided, however, that: (i) the affirmative consent of at least seventy five percent (75%) of the directors shall be required for the borrowing of any sum in excess of \$5,000 in any one fiscal year (regardless of the balance of any loans outstanding from previous fiscal years); (ii) no lien to secure repayment of any sum borrowed may be created on any Lot without the consent of the Owner of that Lot; and (iii) the documentation executed in connection with any such borrowing shall provide that if any sum borrowed pursuant to this subparagraph shall not be repaid by the Association Board, any Owner who pays such proportion of the then outstanding indebtedness as such Owner's Common Interest, as applicable, bears to the aggregate Common Interest of all Owners, as applicable, shall be entitled to obtain a release of any lien that that creditor shall have filed, or shall have the right to file, against such Owner's Lot; and

(h) To exercise any powers necessary and proper for the governance and operation of the Association.

6.2. Duties. It shall be the duty of the Association Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by twenty percent (20%) of the votes entitled to vote;

(b) prepare, adopt and amend an annual budget for the Association;

(c) maintain accurate records and books of account showing receipts and expenditures in connection with the operation of the Property which shall be available for examination by Members at reasonable times;

(d) as more fully provided in the Declaration, to enforce and otherwise administer the provisions with respect to Assessments;

(e) use the Assessments collected, as well as all other funds held by the Association Board or received in connection with the operation of the Park, for the administration of the Association, including, without limitation: (i) the payment of Common Expenses and (ii) the making of restorations, additions, alterations, and improvements to the Common Areas.

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

(g) procure and maintain adequate liability and hazard insurance on property owned by the Association and as otherwise required by the Act;

(h) pay ad valorem taxes and public assessments levied against the Common Areas;

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

(j) enforce by legal means the terms, covenants, and conditions contained in the Declaration or these Bylaws and to bring, or defend against, any legal proceedings that may be instituted on behalf of, or against, the Owners.

(k) cause the Association to fulfill its maintenance obligations prescribed by the Declaration; and

(l) direct and supervise the affairs of the Association and require the Association to fulfill all of its obligations and duties provided in the Declaration, these Bylaws, or Section 47C-3-102 of the Act.

6.3. Fiscal Management.

6.3.1. A record of receipts and expenditures shall be maintained in a set of accounting books in which there shall be an account for each Lot. Such account shall designate the name and address of the Owner, the amount of Assessments against the Owner, the dates they become due, the amounts paid upon the account, and the balance due thereon. In making up the Assessments due, the Lot is treated as such and no division shall be made because the Lot is held by more than one person.

6.3.2. The Association Board shall adopt a budget for each year which shall contain estimates of the cost of performing the various functions of the Association and shall include among its items: (i) a Common Expenses budget which shall include, among other things, expenses for maintenance and operation of Common Areas, utility services, casualty insurance, liability insurance, administration, reserves for future repairs and replacements to property and equipment, and for the repurchase of Lots and/or mortgages as authorized by the Declaration (the "Reserve Fund"), and any other item which the Association Board finds necessary to include therein; and (ii) proposed Assessments.

6.3.3. Copies of the proposed budget shall be transmitted to each Owner promptly after adoption. If the budget is substantially amended, a copy thereof shall be furnished to each Owner.

6.3.4. The depository of the Association shall be such bank(s) as shall be designated from time to time by the Association's Board. The moneys of the Association shall be deposited therein.

6.3.5. Upon written request, the Association shall make available to Mortgagees an audited financial statement for the preceding fiscal year. In addition, the Association shall make available to Owners an audited financial statement within one hundred twenty (120) days after the Association's fiscal year-end.

6.4. Independent Manager: The Association Board may employ or enter into a management contract with any individual, firm or entity (the "Independent Manager") it deems appropriate and in the best interest of the Association concerning the routine management of the Park. The Association Board may delegate to the Independent Manager such duties and responsibilities in the management of the Property as the Association Board deems appropriate; provided, the Association Board may not delegate to the Independent Manager the complete and total responsibilities and duties of the Association in violation of the NCNCA or the Act. The Independent Manager's contract shall be for a term not to exceed one (1) year, renewable by agreement between the Association Board and such Independent Manager for successive one-year terms, and shall be terminable by the Association Board, with or without cause, upon thirty (30) days written notice. The Association Board shall have authority to fix the reasonable compensation for the Independent Manager. The Independent Manager shall at all times be answerable to the Association Board and subject to its direction.

ARTICLE VII OFFICERS

7.1. Officers of the Association. The officers of the Association shall consist of a President, a Secretary, a Treasurer and such Vice-Presidents, Assistant Secretaries, Assistant Treasurers, and other officers as the Association Board may from time to time elect. Any two or more offices may be held by the same person, but no officer may act in more than one capacity where action of two or more officers is required.

7.2. Election, Term and Qualification. The officers shall be elected by the Association Board and each officer shall hold office until his/her death, resignation, retirement, removal, disqualification or his/her successor shall have been elected and qualified. Only directors shall serve in the capacity of President and Vice-President. Other officers need not be directors or Members of the Association.

7.3. Compensation of Officers. The Association Board shall fix the compensation of officers; however, in no event shall Members of the Association be compensated for serving as an officer except to the extent necessary to reimburse the officer for expenses incurred in performing his/her duties on behalf of the Association.

7.4. Removal. Any officer or agent elected or appointed by the Association Board may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby; but the removal shall be without prejudice to the contract rights, if any, of the persons so removed.

7.5. Bonds. The Association Board may by resolution require an officer, agent, or employee of the Association to give bond to the Association, with sufficient sureties, conditioned on the faithful performance of the duties of his respective office or position, and to comply with such other conditions as may from time to time be required by the Association Board.

7.6. President. The President shall be the principal executive officer of the Association and, subject to the control of the Association Board, shall in general supervise and control all of the business and affairs of the Association. He/she shall, when present, preside at all meetings of the Members. He/she shall sign, with the Secretary, an Assistant Secretary, or any other proper officer, any deeds, mortgages, bonds, contracts, or other instruments which the Association Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Association Board or by the Bylaws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed. In general, he/she shall perform all duties incident to the office of President and such other duties as may be prescribed by the Association Board from time to time.

7.7. Vice-Presidents. In the absence of the President or in the event of his death, inability or refusal to act, the Vice-Presidents in the order of their length of service as Vice-Presidents, unless otherwise determined by the Association Board, shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. Any Vice-President shall perform such other duties as from time to time may be assigned to him by the President or Association Board.

7.8. Secretary. The Secretary shall: (a) keep the minutes of the meetings of Members, of the Association Board and of all Committees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of the Bylaws or as required by law; (c) be custodian of the Association records and of the seal of the Association and see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal

is duly authorized; (d) keep or cause to be kept a record of the Association's Members, giving the names, addresses, and the number of votes held by, and prepare or cause to be prepared voting lists prior to each meeting of Members as required by law; and (e) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the President or by the Association Board from time to time.

7.9. Assistant Secretaries. In the absence of the Secretary or in the event of his/her inability or refusal to act, the Assistant Secretaries in the order of their length of service as Assistant Secretary, unless otherwise determined by the Association Board, shall perform the duties of the Secretary, and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary. They shall perform such other duties as may be assigned to them by the Secretary, by the President, or by the Association Board.

7.10. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such depositories as shall be selected; (b) prepare, or cause to be prepared, a true statement of the Association's assets and liabilities as of the close of each fiscal year, all in reasonable detail, which statement shall be made and filed at the Association's registered office or principal place of business in the State of North Carolina within four months after the end of such fiscal year and thereat kept available for a period of at least ten years; (c) issue, at the direction of the Association Board, certificates as to whether Assessments on a specified Lot have been paid; and (d) in general, perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the President or by the Association Board or by the Bylaws.

ARTICLE VIII MEMBERSHIP REGISTER

8.1. Closing of Register. For the purpose of determining Members of the Association entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Association Board may provide that the membership register shall be closed for a stated period but not to exceed, in any case, fifty (50) days. If the membership register shall be closed for the purposes of determining Members entitled to notice of or to vote at a meeting of Members, such books shall be closed for at least ten (10) days immediately preceding such meeting.

8.2. Record Date. In lieu of closing the membership register, the Association Board may fix in advance a date as the record date for any such determination of Members, such record date in any case to be not more than fifty (50) days and, in case of a meeting of Members, not less than ten (10) days immediately preceding the date on which the particular action, requiring such determination of Members is to be taken.

8.3. No Closing or Record Date. If the membership register is not closed and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, the date on which notice of the meeting is mailed shall be the record date for such determination of Members.

8.4. Adjournment. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof except where the determination has been made through the closing of the membership register and the stated period of closing expired.

ARTICLE IX GENERAL PROVISIONS

9.1. Nonprofit Corporation. The Association is not organized for profit. No Member of the Association, member of the Association Board, or person from whom the Association may receive any property or funds will receive or will be lawfully entitled to receive any pecuniary profit from the operations of the Association. In no event will any part of the funds or assets of the Association be paid as a dividend or be distributed to, or inure to the benefit of, any member of the Association Board. Notwithstanding the foregoing: (i) reasonable compensation may be paid to any Member or director acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association; (ii) Surplus Funds may be distributed and/or credited to the Members as provided in the Declaration; and (iii) any Member or director may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association, and any director may be reimbursed for actual expenses incurred in the performance of his duties.

9.2. Books & Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, his agent or attorney, for any proper purpose. The Declaration, the Articles, and the Bylaws of the Association and the financial statements for the Association for the immediately preceding fiscal year shall be available for inspection by any Member and any first mortgage holders, their insurers or guarantors, at the principal office of the Association, where copies may be purchased at reasonable cost.

9.3. Seal. The seal of the Association shall consist of two concentric circles between which is the name of the Association and in the center of which is inscribed SEAL. The seal, as impressed on the adjoining margin, is adopted as the Association's seal.

9.4. Indemnification. Any person who at any time serves or has served as a director, officer, employee or agent of the corporation, or in such capacity at the request of the corporation for any corporation, partnership, joint venture, trust or other enterprise, shall have a right to be indemnified by the corporation to the fullest extent permitted by law against (a) reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, and whether or not brought by or on behalf of the corporation, seeking to hold him liable by reason of the fact that he is or was acting in such capacity, and (b) reasonable payments made by him in satisfaction of any judgment, money decree, fine, penalty or settlement for which he may have become liable in any such action, suit or proceeding. The Association Board shall take all such action as may be necessary and appropriate to authorize the corporation to pay the indemnification required by this bylaw, including without limitation, to the extent needed, making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him and giving notice to, and obtaining approval by, the shareholders of the corporation. Any person who at any time after the adoption of this bylaw serves or has served in any of the aforesaid capacities for or on behalf of the corporation shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this bylaw.

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

9.6. Amendments. The Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy. The Articles shall be amended as provided by law. The Declaration shall be amended only in accordance with the provisions of the Declaration.

9.7. Conflicts. In the case of any conflict between the Articles and the Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and the Bylaws, the Declaration shall control.

WAKE COUNTY, NC 579
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
12/17/2003 AT 15:46:24

BOOK:010593 PAGE:02518 - 02541

PREPARED BY & HOLD FOR: *Burns, Day & Presnell, P.A. (JMD)*

NORTH CAROLINA
WAKE COUNTY

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR SHEARON FARMS SUBDIVISION**

THIS DECLARATION, made on DECEMBER 2, 2003 by **SHEARON FARMS, LLC**,
a North Carolina limited liability company, (the "Declarant").

RECITALS

Declarant owns the Property which is more particularly described below. Declarant will convey the Property subject to the protective covenants, charges, conditions and restrictions described in this instrument to: (i) insure the best use and most appropriate development and improvement of the Property; (ii) protect owners against such improper use of surrounding lots as will depreciate the value of their lot; (iii) preserve, so far as practicable, the natural beauty of the Property; (iv) guard against the erection of poorly designed or proportioned structures and structures built of improper and unsuitable materials; (v) obtain harmonious color schemes; (vi) encourage and secure the erection of attractive structures with appropriate locations, proper set backs from streets, and adequate free spaces between structures; and (vii) provide for a high type and quality of improvements in the Property and thereby to enhance the values of investments made by the owners. **THEREFORE**, Declarant declares that all of the Property, together with such additions as may subsequently be added, shall be held, sold, transferred, conveyed, occupied and used subject to this Declaration which shall run with the land and be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each owner.

1. DEFINITIONS. Unless the context clearly indicates otherwise, the following capitalized words and phrases shall have the indicated meanings when used in this instrument:

"Act" means the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes), as amended from time to time, or any corresponding provisions of succeeding law.

"Additional Properties" means any real property, other than the Property, subjected to the Declaration pursuant to the terms of this document, including, but not limited to the real estate described on **Exhibit B**.

"Allocated Interests" means the undivided interests in the Common Elements allocated to each Lot as determined in accordance with this Declaration. The Allocated Interests shall be expressed as a numerical percentage and, except for minor variations due to rounding, the aggregate percentages for all of the Lots at any one time shall equal 100%.

"Amenities" means the recreational facilities, if any, constructed on the Common Elements for the common use of the Members. As of the date of this Declaration, no Amenities are planned for the Planned Community.

"Annual Assessments" means the assessments described in ***Section 7.4.***

"Approved Budget" means the budget approved by the Association's Board pursuant to ***Section 7.4.2.***

"Articles" means the Association's Articles of Incorporation.

"Assessment" means an owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association pursuant to the terms of this Declaration; including, but not limited to the Annual Assessments, the Special Assessments, and other assessments authorized by ***Section 7.1.1.***

"Association" means Shearon Farms Homeowners Association, Inc., a non-profit North Carolina corporation.

"Association's Board" or **"Executive Board"** refers to the Board of Directors for the Association.

"Bylaws" means the Association's Bylaws.

"Common Area" or **"Common Elements"** means all real property within the Planned Community owned by the Association (other than a Lot); all Improvements constructed on that real property (including, but not limited to, the Amenities, and the easements granted to the Association for the common use and enjoyment of the Owners. The Common Area/Common Elements to be owned by the Association shall be described in deeds to the Association and designated as such on each Plat. Common Area/Common Elements are more specifically described in ***Section 3.1.***

"Common Expenses" means expenses of administration, maintenance, repair or replacement of the Common Elements; expenses described elsewhere in this Declaration or the Bylaws as "Common Expenses"; expenses agreed by the Members to be "Common Expenses"; Association operational costs and management fees; expenses for maintenance of the Private Streets, if any, within the Planned Community; premiums for insurance as the Declaration or the Bylaws may require the Association to purchase; ad valorem taxes and public assessment charges lawfully levied against Common Elements owned in fee; expenses related to any cablevision-type services or other voice/data services provided to the Owners by the Association; and unpaid Assessments.

"County" means the county or counties in which the Property is located.

"Declarant" means Shearon Farms, LLC, and its successors and assigns specifically designated as Declarant.

"Declaration" means this document and all subsequent amendments, if any.

"Declarant Control Period" means the period commencing on the date of recordation of this Declaration with the County Registry and continuing until the earlier of: (a) December 31, 2007; (b) the date the Declarant or its successors no longer owns any of the Property; and (c) the Declarant transfers, in writing, the Development Rights to the Association.

"Development Rights" means all rights of control and/or approval granted to Declarant, as Declarant, under this Declaration, including, but not limited to, the rights granted under *Articles 4 & 5*.

"Eligible Votes" means the total of: (i) all of the votes of all of the Class A Members; and (ii) while still existing as provided in the Bylaws, all of the votes of all of the Class B Members.

"Family Members" means the spouse, parents, parents-in-law, brothers, sisters, children, and grandchildren of the designated individual.

"First Sale" means the date of the first conveyance of a Lot to an Owner other than Declarant or a Person succeeding to Declarant's rights as the Declarant.

"Foreclosure" means, without limitation, the judicial foreclosure of a Mortgage or the conveyance of the secured property by a deed in lieu of foreclosure of a Mortgage.

"Governmental Mortgagee" refers to the Federal Housing Administration, the Department of Housing and Urban Development, the U.S. Department of Veterans Affairs, and related entities.

"Improvements" means any structure of any type or kind, including, but not limited to buildings, homes, outbuildings, parking areas, loading areas, refuse collection areas, screening walls, retaining walls, fences, hedges, mass plantings, sidewalks, poles, signs, and utility lines and facilities.

"Law" means any local, state or federal rules, regulations, or laws which may apply to the Planned Community or any Person who maintains an interest in the Planned Community or a Lot, including, but not limited to, the Zoning Entity's ordinances, codes, and regulations.

"Limited Common Elements" means a portion of the Common Elements allocated by this Declaration or by law for the exclusive use of one or more, but fewer than all, of the Lots, and as more specifically described in ***Section 3.2***.

"Lot" means any tract of land, with the exception of the Common Area, and/or structure designated for separate ownership or occupancy as reflected on the Plat. Unless the context otherwise requires, "Lot" shall include all Lot in Use and Unsold Lots.

"Lot in Use" refers to a Lot which has been the subject of a First Sale.

"Member" means every Person who holds membership in the Association and shall include both Class A Members and Class B Members, as defined in the Bylaws.

"Mortgage" means a mortgage, deed of trust, installment land sales contract, security agreement or other similar security instrument granting, creating or conveying a first lien upon a Lot.

"Mortgagee" means the holder, insurer or guarantor of a Mortgage.

"Occupants" means any individual(s) in possession of a Lot, including Owners, Family Members, lessees, guests and invitees of such individual(s), and Family Members, guests and invitees of such lessees.

"Owner" or "Lot Owner" means the record owner, whether one or more Persons, of a fee simple title to any Lot, except those having an interest merely as security for the performance of an obligation.

"Person" means an individual, a trust, an estate, or a domestic corporation, a foreign corporation, a professional corporation, a partnership, a limited partnership, a limited liability company, a foreign limited liability company, an unincorporated association, or other entity.

"Planned Community" refers to the single-family residential project known as "Shearon Farms Subdivision" to be constructed on the Property.

"Planned Community Documents" means this Declaration, the Articles of Organization, the Bylaws, and the Act, collectively and individually.

"Plat" refers to all recorded plats describing or identifying the Lots for the Planned Community, which plat(s) are incorporated into this Declaration by this reference.

"Private Streets" means the streets, if any, designated as "private" on the Plat(s).

"Property" refers to that land located in Wake County, North Carolina and, at least initially, as described on **Exhibit A** attached and otherwise described on the Plat(s), together with the improvements constructed thereon and all appurtenant easements, rights and privileges. "Property" shall also include all Additional Properties, if any.

"Rules & Regulations" means the rules and regulations governing the Project as adopted by the Association Board from time to time.

"Special Assessments" means the assessments described in ***Section 7.5***.

"Surplus Funds" means funds collected by the Association pursuant to the this Declaration or otherwise which are not needed to pay current Common Expenses, the funding of a reasonable operating expense surplus, or reserves provided for in this Declaration.

"Residential Unit" means the single family residence and related improvements constructed or to be constructed on a Lot. Except where the context requires otherwise, this term shall be used interchangeably with "Lot".

"Unsold Lot" refers to a Lot which has not been the subject of a First Sale.

"Zoning Entity" means the governmental entity having zoning jurisdiction over the Property as of the date of determination.

Except as specifically provided to the contrary above, these defined terms shall be construed in a manner consistent with the comparable definitions included in the Act.

2. SUBMISSION TO ACT. Declarant submits the Property to the provisions of the Act. The Property will be administered in accordance with the provisions of the Planned Community Documents. The Act contemplates that certain of its provisions may be superseded by provisions of Articles of Incorporation, bylaws, a declaration, or other agreement of the Members. It is the intent of the parties that in the event of a conflict among the Planned Community Documents, the Planned Community Documents (other than the Act) shall control and supersede the Act where permitted by law.

3. PROPERTY RIGHTS.

3.1. Common Elements. The "Common Elements" consist of all other parts of the Property, exclusive of the Lots themselves, and include, but are not limited to, the following:

- (a) The Property, exclusive of the Lots.
- (b) All areas designated as "open space", "common area", or "common elements" on the Plat(s).
- (c) The Private Streets and other access facilities used in common for the Planned Community.
- (d) Improvements (e.g. buildings, landscaping structures, signs, and the like) located on Common Elements, including the Amenities.
- (e) Easements running in favor of the Association described in this Declaration or in separate, recorded easements granted to the Association.
- (f) All equipment and installations existing for common use in the Planned Community which are not otherwise dedicated to a governmental entity or serving only a single Lot, including, but not limited to, water lines, sewer lines, and storm drainage facilities located outside any Zoning Entity utility easement and/or public street right-of-way.

3.2. Limited Common Elements. Limited Common Elements shall mean and include those areas and facilities of the Planned Community, if any, reserved for exclusive use of less than all of the Lots. Each Owner is granted an exclusive and irrevocable license to use and occupy those Limited Common Elements as are associated with such Owner's Lot. Each Owner shall, at its own expense, be responsible for the maintenance and repair of its Limited Common Elements.

3.3. Title to Common Elements. Every Owner shall have a right and easement of enjoyment in the Common Elements (the "Owners' Easement") which shall be appurtenant to and shall pass with the title to every Lot. Fee simple title (subject to this Declaration, current and subsequent years ad valorem taxes, and rights-of-way, restrictive covenants and easements of record) in the Common Area shall be conveyed to the Association. That conveyance of title to the Common Area shall be done prior to the first First Sale.

3.4. Allocated Interests. The Allocated Interests for each Lot shall be the same and shall be proportionate to the total number of Lots in the Planned Community, as that number may vary from time to time. The Allocated Interests for an individual Lot shall be determined by taking the number one (1) and dividing that number by the total number of Lots included in the Planned Community as of the date of determination. In the event of a withdrawal or addition of Lot(s) from/to the Planned Community as permitted by the Planned Community Documents, the Allocated Interests for all of the Lots shall be recalculated in accordance with the above formula. Except for such reallocations, the Allocated Interests shall not be changed except with the unanimous consent of all of the Owners of all of the Lots and with the consent of all of the Mortgagors.

3.5. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of use and enjoyment in and to the Common Elements (the "Owners' Easement"), including specifically an easement for access, ingress and egress from and to public streets, common parking, and walkways. The Owners' Easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

3.5.1. Subject to all applicable governmental ordinances, the Association's right to dedicate or transfer all or any part of the Common Elements to any public agency, authority, utility, or non-profit corporation. No such dedication or transfer shall be effective unless an instrument signed by sixty-seven percent (67%) of the Eligible Votes agreeing to the dedication or transfer has been recorded in the County registry. Any dedication or transfer shall be made subject to that portion of the Owners' Easement providing for access, ingress and egress to public streets and walkways.

3.5.2. The Association's right, in accordance with the Planned Community Documents, to borrow money for the purpose of improving the Common Elements and to mortgage those properties to secure those borrowings; provided the mortgage is subordinate to the Owners' Easement.

3.5.3. The Association's right to impose and enforce the Rules & Regulations which may restrict the use and enjoyment of the Common Elements (including the right to charge reasonable admission and other fees for the use of any Amenities).

3.5.4. The Association and Declarant shall have the authority to grant and/or establish upon, over, under and across the Common Elements further easements (including, but not limited to those provided in this Declaration) as are required for the convenient use and enjoyment of the Property.

3.5.5. The Association's right to suspend the voting rights and the right to use any Amenities by any Owner, his family, guests, etc., for any period during which any assessment against his Lot remains unpaid. The right to use the Amenities may also be suspended for a period, not to exceed one hundred twenty (120) days, for the infraction of its Rules & Regulations; provided; however, that if the infraction is continuing in nature, the suspension may be enforced until such infraction is cured.

3.6. Delegation of Use. Any Owner may delegate, in accordance with the Planned Community Documents, his right of enjoyment to the Common Elements and Amenities to Family Members and tenants who reside at his Residential Unit and, subject to any applicable Rules & Regulations, to his guests.

3.7. Private Streets. Maintenance of the Private Streets shall be the sole responsibility of the Association. In no case shall the Zoning Entity or the State of North Carolina be responsible for maintaining any private street. Such streets shall be maintained in good condition and no obstruction shall be erected or permitted to remain on such streets. The cost of maintaining such streets is a Common Expense.

3.8. Association Access. The Association or its designee shall have the right of access to any Lot during reasonable hours of the day and, in the event of emergencies, at any time: (i) to make inspections, repairs, replacements, or improvements to the Common Elements within a Lot; or (ii) to abate any violation of Law.

4. DEVELOPMENT RIGHTS.

4.1. Development Rights. During the Declarant Control Period, the Declarant reserves the following development rights for the entire Property: (a) to add real estate to the Property in accordance with **Section 5.2** of this Declaration; (b) to add Common Elements; (c) prior to a conveyance of the applicable Lot to an Owner, to relocate Lots within or withdraw real estate from the Property; (d) To construct and maintain any sales office, management office or model on any of the Lots or on any of the Common Elements shown on the Plats; (e) To alter the size of any Unsold Lot, combine or merge two or more Unsold Lots, and subdivide any Unsold Lot; (f) To convey, or cause to be conveyed, ownership in the Amenities to the Association; (g) Subject to the terms of the Bylaws, to appoint and remove any Association Board member; and (h) other rights described in NCGS §47F-1-103(28).

4.2. Exercise. Declarant, in its sole discretion, and from time to time during the Declarant Control Period, may exercise any or all of the Development Rights. During the Declarant Control Period, no amendment to or modification of the Development Rights may be made without the Declarant's prior, written consent, which it may arbitrarily withhold. After the expiration of the Declarant Control Period any and all Development Rights shall be exercised by the Association's Board or as otherwise designated by the Association.

4.3. Assignment. Declarant reserves the right to assign the Development Rights to any Person which acquires title to all or any portion of the Property. The assignment shall not be effective unless it is in writing (specifically describing the Development Rights being assigned), signed by the Declarant, is accepted, in writing, by the assignee, and recorded with the County registry. If at any time the Development Rights have expired without an assignment by Declarant, the Declarant will be deemed to have assigned the Development Rights to the Association.

4.4. Delegation. The Developer may, from time to time, delegate any or all of its Development Rights to such agents as it may nominate and on such terms as it chooses.

5. ANNEXATION OF ADDITIONAL PROPERTIES.

5.1. Annexation by Members. Except as provided in *Section 5.2*, Additional Properties may be added and annexed to the Property only if sixty-seven percent (67%) of the Eligible Votes approve the annexation.

5.2. Annexation by Declarant. The Declarant may, at any time during the Declarant Control Period and from time to time, annex all or any portion of the Additional Properties to the Property and add additional Lots within those Additional Properties to the Planned Community without the consent of the Members. Declarant shall not be required to annex any particular portion(s) of the Additional Properties or annex them in any particular order. The annexation will be accomplished by the recording of the appropriate Plat and Declaration of Annexation as required by the Act, duly executed by Declarant, describing the lands annexed and Lots created. No other action or consent shall be necessary. Subsequent to recordation of the Declaration of Annexation and new Plat, the Declarant shall deliver to the Association a copy of the recorded Declaration of Annexation and new Plat. Notwithstanding the preceding to the contrary, the Declarant's right to annex additional properties shall be subject to the following restrictions: (a) the Improvements to be included in the annexed property (the "Annexed Improvements"), if any, must be reasonably consistent in design and function to the existing Improvements included within the Property; (b) those Annexed Improvements, if any, must be substantially completed before the annexation is effected; (c) any liens relating to those Annexed Improvements, if any, must not adversely affect the rights of existing Owners or the priority of the Mortgagees; (d) all prior period property taxes and assessments must be paid or otherwise satisfactorily provided for prior to the annexation; and (e) the Governmental Mortgagee(s)' prior written consent, if any Governmental Mortgagee holds, insures or guarantees any Mortgage on an existing Lot.

5.3. Governmental Approval. Notwithstanding the language of *Sections 5.1* and *5.2* to the contrary, any addition or annexation of additional properties must, to the extent legally required, be approved by the Zoning Entity.

5.4. Title to Common Elements. Fee simple title (subject to this Declaration, current and subsequent years ad valorem taxes, and rights-of-way, restrictive covenants and easements of record) in the Common Area included within the Additional Properties annexed into the Planned Community shall be conveyed to the Association. That conveyance of title shall be done prior to the first First Sale of Lots within that annexed property.

6. MEMBERSHIP AND VOTING RIGHTS. Ownership of a Lot shall be the sole qualification for membership in the Association. Members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any one Lot, all such Persons shall be Members. The vote of that Lot shall be exercised as provided in the Bylaws. The Association's Board may make reasonable rules relating to the proof of ownership of a Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

7. COVENANT FOR MAINTENANCE ASSESSMENTS.

7.1. Lien of Assessments.

7.1.1. Each Owner of a Lot by acceptance of a deed therefor (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association the Assessments as provided in this Declaration. In addition to the Annual Assessments and the Special Assessments, the Association shall have the authority, through the Association's Board, to establish, fix and levy an individual assessment on any Lot to secure the liability of that Owner to the Association arising from Owner's breach of any of the provisions of this Declaration.

7.1.2. The Assessments shall be set on a calendar year basis (the "Annual Assessment Period") and may be collected on a monthly, quarterly or yearly basis as determined by the Association's Board. Annual Assessments shall be charged to each Owner of a Lot in Use. Special Assessments shall be charged to each Lot without regard as to whether or not it is a Lot in Use. Assessments, together with interest thereon and the costs of collection (including reasonable attorney fees), shall be a lien on the applicable Lot from the due date for the Assessment as provided under the Act, continuing until paid in full, as well as a personal obligation of the person who was the Owner of the Lot at the time when the Assessment became due. While any unpaid amounts shall remain a lien on the applicable Lot, the personal obligation shall not pass to that Owner's successors in title unless expressly assumed by the successor.

7.1.3. No Owner shall be exempted from liability for the payment of Assessments by waiving the use or enjoyment of any or all of the Common Elements or by abandoning its Lot. No Owner shall be entitled to a diminution or abatement in the Assessments for any inconvenience or discomfort arising from: (i) the failure or interruption of any utility or other services; (ii) the making of repairs or improvements to the Common Elements or any Lot; or (iii) any action taken by the Association Board or the officers of the Association to comply with Law.

7.1.4. All Lots dedicated to and accepted by a local public authority and the Common Elements shall be exempt from the Assessments.

7.2. Purpose of Assessments. The Assessments shall be used exclusively for funding all Common Expenses (as previously defined), costs, expenses, damages, repairs and liabilities reasonably incurred by the Association in fulfilling the purposes of this Declaration, and reserves for these purposes.

7.3. Notice/Due Dates. Written notice of a Special Assessment or a change in the Annual Assessment shall be sent to every Owner subject thereto at least fifteen (15) days in advance of its due date. The due date for an Assessment shall be established by the Association's Board, in the case of an Annual Assessment, or by the Owners, in the case of a Special Assessment. The Association shall, upon demand at any time, 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 reasonable charge may be made by the Board for the issuance of these certificates. These certificates shall be conclusive evidence of payment of any Assessment as to third parties acting in reliance on the statement.

7.4. Annual Assessments.

7.4.1. The Annual Assessments shall commence as of the date declared by the Association's Board. Until that time, the Declarant shall pay all Common Expenses. All Lots that have been the subject of a First Sale as of that date the Association's Board commences the Annual Assessments shall begin paying Annual Assessments. Thereafter, Annual Assessments shall commence as to a Lot as of the date of the closing of the First Sale (i.e., the date it becomes a Lot in Use) and shall continue thereafter for so long as this Declaration remains in effect or this provision is subsequently amended. Liability for the

- Annual Assessment for the first calendar year shall be adjusted according to the number of days remaining in that calendar year as of the date of the closing of the First Sale. Annual Assessments, in the amount determined under **Section 7.4.2**, shall be charged to each Owner of a Lot in Use.

7.4.2. On or before January 1st of each year, the Association's Board shall adopt a proposed budget. This proposed budget shall include all anticipated revenues (including revenues from Annual Assessments to be charged in the next Annual Assessment Period), the anticipated Common Expenses for the Association for that same period, and any surplus or deficit in the Annual Assessments from the prior years. Within thirty (30) days after adoption of any proposed budget, the Association Board shall send each Owner a copy of that proposed budget and notice of a scheduled meeting of Owners to consider its ratification. The date of that meeting shall be not less than ten (10) nor more than thirty (30) days following the notice of the meeting. The proposed budget shall be deemed ratified unless a majority of the Owners reject the proposed budget. There shall be no requirement that a quorum be present at the meeting. The Approved Budget shall be the basis for calculating the Annual Assessment to be charged for each Lot in Use for the upcoming Annual Assessment Period. Upon adoption of the Approved Budget, the Association Board shall calculate the amount of the Annual Assessments for each Owner of a Lot in Use and send a notice of that amount to each Owner of a Lot in Use as required under this Declaration. The failure or delay of the Association Board to prepare or adopt a budget or to determine the Common Expenses for any Assessment Period shall not be deemed a waiver, modification or release of the Owners' obligation to pay Assessments. In such event, the Annual Assessments that were computed on the basis of the Common Expenses for the last Assessment Period shall continue to be the Annual Assessments payable by the Owners until a new Approved Budget is adopted.

7.4.3. Notwithstanding the above to the contrary, until January 1 of the year immediately following the closing of the first First Sale in the Planned Community, the Annual Assessment may not exceed \$175.00.

7.4.4. Declarant may, but shall not be obligated to, loan the Association money to the extent that Annual Assessments paid by the Owners are inadequate. This advance shall be to the Association and on terms generally available to Declarant from its lending institution. Declarant, if also an Owner, shall also be responsible for the payment of Assessments as otherwise required by this Article.

7.5. Special Assessments. In addition to the Annual Assessments, the Association may, from time to time, levy a special assessment (the "Special Assessment") for the purpose of defraying in whole or in part the cost of any unexpected expense. A Special Assessment may be assessed at a meeting duly called for this purpose upon the vote of not less than sixty-seven percent (67%) of the Eligible Votes. An Owner's pro rata share of each Special Assessment shall equal its Allocated Interests percentage. A Special Assessment shall be collected from those Owners of Lots which exist as of the date the Special Assessment is approved by the Members.

7.6. Initial Assessment. At the First Sale for a Lot, in addition to the Annual Assessment otherwise due for the remainder of the then current payment period, an amount equal to two months' worth of the then current Annual Assessment (the "Initial Assessment") shall be collected from the purchaser and paid to the Association. The Initial Assessment shall not constitute advance payments of Annual Assessments, but shall nevertheless be used by the Association in the manner specified for Annual Assessments.

7.7. Fines/Suspensions. The Association's Board, after a hearing as required under the Act and/or Bylaws, may impose fines against any Lot and/or suspend a Member's privileges for a failure to comply with the Declaration or Rules & Regulations. These fines shall be collected and enforced as an Assessment otherwise due to the Association from that Owner. Fines shall be paid not later than thirty (30) days after notice of the fine is given to the offending Owner. These fines shall not be construed to be exclusive and shall be in addition to all other rights and remedies to which the Association may be

otherwise legally entitled. The amount of any fine imposed shall be determined by the Association's Board; but, shall not, in any event, exceed One Hundred Fifty Dollars (\$150.00) per day for each day of continued violation or non-compliance. Such fines shall be assessments secured by liens as provided under the Act.

7.8. Uniform Rate of Assessment. Both Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots in Use or Lots, as the case may be, subject to the following:

(a) the Association's Board may levy an individual assessment on any Lot to secure the liability of that Owner to the Association arising from that Owner's breach of any of the provisions of this Declaration or the Rules and Regulations.

(b) Any Common Expense or portion thereof benefitting fewer than all of the Lots shall be assessed exclusively against those Lots benefitted.

(c) Assessments to pay a judgment against the Association may be made only against the Lots in the Planned Community at the time the judgment was entered, in proportion to their Allocated Interests.

(d) If any Common Expense is caused by the negligence or misconduct of any Owner or Occupant, the Association may assess that expense exclusively against that Owner's Lot.

(e) If Allocated Interests are reallocated, Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Allocated Interests.

(f) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be equally assessed against the Lot(s) to which that Limited Common Element is assigned;

7.9. Non-Payment of Assessment Remedies of the Association. Any Assessments which are not paid when due shall be delinquent. The Association shall have the option to declare the entire outstanding balance of any Assessment immediately due and payable if any installment thereof becomes delinquent. If the Assessment is not paid within thirty (30) days after the due date, the assessment shall incur a late charge in the then applicable amount fixed by the Association's Board, shall bear interest from the date of delinquency at the greater of the rate set by the Association's Board or eighteen percent (18%) per annum, and shall constitute a lien on that Lot when a claim of lien is filed of record as provided under the Act. The Association may bring an action at law against the responsible Owner and/or foreclose the lien against the applicable Lot in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Interest, costs, late charges, fines, and reasonable attorney fees incurred in enforcement of the lien shall be added to the amount of the delinquent Assessment. Each Owner, by the acceptance of a deed to a Lot, expressly vests in the Association, its agents or assigns, the right and power to bring all actions against the Owner, personally, for the collection of all debts due by it to the Association and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property in accordance with Article 2A of Chapter 45 of the General Statutes. Each Owner also expressly grants to the Association a power of sale in connection with foreclosure of a lien for Assessments. The lien provided for in this Article shall be in favor of the Association acting on behalf of the Owners, which shall have the power to bid in at foreclosure and to acquire and hold, lease, mortgage and convey the foreclosed Lot. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Elements or abandonment of his Lot. This Section does not prohibit other actions to recover the sums due from an Owner nor prohibit the Association from taking a deed in lieu of foreclosure.

7.10. Subordination of the Lien. The lien of the Assessments shall be subordinated to the lien of the Mortgage on a Lot. Provided the Association is given prior written notice of such, the sale or transfer of a Lot pursuant to a Foreclosure shall extinguish the lien of the delinquent Assessments for that Lot. Otherwise, the sale or transfer of a Lot shall not release or otherwise affect the lien of delinquent Assessments; provided, that no Owner shall be liable for the payment of any part of any Assessments assessed against its Lot subsequent to a sale, transfer, or other conveyance by it of that Lot. In no event, however, shall any sale or transfer, whether pursuant to a Foreclosure or not, relieve the prior Owner from personal liability for the delinquent Assessments or the Lot from liability for any Assessments subsequently becoming due or from the lien therefor.

7.11. Exempt Property. All Lots dedicated to and accepted by a local public authority and the Common Elements shall be exempt from the Assessments.

7.12. Surplus Funds. Except as determined by the Association Board from time to time, Surplus funds shall not be distributed to the Owners, pro rata, in accordance with their respective Allocated Interests or be used as a credit against each Owner's future Assessments.

8. MAINTENANCE.

8.1. Maintenance Responsibility. Except as specifically assigned to an Owner elsewhere in this Declaration, the Association shall be responsible for the repair, replacement, and maintenance of the Common Elements including, but not limited to, recreation and parking areas and walks; and all landscaped areas included within the Common Elements. Maintenance, upkeep, and repairs of the Residential Unit and the Lot shall be the sole responsibility of the individual Lot Owner and not in any manner the Association's. An Owner shall not do anything that will impair any easement owned by the Association, nor do any act or allow any condition to exist which will adversely affect the other Lots or their Owners.

8.2. Cost of Maintenance. In the event that the need for maintenance or repair to the Common Elements is caused through the willful or negligent act of the Owner, his Family Members, guests tenants, contractors, agents or invitees, the cost of such maintenance or repair shall be added to and become a part of the Assessment to which the Residential Unit is subject. In the event that the need for maintenance or repair to a Lot or a Residential Unit is caused through the willful or negligent act of the Association or its contractors, employees, or agents, the cost of such maintenance or repair shall be recoverable from the Association. Notwithstanding the preceding to the contrary, a hearing as required under the Act and/or Bylaws shall be conducted prior to assessing any liability under this Section. A claim for reimbursement of damages shall be limited to the jurisdictional amount established for small claims by G.S. 7A-210. When such claim exceeds that jurisdictional amount, liability of any Owner charged or the Association shall be determined as otherwise provided by law. In either case, liabilities of Owners shall be assessments secured by lien as provided under the Act and liabilities of the Association may be offset by the Owner against sums owing to the Association and if so offset, shall reduce the amount of any lien of the Association against the Owner's Lot.

9. INSURANCE/CONDEMNATION.

9.1. Association Coverage.

9.1.1. Commencing not later than the time of the First Sale, the Association Board shall obtain and maintain, to the extent available, covering the interest of the Association, the Association Board, and all Owners and their Mortgagees, as their interests may appear: (a) Property insurance on the Common Elements insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is

purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and (b) Liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements. If the insurance described above is not reasonably available, the Association promptly shall cause notice of that fact to be sent to all Owners. Insurance policies carried pursuant to Section shall provide that: (a) Each Owner is an insured person under the policy to the extent of the Owner's insurable interest; (b) The insurer waives its right to subrogation under the policy against any Owner or member of the Owner's household; (c) No act or omission by any Owner, unless acting within the scope of the owner's authority on behalf of the Association, will preclude recovery under the policy; (d) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance; and the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner, and each Mortgagee to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

9.1.2. The Association Board may also obtain and maintain (in amounts to be determined by it): (1) fidelity insurance covering all members of the Association Board, officers, or employees of the Association who handle funds of the Association; (2) workmen's compensation insurance; and (3) such other insurance coverages as it deems desirable and necessary. The commercial general liability insurance shall not, however, cover the liability of an Owner arising from an occurrence within its own Lot.

9.1.3. The proceeds of all policies of physical damage insurance shall be payable to the Association to be applied for the purpose of repairing, restoring, or rebuilding the Common Elements unless otherwise determined by the Owners, as provided below, and the Association Board shall arrange for such repair or work. Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the planned community is terminated. If the insurance proceeds are insufficient to cover the cost of such work, the balance of the cost will be assessed among all Owners in proportion to their respective interests in the Common Elements.

9.1.4. All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by Owners or of any invalidity arising from any acts of the insured or any Owners and shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the named insured, including all first Mortgagees of Lots.

9.2. Owner's Coverage. It shall be the responsibility of each Owner, at his own expense, to obtain hazard insurance in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction to his Residential Unit from any hazard. Each Owner shall satisfy the Association's Board that at all times his property is covered by the required hazard insurance.

9.3. Repair/Reconstruction.

9.3.1. In the event of damage to an Owner's property, the Owner shall contract to rebuild or repair such damaged portions of the property in as good condition as formerly. In the event that more than fifty percent (50%) of the Residential Unit is destroyed or damaged (as determined on a relative value basis; i.e., the costs of repairs versus the then current tax value), the Owner, in its discretion, may elect to demolish the Residential Unit and restore the Lot; provided that the demolition/restoration is completed within one hundred fifty (150) days of the date of the casualty. In the event the Owner fails to promptly commence and thereafter diligently pursue the required repair/rebuilding or

demolition/restoration, as the case may be, the Association's Board, upon obtaining the required Member approval, shall have the power to demolish the Residential Unit and restore the Lot and charge the Owner for all reasonable and necessary costs incurred in completing that demolition/restoration.

9.3.2. In the event of damage to any property covered by insurance written in the name of the Association, the Association's Board shall, with concurrence of the Mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair the damage to as good condition as formerly. In the event the insurance proceeds are insufficient to pay all of the costs of repairing and/or rebuilding to the same condition as formerly, the Association's Board shall, upon obtaining the required Member approval, levy a Special Assessment against all Members to make up any deficiency. Notwithstanding the preceding to the contrary, such repair or replacement shall not be undertaken if: (i) the Planned Community is terminated as provided under the Planned Community Documents; (ii) repair/replacement would be prohibited by any Law; or (iii) except as otherwise required by Law, if eighty percent (80%) or more of the Eligible Votes (including all of the Owners of the Limited Common Elements) vote not to repair/replace the damage. In that event the entire Planned Community is not repaired/replaced, the insurance proceeds shall be used/distributed in accordance with the requirements of the Act.

9.3.3. Each Owner shall nevertheless be liable for the expense of any maintenance, repair, or replacement rendered necessary by its act, neglect, or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Association Board. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy, or abandonment of a Lot or its appurtenances. This subsection shall not, however, be construed so as to modify any waiver by insurance companies of rights of subrogation.

9.4. Ownership/Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association, the Owners, and their respective Mortgagees, if any, as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee shall be to receive any proceeds as are paid and to hold them in trust for the purposes stated in this Declaration. The proceeds received by the insurance trustee shall be distributed to or for the benefit of the appropriate beneficiary(ies) as required by the Planned Community Documents.

9.5. Premiums. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and shall be included in Common Expenses.

9.6. Prohibited Acts. No Owner shall do or keep anything on the Property which shall cause an increase in the premiums for or the cancellation of any insurance maintained by the Association.

9.7. Condemnation.

9.7.1. In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements, the award made for such taking shall be payable to the Association. If eighty percent (80%) or more of the Eligible Votes (with the written approval of the applicable Mortgagees) duly and promptly approve the repair and restoration of such Common Elements, the Association Board shall arrange for the repair and restoration of such Common Elements and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that eighty percent (80%) or more of Eligible Votes do not duly and promptly approve the repair and restoration of such Common Elements, or if the award exceeds the cost of such repair or restoration, the Association Board shall disburse the net proceeds among all Owners in proportion to their respective Allocated Interests. As used in this Section, the words "promptly approve" shall mean not more than sixty (60) days from the date of such taking.

9.7.2. If a Lot is acquired by eminent domain or if part of a Lot is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration, the award shall compensate the Owner for his Lot and its interest in the Common Elements. Upon acquisition, unless the decree otherwise provides, the Allocated Interests are automatically reallocated to the remaining Lots, exclusive of the Lot taken. If there is any reallocation under of Allocated Interests as provided above, the Association shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Lot remaining after part of a Lot is taken under this subsection shall thereafter part of the Common Elements.

9.7.3. Any portion of a condemnation award attributable to the acquisition of a Limited Common Element shall be apportioned among the owners of the Lots to which That Limited Common Element was allocated at the time of acquisition based on their relative Allocated Interests before the taking.

10. EASEMENTS.

10.1. Association Easements. An easement is granted to the Association and its designees to enter in or to cross over the Common Areas and Lots to the extent reasonably necessary to perform its obligations under this Declaration or the Act. Every Lot shall be subject to an easement for entry by the Association and its designees for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any improvement or portion of the Common Elements. In addition to those easements described in the following subsections, the Declarant (during the Declarant Control Period) and the Association shall have the right to subject the Property to easements which it reasonably deems beneficial to the development and/or operation of the Planned Community. The cost of maintaining these easements shall be a Common Expense.

10.2. Utility Easements. The Declarant reserves unto itself and the Association a perpetual, nonexclusive alienable, and releasable easement and right, on, over and under the Property to erect, maintain, and use poles, wires, cables, conduits, lines, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water drainage, cablevision, or other public conveniences or utilities on, in or over those portions of the Property as may be reasonably required to serve the Lots. Notwithstanding such, no sewers, electrical lines, water lines, or other utility equipment or facilities may be installed or relocated in the Common Elements except as approved by the Declarant or, after the end of the Declarant Control Period, the Association. Should any utility furnishing a service covered by this general easement request a specific easement by separate recordable documents, Declarant or, after the end of the Declarant Control Period, the Association will have the right and authority to grant such easement. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation to maintain reasonable standards of health, safety, and appearance. Such rights may be exercised by any licensee of the Declarant. This reservation shall not create any obligation on the part of the Declarant to provide or maintain any such utility or service. Whenever possible, utilities within the Property, whether located within the Common Elements or not, shall be installed and maintained underground. The easement provided for in this Article shall in no way affect other recorded easements on the Property.

10.3. Temporary Construction Access and Disturbance Easement. A temporary construction easement over, through and to the Property is reserved and established in favor of Declarant for purposes of ingress, egress, regress, conduct of construction activity, storage of construction materials and the necessary disturbance of land for the initial construction contemplated for the Planned Community. This easement shall be used only as and when necessary to facilitate the construction of improvements at any time on a Lot by Declarant, as well as the extension of driveways, sidewalks, underground drainage and utility conduit and hookups to any dwelling structure in the Planned Community.

10.4. Repair, Maintenance and Reconstruction Easement.

10.4.1. The Association shall have a perpetual access easement over the Common Elements and Lots to the extent reasonably necessary to perform repair, maintenance, replacement or reconstruction obligations under this Declaration or the Act. The repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Association shall restore, to the extent reasonably practical, the Lot and adjoining Lots to as near the same condition as that which existed prior to the commencement of the work. Should the Association fail to restore the Lots as required, the affected Owner(s) may, at the Association's expense, complete the required restoration.

10.4.2. Each Owner shall have a perpetual access easement over the adjoining Common Elements and Lots to the extent reasonably necessary to perform repair, maintenance or reconstruction of his Lot. The repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Owner shall restore, to the extent reasonably practical, the adjoining Common Elements and Lots to as near the same condition as that which existed prior to the commencement of the work. Should the Owner fail to restore the Common Elements and Lots as required, the adjoining Lot Owner and/or Association may, at the other Owner's expense, complete the required restoration.

10.4.3. The easement granted under this ***Section 10.4*** shall be restricted to that Common Elements and/or adjoining Lots which shall be reasonably servient and proximate to the Lot(s) upon which the construction is taking place.

10.5. Easement for Minor Encroachments. All Lots and the Common Elements shall be subject to a perpetual easement for the encroachment of the initial Improvements constructed to the extent that such initial Improvements actually encroach. These authorized encroachments shall include, but not be limited to, such items as overhanging eaves, roofs, gutters, downspouts, exterior storage rooms, bay windows, stoops, decks, patios, porches, steps and walls.

10.6. Drainage Easement. For a period of twenty (20) years from the date of this Declaration, the Declarant reserves an easement over and under the Property to maintain and to correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary. After such action has been completed, the Declarant shall restore the affected property to its original condition to the extent practicable. Declarant shall give the Association thirty (30) days' advance written notice of Declarant's intent each time it plans to exercise its rights pursuant to this ***Section 10.6***.

10.7. Governmental Easements. Declarant reserves an easement for the benefit of the appropriate governmental entity over the Common Elements, existing now or in the future, for the setting, removal, and reading of water meters, the maintenance and replacement of water, sewage, and drainage facilities and the collection of garbage. An easement is also granted to all police, fire protection, garbage, mail delivery, ambulance, and all similar persons to enter upon the Community's streets and the Common Elements in the performance of their duties.

11. LAND USE REGULATIONS.

11.1. Uses. Notwithstanding the uses otherwise permitted by the Zoning Entity's applicable zoning code and unless otherwise permitted by this Declaration, use of each Lot shall be strictly limited to single family residential purposes and those other purposes expressly permitted by this Declaration. Upon the prior written consent of Declarant (during the Declarant Control Period) or Association Board, which consent may be arbitrarily withheld, any Lot may be used as a professional office or for any other purpose. Even if such other use is permitted, each Owner shall nevertheless be required to comply with all other restrictions of this Declaration and the Laws. Notwithstanding anything in this Section or the

Planned Community Documents to the contrary, Declarant may, without the consent of the Association Board or other Owners, use any Unsold Lots as model Lots and offices for the selling, renting, management, operation, and promotion of the Unsold Lots or for any other purpose, subject only to compliance with Law.

11.2. Occupancy. The number of Occupants in each Residential Unit shall not exceed: (i) the Family Members of one family only; or (ii) two (2) individuals unrelated by blood or marriage per bedroom designated for that Residential Unit. No transient tenants may be accommodated; provided, however, that the guests and invitees of Occupants and their lessees may reside in any one Residential Unit for a maximum period of thirty (30) days per calendar year. A Residential Unit owned or leased by a corporation, partnership, fiduciary, or any other entity may be occupied by an officer, director, partner owner, beneficiaries, or employees of such entity, or by Family Members or guests of any of the foregoing.

11.3. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept in the Lots, except that a maximum of two (2) domesticated, household pets may be kept in any one Lot, provided that in no event shall any pet be maintained for commercial purposes and that no pet weighing more than one-hundred (100) lbs. shall be permitted.

11.4. Garbage. All garbage, trash, or rubbish shall be regularly removed from the Lot and shall not be allowed to unreasonably accumulate; but shall only be put at curbside for pickup on the regularly scheduled dates.

11.5. Leasing. No Lot or portion thereof shall be leased for transient or hotel purposes. An Owner may nevertheless lease the entire Lot; provided that: (i) each lease must be in writing, must be for a period of not less than six (6) months, and must provide that it is subject to this Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease; and (ii) all leasing/management activities for the Lot to be leased must be conducted through the management company designated for that purpose by the Association. The Owner shall promptly provide the Association with copies of any and all leases entered into by the Owner. In no event, however, shall a portion of a Lot (as opposed to the entire Lot) be sold, conveyed, leased, or subleased.

11.6. Drapes, Blinds, Etc. The side of all, drapes, blinds, and/or other window treatments which is visible from the exterior of a Residential Unit shall be white or neutral in color.

11.7. Utility Devices. Except as required by Law, no exterior television or radio antennas, satellite dishes or solar panels or other utility devices, of any sort shall be placed, allowed or permitted upon any portion of the exterior of the Residential Units without the prior written approval and the authorization of the Declarant (during the Declarant Control Period) or the Association Board. The Declarant and the Association, for the common benefit of the Owners, reserves the right to install within the Property such utility devices necessary to provide cable TV or similar services.

11.8. Business/Obnoxious Activity. Except as contemplated by *Section 11.1*, no business activity of any kind or any obnoxious or offensive activity shall be carried on the Property, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood. Nor shall the Property be used in any way or for any purpose which may endanger the health or unreasonably disturb an Owner or his tenants or invitees. No "For Sale" signs (except as otherwise specifically authorized by the Association), advertising signs or rent signs, billboards, political signs, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, and in no event in the Common Elements. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Lots, Declarant is permitted, subject to the Laws, to maintain such facilities and conduct such sales activities as Declarant deems reasonably required, convenient, or incidental to the development and sale of the Lots. These facilities/activities shall include but not be

limited to sales tours, sales parties and promotions at the Amenities, a business/sales office, storage area, construction yards, model units, and signs. During the Control Period, this provision shall not be amended or revoked without the Declarant's written consent.

11.9. Vehicles. No boats, recreation vehicles, campers, motorcycles, tractors, trucks (other than one pick-up truck rated one-half ton or less), or trailers (the "Vehicles") of any Occupant shall be parked within the Common Elements, or, except as permitted by Law, within the right-of-way of any street in or adjacent to the Planned Community. All Vehicles shall be stored either within the Owner's garage or other facilities not located on the streets in the Planned Community.

11.10. Tanks. Other than hot tubs or similar devices approved by the Architectural Committee, no above or below-ground tanks or pools will be permitted for the storage of fuel or water or any other substance. The installation of such tanks shall be subject to reasonable screening requirements established by the Architectural Committee.

11.11. Lawn Ornaments. No decorative lawn ornaments shall be placed on any Lot without the prior written approval of the Architectural Committee.

11.12. Parking. Adequate off-street parking shall be provided by the Owner of each Lot for the parking of automobiles and Vehicles owned by its Occupants. Occupants shall not be permitted to park their automobiles and Vehicles on the streets or Common Elements in the Planned Community.

11.13. Subdivision/Recombination. Lots may not be subdivided or recombined without the Association Board's prior written approval, which may be arbitrarily withheld, or, in any event, where otherwise prohibited by the Laws.

11.14. Governmental Regulations. Each Owner shall comply with all Laws applicable to its Lots and/or Common Elements. In the event of any conflict between any provision of such Laws and any provision of this Declaration, the more restrictive provision shall apply.

11.15. Additional Restrictions. The Declarant (during the Declarant Control Period) and thereafter, the Association or the Association's Board shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the architectural control and use of the Property.

11.16. Use of Common Elements. The Common Elements shall be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably intended and which are incident to the use and occupancy of the Lots. No Owner may construct, install, place, store or otherwise maintain any improvements or personal property on or within the Common Elements. Notwithstanding the preceding or anything in this Declaration to the contrary, Declarant shall have the right, without charge or limitation and so long as there are any Unsold Lots, to: (i) erect and maintain signs of any size or content determined by Declarant on or about any portion of the Common Elements; (ii) have its employees, contractors, subcontractors, and sales agents present on the Property; and (iii) do all things necessary or appropriate, including the use of the Common Elements, to sell, lease, manage, or operate Unsold Lots and to comply with Declarant's obligations under the Planned Community Documents. In no event, however, shall Declarant be entitled to use any Common Elements in such a manner as will unreasonably interfere with the use of any Lot for its permitted purposes or violate any Law.

11.17. Waiver. Notwithstanding anything above to the contrary, the Declarant (during the Declarant Control Period) or the Association's Board shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Article. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other

requirement respecting the Lot in question or any other Lots subject to this Declaration. No waiver shall be effective if it shall cause the Lot or structures thereon to be in non-conformance with any Law.

12. ARCHITECTURAL COMMITTEE/ARCHITECTURAL CONTROL.

12.1. Members. The Architectural Committee shall consist of one (1) or more persons designated by the Declarant. At such time as Declarant no longer owns any real property within the Property (or earlier if the Declarant shall surrender this right in a written instrument in recordable form executed by Declarant), the Declarant shall assign to the Association the rights, powers, duties and obligations of the Architectural Committee. Upon this assignment, the Board shall appoint three (3) or more persons as the members of the Architectural Committee. Before the end of the Declarant Control Period, this provision shall not be amended or revoked without the Declarant's prior written consent.

12.2. Powers. The Architectural Committee shall have the right to refuse to approve any plans and specifications for Improvements proposed to be constructed on a Lot (the "Plans & Specifications") which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving Plans & Specifications, the Architectural Committee shall consider the purposes of the Declaration as discussed in the Recitals, including the suitability of the proposed Improvements and materials to be used in those Improvements, the site upon which it is proposed to be erected, and the effect of the Improvements on adjacent or neighboring property. There is specifically reserved unto the Architectural Committee the right of entry and inspection upon any Lot for the purpose of determining whether there exists any construction of any Improvements which violates the terms of any approval by the Architectural Control Committee or the terms of this Declaration or of any other applicable covenants, conditions and restrictions. The Architectural Committee and the Association Board is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorney's fees).

12.3. Building Sites. Each Lot, as approved by the appropriate governmental entity, shall constitute a building site (a "Building Site") and shall be used for single-family, residential purposes only. The lay of the Lots as shown on the recorded Plat shall be substantially adhered to; provided, however, that with the prior written approval of the Declarant (during the Declarant Control Period), or, thereafter, the Association's Board or the Architectural Committee, and the appropriate governmental authority, the size and shape of any Lot may be altered. More than one Lot may be used as one Building Site provided the location of any structure permitted thereon is approved in writing by the Architectural Committee or the Declarant, its successors or assigns, and said Lot is recombined as provided in N.C. General Statute 160A-376(1). In no event, however, shall a Lot or group of Lots be resubdivided or recombined in violation of any applicable zoning or other laws in force at the time of the change.

12.4. Setbacks. Except as contemplated by the party walls, no structure shall be located on any Building Site in relationship to its boundary lines any nearer than the distances permitted by the applicable zoning ordinances. For the purposes of this covenant, eaves, steps, carports and open porches shall not be considered as a part of a Building, provided, however, that this shall not be construed to permit any portion of a Building on a Building Site to encroach upon another Lot. Provided it otherwise complies with the applicable zoning ordinances and the setbacks, if any, shown on the applicable recorded Plat, the Declarant and/or the Architectural Committee may approve by written waiver a violation of these requirements.

12.5. Structures. Improvements on any Building Site shall be restricted solely to residential dwellings for residential use. All Improvements erected upon a Lot shall be of new construction. No residential structure, which has a minimum area of less than 1700 square feet of heated area exclusive of

porches, basement and garage, shall be erected or placed on any Building Site. No building or structures shall exceed three (3) stories in height. No structures of a temporary character, manufactured home, mobile home, trailer, tent, shack, garage, barn or other out-building shall be used on any portion of the Property at any time as a residence, either temporarily or permanently.

12.6. Approval of Plans & Specs. No Improvement shall be commenced, erected, or maintained upon the Property, nor shall an Improvement be repaired or rebuilt after destruction by any hazard until completed Plans & Specifications, showing the nature, kind, space, height, materials, and location of the Improvement shall have been submitted to and approved in writing by the Architectural Committee. A failure to approve or disapprove completed Plans & Specifications within forty-five (45) days after they have been submitted shall be deemed to be an approval of those Plans & Specifications. Neither the Association, the Association's Board, the Declarant, the Architectural Committee or any officer, employee, director or members thereof shall be liable for damages to any persons by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any Plans & Specifications. Every person who submits Plans & Specifications for approval agrees, by submission of such Plans & Specifications, that it will not bring any action or suit to recover any such damages.

12.7. Declarant Facilities. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Lots the Declarant is permitted, subject to the laws of the applicable governmental authority, to maintain such facilities and conduct such sales activities as Declarant deems reasonably required, convenient, or incidental to the development and sale of the Lots. These facilities/activities shall include but not be limited to sales tours, sales parties and promotions at the Amenities, a business/sales office, storage area, construction yards, model units, and signs. Before the end of the Declarant Control Period, this provision shall not be amended or revoked without the Declarant's written consent.

13. MORTGAGES/MORTGAGEES.

13.1. Notice. An Owner shall notify the Association Board of the name and address of the Mortgagee for each Mortgage on its Lot and shall file a conformed copy of the Mortgage(s) with the Association Board. Upon a Mortgagee's written request (an "Eligible Mortgagee"), the Association Board shall promptly provide written notice to the Eligible Mortgagee of: (a) any unpaid Assessments due from, or any other default by, the Owner of the mortgaged Lot; (b) any condemnation or casualty loss that affects a material portion of the Residential Unit or the mortgaged Lot; (c) a lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (d) any proposed action that requires the consent of the holders of mortgages constituting first liens on Lots. Upon the happening of a default under the terms of the mortgage or other liens which would permit the holder to declare the entire principal sum due, notice of the intention of the holder to do so shall be given to the Association Board, but the failure to give such notice shall not prevent the holder from instituting a Foreclosure action. The Foreclosure of a Mortgage will extinguish the lien for any unpaid Assessments that were payable before the foreclosure sale.

13.2. Mortgagee Approval. Notwithstanding the anything in *Section 15.5* to the contrary, any amendments to the Declaration which materially amend or add to the provisions of this Declaration relating to: (i) voting, (ii) assessments, assessment liens, or the subordination of such liens, (iii) reserves for maintenance or the repair or replacement of Common Elements, (iv) insurance or fidelity bonds, (v) rights to use of the Common Elements, (vi) responsibility for repair and maintenance of the Planned Community, (vii) the expansion or contraction of, or the addition, annexation or withdrawal of property to or from, the Planned Community, or (viii) the boundaries of any Lot, shall require the written approval of not less than a majority of the affected Eligible Mortgagees:

14. DEFAULTS/REMEDIES.

14.1. Default. Failure of the Association Board, or Owner, or Occupant to comply with the terms of the Planned Community Documents or any Rules & Regulations, as they may be amended from time to time, shall be a default and grounds for an action to recover sums due, damages and/or injunctive relief, by the Association Board (on behalf of the Association or one or more of the Owners) or by an Owner in its own behalf. In the case of flagrant or repeated violations by an Owner, that Owner may be required by the Association Board to give sufficient surety or sureties for its future compliance.

14.2. Remedies. In the event of any default in and/or breach of any of the terms, conditions and provisions of the Planned Community Documents or the Rules & Regulations (either actual or threatened) the aggrieved party shall have the right to specific performance and/or injunction in addition to any and all other rights and remedies at law or in equity. In any proceeding arising because of an alleged default by an Owner or by the Association Board, the prevailing party shall be entitled to recover the costs of the proceedings, including, but not limited to, reasonable attorneys' fees. The right and remedies provided by this Declaration are distinct and cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. No delay or omission of a party to exercise any right or power arising from another's default shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein. The rights and remedies provided in this Declaration are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

15. MISCELLANEOUS.

15.1. Anti-Discrimination. No action in the enforcement or interpretation of these Protective Covenants shall at any time be taken by the Declarant, the Association or the Association's Board which in any manner would unfairly discriminate against any Owner in favor of any of the other Owners.

15.2. Waiver. The Declarant (during the Declarant Control Period) and thereafter the Association or the Association's Board shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Declaration. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Lot in question or any other Lots subject to this Declaration. No waiver shall be effective if it shall cause the Lot or its Improvements to be in non-conformance with any applicable Law.

15.3. Enforcement. The Declarant (during the Declarant Control Period), the Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, the terms of the Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. the court may award the prevailing party its reasonable attorneys fees incurred in such enforcement action.

15.4. Severability. Invalidation of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

15.5. Amendment. Except as specifically otherwise provided in the Planned Community Documents, the Declaration may be amended by a vote of not less than sixty-seven percent (67%) of all Eligible Votes. If an amendment is properly adopted, the Board shall, within thirty (30) days cause the amendment to be recorded with the County Registry. All amendments shall be effective from the date of recordation in the appropriate Register of Deeds. Notwithstanding the above provisions to the contrary, during the Declarant Control Period, an amendment, to be effective, must also obtain the Declarant's written approval. No amendment shall affect the use of a Lot which was approved pursuant to the terms of this Declaration prior to the effective date of the Amendment.

15.6. Disputes. In the event of any dispute concerning a provision of this Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of that committee.

15.7. Voting. Voting by Members of the Association shall be in accordance with the applicable provisions set forth in the Bylaws.

15.8. Owner Addresses. Each Owner agrees to keep the Association informed of his address at any time and any notice sent or delivered to that address shall be sufficient. Each new Owner agrees to provide the Association with evidence of his ownership for preparation of an Owner roster and the roster as so completed shall be sufficient evidence as to the ownership of each Lot.

15.9. Notice. All notices under this Declaration shall be in writing. Unless delivered personally, all notices shall either be delivered by a nationally recognized overnight express delivery service or be given by certified mail, postage prepaid, return receipt requested, addressed to the addresses maintained pursuant to **Section 15.8** or, if none, to the address noted on the most recent Wake County tax records for the Owner of the Lot.

15.10. Gender and Grammar. All words and phrases in this Declaration shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires.

15.11. Owner Responsibility. Notwithstanding anything in this Declaration to the contrary, an Owner shall be responsible for any and all violations of this Declarations by its employees, agents, tenants, guests and invitees. When a party to this Declaration consists of more than on individual or entity, such party's liability shall be joint and several.

15.12. Construction. This Declaration shall be construed in accordance with the laws of North Carolina without giving effect to its conflict of laws principles.

15.13. Exhibits. All Exhibits and Schedules, if any, attached to this Declaration are incorporated by reference and made a part of this Declaration. The term "Declaration" as used in this document shall include all such Exhibits and Schedules.

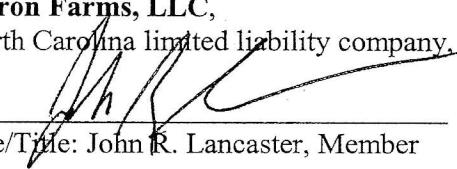
15.14. Approval. During the Declarant Control Period, the following actions will require prior approval of the Veterans Administration and/or the Department of Housing and Urban Affairs: Annexation of Additional Properties, conveyance of Common Elements, dedication or withdrawal of land from dedication of Common Elements, or an Amendment of this Declaration. This Declaration shall not be amended or terminated without the prior approval of the Zoning Entity. A failure to approve or disapprove the proposed amendment or termination within thirty (30) days after it has been submitted, in writing, to the Zoning Entity, shall be deemed to be an approval of the proposed amendment/termination.

15.15. Limited Liability. In no case shall the Zoning Entity be responsible for failing to provide any emergency or regular fire, police or other public service when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, the Association, Owners or Occupants: In no case shall the Zoning Entity or the State of North Carolina be responsible for maintaining any private street. Such responsibility shall rest with the Association and/or Owners.

15.16. Dissolution or Insolvency of the Association. Except as otherwise required by the Act, the Association shall be dissolved upon the termination of this Declaration or upon the written assent of not less than eighty percent (80%) of the Members of each class of members. Upon dissolution of the Association or upon loss of ownership of the Common Area by the Association (once such ownership has been acquired) for any reason whatsoever (except for exchange or dedication or conveyance by reason of merger and/or consolidation with any other association as allowed by this Declaration), the Common Area shall be offered for dedication for public use for purposes similar to those to which the Common Area were required to be devoted by the Association to the Town of Wake Forest, North Carolina, or to some other appropriate governmental entity or public agency (the "Governmental Entity"), as determined by the Association's Board,. If the Governmental Entity accepts the offer of dedication, such Common Area shall be conveyed by the Association to the Governmental Entity, subject to the Owner's rights to use/enjoyment of the Common Areas describe in **Article III**, and subject to all other applicable rights of way and easements of record and ad valorem property taxes accruing subsequent to the date of such conveyance.

In the event that the Governmental Entity refuses the offer of dedication, the Association may transfer such Common Area to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Area was required to be devoted by this Declaration, such conveyance to be made subject to the rights of Owners and other matters set forth in the immediately preceding paragraph. **IN WITNESS WHEREOF**, the undersigned have executed, sealed and delivered this Declaration in the Company name on the date first above written.

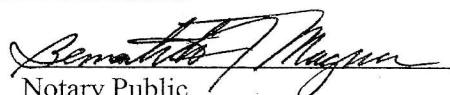
Shearon Farms, LLC,
a North Carolina limited liability company.

BY: 
Name/Title: John R. Lancaster, Member

EXHIBITS : *A - Property Description*
B - Additional Properties

NORTH CAROLINA
WAKE COUNTY

I, the undersigned Notary Public in and for the aforesaid County and State, certify that John R. Lancaster, a Member of Shearon Farms, LLC, personally came before me this day and acknowledged the due execution of the foregoing instrument on behalf of and as the act of the company. Witness my hand and notarial seal this December 2, 2003.


Notary Public
My Commission expires: 3-2-08

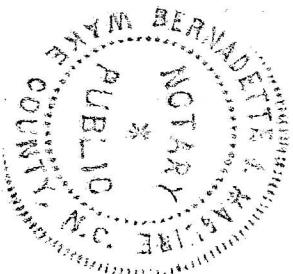
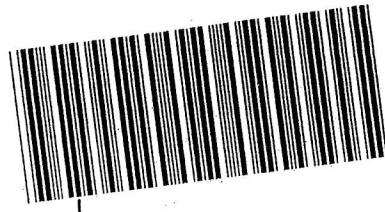


EXHIBIT A
LEGAL DESCRIPTION

Being all of that property reflected on that subdivision plat recorded at Book of Maps 2003, Page 708-2210, Wake County Registry; save and excepting that property being dedicated by the recording of that subdivision plat.

EXHIBIT B
ADDITIONAL PROPERTIES

Being all of that property described in those Deeds recorded at Book 9485, Page 1043, and Book 10482, Page 0983, Wake County Registry, save and excepting that property described in Exhibit A above.



BOOK:010593 PAGE:02518 - 02541

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds