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**DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
MORRISON COVE AT OAK TREE**

This Declaration is made as of the ____ day of _____, 199__ by Morrison Cove, L.L.C., a North Carolina limited liability company, (“Declarant”) and Squires Homes, Inc. (“Home Builder”) with reference to the following facts:

RECITALS

A. Declarant and Home Builder own certain real property (the “Property”) in Iredell County, North Carolina, which is described on map recorded in Map Book 25 at Pages 93/in the Iredell County Public Registry.
94 and 95

Declarant also owns certain other real property on the east side of Oak Tree Road, Iredell County, North Carolina, located adjacent to the Property and known as the “Additional Land” as described on Exhibit A attached hereto.

B. Declarant may, pursuant to Article 16, by one or more supplemental filings pursuant to Article 16 hereof, make all or any portion of the Additional Land (as defined in Section 1.01 hereof) subject to this Declaration and part of this Project (as defined in Section 1.32 hereof).

C. Declarant intends to improve the Project as a planned development by dividing the Project into lots appropriate for single-family dwellings. Declarant intends to develop the Project under a common scheme and general plan to insure the attractiveness of the Project, to prevent any future impairment thereof, to prevent nuisances and enhance the values and amenities of all properties in the Project, and to provide for the maintenance and upkeep of all common areas within the Project.

D. For this purpose Declarant and Home Builder intend to subject the Project to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in this Declaration, for the benefit of the Project and the future owners thereof.

E. Declarant deems it desirable for the management and administration of the Project and for the preservations of the values and amenities of the planned development to incorporate the Morrison Cove at Oak Tree Homeowners Association, Inc. as a non-profit corporation under the laws of the State of North Carolina for the purposes of administering and enforcing the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, including maintaining certain common areas and collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof, and exercising such other powers as may be authorized by this Declaration by law, or by its Articles of Incorporation and Bylaws.

F. Declarant also owns certain other real property on the west side of Oak Tree Road which it intends to improve as Wyndham Shores at Oak Tree and Oak Tree Landing, which together with Morrison Cove at Oak Tree will be known as the Villages at Oak Tree. Declarant intends to construct certain amenities, including swimming pool, cabana and boat ramp, for the use and benefit of all owners of lots in the Villages at Oak Tree which will be owned, administered and maintained by the Villages at Oak Tree Recreation Association, Inc., a non-profit corporation under the laws of the State of North Carolina and will be subject to a Declaration of Covenants, Conditions and Restrictions for the Villages at Oak Tree Recreation Area.

NOW, THEREFORE, Declarant and Home Builder hereby declare as follows:

ARTICLE 1
DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.01. “Additional Land” means the real property described in Exhibit “A” attached hereto, all or any portion of which may from time to time be made subject to this Declaration pursuant to the provisions of Article 16 hereof.

1.02. “Appraisal” means an appraisal by a member of the Appraisal Institute of the National Association of Real Estate Boards or the Society of Real Estate Appraisers (or, if same are not then in existence, a like organization).

1.03. “Architectural Control Committee or A.C.C.U” means the committee formed pursuant to Article 14 of this Declaration.

1.04. “Articles” means the Articles of Incorporation of the Association, including any amendments thereto.

1.05. “Association” means the Morrison cove at Oak Tree Homeowners, Association, Inc. a North Carolina non-profit corporation, its successors and assigns.

1.06. “Board” means the Board of Directors of the Association.

1.07. “Boat Slip Area” means that area leased from Duke Power Company, together with the Easements over the Recreational Common Area granted to the Boat Slip Association in the Declaration of Boat Slip Area, all as shown on Exhibit “C” and described in Section 4.11 hereof.

1.08. “Boat Slip Association” means the organization described in Section 4.11 hereof.

1.09. “Builder” means any Person other than Home Builder in the business of building and selling homes to individuals and selected by Declarant to buy Lots and construct homes for sale in the Project, so long as any such Builder is in good standing with Declarant.

1.10. “Bylaws” means the Bylaws of the Association, including any amendments thereto.

1.11. “Class A Member” is defined at Section 8.03 hereof.

1.12. “Class B Member” is defined at Section 8.03 hereof.

1.13. “Common Area” means (a) all real property, easements and improvements thereon, owned by or held in trust for the benefit of the Association for the common use and enjoyment of its members; (b) the subdivision Entrance Monument Easements and (c) the subdivision Landscape and Easement Areas.

1.14. “Completion of Sales” means the earlier of (1) conveyance of all Lots in the Project to purchasers other than Home Builder or a successor Declarant hereunder or (2) the date which is (x) seven (7) years from the closing of the first sale of a Lot or (y) seven (7) years from the closing of the first sale of a Lot in the Phase most recently made subject to this Declaration, whichever occurs later; provided, however, if Declarant is delayed in developing the Project, constructing improvements or selling Lots and dwellings due to strikes or work stoppages; shortages of materials, supplies, fuel, power or energy; moratoria or suspensions on issuance of land use permits and approvals or affecting the availability of water, sewer, power or other utilities or necessary services; inclement weather; civil strife; major disaster or other cause beyond Declarant's reasonable control, said seven (7) year period shall be extended by the period of any such delay.

1.15. “County” means Iredell County in the State of North Carolina.

1.16. “Declarant” means Morrison Cove, L.L.C., a North Carolina limited liability company, any successor or assign to whom Morrison Cove, L.L.C. Assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the official records of the County, or any mortgagee of Declarant which takes control of the Project by foreclosure or trustee's deed.

1.17. “Declaration” means this Declaration and all amendments or supplements hereto.

1.18. “Entrance Monument Easements” means the appurtenant easements hereby reserved and granted by Declarant to the Association over the areas designated on the Map as “sign easement” or otherwise in accordance with Section 7.17, together with the stone monument(s), entrance sign (s) located on such monument(s), lighting, irrigation system, landscaping and other improvements which may be constructed thereon, to be used for entryways to the Project.

1.19. “Home Builder” means Squires Homes, Inc., a Delaware corporation and any Declarant-approved successor or assign to whom Squires Homes, Inc. assigns its interest as Home Builder hereunder in whole or in part by instrument recorded in the official records of the County and which contains the written consent of Declarant so long as such Home Builder is not in material breach under its contractual agreements with Declarant.

1.20. “Insurance Trustee” means a national banking association or title company licensed to do business in North Carolina as may be designated by the Association to hold and disburse funds as trustee for the Association and the Owners, as provided in this Declaration.

1.21. “Landscape and Easement Areas” means the appurtenant easements hereby reserved and granted by Declarant to the Association over the areas designated on the Map as “Landscape and Easement Area” or otherwise in accordance with Section 7.19, together with the lighting, irrigation system, landscaping and other improvements which may be constructed thereon.

1.22. “Lake Norman” means the body of water generally depicted on the land plan attached hereto as Exhibit “B”.

1.23. “Lot” means any numbered lot or plot of land, together with any improvements thereon, as shown on the Map, which is not a dedicated street or Common Area.

1.24. “Map” means the maps of Morrison Cove at Oak Tree recorded in Map Book 25 at Pages 93,/94 and 95 in the Iredell County Public Registry, and any re-recordings thereof, as well as any additional recorded maps of Additional Land made subject to the provisions of this Declaration pursuant to Article 16 hereof.

1.25. “Member” means a member of the Association.

1.26. “Mortgage” means a mortgage or deed of trust which constitutes a first lien upon a Lot given to a bank, savings and loan association or other institutional lender or individuals for the purpose of securing indebtedness incurred to purchase or improve a Lot.

1.27. “Mortgagee” means the holder of the beneficial interest in any Mortgage.

1.28. “Notice and Opportunity for Hearing” means giving at least fifteen (15) days prior notice of a proposed action and the reasons therefor, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

1.29. “Owner” means the record owner, whether one or more persons or entities, of a fee simple title to any Lot, and shall include Declarant as to any Lot owned by Declarant and shall include Home Builder and Builder as to any Lot owned by Home Builder or any Builder. “Owner” shall not include any person or entity who holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.

1.30. “Person” means an individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.31. “Phase” means any portion of the Project shown on a Map.

1.32. “Project” means the planned development known as Morrison Cove at Oak Tree which shall be developed and constructed on the Property, and any Additional Land made subject to this Declaration by recordation of a Supplemental Declaration pursuant to Section 16.02 of this Declaration.

1.33. “Property” means the property shown on the Map, exclusive of the public rights of way shown on the Map, which Property includes the Lots and the Common Area.

1.34. “Public Roads” means all roads and cul-de-sacs in the Project and shown on the Map, all to be maintained by the Declarant until accepted for dedication and public maintenance by the State of North Carolina or other governmental entity. Declarant hereby grants to the Villages at Oak Tree Recreation Association, Inc. an easement over the Public Roads for access to the Recreational Common Area which shall automatically terminate upon such acceptance for dedication and public maintenance by a governmental entity.

1.35. “Recreational Common Area” means those areas on the Map designated as “Amenity Area” to be owed by the Villages at Oak Tree Recreation Association, Inc. and which will include a swimming pool, cabana, boat ramp, parking lot and any related facilities as determined by Declarant in its sole discretion.

1.36. “Recreation Association” means the Villages at Oak Tree Recreation Association, Inc., a North Carolina non-profit corporation, its successors and

assigns, formed to own, administer and maintain the Recreational Common Area.

1.37. “Rules and Regulations” means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association, provided notice of such rules and regulations has been given to Owners in accordance with the requirements of this Declaration.

1.38. “Structure” means (a) any thing or object the placement or construction of which upon any Lot may affect the appearance of such Lot, including but not limited to, any building, garage, porch, shed, gazebo, patio cover, pool, statuary, fence, paving, driveway, wall, all forms of landscaping, signs, temporary or permanent living quarters and tent, antennae and satellite dishes; (b) any excavation, grading, fill, ditch, berm, or other thing or device which affects or alters the flow of surface waters from, upon or across any Lot as originally graded by Declarant, Home Builder, or Builder, or which affects or alters the flow of any water in any natural or artificial creek, stream, was or drainage channel from, upon or across any Lot.

1.39. “Supplemental Declaration” means a supplemental declaration of covenants, conditions and restrictions which shall be recorded for the purposes of annexing additional property, including all or any portion of the Additional Land, to the Project and causing such property to be subject to the scheme of covenants, conditions and restrictions contained in this Declaration.

1.40. “Voting Power” means the total number of votes held by Members whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of this Declaration or the Rules and Regulations. Voting Power shall be computed by including all such Members whether or not such Members are present in person or by proxy at a meeting. All voting specifications and requirements shall apply to the entire Project.

1.41. “Villages at Oak Tree” means the overall development by Declarant on both sides of Oak Tree Road which includes Morrison Cove at Oak Tree, Wyndham Shores at Oak Tree and Oak Tree Landing.

1.42. “Boat Slip Access Easement” means the appurtenant easements hereby reserved and granted by Declarant to the Boat Slip Association over the areas designated on the Map as “Boat Slip Access Easement”.

ARTICLE 2
SUBMISSION AND TERM

2.01. Submission. The Project shall be held, conveyed, hypothecated, encumbered, sold, leased rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared to be (i) in furtherance of a common scheme and general plan for the development, improvement and maintenance of the Project and (ii) for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Project. All of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein shall run with, be binding upon and inure to the benefit of each and every Person having or acquiring any right, title or interest in the Project, shall be binding upon and inure to the benefit of the successors in interest of such persons, and shall inure to the benefit of the Association, its successors and assigns.

2.02. Incorporation of Declaration Into Instruments. Any deed or other instrument by which a Lot is conveyed shall be subject to the provisions of this Declaration and shall be deemed to incorporate the provisions of this Declaration, whether or not the deed makes the reference hereto.

2.03. Term. This Declaration shall remain in force for a term of twenty (20) years from the date this Declaration is recorded, after which time it shall be automatically extended for successive periods of ten (10) years, unless sooner terminated by the affirmative vote of seventy-five percent (75%) of the total Voting Power of the Association and written consent of seventy of seventy-five percent (75%) of the Mortgagees.

ARTICLE 3
COMPLIANCE WITH MANAGEMENT DOCUMENTS

3.01. Compliance with Declaration and Other Documents. Each Owner, resident or tenant of a Lot shall comply with the provisions of this Declaration, the Bylaws, Rules and Regulations duly adopted by the Association, decisions and resolutions of the Association and its duly authorized representative, all as may be amended from time to time failure to comply with any such provisions, decisions

or resolutions, shall be grounds for an action to recover sums due for damages or for injunctive relief.

3.02. Resolution of Conflicts Between Documents. Each Owner covenants and agrees that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles, the Bylaws and Rules and Regulations adopted by the inconsistencies in the Bylaws, Articles and this Declaration, then the provisions of the Declaration shall prevail. In the event that anything shown on a recorded final subdivision map for all or any portion of the Project is in any way inconsistent with provisions of this Declaration, then the provisions of this Declaration shall prevail. If a dispute arises among Owners in regard to the administration of the Project, then the provisions of this Declaration shall prevail.

ARTICLE 4 PROPERTY RIGHTS

4.01. Common Area Easements. All Common Area shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public. Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, which rights and easements shall be appurtenant to and shall pass with the title to his Lot and subject to the following rights and restrictions:

(A) The right of the Recreation Association, after Notice and Opportunity for Hearing, to limit the number of guests of an Owner, to charge reasonable admission and other fees for the use of the Recreational Common Area, if any, and to limit the use of said facilities to Owners who occupy a residence in the Project.

(B) The right of the Recreation Association and/or the Association to suspend the right of an Owner to use any Recreational Common Area or Common area (1) for any period during which any fine against a Member or any assessment against such Owner's Lot remains unpaid; and, (2) after Notice and Opportunity for Hearing, for a period not to exceed thirty (30) days beyond the date any infraction of the Rules and Regulations has been fully remedied;

(C) The right of the Association to grant easements and to dedicate or otherwise convey all or any part of the Common Areas as provided in this

Declaration, including Section 5.01;

(D) The right of the Association to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes, subject to the approval of Members and Mortgagees as otherwise provided in this Declaration, including Section 5.02;

(E) The right of the Board of the Association to adopt Rules and Regulations governing use and enjoyment of the Common Area; and

(F) Easements for ingress, egress, use and enjoyment over, in, to and throughout the Common Area and Recreation Common Area for the benefit of Declarant Home Builder.

(G) Easements hereby granted by Declarant to the Boat Slip Association and its membership for the purposes of (a) ingress and egress over the Recreation Common Area to the Boat Slip Area to be constructed by Declarant; (b) non-exclusive rights to park on portions of the Recreation Common Area designated by the Association for parking; (c) constructing, maintaining, repairing and replacing improvements (such as docks, piers and a ramp) connecting the Boat Slips Area to the Common Area; and (d) constructing and maintaining utility lines over the Recreation Common Area to serve the Boat Slip Area.

4.02. Delegation. Any Owner may delegate his right of use and enjoyment of the Common Area and Recreation Common Area and any facilities thereon to the members of his family or household residing on his Lot and to his guests and invitees while he is in possession of his Lot, subject, however, to reasonable restrictions imposed by the provisions of this Declaration, the Bylaws and the Rules and Regulations. Guests and invitees shall not be permitted on the Common Area and Recreation Common Area unless the Owner or household member delegating his rights of use required by Section 4.02 of this Declaration has first been given to the Association, a tenant of an Owner, while residing on such Owner's Lot, shall be entitled to use and enjoy the Common Area and Recreation Common Area and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if such tenant were the Owner of such Lot. No such delegation shall release an Owner from his obligations hereunder, including, without limitation, the obligation to pay regular and special assessments.

Upon Request, each Owner or tenant shall notify the Secretary of the Association of the names of all persons to whom such Owner or tenant has delegated any rights of use and enjoyment of the Common Area and Recreation Common Area and the relationship that each such person bears to such Owner or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the rights of Owners.

4.03. Tenants.

(A) Any Owner who rents or leases his Lot to a tenant shall not be entitled to use and enjoy any recreational or other common facilities on the Common Area and Recreation Common Area during the period the Lot is occupied by such tenant.

(B) No Owner shall lease or rent less than an entire Lot and no more than one family shall live on any one Lot. The Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than sixty (60) days. Subject to the foregoing restrictions, Owners shall have the right to lease or rent their Lots, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Rules and Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the Bylaws, and the Rules and Regulations.

(C) In the event an Owner shall rent or lease his Lot such Owner shall immediately give to the Association in writing:

- (1) the name of the tenant and the Lot rented or leased;
- (2) the current address of such Owner;
- (3) a true and complete copy of the lease or rental agreement;

and

(4) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the Bylaws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as a tenant.

4.04 Reciprocal Easements. There shall be reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area and Recreation Common Area as may be adjacent thereto and between adjacent Lots for the flow of rainwater from Lot surfaces, gutters and downspouts; provided, however, that no such easement shall unreasonably interfere with the use and enjoyment of the Common Area and Recreation Common Area or any adjacent Lot. If any Common Area and Recreation Common Area or Lot encroaches upon a Lot because of the placement, construction, reconstruction, repaired in accordance with the provisions of this Declaration, an easement for the encroachment and for its maintenance shall exist to a distance of not more than one (1) foot as measured from any point on the common boundary between the Common Area and Recreation Common Area and the Lot or between Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall such an easement exist for willful encroachments. If any Lot encroaches upon the Common Area and Recreation Common Area as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Project, an easement for the encroachment and for its maintenance shall exist so long as it remains.

4.05. Utility Easements. Any easements for installation, maintenance, use or repair of public utilities or drainage facilities which are dedicated on any final subdivision map of the Project or created in some other way shall be kept free of buildings, and within such easements no structure shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, use or repair of such public utilities or drainage facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. All such easements at all times shall be accessible to Declarant until the Project is completed and at all times shall be accessible to Declarant until the Project is completed and at all times shall be accessible to all persons installing, repairing, using or maintaining such utilities and drainage facilities.

4.06. No Time-Sharing. There shall be no time-sharing or other co-ownership which allows multiple Owners sequential possessory interests in a Lot.

4.07. Sale of Common Area. Except as otherwise provided in this Declaration (such as Sections 4.01 and 5.01), no sale, transfer, dedication, hypothecation, partition, subdivision, abandonment, release or alienation of the Common Area shall occur or be valid, whether by act or omission of the Association, without (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than Declarant and Home Builder.

4.08. Rules and Regulations. The Board of the Association shall have the right to adopt, amend, publish and enforce Rules and Regulations governing the Project, the use and enjoyment of the Common Area and any facilities thereon, and the personal conduct thereon of the Owners, their guests, invitees, members of their families or households and tenants. The Members may amend any such Rules and Regulations adopted by the Board at any regular or special meeting of Members called for such purpose by (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of members of the Association, or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association. Such Rules and Regulations shall be reasonable, shall not discriminate against Declarant or Home Builder (or have an adverse impact on Declarant and Home Builder or upon the sale of Lots or the construction of improvements thereon), and must be consistent with this Declaration, the Articles and the Bylaws.

4.09. Enforcement. The Board shall have the right to levy fines for infraction of the provisions of this Declaration or the Rules and Regulations, provided (i) the Member shall have Notice and Opportunity for Hearing, and (ii) the fine conforms to the provisions of Section 9.11.

4.10. Recreational Common Area. Declarant shall complete and convey or cause to be conveyed to the Recreation Association and Recreational Common Area for use by Owners as a recreational facility.

4.11. Boat Slip Area.

(A) Certain water and land which is adjacent to the Property has been designated by Declarant as a Boat Slip Area approximately in the location within the 1.365 acre area as shown on Exhibit "C" hereto. Declarant or the Association may from time to time submit property easements to the jurisdiction of a Boat Slip Association so that ultimately there may be as many as seventy (70) Boat Slips in such area. The purchase of the exclusive right to the use of the Boat Slips will be made available to the Owners of Lots in the Villages of Oak Tree by Home Builder, as long as Home Builder is not in default under its Lot Purchase Agreement with Declarant. Boat slips will be made available to Owners of non-waterfront Lots on a first-come first-served basis. For purposes of this provision only, Lots _____ shall not be considered waterfront Lots due to the possible difficulty in placing piers on such Lots. The purchase of the exclusive right to use a Boat Slip obligates said purchaser to become a member of the Morrison Cove Boat Slip Association, Inc. ("Boat Slip Association"). The purchase of the exclusive right to use the Boat Slips shall be governed by the Boat Slip Association and Home Builder.

(B) Declarant will administer the construction, installation and initial sale to Home Builder of exclusive rights to use of the Boat Slips, including establishing periodic fees and dues and the initial charge to each Boat Slip Owner. Declarant will assign to the Boat Slip Association Declarant's rights under the lease of the Boat Slip Area from Duke Power Company, but Declarant shall reserve for Declarant the right to convey exclusive rights to use individual Boat slips. The Boat Slip Association will assume all obligations of the Declarant under the lease of the Boat Slip Area from Duke Power Company.

(C) Prior to or concurrent with the Declarant's assignment of the lease of the Boat Slip Area to the Boat Slip Association, Declarant shall convey to the Boat Slip Association ownership of improvements, such as docks and piers, located in the Boat Slip Area, excluding the water and the submerged land. Declarant has reserved for itself and granted to the Boat Slip Association parking, utility, pier connection and ingress and egress easements over and upon the Recreation Common Area to construct, maintain, repair and replace improvements (such as docks and piers) and utilities in the Boat Slip Area and parking.

(D) Each Boat Slip Owner will be deemed to subscribe to

Membership in the Boat Slip Association organized by Declarant to maintain the Boat Slip Area. Among other things such Membership will include an obligation to pay an annual assessment for maintenance of the Boat Slip Area as well as the Boat Slip Association's portion of Recreational Common Area's maintenance associated with access to the Boat Slip Area and parking.

(E) Duke Power Company owns the Boat Slip Area and will charge rent therefor to the Boat Slip Association. The exclusive right to use a Boat Slip will be subject to the fee ownership interest of Duke Power Company and to such lease arrangement. In addition, the exclusive right to use a Boat Slip will be subject to the rights of Duke Power Company in the maintenance of Lake Norman and the rights of the Federal Energy Regulatory Commission.

(F) Notwithstanding anything in this Declaration to the contrary, the exclusive right to use a Boat Slip is at all times contrary, the exclusive right to use a Boat Slip is at all times subject to the cooperation of Duke Power Company, and if for any reason Duke Power Company declines to lease or allow the sale of the exclusive right to use a Boat Slip to an Owner, then such Owner may acquire no interest in said Boat Slip.

(G) Boat Slip Access Easements. Declarant, for itself, its successors and assigns, and the Boat Slip Association, reserves an easement over the following land:

Any portions of Lots designated "Boat Slip Access Easement" (or different language with similar meaning) on any recorded map of the Project.

for the construction, maintenance, repair and replacement of an all-weather path extending from Castles Gate Drive to the Boat Slip Areas and of utility lines, including electricity and water, to provide utilities to the Boat Slip Areas and to provide pedestrian and non-motorized vehicular (such as bicycles and carts) access to and from the Boat Slip Areas and Castles Gate Drive for members of the Boat Slip Association, their families, guests and invitees. Motorized vehicles, with the exception of such vehicles used in the construction, maintenance, repair or replacement of the Boat Slip Area and Boat Slip Access Easement (including utility lines), shall not be allowed on the Boat Slip Access Easement. The Owners of said lots shall maintain the area not maintained or landscaped pursuant to this easement. No fences, structures, driveways, plantings, swings or other other

objects, temporary or permanent, shall be permitted in such easement without the Declarant' or Boat Slip Association's prior written consent. The reservation of this easement imposes no obligation on Declarant, its successors and assigns, to continue to maintain the all-weather path or plantings and landscaping.

(H) Boat Slip as an Appurtenance to a Lot. Declarant shall be the source of all Boat Slips. Boat Slips shall be designated by means of a drawing attached to a Boat Slip Declaration or a Supplemental Boat Slip Declaration recorded by Declarant . Upon fulfillment of certain terms and conditions under the agreements between Declarant and Home Builder and Declarant and Builders, Declarant will convey Boat Slips to Home Builder or a Builder by instrument(s) recorded in the County's office of the register of deeds. In the initial deeds of Lots to Persons other than a Builder may designate by number designation a Boat Slip as an appurtenance to a Lot within the Project to be conveyed to an Owner. Such deed(s) shall provide that the grantee is granted the exclusive right to use such Boat Slip. Except as provided in the following sentence and in subsection (I) below, once designated as an appurtenance; any deed, deed of trust, mortgage, transfer or other conveyance of such Lot shall appurtenant thereto, even if not expressly included therein. Provided however, the right to use a particular Boat Slip may be conveyed by a recorded instrument to the Owner of, and may be made appurtenance to, any other Lot, in which case the right to use the Boat Slip shall then run with the title to such other Lot.

(I) Renting Boat Slips. Except as provided in the following sentence, no Person owning the exclusive right to use a Boat Slip may lease or rent any Boat Slip. Provided, however, Declarant and only Declarant may lease or rent any Boat Slip owned by it to an Owner as provided in Section 4 of Article IV of the Declaration of Boat Slip Area.

ARTICLE 5

COMMON AREA AND EASEMENTS AND RIGHTS-OF-WAY ENCUMBRANCES

5.01. Dedications. The Association shall have the power to grant easements in, on, over, through and across the Common Area for any public or quasi-public improvements of facilities and their appurtenances, including, without limitation, street, sewer, drainage, water, gas and sprinkler improvements and facilities, provided (i) any such easement does not unreasonably interfere with the use and enjoyment of the Common Area or any Lot, (ii) the prior written consent of Declarant or Home Builder owns any Lot, and (iii) as long as there are two classes

of Membership in the Association prior approval of the Federal Housing Administration shall be obtained. Each Owner, by accepting a deed to a Lot, expressly grants to the Association an irrevocable power of attorney for the purpose of granting such easements in, on, over, through and across the Common Area. The President or other duly designated officer of the Association may execute, acknowledge and record in the official records of the County a certificate stating that the Board is the attorney in fact for the Owners for the purpose of such grant and that such power of attorney is properly exercisable in accordance with this Declaration. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. The power of attorney herein granted shall include authority to do such acts incidental to such grant and to incur such expenses as may be necessary or convenient in connection therewith. The Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including but not limited to, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be deemed necessary or convenient for such dedication or grant.

5.02. Encumbrances. The Association shall have the right to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on Common Area and otherwise encumber the Common Area for such purposes (i) if a two-class voting structure is in effect, upon the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, upon the total Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than Declarant or Home Builder. As long as there are two classes of Membership in the Association, any mortgaging of the Common Area shall require the approval of the Federal Housing Administration.

ARTICLE 6 COMMON AREA AND LOT MAINTENANCE

6.01. Maintenance by Association. The Association shall repair and maintain the Common Area and all improvements, utilities and facilities located on the Common Area. The Association's maintenance obligation shall arise upon the filing with the Association by Declarant of a notice of completion of Common Area improvements, or any portion thereof, and the commencement of annual

assessments against the Owners. The Recreation Association shall repair and maintain the Recreational Common Area. The Recreation Association shall repair and maintain the Recreational Common Area.

6.02. Maintenance by Owners. Each Owner, at all times, shall maintain, repair and otherwise be responsible for his Lot and the improvements thereon. Without limiting the generality of the foregoing, and subject to the requirements of Section 14.02 of this Declaration, an owner shall be responsible for replacement and reconstruction of improvements on his Lot required because of damage or destruction by fire or other casualty. Each Owner shall maintain, repair and replace the surface and subsurface drainage facilities, swales and appurtenances located on his Lot as may be necessary to maintain good and proper drainage of the property and other real property in the vicinity, except for such facilities the maintenance of which has been assumed by the County or other governmental entity. If any Owner, after Notice and Opportunity for Hearing, fails to maintain, repair and replace such drainage facilities, swales and appurtenances as required herein, the Association, at the expense of such Owner, shall maintain, repair and replace such drainage facilities, swales and appurtenances at the sole cost and expense of such Owner, and the Board, without the vote or written consent of Members, may levy a special assessment against such Owner to obtain reimbursement therefor as provided in Section 9.07.

No Structure shall be placed or permitted to remain on any Lot which may damage or interfere with the use, maintenance, repair or replacement of such drainage facilities, swales and appurtenances and no Owner shall do any work, construct any improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Area as established in connection with the approval of the subdivision map or maps applicable to the Project by the County, except to the extent such alteration in drainage pattern is approved in writing by the Architectural Control Committee and all public authorities having jurisdiction. All such drainage facilities, swales and appurtenances shall at all times be accessible to Declarant until the Project is completed and at all times shall be accessible to the Association and all persons installing, using, maintaining, repairing or replacing such drainage facilities, swales and appurtenances. Declarant may from time to time present for recordation in the official records of the County instruments showing approximate locations of subsurface storm drainage facilities and of subsurface groundwater drainage facilities.

6.03. Negligence. The cost of repair or replacement of any improvement to be maintained and kept in repair by the Association, which repair or replacement is required because of the act or omission of any Owner, shall be responsibility of and paid for by such Owner.

6.04. Right to Enter. After reasonable notice to the occupant, the Association or its agents shall have access over and upon any Lot when necessary in connection with any repair, maintenance, or replacement of improvements for which the Association is responsible or for the enforcement of this Declaration, and each Owner shall accept title to his Lot subject to such right of access of the Association or its agents. By way of illustration, and not limitation, the Association may repair, maintain and replace drainage facilities and/or drainage swales on a Lot.

ARTICLE 7 USE RESTRICTIONS

In addition to the restrictions set forth in Article 14 below, the following apply to the Project:

7.01. Residential Use. Except for model homes and construction trailers used by Declarant, Home Builder or a Builder (and their agents), Lots shall be used as a residence for a single family and for no other purpose and no Owner shall use or cause or permit to be used his Lot for any business, commercial, manufacturing or mercantile use or purpose, or for any other nonresidential use or purpose. The foregoing to the contrary notwithstanding, it shall be expressly permissible for Owners to conduct certain business or commercial activities within their residence which do not conflict with local zoning ordinances, restrictions and regulations. No such activity shall be conducted which shall unduly burden traffic flows within the Property or cause the parking of non-resident vehicles upon the street for unreasonable or excessive periods of time. By way of example but not limitation, the following uses shall, so long as they conform to the foregoing criteria, be considered acceptable: home day care for a reasonable number of children, infrequent garage sales, music lessons, tutoring, telemarketing, various other telephone related activities, crafts and hobbies that do not create an unusual noise nuisance. It shall be within the discretion of the Board to determine, on a case-by-case basis, which commercial and business related activities will be compatible with the residential nature of the subdivision. Notwithstanding the

above provisions, the Restaurant Site is divided into individual residential Lots.

7.02. Unlawful Activity. No unlawful activity shall be conducted on any Lot or in any other part of the Project. Nothing shall be done within the Project that is an unreasonable annoyance, inconvenience or nuisance to the residents of the Project, or that unreasonably interferes with the quiet enjoyment of occupants of the Lots. No doorways, walkways or streets shall be obstructed in any manner which would interfere with their use for ingress or egress in the event of fire, earthquake or other emergency.

7.03. Parking. Unless otherwise permitted by the Rules and Regulations, no boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle (“Vehicle”) shall be parked, stored or left (a) on any undesignated part of the Common Area or (b) on any other part of a Lot unless the same are fully enclosed within the garage located on the Lot, or are kept behind the front setback line of the Lot, as such setback line is depicted on the relevant plat of subdivision and screened from the view of the adjoining Lots and the street by a fence or other structure approved by the Architectural Control Committee. Any such Vehicle shall be parked, stored or left wholly within the garage located upo the Lot or the screened area previously approved by the Architectural Control committee, except to the extent a garage or such screened area is already occupied to capacity, in which case such vehicle may be parked temporarily (no over 72 hours in any ten (10) ten day period) in the driveway. This restriction shall no apply to sales trailers, construction trailers or other vehicles which may be used by Declarant and Home Builder and their agents, vendors and contractors in the conduct of their business prior to Completion of Sales. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living or dwelling area within the Project. No repairs to any automobile or other Vehicle shall be made or performed on any driveway within the Project, except in the case of emergency and except as may be permitted by the Rules and Regulations. Minor maintenance to vehicles may be performed on a driveway so long as such maintenance is limited to, or the equivalent of, oil and other fluid changes, tire rotation, washing and waxing, and similar activities.

7.04. Signs and Curtains. No Owner shall place on or about any window any metallic foil or other coating, substance or material which similarly acts as a reflector of light and no Owner shall display, hang, store or use any signs, awnings, shades or other articles outside of the dwelling on any Lot other than as

may be permitted by the Rules and Regulations or the Architectural Control Committee. Notwithstanding the foregoing, one professional sign of not more than one (1) square foot or one sign of not more than five (5) square feet advertising a Lot for sale or rent may be placed by the Owner on his Lot in such manner that it will be visible from outside the Lot. The prohibitions in this section shall not apply to Declarant or Home Builder or their agents, who may erect such signs as they deem desirable to promote the sale of Lots.

7.05 Antennas. Except as may be permitted by the Architectural Control Committee, no Owner shall construct, install, erect or maintain any television or radio pole, antenna, aerial, dish, tower or support thereof upon any Lot or improvement thereon except that a TV antenna may be affixed to the chimney of the dwelling. The height of the TV antenna shall not extend 10 feet over the ridge line of the dwelling.

7.06. Laundry. No laundry or wash shall be dried or hung upon the exterior of any Lot or any place visible within the Project from outside such Lot.

7.07. Fences. Except as may be approved by the Architectural Control Committee, no fence or wall shall be erected on any Lot closer to the street than the side street setback or the front of the building facade except for temporary decorative fencing installed by a builder on a model home. Perimeter fencing privacy fencing around patios, decks or pools may not exceed six (6) feet in height and must be approved prior to construction by the Architectural Control Committee. Chain link or other metal fencing is expressly prohibited, except that 2"x4" mesh may be used with split rail fencing to contain animals within the yard.

7.08. Pets.

(A) No animals shall be raised, bred or kept on any Lot or the Common Area, except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets generally to be outdoor pets, such as dogs, cats, etcetera, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months in age. All animals outside the confines of a fence shall require a leash and must be accompanied by the Owner of such animal. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience, nuisance or danger to any other Owner.

If the Board receives any complaint that an animal constitutes an unreasonable annoyance, inconvenience, nuisance or danger, the Board shall afford the Owner of such animal Notice and Opportunity for Hearing, and if the Board finds that such animal constitutes an unreasonable annoyance, inconvenience, nuisance or danger, the Board may require that such animal be removed from the Project.

(B) The Board may adopt Rules and Regulations concerning animals which are more restrictive than the provisions of this Declaration, including rules requiring that all animals be kept on a leash when in the Common Area and that Owners are responsible for cleaning up any mess that a pet creates within the Common Area. The Board may adopt a rule prohibiting certain pets, which is more restrictive than the provisions of this Declaration, except that such rule shall not apply to animals residing in the Project at the time such rule is adopted. In any event, the Board at any time may require that any animal found to be an unreasonable annoyance, inconvenience, nuisance or danger be removed as provided in Section 7.08(A).

7.09. Trash and Vegetation. No trash, rubbish, garbage or other waste material shall be kept or permitted upon any Lot or the Common Area, except in sanitary containers (and organic compost bins approved in advance in writing by the Architectural Control Committee) located in an appropriate area screened and concealed from view. No weeds, vegetation, rubbish, debris, garbage, waste materials of any kind whatsoever shall be placed or permitted to accumulate on any Lot or any portion of the Project which would render it unsanitary, unsightly, offensive or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the Project shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants which die shall be promptly removed. If any Owner, after Notice and Opportunity for Hearing, fails to maintain his Lot as required above in this section, the Association, at the sole cost and expense of such Owner, may maintain said Lot and without the vote or written consent of Members, may levy a special assessment against such Owner to obtain reimbursement therefor as provided in Section 9.07. This Section 7.09 shall be applicable only to Lots conveyed to Owners other than Declarant, Home Builder or Builder. Declarant, Home Builder and any other Builder shall be exempt from the provisions of this section but shall have the obligation to take such steps as are reasonable and practical during the course of construction in order to maintain the

cleanliness of the area.

7.10. Wells. No well for the production of, or from which there is produced water, oil, gas or other substance shall be dug or operated anywhere within the Project, except upon the direction and under the authority of the Association. Provided, however, any well(s) dug or operated within the Project in connection with the supply of water pursuant to a community well system by Declarant or Home Builder, their successors and assigns, is hereby excepted from the provisions of this Section 7.10.

7.11. Nuisance. No noxious or offensive activity shall be carried on in or upon any Lot or the Common Area nor shall anything be done thereon which may be or become an unreasonable annoyance, inconvenience or nuisance to the residents of the Project or unreasonably interferes with the quiet enjoyment of occupants of Lots. No Owner shall permit anything to be done or kept on his Lot which would result in cancellation of insurance on any other residence or any part of the Common Area or which would be in violation of any law.

7.12. Satellite Dishes or Discs. No radio or television transmission or reception towers, antennas or discs shall be erected on a Lot other than customary antenna as set forth in Section 7.05 and small, unobtrusive mini-antennas or discs approved in advance in writing by the Architectural Control Committee. In no event shall free standing transmission or receiving towers or discs or dishes be permitted unless Declarant determines, in its sole discretion, to construct a television antenna or disc for the purpose of community wide television cable service assuming no such service is available by other private or public companies providing such service. Declarant has no obligation to construct community wide television cable services.

7.13. Swimming Pools. No swimming pool shall be erected or installed on a Lot except as may be permitted by the Architectural Control Committee. Under no circumstances shall above ground swimming pools be authorized by the Architectural Control Committee.

7.14. Floor Space. The floor area of each home constructed on a waterfront Lot shall be not less than seventeen hundred (1,700) square feet, and for non-waterfront Lots, the floor area of each home constructed thereon shall be not less than fifteen hundred (1,500) square feet; provided, however, that the aforesaid

square footage requirements shall be based on interior heated floor space exclusive of basements, garages, porches, decks, balconies and overhangs.

7.15. Declarant's and Home Builder's Rights. Notwithstanding anything to the contrary contained in this Article or elsewhere in this Declaration, Declarant and Home Builder and their agents, employees and contractors shall not be restricted or prevented by this Declaration from doing, and Declarant and Home Builder, their agents, employees and contractors shall have the right to do such things or take such actions as they deem necessary, advisable or convenient for completion and improvement of the Project as a residential community for the sale, rental or other disposition of Lots in the Project. The rights of Declarant and Home Builder, their agents, employees and contractors shall include, without limitation:

(A) The right and easement of ingress in, over and upon the Common Area for the purpose of performing on any part or parts of the Project acts deemed necessary, advisable or convenient for the completion and improvement of the Project as a residential community and for the sale, rental or other disposition of Lots;

(B) The right to erect, construct, maintain, demolish or remove structures and other improvements on any Common Area as they deem necessary, advisable or convenient for the completion and improvement of the Project as a residential community for the sale, rental or other disposition of Lots;

(C) The right to use Lots and improvements owned by Declarant or Home Builder as models, sales offices and contractor's offices and to construct and display promotional, informational and directional signs and other sales aids on or about any portion of the Project;

(D) The right and easement of ingress and egress in, over, under, across and upon the Lots and the Common Area for the purpose of installing, maintaining, repairing and replacing a cable television system or satellite television system. Moreover, the identical right and easement is hereby reserved to the Association, provided that the Association may exercise such right only (i) if a 2-class voting structure is in effect, approval by the vote or written consent of the majority of the Voting Power of each class of members or (ii) if a 2-class voting structure is not in effect by the vote or written consent of the majority of the

majority of the Voting Power of the Association. In any case, whether such right is exercised by the Declarant or the Association, in order to connect to such system, the Owner of the Lot must pay the connection fee charge therefore by the company providing the cable or satellite service.

The rights of Declarant and Home Builder under this section shall terminate one (1) year after the Completion of Sales. Amendment of this section shall require (i) if a two-class voting structure is in effect, the vote or written consent of seventy-five percent (75%) of the Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, the vote or written consent of both seventy-five percent (75%) of the total Voting Power of the Association and of the total Voting Power of the Association residing in Members other than Declarant and Home Builder. Further, no amendment of this section can be made without the written approval of Declarant and Home Builder.

7.16. Right to Enter. Any governmental agency, including, but not limited to the County, its agents, and employees, shall have the right of immediate access to the Common Area at all times if necessary for the preservation of public health, safety and welfare.

7.17. Subdivision Entrances. Declarant, for itself, its successor and assigns, reserves an easement over the following land:

Any portions of Lots designated “Sign Easement” (or different language with similar meaning) on any recorded map of the Project

for the construction, maintenance, repair and replacement of subdivision entrance signs, fences, irrigation and lighting systems, and for the purpose of landscaping the area around the signs. The Owners of said Lots shall maintain the area around the signs not maintained or landscaped pursuant to this easement. No fences, structures, driveways, plantings, swings or other objects, temporary or permanent, shall be permitted in such easement without the Declarant's or Association's prior written consent. Declarant may assign this easement to the Association. The reservation of this easement imposes no obligation on Declarant, its successors and assigns, to continue to maintain the landscaping and entrance signs.

7.18. Private Piers. Subject to any applicable Duke Power Company rules

and regulations and Iredell County zoning ordinances, private piers or boat docks may be constructed located or maintained into Lake Norman on waterfront Lots, provided such piers and docks conform to the standard pier/boat dock set forth in Exhibit D or are approved by the Architectural Control Committee.

7.19. Landscape and Easement Areas. Declarant, for itself, its successors and assigns, reserves an easement over the following land:

Any portions of Lots designated “Landscape and Easement Areas (or different language with similar meaning) on any recorded map of the Project and the median located within the right-of-way of Morrison Cove Road and any other medians located in the Project.

for the construction, maintenance, repair and replacement of irrigation and lighting systems, berms, plantings and landscaping within the Landscape and Easement Areas. The Owners of said Lots shall maintain the area not maintained or landscaped pursuant to this easement. No fences, structures, driveways, plantings, swings or other objects, temporary or permanent, shall be permitted in such easement without the Declarant's or Association's prior written consent. Declarant may assign this easement to the Association. The reservation of this easement imposes no obligation on Declarant, its successors and assigns, to continue to maintain the plantings and landscaping.

ARTICLE 8 MEMBERSHIP AND VOTING RIGHTS

8.01. Governing Body. The Association shall be the governing body for all Owners with respect to the management, administration, maintenance, repair and replacement of the Project, as provided by this Declaration and the Bylaws.

8.02. Membership. Membership in the Association shall be composed of and limited to Owners. Each Owner, including Home Builder and Declarant, shall automatically be a Member of the Association and entitled to vote as set forth below. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Upon termination of ownership, an Owner's Membership shall automatically terminate and be automatically transferred to the new Owner of

the Lot.

8.03. Voting. The Association shall have two classes of voting Membership:

Class A. “Class A Members” shall be all Owners with the exception of Home Builder and Declarant; provided, however that Home Builder and Declarant shall become a Class A Member when their Class B Membership ceases as provided hereinafter. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves. In the event of disagreement, the decision of Members holding a majority of interest in such Lot shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of a co-owner shall be conclusively presumed to the majority vote of the Owners of that Lot.

Class B. “Class B Members” shall be Declarant and Home Builder and shall be entitled to three (3) votes for each Lot owned; provided that Declarant's and Home Builder's Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier: (i) the conveyance of seventy-five percent (75%) of all Lots within the Project to Owners other than Declarant, Home Builder or a Builder, or (ii) seven (7) years after the first Lot is conveyed to an Owner for use as that Owner's residence.

8.04. Suspension of Voting. Voting rights attributable to an ownership interest in a Lot shall be suspended throughout the term of any default under this Declaration by an Owner of such Lot.

8.05. Control by Declarant and Home Builder. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association, Declarant and Home Builder hereby retain the right to appoint and remove any Members of the Board of Directors of the Association and any officer or officers of the Association until ninety (90) days after the first of the events to transpire outlined in Section 8.03 concerning the termination of the Class B Member status of Declarant and Home

Builder; or the surrender by Declarant and Home Builder of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant and Home Builder. Upon the expiration of the period of Declarant's and Home Builder's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant and Home Builder if they then own one or more Lots; and a special meeting of the Association shall be called for and held within ninety (90) days from the date of the expiration of Declarant's and Home Builder's rights hereunder. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of running the Association and Declarant and Home Builder shall deliver the books, accounts, and records, if any, which they have kept on behalf of the Association as well as any agreements or contracts executed by or on behalf of the Association which may still be in effect or operation. Each Owner by acceptance of a deed to or other conveyance of a Lot vests in Declarant and Home Builder such authority to appoint and remove directors and officers of the Association as provided in this Section.

8.06. Re-establishment of Class B Member. In the event that after the conversion of Class B Membership to Class A Membership the general plan of development contemplated by Declarant and Home Builder is expanded to include Additional Land contiguous to Morrison Cove at Oak Tree, and an annexation of said lands into Morrison Cove at Oak Tree is recorded, the prior termination of Class B Membership shall not prevent the re-establishment of Class B Membership by reason of Declarant's or Home Builder's ownership of additional Lots, which additional Lots, when added to Lots already owned by Declarant and Home Builder, are sufficient in number when multiplied by three (3), to exceed the number of Class A votes held by Owners other than Declarant and Home Builder.

ARTICLE 9 COVENANTS FOR ASSESSMENTS

9.01. Covenant to Pay Assessments; Lien. Declarant, any Builder and Home Builder, for each Lot owned by them, shall pay, and every Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to to pay, the the Association such regular annual assessments or charges and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration. The amount of

any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees), as such may be provided in this Declaration, shall be and become a lien upon the Lot assessed when the Association causes to be recorded in the official records of the County a notice of assessment, which notice shall state:

(A) The amount of such assessment and such other charges thereon as may be authorized by this Declaration.

(B) A description of the Lot against which the same has been assessed; and

(C) The name of the record Owner of the Lot assessed.

Such notice shall be signed by an authorized representative of the Association. Upon payment of such assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association, at the Owner's cost and expense, shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The lien provided for herein shall be prior to all other liens recorded subsequent to the recordation of such notice of assessment. The lien may be enforced by foreclosure in accordance with North Carolina law, or in any other manner permitted by law. The Association shall have power to purchase the Lot at a foreclosure sale and to hold, lease, mortgage and convey the same.

9.02. Personal Obligation. Each regular annual or special assessment, together with any late charges, interest collection costs and reasonable attorneys' fees shall be the personal obligation of each person or entity, other than any Mortgagee, who held an ownership interest in the Lot at the time such assessment was levied. If more than one person or entity held an ownership interest in the Lot at such time, such Lot shall be both joint and several. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or non-use of common facilities or of the Common Area or by abandonment or leasing of his Lot.

9.03. Use of Assessments. Regular annual or special assessments paid by Declarant, Home Builder and other Owners shall be used to pay for operation, maintenance, preservation, enhancement, repair and improvement of the Common

Area, Entrance Monument Easements, Landscape and Easement Areas (and the Public Roads as provided in Section 1.34 hereof), other purposes reasonably related to the foregoing to promote the recreation, health, safety and welfare of the Owners. In addition, such assessments shall also be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, including local property taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration. The foregoing is intended as an authorization to the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

9.04. Reserve Funds. The Board shall establish and maintain reserves in accordance with standard accounting practices and procedures for Common Area replacements and maintenance in the initial budget of the Association. Each budget subsequently adopted by the Board shall provide for funds to be placed in reserves in at least the amount of reserves established in the initial budget unless a lower level of reserves is approved by the vote or written consent of a majority of the Voting Power of (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the Association. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose without (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the Association, except that if the Board determines that funds held in reserve for a particular purpose exceed and amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the initial budget of the Association and expended for the purpose which such other reserve fund has been established.

9.05. Regular Assessments. (a) The regular annual assessment for each Lot for the first assessment year shall be a maximum of \$499.00 per Lot owned by a class A Member and \$165.00 per Lot owned by a Class B Member or a Builder; provided, however, that if the first assessment year shall have fewer than twelve months, the foregoing amounts shall be proportionately reduced. The regular annual assessment (prorated for the number of months remaining in such

assessment year) may be increased by the Board to an amount equal to the previous year's annual assessment times the greater of (1) ten percent (10%) or (2) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84=100) (here "CPI) issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living. If the annual assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the annual assessments may be increased by that amount in a future year, by a vote of the Board of Directors, without a vote of the Members.

(b) The Board shall fix the amount and due date of the regular annual assessment on a yearly basis at least sixty (60) days in advance of each assessment year; provided, however, that the ratio of the assessment established for Lots owned by Class A Members to the assessment established for Lots owned by a Class B Member or a Builder shall always be three (3) to one (1), prorated for partial years due to ownership changed during the year, and further provided that the Board may not impose a regular annual assessment which is more than allowed under Paragraph 9.05 (a) above without (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the Voting Power of each class of Members , or (ii) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the Association and the Voting Power of the Association residing in Members other than Declarant and Home Builder. Written notice of the regular annual assessment shall be sent to every Owner who is not present at the time the regular annual assessment is so fixed, provided, however, lack of such notice shall not excuse any Owner from payment of assessments. If the Board fails to so fix the regular annual assessment, the assessment applicable for the previous year shall remain in effect until the Board shall fix a new regular annual assessment. Regular annual assessments shall be payable annually on the first day of each January or at such other time as the Board may fix. The Association shall, upon demand, and for a reasonable charge, furnish to any person having a legitimate interest a certificate signed by an officer of the Association stating whether the regular annual assessment and special assessments, if any, on a specified Lot have been paid and, if not, the amount due.

9.06. Special Assessments. In addition to the regular annual assessments authorized herein, the Board may levy, in any assessment year, a special assessment against all Owners applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvements and related fixtures and personal property on or comprising a part of the Common Area; provided, however, any such assessment shall be in the ratio of three (3) to one (1) for Lots owned by Class A Members and Class B Members, respectively, as provided in Section 9.05 above, and further provided in any fiscal year, special assessments which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without (i) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of both the Voting Power of the Association and the Voting Power of the Association residing in Members other than Declarant and Home Builder.

9.07. Assessment as Remedy. After Notice and Opportunity for Hearing, the Board, without the vote or written consent of Members, may levy a special assessment against an Owner as a remedy to reimburse the Association for costs (including attorneys' fees) incurred in bringing the Owner, his Lot or his residence into compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations.

9.08. Allocation of Assessments. Except as otherwise provided in this Declaration and except for the reduced assessments on Lots owned by Class B Members or a Builder, all regular and special assessments shall be levied equally against all Owners.

9.09. Commencement of Assessment. The regular annual assessments provided for herein shall commence as to all Lots in any particular Phase on the first day of the month following the month in which a Lot in that particular Phase is conveyed by Declarant, Home Builder or a Builder to an Owner other than Home Builder or Builder for occupancy. The first assessment year shall be period commencing on the date regular annual assessments commence and ending on the December 31 next following. The regular annual assessment for the first assessment year shall be prorated from the amount fixed by the Board for a full

twelve-month year, based on the number of months to be contained in the first assessment year. Subsequent assessment years shall be each successive calendar year; provided, however, that at any time the Board may change the assessment year to correspond to a fiscal year selected by the Board. Assessments of Lots within each Phase of the Project which is annexed in accordance with the provisions of Article 16 below shall commence on the first day of the month next following the conveyance of the first Lot to a purchaser other than Home Builder or Builder.

Notwithstanding the provisions in 9.01, 9.05 and 9.09 hereof, the Declarant and Home Builder may at their election, postpone, in whole or in part, the date on which the assessment shall commence, provided the Declarant and Home Builder maintain the Common Areas, Entrance Monument and Landscape and Easement Areas for which no assessment is being collected during the period of such postponement.

9.10. Revised Assessments. Subject to the provisions of Section 9.05, if at any time during the course of any year the Board shall deem the amount of the regular annual assessment to be inadequate or overadequate by reason of a revision of its estimate of either expenses or income or otherwise, the Board shall have the right, at a regular or special meeting, to revise the regular annual assessment for the balance of the assessment year. Any such revised assessment shall become effective on the first day of the month next following the date of adoption, and additional amounts payable shall be due (or refunds of overages shall be made by the Association) at such time as determined by the Board.

9.11. Delinquent Assessments; Fines. Any assessment not paid within ten (10) days after the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Late charges on delinquent assessments and fines levied as provided in Section 4.09 shall be ten percent (10%) per annum while the assessment or fine is delinquent.

An additional one hundred dollars (\$100.00) shall be charged for each lien placed upon a Lot as evidenced by a notice of assessment recorded in the official records of the County.

No charge may be imposed more than once each month for the

delinquency of the same payment, provided, however, that the imposition of a late charge on an delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. When an assessment is paid more than ten (10) days after the due date of the assessment, late charges shall accrue from the first day following the due date of the assessment. The Association may bring legal action against the Owner personally obligated to pay a delinquent assessment or fine and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's Membership rights in the Association while the assessment or fine remains unpaid. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees.

9.12. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges and costs (including attorneys' fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due.

ARTICLE 10 INSURANCE

10.01. Duty to Maintain Insurance.

(A) The Association shall have the duty and the authority to maintain fire and extended coverage casualty insurance on the Common Area in an amount not less than the full insurable value thereof (based upon current replacement cost), and liability insurance with limits in and amounts adequate, under standards in the insurance industry existing from time to time, to protect the Association and the Owners in the event of property damage, personal injury or death occurring in or about the Project. The Board shall have the authority to settle or enforce on behalf of the Association and on behalf of the Owners, by legal action or otherwise, any claim arising under any insurance carried by the Association.

(B) All policies of insurance carried by the Association or the

Owners shall include the waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and their employees if such waiver can be obtained at reasonable cost.

(C) Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit development projects established by the Federal National Mortgage Association and Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or Government National Mortgage Association.

10.02. Proceeds of Insurance. The proceeds of casualty insurance carried by the Association shall be paid as follows:

(A) If such proceeds do not exceed Fifty Thousand Dollars (\$50,000), the proceeds shall be paid to and held by the Association as Trustee in trust for the Association, Owners, Declarant and Mortgagees, for disbursement in accordance with the provisions of this Declaration.

(B) If such proceeds exceed Fifty Thousand Dollars (\$50,000), the proceeds shall be paid to and held by the Insurance Trustee in trust for the Association, Owners, Declarant and Mortgagees, for disbursement in accordance with the provisions of this Declaration.

Except as otherwise provided herein, casualty insurance proceeds shall be used for repair, replacement or reconstruction to the extent required to effectuate repair, replacement or reconstruction.

ARTICLE 11 DAMAGE AND DESTRUCTION

11.01. Damage to Lots. Restoration and repair of damage to any Lot and improvements thereon shall be made by and at the expense of the Owner thereof.

11.02. Minor Damage and Major Damage Defined. Damage or

destruction to the Common Area where the estimated cost of repair, restoration or reconstruction does not exceed Fifty Thousand Dollars (\$50,000) is referred to in this Declaration as “Minor Damage. Damage or destruction to the Common Area where the estimated cost of repair, restoration or reconstruction exceeds Fifty Thousand Dollars (\$50,000) is referred to in this Declaration as “Major Damage.”

11.03. Minor Damage. If Minor Damage occurs, the Association shall promptly contract for the repair, restoration or reconstruction of the Common Area or improvements which have been damaged or destroyed and, if necessary, collect from the Insurance Trustee any proceeds of insurance as received in accordance with Section 10.02. The difference, if any, between the insurance proceeds payable by reason of such Minor Damage and the cost of such repair, restoration and reconstruction may be recovered by one or more special assessments levied by the Board equally against all Owners.

11.04. Major Damage. In the event of any Major Damage to or destruction of any portion of the Common Area by fire or other casualty:

(A) The Board shall as soon as reasonably practicable obtain such information as it deems necessary to make an informed judgment about whether to proceed with the repair, restoration or reconstruction of the Common Area so damaged or destroyed, which information may include: (i) obtaining firm bids from two (2) or more responsible and licensed general contractors for the repair, restoration and reconstruction of the Common Area so damaged or destroyed in accordance with the original plans and specifications to the extent reasonably practicable; and (ii) obtaining an Appraisal setting forth an opinion as to the value of the Common Area as it then exists together with an opinion of the increment in value, if any, which would accrue if the Common Area or some portion thereof were razed.

(B) No later than one hundred eighty (180) days after the occurrence of Major Damage, the Board shall hold a special meeting of Members after notice as provided in the Bylaws. Such notice shall include a summary of the Appraisal (if any), the amount of insurance proceeds payable to the Association as a result of such damage and destruction, and the amount of the special assessment, if any, necessary to make any difference between the insurance proceeds and the total cost of repair, restoration and reconstruction.

(C) Unless within two hundred forty (240) days after the occurrence of such Major Damage, (i) if a two-class voting structure is in effect, sixty-seven percent (67%) of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, sixty-seven percent (67%) of the Association agree by vote or written consent and a majority of all Mortgagees (based upon (1) vote for each Mortgage owned) agree in writing that such repair, restoration or reconstruction of the Common Area improvements which have been damaged or destroyed shall not take place: (a) the Association shall promptly contract for and complete such repair, restoration or reconstruction in accordance with plans and specifications approved by the Board; and (b) the difference, if any, between the insurance proceeds and the total cost of repair, restoration and reconstruction shall be recovered by a special assessment levied by the Association equally against all Owners.

(D) Funds collected and held by the Insurance Trustee shall be disbursed by the Insurance Trustee for the purpose of repair, restoration or reconstruction (if any) in accordance with the terms and conditions of such contract or an agreement between the Association and the Insurance Trustee. Funds from any special assessment shall be delivered to and held in trust by the Insurance Trustee and shall be held and disbursed for repair, restoration and reconstruction in the same manner as insurance proceeds. The Insurance Trustee may invest and reinvest funds held by it in a manner consistent with its duties as trustee. The Insurance Trustee shall be entitled to a reasonable fee for its services.

(E) If Major Damage occurs and it is determined in accordance with this Section 11.04 that the Common Area or any portion thereof shall not be repaired, restored or reconstructed, the Board shall cause an Appraisal to be made (if such Appraisal has not previously been obtained) and the Appraisal shall be made available to the Owners and Mortgagees. The Association shall then sell the Common Area or any portion thereof, for and on behalf of all Owners upon such terms and conditions and for such price as may be approved by a majority of the Board and ratified (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the Voting Power of each class of Members, or, (ii) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the Association. For such purposes, the Board shall be and hereby is irrevocably appointed attorney in fact to act on behalf of all Owners to sell the Common Area or any portion thereof upon such terms and conditions for such price as shall have been ratified and approved by the Members

and to do such acts incidental to the sale and to incur such expense as in its opinion will increase the value of the Common Area for the purpose of sale or as may be deemed necessary or convenient in connection with the sale, including but not limited to, the razing of any or all improvements. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. In connection with the sale of the Common Area or any portion thereof, the Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including, but not limited to, maps plans, releases, waivers, deed, escrow instructions and conveyances of every kind and nature, as may be necessary or convenient for the sale. The Board shall be authorized to incur fees for legal and accounting services, appraisals, engineering, examination of title and other expenses reasonably related to the sale.

(F) After payment of expenses directly relating to the sale of the Common Area and properly payable out of the escrow at the closing of sale, the Insurance Trustee shall receive the remaining sale proceeds and shall disburse such proceeds, together with any insurance proceeds it holds, as follows:

(1) To pay any outstanding expenses of the Association or of the Insurance Trustee relating to the sale of the Common Area, including but not limited to, costs of Appraisal, collection of insurance proceeds, compensation of the Insurance Trustee, engineering, legal and accounting expenses, costs of preparing the Common Area for sale and other related expenses; and

(2) To pay equally to the respective Owners in the Project; provided, however, that an equitable adjustment shall be made in the distribution to provide for any Owner's liability to the Association, including but not limited to, liability for unpaid assessments and charges.

ARTICLE 12 EMINENT DOMAIN

12.01. Eminent Domain. If all or any portion of the Common Area is taken by action in eminent domain (hereinafter called a “taking”), the Association shall give written notice of the proceedings to all affected Owners and Mortgagees, and the condemnation award shall be fairly and equitably apportioned among the affected Owners, Mortgagees and the Association as the Court may

determine. A condemnation award which is not apportioned among the Owners by court judgment or by agreement allocated first to the repair, restoration and reconstruction of any remaining portion of the Common Area and then any excess shall be distributed equally among the affected Owners (or any Mortgagee of an affected Owner to the extent such mortgagee is entitled to such Owner's share of the proceeds). If requested by the court, an Insurance Trustee shall be employed to make disbursement of the award.

12.02. Repair, Restoration, Reconstruction. If any portion of a Common Area facility is taken, the Board shall promptly contract for the repair, restoration or reconstruction of the Common Area facility to a complete architectural unit, to the extent such repair, restoration and reconstruction of the Common Area exceeds the amount awarded by the court for such purposes, the difference may be recovered by a special assessment levied equally against all Owners.

ARTICLE 13 INSPECTION OF IMPROVEMENTS

13.01. Inspection of Improvements.

(A) Declarant may notify the Board when the Common Area improvements (including landscaping) have been completed for a particular Phase or some portion thereof. Declarant shall request that the architect who designed the Common Area improvements or other qualified engineers or architects inspect the Common Area improvements as to which Declarant has given such notice. The person(s) selected by Declarant is (are) referred to herein as the “Expert” (whether one or more). Declarant shall pay the reasonable compensation of the Expert.

(B) The Expert shall inspect the Common Area improvements as to which Declarant has given notice of completion and requested inspection. Declarant and the Board may accompany the Expert during the inspection. The inspection shall be limited to a visual inspection, and improvements shall not be uncovered. The Expert shall not be responsible for identifying latent defects. Promptly after the inspection is completed, the Expert shall submit a written report (the “Report”) to Declarant and the Board specifying the respects, if any, in which the improvements do not conform to the plans and specifications therefor and are

defective, and if there are no such defects, the Report shall state that the improvements conform to the plans and specifications therefor. The Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the improvements have been constructed in accordance with the plans and specifications therefor, and thereafter Declarant shall have no further liability, duty or obligation with respect to such improvements, except to remedy any defects specified in the Report and except with respect to latent defects, if any, and the separate repair obligations of Declarant under express written warranty, if any.

(C) Declarant shall correct any defects specified in the Report, and the Expert shall reinspect such improvements within thirty (30) days after Declarant's request. Such reinspection shall be performed in the same manner as provided for the first inspection. Promptly after the reinspection is completed, the Expert shall submit another written report (the "Reinspection Report") to Declarant and the Board specifying the defects specified in the Report which have not been corrected, if any, and if all such defects have been corrected the Reinspection Report shall state that the improvements conform to the plans and specifications therefor. The Reinspection Report shall constitute conclusive and binding evidence that, except as otherwise provided therein and except for latent defects, if any, the improvements have been constructed in accordance with the plans and specifications therefor, and thereafter Declarant shall have no further liability, duty or obligation with respect to such improvements, except to remedy any defects specified in the Reinspection Report, and except with respect to latent defects, if any, and the separate repair obligations of Declarant under express written warranty, if any.

(D) Additional inspections and Reinspection Reports shall be made, if necessary, all in accordance with and with the same effect as provided hereinabove.

(E) If the improvements to be inspected are landscaping improvements, then notwithstanding anything to the contrary contained herein the Expert shall be a horticulturalist or landscape architect. In all respects, the provisions of this section shall apply to the inspection of landscaping improvements.

(F) Within ten (10) days after all defects have been corrected, as

evidenced by a Report or Reinspection Report, the Board shall accept the improvements in writing.

ARTICLE 14
ARCHITECTURAL CONTROL COMMITTEE

14.01. Establishment. Declarant and Home Builder shall establish an Architectural Control Committee (the "A.C.C." or "Committee") to perform the architectural review functions set forth in this Declaration and shall adopt the procedural rules and regulations for the performance of such duties by the A.C.C., including procedures for the preparation, submission and determination of the application for any approvals required by this Declaration. The A.C.C. Shall consist of not less than three (3) nor more than five (5) Members, each serving one-year terms, with such alternate Members as the Home Builder or Declarant may deem necessary. Declarant and Home Builder shall appoint all of the original Members of the A.C.C. and shall continue to appoint all members of the A.C.C. until Home Builder, Declarant and Declarant's appointed Builders no longer own any Lots, at which time the Board of the Association shall have the power to appoint all of the members of the A.C.C. The appointees of the Board or Home Builder need not be members of the Association, architects, Owners, lessees or residents and do not need to possess any special qualifications of any type except such as the Board or Home Builder may, in their discretion, require. The A.C.C. shall hold regular meetings, a quorum for such meeting shall consist of a majority of the regular members, and the concurrence of a majority of the regular members at a meeting shall be necessary for any decision of the A.C.C. An alternate member, approved by the Home Builder, may participate at any meeting at which there is not a quorum of regular members present, may constitute a quorum by his (their) presence and shall have all of the authority of a regular member while so participating. Subject to the provisions of Section 3 of this Article, the decision of the A.C.C. shall be final on all matters submitted to it pursuant to this Declaration.

14.02. Review by Committee. With the exception of structures designed and/or constructed by Home Builder, prior written approval by the A.C.C. shall be required of all new construction in the Project. In addition, no alteration or modification to an existing dwelling unit constructed by Home Builder or any other structure previously approved by the A.C.C. whether Residences, buildings, gazebos, storage sheds, room additions, ramadas, rooms, fences, walls, canopies, statuary, awnings, roofs, devices to be mounted on roofs,

exterior lighting facilities, athletic facilities, changes in exterior paint color, or other similar improvements or attachments shall be constructed and no alteration of the established drainage on a Lot shall be made unless complete plans and specifications therefor have been first submitted to and approved in writing by the A.C.C. The A.C.C. shall exercise its best judgment (neither arbitrarily nor capriciously) to the end that all such changes, improvements and alterations requested for properties within the Development conform to and harmonize with the existing surroundings, Residences, landscaping and structures. Final plans and specifications shall be submitted in duplicate to the the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and location of all improvements and landscaping. The documents shall specify any requested variance from the set back lines, garage location or any other requirement set forth in this Declaration. At such time as the plans meet the approval of the Committee one complete set will be retained by the Committee and the other set returned to the Owner or his designated representative. If disapproved by the Committee one set of such plans shall be returned marked “disapproved” and shall be accompanied by a statement setting forth the reasons for disapproval. In no event shall the Committee give verbal approval or disapproval of any plans. If the Committee fails to approve and disapprove such plans within thirty (30) days after the date of submission, written approval of the matter submitted shall not be required and compliance with this Article shall be deemed to have been completed, so long as the submission does not otherwise violate or fail to conform to any restrictions or requirements of this Declaration or previously established requirements of the A.C.C. in which event the submission shall be deemed disapproved by the Committee. An Owner submitting plans to the Committee shall have the burden of establishing the date upon which the Committee received said plans.

14.03. Subcommittee. The Architectural Control Committee with the advice and consent of the Board is herein empowered to form a subcommittee to the Architectural Control Committee the (“Sub A.C.C.” or “Subcommittee”) comprised of Members of the Association. The Subcommittee shall be comprised of such number of Members as the A.C.C. deems reasonable and necessary in order to carry out its function. The A.C.C. shall be entitled to delegate to the Subcommittee such responsibilities and activities as the A.C.C., in its discretion, shall determine, including but not limited to the ability to preview submittals to the A.C.C. and make non-binding recommendations thereon. Such Subcommittee shall serve at the discretion of the A.C.C. and/or the Board and may or may not be

continued following transfer of control of the A.C.C. to the Association.

14.04. Appeal. Any Owner aggrieved by a decision of the Sub A.C.C. may appeal the decision to the A.C.C. in accordance with procedures to be established by the A.C.C. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would in the A.C.C.'s opinion warrant a reconsideration. If the A.C.C. fails to allow an appeal or if the A.C.C., after appeal, again rules in a manner aggrieving the appellant, the decision of the A.C.C. is final.

14.05. Fee. The Board may establish a reasonable processing fee to defer the costs of the Association in considering any requests for approvals submitted to it, which fee shall be paid at the time the request is submitted.

14.06. Development Standards. The A.C.C. may develop development standards setting forth the minimum standards for the design, size, location, style, structure, color, mode of architecture, mode of landscaping and relevant criteria deemed important by the A.C.C. or by the Home Builder for the construction of improvements of any nature on the Project. The purpose of such development standards will be to preserve and promote the character and orderly development of the Project. By acceptance of a deed to any Lot, each Owner thereof and his successors and assigns agrees to be bound by all provisions of such development standards as may be adopted by the A.C.C. and to use diligence in keeping abreast of the provisions thereof and any amendments thereto.

14.07. Violation of Approved Plans and Right of Entry. If it is determined by the A.C.C. that work completed on any Lot has not been completed in compliance with the final plans approved by the Committee, the Committee or the Association may notify the Owner in writing of such non-compliance within thirty (30) days of inspection, specifying in reasonable detail the particulars of non-compliance and may require the Owner to remedy the same. The Association shall have the right to enter upon the Lot of any Owner to perform compliance or remedy non-compliance as ordered by the Committee and the cost of such performance or remedy shall be charged to the Owner of the Lot in question, which cost shall be due within ten (10) business days after receipt of written demand therefore. If the Owner fails to remedy such non-compliance or to commence and continue diligently toward achieving compliance, Home Builder or the Association (as their interest shall appear) shall notify the Owner that it shall

take action to remove the non-complying improvements and/or seek injunctive relief, recovery of costs incurred, and imposition of a fine, which fine shall not exceed ten percent (10%) of the cost of achieving compliance.

14.08. Non-Liability for Approval of Plans. Architectural Control Committee approval of plans shall not constitute a representation, warranty or guarantee, whether express or implied, that such plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such plans and specifications neither the Architectural Control Committee, the Members thereof, the Association, any Member thereof, the Board nor Home Home Builder assumes any liability or responsibility therefore, or for any defect in the structure constructed from such plans or specifications. Neither the committee, any Member thereof, the Association, the Board nor Home Builder shall be liable to any Member, Owner, occupant, or other person or entity for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved plans, drawings and specifications.

14.09. Home Builder Exemption. The Architectural Control committee shall have no authority, power or jurisdiction over Lots owned by Home Builder, and the provisions of this Article 14 shall not apply to Lots owned by Home Builder until such time as Home Builder conveys title to the Lot to a purchaser thereof. This Section 14.09 shall not be amended without Home Builder's written consent set forth on the amendment.

ARTICLE 15 MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers or guarantors of first Mortgages of Lots in the Development. The provisions of this Article apply to both the Declaration and the Bylaws, notwithstanding any other provisions contained therein.

15.01. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer,

guarantor and the residence number, therefore becoming and “eligible holder”), will be entitled to timely written notice of:

(A) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(B) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(C) any lapse, cancellation or material modification of any insurance policy maintained by the Association; or

(D) any proposed action which would require the consent of a specified percentage eligible Mortgagees.

15.02. Special Governmental Mortgage Agency Provisions. So long as required by a Governmental Mortgage Agency, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the total Members of the Association entitled to vote thereon consent, the Association shall not:

(A) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(B) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner of a Lot;

(C) by act or omission change, waive or abandon any scheme of

regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residences; Lots and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations or use restrictions shall not constitute a change waiver or abandonment within the meaning of this provision.);

(D) fail to maintain insurance as required by this Declaration; or

(E) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such property.

15.03. Right to Pay Delinquent Charges. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

15.04. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagees of any Lot in the cases of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

15.05. Veterans Administration Approval. As long as the Declarant has an option unilaterally to subject property to this Declaration as provided in Article 16, the following actions shall require the prior approval of the Veterans Administration so long and the Veterans Administration is guaranteeing any Mortgage in the Development: annexation of additional property to the Development, except for annexation by Declarant in accordance with Article 16, pursuant to a plan of annexation previously approved by the Veterans Administration; dedication of Common Areas to any public entity; and material amendment of the Declaration, Bylaws or Articles of Incorporation. The references to the "Veterans Administration" shall also refer to the U.S. Department of Veterans Affairs."

15.06. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be

deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

15.07. Mortgagee Provision Re: Breach. A breach by an Owner of any of the covenants, conditions and restrictions contained herein shall not affect, impair, defeat or render invalid the lien, charges or encumbrance of any first Mortgage made for value which may then exist on any Lot; provided, however, that in the event of a foreclosure of any such first Mortgage, or if the holder of the note secured by such first Mortgage acquires title to a Lot in any manner whatsoever in satisfaction of the indebtedness, then the purchaser at the foreclosure sale or note holder acquiring title in lieu thereof shall, upon acquiring title, become subject to each and all of the covenants, conditions and restrictions contained herein, but free from the effects of any breach occurring prior thereto.

15.09. Professional Management. In the event that Declarant or the Association enters into any contract with any person or entity to provide management or maintenance services to the Project such contract shall not exceed a reasonable term and shall provide that the Association shall have the right to terminate the contract for cause upon thirty (30) days written notice and without cause upon ninety (90) days written notice, without payment of a termination fee or penalty.

ARTICLE 16 ANNEXATION

16.01. Right to Annex. Declarant shall have the right to annex to the Property and thereby bring within the scheme of this Declaration and subject to the jurisdiction of the Association part or all of the Additional Land provided, as long as there is at least one Federal Housing Administration and/or U.S. Department of Veterans Affairs insured loan on a Lot within the Project, such annexation is in accordance with the general plan for the Project previously approved by the Federal Housing Administration and/or the U. S. Department of Veterans Affairs. Annexation of any other real property shall require the vote or written consent of not less than sixty-seven percent (67%) of the total Voting Power of the Class A Membership. Annexation of Additional Land may be accomplished in Phases.

16.02. Procedure for Annexation. Any annexation shall be made by recordation of a Supplemental Declaration covering the real property to be annexed. The Supplemental Declaration shall describe the real property to be annexed and state that annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the Phase of the Project being annexed. The Supplemental Declaration may contain such complementary additions and modifications to the terms of this Declaration as may be necessary or desirable to reflect the different character, if any, of the Phase being annexed and as are not inconsistent with the general scheme of this Declaration. Annexation shall be effective upon recordation of the Supplemental Declaration and thereupon the real property described therein shall be subject to all of the provisions of this Declaration, to the extent made applicable by the Supplemental Declaration, and to the jurisdiction of the Association pursuant to the terms of this Declaration, the Articles and Bylaws.

16.03. Annexed Property Rights and Obligations. Each Owner of a Lot in an annexed Phase automatically shall be a Member of the Association and such Owners and annexed real property shall be subject to assessment by the Association for the benefit of the Project or any part thereof. Assessments of Lots in an annexed Phase shall commence upon the last to occur of: (a) commencement of regular annual assessments for the Project, and (b) the first day of the month next following the first conveyance of a Lot in such Phase to a purchaser, as provided in Section 9.09. The Association shall have the duties, responsibilities and powers set forth in this Declaration, the Articles and Bylaws with respect to annexed real property. Except as may otherwise be expressly provided in this Declaration or any Supplemental Declaration, the Project shall be managed and governed by the Association as an entirety. Assessments collected from owners in the Project may be expended by the Association anywhere in the Project without regard to the particular Phase, are or subdivision from which such assessments came. All Owners shall have ingress and egress to and from all the Common Area throughout the Project and any Phase thereof and shall have use and enjoyment of any recreational facilities and other amenities contained within the Common Area throughout the Project, provided that any such use shall be subject to the provisions of this Declaration, any Supplemental Declaration, the Bylaws and the Rules and Regulations.

ARTICLE 17
MISCELLANEOUS PROVISIONS

17.01. Power to Settle Claims. The Board shall have the power and authority to compromise, settle, release and otherwise adjust claims, demands, causes of action and liability in favor of the Association and the Owners, on behalf of the Association and Owners, as the case may be, provided any such claim, demand, cause of action or liability arises out of or related to a condition or defect common to all or a majority of the Lots or improvements constructed thereon, or to the development, design, construction, condition, repair or maintenance of or damage or injury to or defect in the Common Area or part thereof, and the Association shall have the right and the power to make and receive all payments or other consideration necessary therefor or in connection therewith. For such purposes, the Board shall be, and hereby is, irrevocably appointed attorney in fact to act on behalf of all Owners upon such terms and conditions and for such consideration as may be approved by a majority of the Board.

17.02. Independence of Provisions. The provisions of this Declaration shall be deemed independent and severable. Invalidation or partial invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

17.03. Notices. Notices shall be in writing and shall be addressed as follows: (i) if to an Owner, to the address of his Lot; (ii) if to Declarant, to B. V. Belk, Jr., 4400 Park Road, Suite 300, Charlotte, North Carolina 28209; (iii) if to Home Builder, Squires Homes, Inc., 5501 Executive Center Dr., Suite 120, Charlotte, NC 28209; and (iv) if to the Association, to the address of the Project. The Association may designate a different address for notices by giving written notice of such change of address to all Owners and to Declarant. Declarant and Home Builder may designate a different address for notices by giving written notice of such change of address to all Owners and to the Association. Any Owner may designate a different address for notices by giving written notice of such change of address to the Association and to Declarant.

17.04. Headings. The headings used in this Declaration are for convenience and reference only and the words contained therein shall not be held to expand, modify, or aid in the interpretation, construction, or meaning of this Declaration.

17.05. Enforcement. The failure of any Owner to comply with the provisions of this Declaration, the Bylaws or the Articles shall entitle the Association, any Owner, or any of them, to maintain an action for the recovery of damages or injunctive relief or both, and such persons or entities, or any of them, shall have the right to enforce all limitations, restrictions, covenants, conditions, easements, liens, charges, assessments and equitable servitudes imposed by or pursuant to the provisions of this Declaration shall not be deemed a waiver of the right to do so thereafter. All remedies provided in this Declaration shall be cumulative and in addition to any other remedies available under law.

17.06. Equal Opportunity Housing. This Project provides equal opportunity housing. Each Lot sold shall be sold without regard to the race, creed, color, national origin, ancestry, religion, marital status, familial status, handicap, age or sex of the purchaser.

17.07. Exhibits. Exhibits A, B, C and D which are attached to this Declaration, are incorporated herein and made a part hereof by this reference.

17.08. Amendments by Declarant and Home Builder. During the period specified in Section 8.05 in which Declarant and Home Builder retain the right to appoint and remove any directors and officers of the Association, Declarant and Home Builder may amend this Declaration by an instrument in writing filed and recorded in the Land Records of Iredell County, North Carolina, with the written consent thereto by sixty-seven percent (67%) of the then existing Members affected thereby, or (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of sixty-seven percent (67%) of Mortgagees so affected. Any amendment made pursuant to this Section 17.08 shall be certified by Declarant and Home Builder as having been duly approved by Declarant and Home Builder, and such Members and Mortgagees if required, and shall be effective only upon the recordation or at such later date as shall be specified in the amendment itself. Each Owner by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 17.08 and further agrees that, if requested to do so by Declarant and Home Builder, such Owner will consent to the the amendment of this Declaration or any other instruments relating to the Development (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or

regulation or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (iii) if such amendment is required by any Governmental Mortgage Agency to enable such entity to make or purchase Mortgage loans on any Lot subject to this Declaration, (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgage loans on the Lots subject to this Declaration or (v) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

17.09. Amendments by Association. Amendments to this Declaration, other than those authorized by Section 17.08 hereof, shall be proposed and adopted in the following manner:

(A) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed by either the Board or by Members of the Association. Such amendment is to be considered and shall be delivered to each member of the Association.

(B) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such amendment must be approved by Members holding at least two-thirds (2/3) of the total votes in the Association provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee and (ii) during any period in which Declarant and Home Builder have the right to appoint and remove officers and directors of the Association, such amendment must be approved by Declarant and Home Builder.

(C) The agreement of the required percentage of the Owners and, where required, the Declarant and Home Builder and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date

as may be specified in the Amendment itself.

IN WITNESS WHEREOF, the undersigned, being the Declarant and Home Builder herein, have executed this Declaration as of the date first above set forth.

DECLARANT:

MORRISON COVE, L.L.C. (SEAL)

By: _____(SEAL)

HOME BUILDER:
SQUIRES HOMES, INC.

ATTEST:

Secretary

By: _____
President

STATE OF NORTH CAROLINA
COUNTY OF MECKKLENBURG

I, _____, a Notary Public for the County and State aforesaid, do hereby certify that B. B. Belk, Jr., Manager of Morrison Cove, L.L.C., personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this _____day of _____, 1995.

Notary Public

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

This _____ day of _____, 1995, personally appeared before me

_____ who being by my duly sworn says he is _____
President of SQUIRES HOMES, INC., a North Carolina corporation; that the seal
affixed to the foregoing instrument in writing is the corporate seal of said
foregoing instrument in writing is the corporate seal of said corporation, and that
said writing was signed and sealed by him in behalf of said corporation by its
authority duly given. And the said _____ President acknowledged the said
writing to be the act and deed of said corporation.

Notary Public

My Commission Expires: _____