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NEW HANOVER COUNTY, NC

TAMMY THEUSCH BEASLEY

REGISTER OF DEEDS

NC FEE \$46.00

Prepared by: James A. MacDonald, The MacDonald Law Firm, PLLC, 1508 Military Cutoff Road, Suite 102, Wilmington, NC 28403

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR CLAY CROSSING**

THESE PROTECTIVE COVENANTS, made this the 9<sup>th</sup> day of May, 2018, by DARDEN ROAD, LLC, a North Carolina limited liability company, its successors and assigns, whether one or more, hereinafter referred to as "DECLARANT".

WITNESSETH:

WHEREAS, DECLARANT is the owner of certain real property in New Hanover County, North Carolina, which is more particularly described as CLAY CROSSING, in those maps recorded in Map Book 64 at Page 217, inclusive, of the New Hanover County Registry (hereinafter the "Plat").

NOW, THEREFORE, DECLARANT hereby declares that all of the properties described above shall be held, sold and conveyed subject to The Planned Community Act, set forth in Chapter 47F of the North Carolina General Statutes and to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE 1**  
Definitions

Section 1. Articles shall mean the Articles of Incorporation of CLAY CROSSING HOA, INC.

Section 2. Association shall be used to mean and refer to CLAY CROSSING HOA, INC., a private non-profit corporation formed or to be formed by the DECLARANT primarily as a Homeowners' Association for the Lot Owners in CLAY CROSSING, all of whom shall be Members of the Association.

Section 3. Bylaws means the Bylaws of CLAY CROSSING HOA, INC.

Section 4. Common Elements shall mean all real property, personal property, easements and facilities owned or leased by the Association for the common use and enjoyment of the Owners.

Section 5. Common Expenses means and includes actual and estimated expenses of maintaining and operating the Common Elements, applicable conservation and buffer areas and landscaped areas within road right of ways and operating the Association for general purposes, including any insurance, reasonable reserve and utilities, as may be found necessary and appropriate by the Executive Board pursuant to these Protective Covenants, the Bylaws and the Articles of Incorporation of the Association, including the following:

- a. All sums lawfully assessed by the Association against its Members;
- b. Expenses of administration, maintenance, repair or replacement of the Common Elements and the stormwater system;
- c. Expenses declared to be Common Expenses by the provisions of these Protective Covenants or the Bylaws;

- d. Expenses agreed by the Members to be Common Expenses of the Association; and
- e. Any ad valorem taxes and public assessments levied against the Common Elements.

Section 6. Community-wide Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout CLAY CROSSING. Such standard may be more specifically determined by the Executive Board and the Architectural Control Committee.

Section 7. DECLARANT OR DEVELOPER shall be and refer to DARDEN ROAD, LLC, a North Carolina limited liability company, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the DECLARANT for the purpose of development and enter into a specific assignment agreement with DECLARANT.

Section 8. Executive Board shall be the elected Executive Board governing the Association and managing the affairs of the Association.

Section 9. Limited Common Elements shall mean that certain real property and facilities intended for the exclusive use or primary benefit of one or more but less than all of the Lots as shown and designated on any maps of sections of the Subdivision which are or may be recorded in the New Hanover County Registry or which may be designated in any amendment to the Protective Covenants annexing additional properties.

Section 10. Limited Common Expenses shall mean and include actual and estimated expenses of maintaining, operating, repairing, and replacing the Limited Common Elements, including insurance, reasonable reserves and utilities as may be found necessary and appropriate by the Executive Board pursuant to these Protective Covenants, the Bylaws and the Articles for the benefit of the Limited Common Elements.

Section 11. Lot shall mean and refer to any of the numbered Lots as shown on the plat of CLAY CROSSING, recorded as aforesaid, in the New Hanover County Registry together with the single family structure or dwelling, and any other numbered lots which may be shown on maps which may be recorded in the future showing additional sections of CLAY CROSSING and which are annexed into the Subdivision in accordance with Article 3, Section 1.

Section 12. Member shall mean and refer to each and every person or entity who or which owns an interest in a Lot in CLAY CROSSING, Section 1, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 13. Misconduct shall have the meaning set forth in Chapter 47F of the North Carolina General Statutes and in addition shall also include, without limitation, violations of Article 6, Section 1c.; Article 8; Article 9, Sections 6, 7 and 8b.; and Article 10 herein.

Section 14. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 15. Person shall mean and refer to an individual, corporation, limited liability company or partnership, partnership or limited partnership, association, trustee, or other legal entity.

Section 16. Properties shall mean and refer to that certain real property which is described as CLAY CROSSING, Section 1, as shown in those maps recorded in Map Book 64 at Page 217, inclusive, of the New Hanover County Registry and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 17. Protective Covenants shall mean this instrument as it may be from time to time amended or supplemented.

Section 18. Subdivision means all of that real property known collectively as CLAY CROSSING, Section 1, as shown on those maps recorded in Map Book 64 at Page 217, inclusive, of the New Hanover County Registry, together with all real property shown on maps which may be recorded in the future showing additional sections of CLAY CROSSING and which are annexed into the Subdivision in accordance with Article 3, Section 1 and Article 10.

Section 19. Supplemental Declaration: an amendment or supplement to these Protective Covenants filed pursuant to the terms of these Protective Covenants which subject additional property to these Protective Covenants and/or impose, expressly or by reference, changes to or additional restrictions and

obligations on the land described therein.

## ARTICLE 2

### Property Rights

Section 1. Owners Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Elements and every Owner whose Lot has assigned to it Limited Common Elements shall have a right and easement of enjoyment in and to the Limited Common Elements to which such Lot has rights, all of which rights shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the Association to limit the number of guests of Members;
- b. The right of the Association to suspend the voting rights and right to use the Common Elements and the Limited Common Elements and the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations in accordance with that procedure set forth in Article 11;
- c. The right of the Association to dedicate or transfer all or part of the Common Elements and the Limited Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association;
- d. The right of the Association to formulate, publish and enforce rules and regulations for the use and enjoyment of the properties within CLAY CROSSING, including the Lots, Common Elements and the Limited Common Elements and improvements thereon, which regulations may further restrict the use of the Common Elements and the Limited Common Elements and the right of the Association in accordance with the procedure set forth in Article 10 to establish penalties for any infractions thereof
- e. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and the Limited Common Elements and carrying out its maintenance responsibilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the Lot Owners hereunder.
- f. Easements as provided in Article 4 hereof.

Section 2. Delegation of Use. Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Elements and, if applicable, the Limited Common Elements to the Members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Common Elements. The Common Elements cannot be mortgaged or conveyed without the consent of Owners representing at least eighty percent (80) of the Owners.

## ARTICLE 3

### DECLARANT'S RIGHTS

Section 1. The rights reserved by DECLARANT include the right to change, alter or designate Lot(s), roads, utility and drainage facilities and easements, and to change, alter or redesignate such other present and proposed amenities or facilities as may in the sole Judgment of the DECLARANT, be necessary or desirable. The rights reserved in this Section specifically include the right of DECLARANT to redesignate, change, or alter any platted Lot(s) into roads or easements prior to the sale to the first purchase of any of the platted lots.

## ARTICLE 4

### Easements

Section 1. Easements are reserved as necessary in the Common Elements and the Limited Common Elements for installation and maintenance of underground utilities and drainage facilities and common landscape features.

Section 2. Every Owner of a Lot within the Subdivision, as an appurtenance to such Lot, shall have a perpetual easement over and upon the Common Elements within the Subdivision for each and every

purpose or use to which such Common Elements were intended as determined by their type, or for which such Common Elements generally are used, including, but not limited to, easement of access, maintenance, repair or replacement of the Common Elements. Such easements shall be appurtenant to and shall pass with the title to every Lot located within the Subdivision, whether or not specifically included in a deed thereto. Every Owner of a Lot within the Subdivision which is assigned to a Limited Common Element, as an appurtenance to such Lot, shall have a perpetual easement over and upon such Limited Common Element for each and every purpose or use to which such Limited Common Element is intended by its type, or for which such Limited Common Element is generally used, including, but not limited to, easement of access, maintenance, repair or replacement of such Limited Common Elements. Such easements shall be appurtenant to and shall pass with the title to every Lot assigned to such Limited Common Elements, whether or not specifically included in the deed thereto.

Section 3. The Association hereinafter may grant easements for utility purposes for the benefit of the Subdivision and the Lots now or hereafter located thereon, over, under, along and through the Common Elements and the Limited Common Elements; provided, however, that no such grant of easement shall have a material adverse effect on the use, enjoyment or value of any Lot.

Section 4. Any Owner may delegate, in accordance with the rules and regulations, his right of enjoyment to the Common Elements and, if applicable, to the Limited Common Elements, to the members of his family, his tenants, and contract purchasers who reside on the property.

Section 5. Easements and rights of way over and upon the front ten feet (10') of each lot that abuts the road or street for the installation, maintenance, inspection and repair of utilities and services and a thirty foot (30') drainage swale easement along adjacent property owner lot line between Subdivision Lots 16 and 17 inclusive are reserved to DECLARANT and its successors and assigns and for such utility providers and servicers as the Declarant or its successor may designate for such purposes as DECLARANT or its successors may deem incident and appropriate to its overall development plan. The easements and right of way areas reserved by DECLARANT on each Lot pursuant hereto shall be maintained continuously by the Owner, but no structures or plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or alter the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Improvements within such areas also shall be maintained by the respective Owner except those for which a public authority or utility company is responsible. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary in the opinion of the DECLARANT to provide an economical and safe installation. The DECLARANT shall have no maintenance responsibilities for such easement areas. All easements referred to in this Section 5 are more fully depicted on the subdivision map referred to in Article 1 Section 18 of these Protective Covenants for CLAY CROSSING.

Section 6. Every Owner shall have a right and easement of enjoyment in and to any and all other Common Elements which are owned or leased by the Association for the enjoyment of the Owners; this right and easement of enjoyment shall be appurtenant to and shall pass with the title to every Lot.

Section 7. The rights reserved by DECLARANT in Article 3 include the right to change, alter or designate Lots, roads, utility and drainage facilities and easements, and to change, alter or redesignate such other present and proposed amenities or facilities as may in the sole judgment of the DECLARANT, be necessary or desirable. Except as allowed in Article 3, the DECLARANT shall have no right to change, alter or redesignate the character of the use of the Lots within the Subdivision after sale to first owner of the lot without the written consent of the owner.

Section 8. An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services to enter upon the Lots, Common Elements and Limited Common Elements in the performance of their duties. In order to facilitate emergency vehicle access all owners and family vehicles are prohibited from being parked on the streets and within the common elements and limited common elements and must be parked on driveways or in garages to provide accessibility to said emergency vehicles.

Section 9. The real property in this Subdivision is subject to a contract with the appropriate utility company for the installation of underground electrical utilities, which may require an initial contribution, and/or the installation of street lighting, which may subject each Owner to a continuing monthly payment to Duke Progress Energy and may be collected as part of the Homeowners Association Dues.

Section 10. An easement is hereby established over all Lots, Common Elements and Limited Common Elements for the benefit of applicable governmental agencies for the setting, removing and reading of water meters, maintaining and replacing water, drainage and drainage facilities, fire fighting, law

enforcement, garbage collection and the delivering of mail.

Section 11. An exclusive easement is hereby established in favor of DECLARANT over all Common Elements and Limited Common Elements for access to adjacent properties for the purposes of future development and the installation of streets and public utilities.

Section 12. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on all undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in these Protective Covenants.

## ARTICLE 5

### Association

Section 1. Purpose An Association named CLAY CROSSING HOA, INC. has been or will be formed pursuant to the requirements of the Nonprofit Corporation Act (Chapter 55A) of the General Statutes of North Carolina. Its purposes are to own, manage, maintain and operate the Common Elements and Limited Common Elements and facilities located upon the Limited Common Elements, platted conservation and buffer areas (if any), areas with similar designations and landscaped areas within road right of ways; the stormwater runoff system, sign easements areas, and fences or other property maintained by the Association; to enforce the Protective Covenants contained herein; and to make and enforce rules and regulations governing the Owners' use and occupation of Lots.

Section 2. Membership. Every Person who is record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of any obligations, shall be a member of the Association. Ownership of such interest shall be the sole qualification for such membership; there shall be only one vote per Lot in such Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The Executive Board may make reasonable rules regarding proof of ownership.

Section 3. Voting Rights. The Association shall have two classes of voting memberships.

- a. Class "A". Class A Members shall be all Owners (with the exception of the DECLARANT during the Class B membership) and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. If only one of the multiple owners of a Lot is present at a meeting of the Association, the Owner who is present is entitled to cast all the votes allocated to that Lot. If more than one of the multiple owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple owners. Majority agreement is conclusively presumed if any one of the multiple owners casts the votes allocated to that Lot without protest being made to the person presiding over the meeting by any of the other Owners of the Lot.
- b. Class "B". Class B Member shall be the DECLARANT, and such member shall be entitled to five (5) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
  - (1) When the DECLARANT owns eighteen percent (18%) or less of all the planned residential lots in the subdivision, including any property which may be annexed to the subdivision, or
  - (2) On December 31, 2035.

Section 4. Only those Lot Owners subject to assessments under Article 6 Section 1.c.(1) or (2) shall vote on issues affecting such assessments or property subject to such assessments. The number of votes required on any issue shall be the same as required for comparable votes on issues affecting general assessments or Common Elements.

Section 5. The DECLARANT shall have the right to appoint and remove the members and officers of the Executive Board until (i) December 31, 2025, or (ii) the DECLARANT turns control of the Association over to the Class A Members; or (iii) DECLARANT owns eighteen percent (18%) or less of the planned residential lots for all phases or sections in the subdivision, whichever first occurs.

Section 6. Subject to applicable law, the Association shall have the following powers:

- a. Adopt and amend bylaws and rules and regulations;
- b. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Lot Owners;
- c. Hire and discharge managing agents and other employees, agents, and independent contractors;
- d. Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the planned community.
- e. Make contracts and incur liabilities;
- f. Regulate the use, maintenance, repair, replacement and modification of Common Elements;
- g. Cause additional improvements to be made as a part of the Common Elements;
- h. Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that Common Elements may be conveyed or subjected to a security interest only pursuant to applicable law;
- i. Grant easements, leases, licenses, and concessions through or over the Common Elements;
- j. Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements and for services provided to Lot Owners;
- k. Impose reasonable charges for late payment of assessments including but not limited to a ten percent (10%) interest change on all late assessments, and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of 30 days or longer;
- l. Impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to Lots) for reasonable periods for violations of the Protective Covenants, Bylaws, and Rules and Regulations of the Association;
- m. Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to these Protective Covenants or statements of paid or unpaid assessments;
- n. Provide for the indemnification of and maintain liability insurance for its officers, Executive Board, directors, employees, committee members and agents;
- o. Assign its right to future income, including the right to receive common Expense assessments;
- p. Exercise all other powers that may be exercised in this State by legal entities of the same type as the Association; and
- q. Exercise any other powers necessary and proper for the governance and operation of the Association under NCGS Chapter 47F.
- r. Ensure that the stormwater system is in compliance with the State Stormwater Management Permit Number SW8170302 and any modification or amendments thereto as issued by the Division of Water Quality under NCAC2H.1000.

Section 7. Common Elements. The Common Elements and Limited Common Elements may be mortgaged or conveyed as required or permitted by law.

Section 8. Management and Administration. The management and administration of the Common Elements and Limited Common Elements of the Subdivision and the Association shall be the sole right and responsibility of the Association. The management shall be carried out in accordance with the terms and conditions of these Protective Covenants, the Articles and Bylaws, but may be delegated or contracted to manager(s) or a management service.

Section 9. Assignment to Association. All water, sewer, land use, stormwater system, and utility permits, agreements and easements between DECLARANT and any municipal or governmental agency or department or public or private utility company shall be assumed by the Association upon the assignment of all such permits, agreements and easements to the Association by DECLARANT. The Board of Directors of the Association shall thereafter administer and approve all duties, obligations, and rights and privileges assigned by DECLARANT under such permits, agreements and easements, including all maintenance responsibilities under the following terms and conditions. All approvals with respect to any exercise of powers under this Section 9 of Article 5 shall be deemed satisfied upon a majority vote of the Board of Directors of the Association.

a. General. After completion of construction of any facilities required to be constructed by Declarant pursuant to permits, agreements and easements for the Development, all duties, obligations, rights and privileges of the Declarant under any water, sewer, stormwater, erosion control and utility agreements, easements and permits for the Planned Community with municipal or governmental agencies or public or private utility companies, shall be the duties, rights, obligations, privileges and the responsibility of the Association, notwithstanding that such agreements, easements or permits have not been assigned or the responsibilities thereunder specifically assumed by the Association. The Association shall execute any documents required or requested by the Declarant or by appropriate governmental agencies in furtherance of the covenant.

b. Stormwater Permit(s). Any stormwater retention ponds and related facilities for the Development which have or are to be constructed by or on behalf of the Declarant constitute Common Elements and the Association, at its sole cost and expense, is responsible for the operation and maintenance of such facilities. The Association and each of its Members agree that at anytime after (i) all work required under any stormwater permits for the Development have been completed, and (ii) the Developer is not prohibited under the NC Department of Environment and Natural Resources (DENR) regulations from transferring the stormwater permit(s) for the Development to the Association, the Association's officers without any vote or approval of Lot Owners, and within 10 days after being requested to do so, will sign all documents required by DENR for the stormwater permit(s) to be transferred to the Association; provided; they are dated no more than 45 days before the date of the request and that all stormwater retention ponds, swales and related facilities are constructed in accordance with the plans and specifications therefore. The Association shall indemnify and hold harmless the Developer from any obligations and costs under any stormwater permits or for operation and maintenance of the stormwater retention ponds and related facilities, the Developer shall be responsible for repairing any damage to such facilities caused by development activities. The Developer shall not be responsible for damages to stormwater retention ponds and related facilities caused by construction of residences or other activities by Owners, their agents and contractors, upon their Lots. If the Association fails to sign the documents required by this paragraph, the Developer shall be entitled to specific performance in the courts of North Carolina requiring that the appropriate Association officers sign all documents necessary for the stormwater permit(s) to be transferred to the Association. Failure of the officers to sign as provided herein shall not relieve the Association of its obligations under this section. In addition, each Owner for the Owner, the Owner's heirs, successors and assigns, by acceptance of a deed from the Declarant, for a Lot hereby irrevocably appoints Daniel Hilla as the Owner's Manager, on behalf of the Owner and Association, to sign all documents required by DENR necessary for the stormwater permit(s) to be transferred to the Association; provided, however, that the Declarant shall first have requested as provided above that an officer of the Association execute such documents and any officer has failed to do so within thirty (30) days of a written notice to execute the documents.

## ARTICLE 6

### Covenants for Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The DECLARANT, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- a. General assessments or charges for Common Expenses, and
- b. Special assessments for capital improvements, or special assessments as established by the Executive Board, and
- c. Individual assessments against a specific Lot or Lots, as follows: (1) for the payment of Limited Common Expenses associated with the maintenance, repair, replacement of a Limited Common Elements as defined in ARTICLE 1 herein against the Lot or Lots to which that Limited Common Elements is assigned; or (2) any common expense or portion thereof benefitting fewer than all of the Lots; or (3) to cover the costs incurred in bringing the Lot into compliance with the terms of these Protective Covenants, the Articles, Bylaws or Rules and Regulations of the Association caused by the failure of Owner to comply with such provisions. The Association, through its Executive Board, may perform such required tasks or remedy such matter and/or assess a fine for such failure to comply and may levy the cost of such fine, performance, or remedy against the Owner(s) and the Owners' Lot or property as an individual assessment. Individual Assessments levied under (1) and (2) herein shall be equal as to all Lots subject to such assessment.

The general, special and individual assessments, together with fees, charges, late charges, fines, other charges, permitted hereunder or under Chapter 47F of the North Carolina General Statutes, interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs, late fees and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Notwithstanding any other provision in these Protective Covenants until the association makes a common expense assessment pursuant to the budget approved by the Executive Board, the Declarant shall pay all common expenses. Upon approval of the first budget, thereafter the collection of assessments shall be governed by this Article.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Subdivision and for the improvements and maintenance of the Common Elements and Limited Common Elements and to pay the taxes and other municipal charges or fees of the Common Elements and Limited Common Elements.

Section 3. General Assessments. The Declarant during the Declarant Control Period will establish the initial general assessment per lot for the year which shall be collected on a quarterly basis. Thereafter the Association shall set the assessments as provided in the Bylaws. At the time of the sale of any lot, the general assessment for the quarter in which the closing occurs will be collected and paid if outstanding or pro rated if previously paid. Provided if the closing occurs within six (6) weeks of the next quarter, the purchaser will be required to pay the next quarter's general assessments in addition to his share of the current quarter.

Section 4. Special Assessments for Capital Improvements. In addition to the general assessments authorized above, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including easement areas, fixtures, and personal property related thereto provided that any such assessment shall have the assent of the majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments for the maintenance of sewer lines and other elements of the sewer system, the drainage and stormwater runoff systems, and other utility systems, as required by government permits or regulations, may be assessed by the Executive Board without a vote of the Members. All special assessments for capital improvements shall be fixed to a uniform rate for all Lots.

In addition to the assessments authorized above, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon a Limited Common Element, including easement areas, fixtures, and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of those Members whose Lots are assigned to the Limited Common Elements who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments for the maintenance of sewer lines and other elements of the sewer system, the drainage and stormwater runoff systems, and other utility systems located in a Limited Common Element as required by government permits or regulations, may be assessed by the Executive Board without a vote of the applicable Members. All special assessments for capital improvements to such Limited Common Elements shall be fixed to a uniform rate for all Lots assigned to the Limited Common Elements.

Section 5. Working Capital Assessment. At the time title is conveyed from any Owner (including the Declarant) to any new Owner. Each new Owner shall contribute to the Association as working capital an amount equal to the amount of one year's general assessment. Amounts paid into the working capital fund are not to be considered as advance payment of regular assessments. All working capital funds shall become part of the general operating funds of the Association and may be used to pay any Association expenses.

Section 6. Notice and Quorum for any Action Authorized Under this Article. Written notice of any meeting called for the purpose of taking any action authorized under this Article after the initial establishment of assessments shall be sent to all applicable Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast ten percent (10%) of all the votes of each class of membership shall constitute a quorum. The required quorum at any subsequent meeting shall be one-half(1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of General Assessments and Due Dates. The regular assessments provided for herein shall commence on the date of conveyance of each Lot to an Owner other than DECLARANT provided that McKee Homes, Inc., or its successor or assigns will be required to pay only fifty percent (50%) of the regular assessments for any model home lots acquired from the Declarant until the lot is sold to another person or is leased or occupied as a residence. The first regular assessment to be paid at each conveyance shall be pro rated for the number of days or months remaining in the calendar year or in the period set by the Executive Board. The due dates shall be established by the Executive Board. The Executive Board shall require the regular assessment to be paid at least annually, but may require the regular assessment to be paid more often. The regular assessments and annual operating budget shall be computed as follows:

a. At least thirty (30) days before the beginning of each fiscal year, the Executive Board shall prepare and distribute to the Members a budget covering the estimated Common Expenses during the coming year (including, without limitations, any contributions to be made to any capital reserve funds). The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against Lots, and the amount to be generated through the levy of all applicable assessments against Lots.

b. The general assessments shall be levied at a uniform rate against all Lots and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Executive Board, in its discretion, may consider other sources of funds available to the Association and/or the applicable inflation index. In addition, the Executive Board shall take into account the number of Lots subject to assessment on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. This Section 7 shall apply to the determination of all general assessments for fiscal years beginning after the date of the recording of these Protective Covenants.

c. The Executive Board shall send a summary of the final budget, together with a notice of the amount of the general assessments to be levied pursuant to such budget, to each Owner within thirty (30) days after the Executive Board adopts such budget. With such summary, the executive Board shall provide to each Owner a written notice of the meeting of the Members at which ratification of the budget will be considered. Such notice shall include a statement that the budget may be ratified at such meeting without a quorum. The meeting of the Members to consider ratification of the budget shall be held not less than ten (10) nor more than sixty (60) days after the mailing of the summary and notice referenced in this paragraph. Notwithstanding any other provisions of these Protective Covenants, the Articles, or the Bylaws, there shall be no requirement that a quorum be present at the meeting described herein, but the proposed budget shall automatically be deemed ratified and become effective unless disapproved at such meeting by: (i) Members representing at least seventy-five percent of the total Class "A" votes in the Association and (ii) the Class "B" member, if such member exists. In the event the proposed budget is disapproved or the Executive Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

d. The Executive Board may revise the budget and adjust the assessments from time to time during the year, subject to the notice requirements and the right of Members to disapprove the revised budget as set forth above.

Section 8. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment, if not paid within thirty (30) days after the date such assessment is due, together with interest at the maximum rate allowed by law, costs of collection, court costs, late charges, charges for reasonable attorney's fees and other charges permitted by statute, including fees, charges and fines, shall constitute a lien

against the Lot upon which such assessments are levied upon filing of record notice of the same in the office of the Clerk of Superior Court of New Hanover County. The claim of lien filed under this Section shall set forth the name and address of the Association, the name of the record owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed. The Association may file a suit to collect such delinquent assessments and charges. The Association may file Notice of Lis Pendens, bring an action at law against the Owner personally obligated to pay the same and/or bring an action to foreclose the lien against the property in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Elements, the Limited Common Elements or abandonment of his Lot or for any other reason. Costs and reasonable attorney's fees shall be awarded to the prevailing party in any action brought pursuant to this Article. An action brought to enforce a lien pursuant to this Article must be instituted within three (3) years after the docketing of the claim of lien in the Office of the Clerk of Superior Court of New Hanover County.

The Association, upon receipt of written request, shall furnish to a Lot Owner or the Lot Owner's authorized agents a statement setting forth the amount of unpaid assessments and other charges against a Lot. The statement shall be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Executive Board, and every Lot Owner. The Executive Board may establish a reasonable charge for preparing the statement required in this Section.

Section 9. Subordination of the Lien to Mortgages. The lien under this Article 6 is prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot. This subsection does not affect the priority of mechanics' or materialmen's liens. Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such Lot which became due prior to the acquisition of title to such lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from the Lot Owners including such purchaser, its heirs, successors and assigns. Unless otherwise provided herein, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All Properties dedicated to, and accepted by, a local public authority and all Properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Surplus Funds. Notwithstanding the provisions of N.C.G.S. §47F-3-114, any excess of Association income over Common Expenses (which expenses are defined in Article 1, Section 5 and which shall include reasonable reserves) shall be applied to reserves or other future expenses as the Executive Board deems appropriate.

## ARTICLE 7 Architectural Control

Section 1. No structures, buildings, or improvements shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, including change of color, until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by DECLARANT, or by an architectural committee composed of three (3) or more representatives appointed by the DECLARANT, provided that the Declarant acknowledges that it has pre-approved model homes plans submitted by McKee Homes, Inc., buildings and improvements shall include, but not be limited to, any dwelling, garage, detached accessory or storage buildings, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, drainage pipe, drainage canal, ditch, swale, catch basin, swimming pool, treehouse, playhouse, sign, flag pole, exterior illumination, monument or marker, outdoor statuary, exterior lights, security lights, storm door, well utility facility, mailbox, patio, deck, screening for outdoor trash cans or other purposes, sprinkler system, driveway, outdoor decorative objects, shrubbery or landscaping. In the event said DECLARANT, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after complete plans and specifications have been received by it, and notification of receipt of plans and specifications has been sent to the submitting Owner(s), approval will not be required and this Article will be deemed to have been fully complied with. DECLARANT shall notify Owner if complete plans and specifications have not been received. DECLARANT, subject to the provisions of Section 2 hereinafter, may assign these duties to

the Executive Board of the Association or to an architectural committee composed of three (3) or more representatives appointed by the Executive Board.

Section 2. All duties and responsibilities conferred upon the Executive Board or the Architectural Control Committee (the "Committee") by these Protective Covenants or the Bylaws of the Association may be exercised and performed by the DECLARANT or its designee at its discretion, so long as DECLARANT shall own any Lot in the Properties or any additions annexed thereto by Supplemental Declaration or Amendment to these Protective Covenants.

Section 3. In addition to its duties of review and approval of external harmony and design, the Committee shall monitor the compliance with all use restrictions, design and architectural control provisions and conditions and other restrictions. The Committee shall report such violations as may come to its attention to the DECLARANT or the Association for appropriate actions of enforcement.

Section 4. The Committee shall be composed of a minimum of three members of the Association. Until such time as the Committee has been established, the DECLARANT shall perform the functions as outlined above and elsewhere herein. Where the term "The Declarant" or "The Committee" has been used, this term shall be construed to mean that only one of the two entities will perform the duties and function, and when the Committee is established, that Committee will perform the duties and functions as outlined above. Upon the appointment and organization of the Committee, the Committee shall adopt such administrative procedures as will insure the submission, review and approval of any and all buildings and/or improvements constructed. During the Class B membership, DECLARANT shall be entitled to appoint all members of the Committee.

Section 5. No construction, which term shall include within its definition clearing, excavation, grading and other site work, shall take place except in strict compliance with this Article, and until the approval of the Committee or DECLARANT has been obtained.

Provided if a lot is divided and joined to more than one lot, then the resulting lot owners of a portion of the divided lot from the time of acquisition will be responsible for the ongoing proportionate share of all general or special assessments allocated to the share of the divided lot joined with the acquiring lot.

Section 6. Since the establishment of standard inflexible building setback lines in location of homes on Lots tends to force construction of homes directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related concerns, no specific setback lines are established by these protective covenants. In order to assure, however, that the foregoing considerations are given maximum effect, the DECLARANT reserves the right to select the precise site location of each house or other structure on each Lot in its sole discretion and to arrange the same in such manner and for such reasons as the DECLARANT deems sufficient. In any event, no house shall be erected closer to the front Lot line or nearer to any side Lot line than the minimum distances established by applicable governmental ordinances.

Section 7. Any installation of a drainage pipe must be approved by DECLARANT or Committee in accordance with the terms of this Article. In addition, all such installations must comply with all applicable governmental statutes, ordinances and regulations, including, but not limited to, the State of North Carolina Department of Transportation standards.

Section 8. All improvements, driveway connections, and plantings, including, but not limited to, drainage pipes, landscape materials, irrigation systems, walls, and fences, located within the road right-of-way must meet North Carolina Department of Transportation ("DOT") specifications and must be approved by DECLARANT or Committee. Lot Owner shall be responsible for all roadway repairs required because of damage caused by Lot Owners for failure to comply with this paragraph, whether such damage occurs before or after the road has been accepted and approved by the appropriate government agency as a public road. DECLARANT shall not be responsible for any such roadway repairs.

Section 9. The Committee or DECLARANT shall have jurisdiction over all original construction on any Lot and later changes or additions after initial approval thereof together with any modifications, additions or alterations subsequently to be constructed on any Lot or made to any improvements initially approved, including any exterior change or alteration and change of color.

Section 10. The Committee or DECLARANT shall have the right to disapprove any plans, specifications and details submitted to it in the event the same are not in accordance with any of the provisions of these PROTECTIVE COVENANTS and any architectural guidelines which may be in effect at the time.

Disapproval of plans, location, specifications or details may be based upon any grounds, including purely aesthetic considerations which the Committee or DECLARANT, in its sole and uncontrolled discretion, shall deem sufficient.

An Owner shall have the right to appeal disapproval of plans, location, specification and details to the Executive Board provided said appeal must be made in writing within thirty (30) days of the owners notification of disapproval. The decision by the Executive Board shall be final and not subject to appeal or review.

Section 11. The Committee, or its agent, or the DECLARANT shall have the right to inspect all construction to ensure that it is performed in strict accordance with the approved plans, specifications and details.

Section 12. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of any residence or permitted pertinent structures, or to paint the interior of the same any color desired.

Section 13. Neither the DECLARANT nor the Committee nor the Executive Board or any architecture agent thereof shall be responsible in any way for any defects in plans, specifications or details submitted, revised or approved in accordance with the provisions contained herein or in the guidelines, nor for any structural or other defect in any construction.

Section 14. Owner(s) shall be responsible for compliance with all applicable governmental statutes, ordinances and regulations, including, but not limited to, land use, zoning, and building regulations.

## ARTICLE 8

### Maintenance

Section 1. If, in the opinion of the Association or the DECLARANT, any Owner shall fail to maintain any Lot owned by him in a manner which is reasonably neat and orderly or shall fail to keep improvements constructed thereon in a state of repair so as not to be unsightly, all in the sole opinion of the Association or the DECLARANT, the Association in its discretion, by the affirmative vote of a majority of the members of the Executive Board, or the DECLARANT, in its discretion, and following ten (10) days written notice to Owner, may enter upon and make or cause to be made repairs to such improvements and perform such maintenance on the Lot as the removal of trash, cutting of grass, pruning of shrubbery, weeding and items of erosion control. The Association shall have an easement for the purpose of accomplishing the foregoing. The reasonable cost incurred by the Association in rendering all such services, plus a service charge of fifteen percent (15%) of such cost, shall be added to and become an individual assessment to which such Lot is subject as provided in Article 6 herein.

Section 2. The Owner of each Lot shall keep the Lot mowed and edged regularly, including that area from the front lot line to the edge of the paved street. In the event that the Owner of any Lot within the said Subdivision breaches this restriction, the DECLARANT and Association reserve the right to enter upon the Lot and mow the grass, clean up the Lot at property Owner's expense as provided in Section 1 above. Where Lots border on or contain ditches, drainage pipes or structures, or drainage canals or swales, the Owner of each Lot shall mow and provide general surface maintenance in those areas to keep storm water flowing. Such areas shall include, but not be limited to, slopes down to the edge of the water, and washouts or erosions adjoining ditch banks, swales, and drainage pipes or structures. No lot owner may pipe, fill in or alter any swale used to meet North Carolina Stormwater Management Permit requirements. This obligation and right may be enforced by the Association or any Owner as provided in Article 11 herein. Repair of, replacement of, or clearing of obstructions from drainage pipes, excluding driveway pipes, and structures shall be the responsibility of the Association. Owners shall be responsible to keep their driveway pipes clean.

Section 3. The Association shall be responsible to maintain the Common Elements and facilities located upon the Common Elements, platted conservation and buffer areas, and areas with similar descriptions, landscaped areas within road rights-of-way, the stormwater runoff and treatment systems, excluding driveway pipes and swales adjacent to lots, stormwater ponds, sign easement areas, and fences or other property designated to be maintained by the Association.

## ARTICLE 9

### Restrictions on Use and Occupancy

Section 1. No Lot shall be used except for single-family residential purposes. No commercial use shall be permitted on any Lot. No structure shall be erected, placed or permitted to remain on any Lot

other than one (1) detached, single family residence dwelling not to exceed two and one-half stories in height above floor or piling level and such outbuildings as are usually accessory to a single family residence dwelling, including a private enclosed garage.

Section 2. Any dwelling constructed on a Lots subject to these Protective Covenants shall contain not less than 1,300 square feet of fully enclosed and heated floor space for a single level home and not less than 1,500 square feet of fully enclosed and heated floor space for a 1.5 or 2 story home, all devoted to living purposes (exclusive of roofed or unroofed porches, breeze ways, terraces, porches, steps, walks, garages and any outbuildings). In computing the number of square feet allowed as provided herein, no square footage in any part of the dwelling that is constructed over a garage will be counted, unless it is an integral part of the living space and approved by DECLARANT. In the event of hardship, the Declarant or its successor in its sole discretion may grant a variance of up to ten percent (10%) from the minimum square footage requirement.

Section 3. All Lots are subject to the State of North Carolina rules and regulations concerning stormwater runoff as these rules and regulations are set out herein and are as amended from time to time.

a) The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8170302 and modifications, as issued by the Division of Energy, Mineral and Land Resources under NCAC 2H. 1000.

b) The maximum built-upon area of impervious surface for Lots in CLAY CROSSING shall be a maximum of 4,000 square feet. These allotted amounts include any built-upon area constructed within the Lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

c) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.

d) These covenants are to run with the land and be binding on all persons and parties claiming under them.

e) The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Energy, Mineral and Land Resources.

f) Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Energy, Mineral and Land Resources.

g) All runoff from built-upon areas on the lot must drain into the permitted system. This may be accomplished through providing roof drain gutters, which drain to the pond or street, grading the lot to drain toward the street or directly into the pond, or grading perimeter swales and directing them into the pond or street.

h) Built upon area in excess of the permitted amount will require a permit modification.

i) All affected lots shall maintain a 50' wide vegetative buffer adjacent to surface waters, measured horizontally from and perpendicular to the normal pool of impounded structures, the top of bank of each side of streams and rivers and the mean high water line of tidal waters.

j) Any individual or entity found to be in noncompliance with the provisions of a stormwater management permit or the requirements of the Stormwater Rules is subject to enforcement procedures as set forth in G.S. 143, Article 21.

k) If permeable pavement BUA credit is requested, the property owner must submit a request, with supporting documentation, to the permittee and receive approval prior to construction.

DECLARANT reserves the right to recalculate the maximum allowable built upon area in accordance with the storm water runoff rules and regulations of the State of North Carolina. All drainage swales or drainage patterns used to treat stormwater runoff as required by the State of North Carolina may not be filled in, piped or changed without the consent of the DECLARANT, its designee, the Association, or the State of North Carolina and shall be maintained as set forth in Article 8 herein. For curb and gutter projects, no one may pipe, fill in, or alter any lot line swale used to meet North Carolina Stormwater Management Permit requirements. The State of North Carolina is hereby made a beneficiary of these

Protective Covenants to the extent necessary to enforce its stormwater runoff regulations as the same may be amended from time to time. This paragraph cannot be changed or deleted without the consent of the State of North Carolina.

Section 4. No swimming pool on any Lot shall be placed or constructed without the approval of the DECLARANT or Committee and shall not be located nearer than twenty (20) feet from the side or rear lot lines.

Section 5. No Lot or Lots shall be subdivided except to enlarge an adjoining Lot, but any Lot so enlarged cannot be improved with more than one single family dwelling. An Owner of a Lot and a portion or all of an adjoining and contiguous Lot or Lots may construct a dwelling and/or other structures permitted hereunder upon and across the dividing line of such adjoining and contiguous Lots, and thereafter such combinations of Lots or portions thereof shall be treated for all purposes under these Protective Covenants as a single Lot.

Section 6. All Lot Owners shall maintain any street swales or lot line swale which are in place to meet North Carolina Stormwater Management Permit requirements and said lot owner is prohibited from piping, filling in or altering said swale without the express written consent of the Declarant, the Association and the North Carolina Division of Water Quality Control (DENR). All Lots shall be well maintained and no accumulation of rubbish or debris shall be permitted. The Owners of all unbuilt upon Lots in the Subdivision shall clear their Lots of underbrush at least one time each year and mow their Lot as needed to prevent vegetation growth above eight inches (8"). If the Owners do not clear and mow their lot(s) as required in this paragraph, the Association shall have the authority to clear any such Lot of underbrush and separately assess the cost of such work against each Owner. Such charge shall be an individual assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of Article 6 herein.

Section 7. Owners shall be responsible for any damage done to any streets, roadways, access ways, Common Elements, Limited Common Elements or property of other Owners within the Subdivision which may be caused by any Owner, his agents, employees, guests, licensees or invitees. The Association shall have the authority to assess any Owner for such damage and such charge shall be an individual assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of Article 6 herein and N.C.G.S. 47F-3-1 15.

Section 8. The following general prohibitions and requirements shall apply and control the improvements, maintenance and use of all Lots:

a. No mobile home, trailer, tent, or temporary house, temporary garage or other temporary outbuildings or clothesline shall be placed or erected on any Lot, provided, however, that the Committee or DECLARANT may grant permission for temporary structures for storage of materials during construction.

b. Once construction of a dwelling or other improvements is started on any Lot, the improvements must be substantially completed in accordance with the approved plans and specifications within twelve (12) months from commencement. Failure to complete construction within twelve (12) months from commencement date may result in a fine being imposed in the minimum amount of \$500.00 per month, which fine shall be payable to DECLARANT until all Lots in the Subdivision have been sold, at which time the fine shall be payable to the Association. The fine imposed under this Section shall be an individual assessment enforceable in accordance with Article 6 herein.

c. During construction of improvements on any Lot, adequate portable sanitary toilets must be provided for the construction crew.

d. Construction activity on a Lot shall be confined within the boundaries of said Lot. Each Lot Owner shall have the obligation to collect and dispose of all rubbish and trash resulting from construction on his Lot.

e. All dwellings and permitted structures erected or placed on any Lot shall be constructed of material of good grade, quality and appearance, and all construction shall be performed in good workmanship manner and quality. The covering for all roofs shall be shingles or materials approved by the Committee or DECLARANT. Materials and colors for the exterior of all dwellings and permitted structures must be approved by the Committee or DECLARANT. No used structures shall be relocated or placed on any Lot and no structures shall have an exterior constructed of asbestos or asphalt siding or paper composition, it being intended that only wood siding, manufactured lap siding, vinyl, brick or stone exteriors be constructed on Lots subject to these Protective Covenants. Modular and prefabricated homes may not be erected or placed on any Lot, without approval of the Committee or DECLARANT.

f. Except structures erected by the DECLARANT, no structure erected upon any Lot may be used as a model exhibit or model house except those erected by McKee Homes, Inc., unless prior written permission to do so shall have been obtained from the Committee or DECLARANT.

g. Any dwelling or improvement on any Lot that is destroyed in whole or in part by fire or other casualty shall be either rebuilt or torn down and all debris removed and the Lot restored to a slightly condition with reasonable promptness, provided, however, that in no event shall such debris remain on such Lot longer than two (2) months.

h. Vehicle maintenance is not permitted on any lot, common area or limited common area. No stripped, partially wrecked, junk motor vehicle, or part thereof, or any motor vehicle not displaying a current valid license plate shall be permitted to be parked or kept on any Lot.

i. Parking of vehicles on any street in the Subdivision shall be allowed only in accordance with the policy determined by the Executive Board. No truck nor other vehicle in excess of a one (1) ton load capacity, boat, vessel, motorboat, camper, trailer, motor or mobile home, or similar type vehicle or apparatus shall be parked or kept overnight or longer, on any street or on any Lot unless it is stored in an enclosed garage and in such a manner as to not be visible to the Owners of other Lots or the users of a street or recreation area. All tools or other materials stored in vehicles for overnight parking shall be kept out of sight. No customized vehicles that are unsightly in appearance as determined by the Executive Board or the DECLARANT shall be allowed.

j. Boats are permitted to be parked behind back corners of Lots with Declarant and/or Board approval.

k. No freestanding flag poles are permitted. Notwithstanding any other provision herein, the United States of America Flag and the State of North Carolina Flag are permitted provided they are not in excess of four feet by six feet (4' x 6') and are attached to flag holders affixed to the dwelling. The United States of America Flag shall be displayed in accordance with traditional patriotic customs set forth in 4 U.S.C. §5-10 as amended, governing the display of the United States of America Flag.

l. All trash receptacles and garbage cans shall be screened so as not to be visible by the Owners of other Lots or the users of any street or recreation area. All such screening shall be approved by the DECLARANT or the Committee.

m. Above ground propane tanks are permitted upon written approval as described herein. The placement of any such receptacles must be approved by the Committee or DECLARANT and may only be located within the main dwelling house, within an accessory building, within a screened area, or buried underground.

n. The Developer, at its expense, will supply one or more mailbox kiosk stand at a location within the subdivision which will provide a designated mailbox at the kiosk for each lot within the subdivision and each lot owner will be provided a key to access the mailbox assigned to the lot. After completion of the mailbox kiosk(s) by the Developer, the CLAY CROSSING HOA, Inc., will be responsible for maintenance of the Kiosks. No individual mailbox will be erected or installed within the subdivision.

o. No advertising signs or billboards or other advertising structure(s) of any kind shall be erected on any Lot or displayed to the public on any Lot subject to these restrictions except that one sign of not more than six square feet in area may be used to advertise a completed dwelling for sale or rent. No "For Sale" signs are allowed on any vacant Lots except with approval by DECLARANT or Committee. Only the sign design approved by the Declarant or the Committee may be used or placed upon any lot to advertise a completed dwelling for rent or sale. This covenant shall not apply to signs erected by the DECLARANT or McKee Homes, Inc., used to identify and advertise the Subdivision as a whole, or construction identification signs approved by the Committee or DECLARANT showing Lot numbers and name of builder, or for a homeowner for the purposes of identifying the homeowner as the resident on said Lot. Said identification sign shall not exceed in size a total of six square feet. All signs permitted by these Protective Covenants must be approved by DECLARANT or Committee.

Declarant, Committee or agent of either has the right to enter upon the Lot or unit and remove any unapproved sign. The fines for unapproved signs are as follows: \$25.00 per day for the first violation, \$50.00 per day for the second violation and subsequent violations.

p. No outside antennas or satellite dishes shall be erected on any Lot or structure except in accordance with the plan adopted by the Association, and until permission for the same has been granted by the Committee or DECLARANT in accordance with applicable governmental regulations.