

40
✓

BOOK PAGE
2351 0706

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTITONS,
OGDEN PINES

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, made the 20th day of April, 1998, by DUNCAN HARRISON, hereinafter referred to as "Declarant";

000189

WITNESSETH:

Whereas, Declarant is the owner of certain real property located in Harnett Township, New Hanover County, North Carolina, (hereinafter referred to as the "Properties") which is more particularly described as follows:

Being all of **OGDEN PINES**, as shown on the plat thereof recorded in Map Book 37 at Page 387 of the New Hanover County Registry, reference to which is hereby made for a more particular description.

Now, therefore, Declarant hereby declares that all of the Properties described above shall be held, sold, and conveyed subject 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 I

DEFINITIONS

Section 1. "Association" and "HOA" shall be used interchangeably to mean and refer to **OGDEN PINES HOA, INC.** its successors and assigns, a private non-profit corporation formed or to be formed by the Declarant primarily as a Homeowners Association for the lot owners in **OGDEN PINES**, all of whom shall be members of the Association.

Section 2. "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 3. "Properties" shall mean and refer to that certain property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

RETURNED TO

DUNCAN HARRISON
791-8988

BOOK PAGE
2351 0707

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, which shall include any real property, improvements thereon, and other amenities conveyed to the Association by the Developer. The Common Area to be owned by the Association at the time of the conveyance of the first lot shall include the area designated as "Open Space" upon the the plat of **OGDEN PINES**, duly recorded in the New Hanover County Registry.

Section 5. "Lot" shall mean and refer to any of the numbered lots as shown on the plat of **OGDEN PINES**, duly recorded in said Registry.

Section 6. "Declarant" shall be used interchangeably with "Developer", and shall mean and refer to **DUNCAN HARRISON**, or his heirs, successors in interest, or assigns, if such successor or successors should acquire undeveloped property from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean this instrument as it may be from time to time amended or supplemented.

Section 8. "Membership" shall mean and refer to the rights, privileges, benefits, duties, and obligations, which shall inure to the benefit and burden of each member of the Association.

Section 9. "Member" shall mean and refer to every person or entity who has a membership in the Association.

Section 10. "Mortgagee" shall mean a beneficiary under a mortgage or Deed or Trust.

Section 11. "Built Upon Area" shall mean that portion of each lot that is covered by impervious or partially impervious cover, including building, pavement, recreational facilities, etc., but not including decking. The built upon area for each lot shall not exceed **3750** square feet, unless and until the State of North Carolina shall revise its stormwater runoff regulations to permit a greater built upon area for each lot.

ARTICLE II.

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which 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 suspend the voting rights and privileges of an Owner for any period during which any assessment against his lot remains unpaid; and for

UNIFORM COMMERCIAL CODE - FINANCING STATEMENT CHANGE
APPROVED FOR USE IN NORTH CAROLINA

UCC-3

This STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code:

No. of Additional Sheets Presented:

1. Debtor(s) (Last Name First) and Address(es):
Graham, Oscar A. dba
Azalea Laundromat
301 Passage Gate Way
Wilmington, NC 28412

2. Secured Party(ies) Name(s) And Address(es):
Triangle Bank
4008 Oleander Drive
Wilmington, NC 28403

3. (a) This statement refers to original Financing Statement bearing File No. 95A - 1212 Date Filed March 8, 1995 420
(b) If the original Financing Statement has previously been continued list the Filing No. of the last continuation filed.
(c) If the original filing was a fixture filing or covered timber or accounts subject to G.S. 25-9-103, (5) mark this block

For Filing Officer

- 4. Continuation. The original financing statement between the foregoing debtor and secured party, bearing the number shown above is still effective.
- 5. Termination. Secured Party no longer claims a security interest under the financing statement bearing file number shown above. (A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned interest to the signer of the termination statement.)
- 6. Assignment. The secured party's rights under the financing statement bearing file number shown above to the property described in item 9 have been assigned to the assignee whose name and address appear in item 9.
- 7. Amendment. Financing statement bearing file number shown above is amended as set forth in item 9.
- 8. Release. Secured party releases the collateral described in item 9 from the financing statement bearing the number shown above.

9. The real property and personal property located at 203 South 13th Street, Wilmington, NC, 28401, also known as part of Lots 3, 4, and 5, Block 188, City of Wilmington, NC, is not the subject of the above-referenced financing statement and any property real or personal located thereon is hereby and forever released from any lien created by the referenced financing statement.

10. Signatures:

000184

'98 APR 22 PM 3 45 TRIANGLE BANK

By

Debtor(s) (necessary only if item 7 is applicable)

RECORDED & VERIFIED BY SUE COYS

[Signature]
Secured Party(ies)

Standard Form Approved by N.C. Sec. of State

(1) FILING OFFICER COPY - NUMERICAL

UCC-3

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, which shall include any real property, improvements thereon, and other amenities conveyed to the Association by the Developer. The Common Area to be owned by the Association at the time of the conveyance of the first lot shall include the area designated as "Open Space" upon the plat of **OGDEN PINES**, duly recorded in the New Hanover County Registry.

Section 5. "Lot" shall mean and refer to any of the numbered lots as shown on the plat of **OGDEN PINES**, duly recorded in said Registry.

Section 6. "Declarant" shall be used interchangeably with "Developer", and shall mean and refer to **DUNCAN HARRISON**, or his heirs, successors in interest, or assigns, if such successor or successors should acquire undeveloped property from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean this instrument as it may be from time to time amended or supplemented.

Section 8. "Membership" shall mean and refer to the rights, privileges, benefits, duties, and obligations, which shall inure to the benefit and burden of each member of the Association.

Section 9. "Member" shall mean and refer to every person or entity who has a membership in the Association.

Section 10. "Mortgagee" shall mean a beneficiary under a mortgage or Deed or Trust.

Section 11. "Built Upon Area" shall mean that portion of each lot that is covered by impervious or partially impervious cover, including building, pavement, recreational facilities, etc., but not including decking. The built upon area for each lot shall not exceed **3750** square feet, unless and until the State of North Carolina shall revise its stormwater runoff regulations to permit a greater built upon area for each lot.

ARTICLE II.

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which 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 suspend the voting rights and privileges of 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.

b. The rights of the Declarant as set forth herein.

c. The right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

d. The right of the Association to mortgage or convey all or part of the common area subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless an instrument creating such a dedication or transfer is signed by two-thirds (2/3) of each class of members (which votes may be cast in person or by proxy) and properly recorded.

Section 2. Delegation of Use. Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III.

EASEMENTS

Section 1. Easements are reserved and may be granted by Declarant or the Association as necessary in the Common Areas for installation and maintenance of underground utilities and drainage facilities.

Section 2. 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 and common area in the performance of their duties.

Section 3. In case of an emergency originating in or threatening any lot or the common areas and facilities, regardless of whether any Lot Owner is present at the time of such emergency, the Board of Directors, or any other person authorized by it, shall have the right to enter upon any lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot owners, and such right of entry shall be immediate.

Section 4. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over under the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in, or over

each lot and such other areas as are shown on the plat of the Properties recorded or to be recorded in the office of the Register of Deeds of New Hanover County; provided further, that the Declarant may cut drain ways for surface water whenever such action may appear to the Developer to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. It further reserves the right to locate wells, pumping stations, and tanks within residential areas, or on any residential lot now or subsequently designated for such use or to locate same upon any lot with the permission of the owner of such lot. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 5. The Declarant reserves unto itself, its successors and assigns, the right to subject the real property in this Subdivision to a contract with Carolina Power & Light Company for the installation of street lighting, which contract requires a continuing monthly payment to Carolina Power & Light Company by each residential customer for street lighting service.

Section 6. All easements and rights described herein are easements appurtenant, running with the land, and shall inure 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 this declaration.

ARTICLE IV.

UTILITIES

Section 1. Water Service. Water service is provided by individual wells for each lot, to be installed by lot owner.

Section 2. Sewer Service. All lots will be tied into the New Hanover County sewer system. All sewer tap fees and monthly charges for sewer service will be the responsibility of each individual lot owner.

ARTICLE V.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to assessment shall be a member of the

Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

a. CLASS "A". Class A members shall be all Owners with the exception of the Declarant 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. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

b. Class "B". Class B member(s) shall be the Declarant or Developer and Declarant or Developer shall be entitled to three (3) 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 total votes outstanding in Class A membership equals the total votes outstanding in the Class B membership, or

(2) on December 31, 2006.

ARTICLE VI.

MANAGEMENT AND CONTROL

Management of the affairs of the Association shall be the right and responsibility of its Board of Directors in accordance with this Declaration and the By-Laws. PROVIDED HOWEVER, that all of the powers and duties of the Board of Directors may be exercised by the Declarant until such time as 90% of the lots in **OGDEN PINES** have been sold and conveyed by the Declarant to purchasers or until December 31, 2006, whichever occurs first. Management and control may be transferred to the lot owners at any time but in all events, no later than 120 days after the happening of the earlier of the above events.

ARTICLE VII.

COVENANTS FOR ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENT. The Declarant, for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges, and
- b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided;
- c. Insurance assessments; and
- d. To the appropriate governing taxing authority, a pro rata share of ad valorem taxes levied against the Common Area, if any.

The annual, special, and insurance assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs 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. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of all easements, utilities, and the Common Area, specifically including, but not limited to, the maintenance, repair, and replacement of access easements, maintenance and repair of all stormwater drainage facilities and easements as herein provided, maintenance and repair of all other utility facilities and utility equipment not otherwise maintained and repaired by municipal, public, or private utility authorities, maintenance and operation of all lighting facilities, maintenance and repair of any amenities located upon the common areas, maintenance of the entrance area and subdivision sign, the costs of enforcing this Declaration, and the payment of all other expenses associated with the common areas, including the prompt and full payment of all ad valorem property taxes and insurance for said common area(s), and, in addition, doing any other things necessary or desirable in the opinion of the Association to keep the property in neat and good order, and to provide for the health, welfare, and safety of the Owners and residents of **OGDEN PINES**.

Section 3. ANNUAL ASSESSMENTS. Lots shall not be subject to annual assessments until the lot is sold by the Declarant or Developer to an Owner. A lot shall become subject to annual assessments from the day following the day of conveyance by the Developer to the Owner. The annual assessments shall be determined and payable as follows:

- a. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the annual assessments shall be in an amount determined to be fair and reasonable by the Directors of the Association to carry out the responsibilities of the Association.

b. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased each year not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the membership.

c. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased above ten (10%) percent by vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

d. The annual assessment shall be collected at closing and pro-rated on a calendar year basis.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to the year only 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 Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. INSURANCE. The Board of Directors, on behalf of the Association, as a common expense, shall at all times keep the property of the Association, if any, insured against loss or damage by fire or other hazards and other such risks, including, but not limited to, directors' liability and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the Properties and Common Area, which insurance shall be payable in case of loss to the Association for all members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by members or their mortgagees.

Section 6. INSURANCE ASSESSMENTS. All insurance policy premiums on the Common Areas for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense, and the Association shall levy against the Owners equally as an additional annual assessment, (herein called "Insurance Assessment") which shall be in addition to the amounts provided for under Section 3 above, an amount sufficient to pay the annual cost of all such insurance premiums.

Section 7. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the 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 8. UNIFORM RATE OF ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all lots or units and shall be collected on a quarterly basis.

Section 9. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS AND DUE DATES. The annual assessments provided for herein shall commence as to all lots on the first day following the day of conveyance of the lot to an Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid in pro rata monthly installments. The association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified unit have been paid.

Section 10. EFFECT OF NONPAYMENT OF ASSESSMENTS AND REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate, together with all costs and reasonable attorney's fees associated with their collection, and all such sums shall become a lien upon the Owner's lot. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his unit.

Section 11. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VIII.

FIDELITY BONDS

Section 1. GENERAL. The Association shall maintain blanket fidelity bonds for all officers, directors, employees and other persons handling or responsible for funds of the Association. If the Association shall delegate some or all of the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association.

Section 2. AMOUNT OF COVERAGE. The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all units plus reserve funds.

Section 3. OTHER REQUIREMENTS. Fidelity bonds required herein must meet the following requirements:

Fidelity bonds shall name the Association as an obligee.

The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.

The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association, to any insurance trustee and each Eligible Mortgage Holder.

ARTICLE IX.

ARCHITECTURAL CONTROL

Section 1. BUILDING AND SITE IMPROVEMENTS. No dwelling, wall or other structure shall be commenced, erected, or maintained upon any lot in the Properties, nor shall any exterior addition to or change in or alteration therein (including color of paint or finish) be made

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 the Declarant, or its designee, or, after the sale of all lots by the Declarant, by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, or its designee, or, if applicable, the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with, provided that such addition, change, or alteration is in general conformity with the overall plan, design, and appearance of the subdivision in general. Refusal or approval of any such plans, location or specification may be based upon any ground, including purely aesthetic and environmental considerations, that in the sole and uncontrolled discretion of the Declarant or Architectural Control Committee shall be deemed sufficient. One copy of all plans and related data shall be furnished to the Declarant or Architectural Control Committee, as the case may be, for its records. Neither the Declarant nor the Architectural Control committee shall be responsible for any structural or other defects in plans and specifications submitted to it or any structure erected according to such plans and specifications.

Section 2. DEVELOPER'S RIGHTS. All duties and responsibilities conferred upon the Board of the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any lot in the Properties or any additions annexed thereto by Supplemental Declaration or Amendment to this Declaration.

Section 3. APPROVAL OF PLANS:

A. No house plans will be approved unless the proposed house shall have a minimum of 1,000 square feet of enclosed dwelling area. The term "enclosed dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling; provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided further, that shed type porches, even though attached to the house are specifically excluded from the definition of the aforesaid term "enclosed dwelling area". All lots are approved for double-wide manufactured homes. Each home shall be required to have a concrete block or a brick veneer curtain wall.

B. Since the establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines shall be established by this Declaration. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any lot shall be controlled by and must be approved absolutely by the Declarant or the Architectural Control Committee, as the case may

be. Provided, however, that no dwellings shall be constructed closer to any lot line than allowed by the applicable county zoning and subdivision ordinances.

C. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder, due to strikes, fires, national emergency, or natural calamities.

D. No structure shall be erected, altered, placed or permitted to remain on any lot, except on single family dwelling not to exceed two and one-half stories in height, unless the Declarant or the Architectural Control Committee, as the case may be, approves in writing a structure of more than two and one-half stories, and one or more small accessory buildings (which may include a detached private garage, or guest facilities) provided that the use of such dwelling or accessory building does not in the opinion of the Declarant or Architectural Control Committee overcrowd the site, and provided further, that such buildings are not used for any activity normally conducted as a business.

E. All service utilities, fuel tanks, clothes lines and wood piles are to be enclosed within a wall or plant screen of a type and size approved by the Declarant or the Architectural Control Committee, so as to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision. All mail and newspaper boxes shall be uniform in design, and the design for mail and newspaper boxes shall be furnished by the Declarant. No fences shall at any time be placed or permitted to remain on any lot without approval of the Declarant or the Architectural Control Committee.

F. Off street parking for not less than two (2) passenger automobiles must be provided on each lot prior to the occupancy of any dwelling constructed on said lot which parking areas and the driveways connected thereto shall be constructed of concrete, brick, asphalt, or crush and run gravel, or any other material approved by the Declarant, or its Designee.

Section 4. MAINTENANCE BY ASSOCIATION. The Association, at its expense, shall be responsible for maintaining, repairing, and replacing the planting easement areas, the stormwater drainage system, including all drainage lines, pipes and ditches, and stormwater retention ponds which are located on the Properties, except those constructed by individual lot owners and located within individual lots. The Association shall have the right to enter upon any lot at reasonable times for the purpose of maintaining, repairing and replacing all utility and drainage lines and pipes which might be located on such lot; and each Owner hereby grants permission to the Association to enter upon his or her lot for such purposes.

In the event that such need for maintenance, repair or replacement (other than such being caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage Insurance Policies) is caused through the willful or

negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance, replacement, or repairs, shall be added to and become a part of the assessment to which such Lot is subject.

The Association shall maintain all common areas, including all roadways, plantings, shrubbery, boardwalks, and walkways located thereon, and lighting fixtures, and shall pay all costs of operation thereof including premiums associated with general liability insurance insuring the Association from liability arising from the ownership and operation thereof.

ARTICLE X.

USE RESTRICTIONS

Section 1. LAND USE AND BUILDING TYPE. Except for the commons Areas, which may be used for recreational purposes, all lots shall be used for residential purposes only except that so long as the Declarant or the Developer shall retain ownership of any lots, it may utilize any such lot for sales or rentals, offices, models, or other usage for the purpose of selling or renting lots within the subdivision including the right to place "For Sale" or "For Rent" signs on such lot. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose; provided, however, that when all lots have been sold, this right of commercial usage by the Declarant, its successors and assigns shall immediately cease. Co-ownership of lots shall not be prohibited. Except as herein provided, any building erected, altered, placed, or permitted to remain on any lot shall be subject to the provisions of Article IX of this Declaration of Covenants, Conditions, and Restrictions relating to Architectural Control.

Section 2. NUISANCES. No noxious or offensive activity shall be carried on or upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly, or unkept condition of buildings or grounds on such lot which would tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

Section 3. LOT MAINTENANCE. In the event that any Lot Owner shall fail or refuse to keep such premises free from weeds, underbrush or refuse piles, or unsightly growth or objects, the, after thirty days notice from the Architectural Control Committee, the Association or its designee shall enter upon such lot and remove the same at the expense of the Owner, and such entrance shall not be deemed as trespass, and in the event of such removal a lien shall arise and be created in favor of the Association for the full amount of the cost thereof chargeable to such Lot, including collection costs, and such amounts shall be due and payable within thirty (30)

days, after the Owner is billed therefor. Such lien shall be enforceable by Court proceedings as provided by law for enforcement of liens.

Section 4. JUNK VEHICLES AND TRACTOR TRAILERS. No inoperable vehicle or vehicle without current registration, current state inspection sticker, current license plate, and current insurance will be permitted on the premises, and no tractor-trailers will be permitted on the premises. The Association shall have the right to have all such vehicles towed away at the owner's expense.

Section 5. DIRECTIONAL SIGNS, "FOR SALE SIGNS", "FOR RENT SIGNS", OTHER SIGNS. The Developer reserves for itself, its successors and assigns, a temporary easement to place directional signs upon any of the lots in said Subdivision, in order to assist prospective purchasers in locating other lots or houses which are for sale in the Subdivision, or in other future subdivisions coming out of adjoining lands. The right to place and maintain such signs shall terminate five (5) years from the date of this instrument.

Except for signs placed by the Developer, or with the express written permission of the Developer or the Association (after control of the Association is turned over to the owners pursuant to this Declaration), no "For Sale" or "For Rent" signs, or any other sign shall be allowed on any lots, or in or on any houses, or on any of the common areas or limited common areas within the subdivision.

Section 6. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot any time as a residence either temporarily or permanently. Provided however, that this provision shall not prevent the Declarant, its designees or assigns from maintaining a construction trailer or office on any lot or in the common area until the construction of dwellings on all lots in the subdivision is completed.

Section 7. RECREATIONAL VEHICLES. Boats, motor boats, campers, recreational trailers, motor homes, or similar type vehicles shall only be permitted to remain on a lot if such vehicles are parked in the back yard out of sight from the front street.

Section 8. FENCES. No fence or other obstruction exceeding six (6) feet in height shall extend nearer to the street than the front setback line of the main dwelling constructed on the lot. Except as otherwise herein provided, all fences in the subdivision must be of the same design, height, type, and general appearance, i.e., the first fence built in the subdivision must be approved by appearance and any fences built thereafter must be of the same design, height, type, and general appearance. A lot owner may construct a picket fence, which must be first approved by the Developer, or the Association, which fence shall not be located closer to the street than the front setback of the house located on the lot. All lots situated on a corner lot shall be required to have a 20' by 20' fenced area or an approved storage facility in the rear of the house, within which shall be kept all lawnmowers, bicycles, toys, grills, stored materials, and other such items.