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STATE OF NORTH CAROLINA

COUNTY OF CALDWELL

WTC

THE BLUFFS OF WILSON CREEK

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 2nd day of November, 2004, by The Bluffs of Wilson Creek, LLC, hereinafter referred to as "Declarant". All capitalized terms used herein shall have the meanings set forth in Article 1 or elsewhere in the Declaration.

STATEMENT OF PURPOSE

Declarant is the developer and owner of certain property located in Caldwell County, North Carolina, which is more particularly described on those certain maps entitled "The Bluffs of Wilson Creek, Phase 1 and Phase 2A, recorded in Plat Book 21, Page 209, Plat Book 21, Page 210, Plat Book 21, Page 350, Plat Book 21, Page 351, Plat Book 21, Page 352, Plat Book 21, Page 449, Plat Book 21, Page 450, and Plat Book 21, Page 451, in the Caldwell County Public Registry.

Declarant desires to provide, for the creation on the property shown on that map, a residential community of single-family residences to be named The Bluffs of Wilson Creek (the "Development").

Declarant desires to insure the attractiveness of the Development, to prevent any future impairment thereof, to prevent nuisances and enhance the value and amenities of all properties within the Development. Furthermore, Declarant desires to provide for the construction, maintenance and upkeep of any Common Areas and related easements within the Development, all for the common use and benefit of all Property Owners. Declarant also desires to construct and provide Private Roads over the Private Road Easements, (as herein defined), which Private Roads will be for the common use and benefit of all of the Lot Owners. Declarant reserves the right to establish additional easements in the future as needed for the private roads and as needed for utility purposes.

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Declarant desires to provide for a system whereby all Owners will pay for the maintenance and upkeep of any Common Areas in accordance with an established budget set by the Board of Directors. Declarant further desires to provide for a system whereby the Private Road Lot Owners will pay for the maintenance and upkeep of the Private Roads and Private Road Easements.

To these ends, Declarant desires to subject the real property described herein to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said real property and each Owner thereof.

Declarant further desires to create an organization to which will be delegated and assigned the powers of: (a) owning, maintaining and administering the Common Areas, except as otherwise provided in the Declaration; (b) administering and enforcing the covenants and restrictions contained herein; and (c) collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values and amenities in the Development, to ensure specific rights, privileges and easements in the Common Areas, and to provide for the maintenance and upkeep of the Common Areas and amenities as provided in the Declaration and the Bylaws.

To that end Declarant has or will cause to be incorporated under North Carolina law, pursuant to the Articles of Incorporation attached hereto as Exhibit "A", and incorporated herein by reference, The Bluffs of Wilson Creek Homeowners Association., as a non-profit corporation for the purpose of exercising and performing the aforesaid functions, said corporation to be governed by the Bylaws attached hereto as Exhibit "B", and incorporated herein by reference.

NOW, THEREFORE, Declarant, by this Declaration, does declare that all of the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property described herein and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1

DEFINITIONS

Section 1.1. "Additional Property" shall mean and refer to any additional real estate contiguous or adjacent to the Property shown on the map recorded in Plat Book 21, Page 209, Plat Book 21, Page 210, Plat Book 21, Page 350, Plat Book 21, Page 351 and Plat Book 21, Page 352, in the Caldwell County Public Registry, including any portion of the Common Areas which are conveyed back to Declarant by the Association which may be made subject to the terms of the Declaration in accordance with the provisions of this Declaration.

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Section 1.2. "Architectural Control Committee" shall mean and refer to the committee appointed by the Board to oversee the development and enforcement of architectural control standards and restrictions with respect to the Development and to perform certain other functions described in the Declaration.

Section 1.3. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association attached hereto as Exhibit "A", and incorporated herein by reference.

Section 1.4. "Association" shall mean and refer to The Bluffs of Wilson Creek Homeowners Association, a North Carolina non-profit corporation, its successors and assigns.

Section 1.5. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 1.6. "Bylaws" shall mean and refer to the Bylaws for the Association attached hereto as Exhibit "B" and incorporated herein by reference.

Section 1.7. "Common Area" or "Common Areas" shall mean and refer to the Entrance Monument and Private Roads including medians located thereon, together with all utilities, easements and amenities located within the Common Areas, collectively, and any other property shown or designated on the Map as "Common Area", "Entrance Monument Easement", "Common Open Area", or similar designation, and any other property designated in this Declaration as Common Areas. The Common Areas shall be owned by the Association (except as otherwise provided in this Declaration) for the common use, benefit and enjoyment of the Owners, as designated in this Declaration. The listing and description of the components of the Common Area is illustrative of Declarant's present plans only and is not a guaranty by the Declarant or the Association that all or any part of such components will be constructed or installed by the Declarant or the Association at any future time. The Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Subdivision and to designate which Owners shall be permitted to use any Common Areas as set forth in the Declaration.

Section 1.8. "Declarant" shall mean and refer to The Bluffs of Wilson Creek, LLC, and such of its successors and assigns to whom the rights of Declarant hereunder are transferred by written instrument recorded in the Caldwell County Public Registry.

Section 1.9. "Development" shall mean and refer to The Bluffs of Wilson Creek, a single-family residential development proposed to be developed on the Property by Declarant.

Section 1.10. "Entrance Monument" shall mean and refer to the easement area reserved and granted by Declarant over the parcels designated as the "Entrance Monument Easement" on the Map and the stone monument and entrance sign located on

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such easements, together with lighting, irrigation system, landscaping and other improvements to be constructed on such easement area, to be used as an entryway for the Subdivision, and for the purposes set forth in Section 7.8.

Section 1.11. "Guidelines" shall mean and refer to the Architectural Guidelines.

Section 1.12. "Improvement" shall have the same meaning as set forth in Section 8.4.

Section 1.13. "Lot" or "Lots" shall mean and refer to the separately numbered or single family lots depicted on the Map, which Lots do not include the Common Areas as described in the Declaration.

Section 1.14. "Map" shall mean and refer to: (i) the map of The Bluffs of Wilson Creek recorded in Plat Book 21, Page 209, Plat Book 21, Page 210, Plat Book 21, Page 350, Plat Book 21, Page 351 Plat Book 21, Page 352, Plat Book 21, Page 449, Plat Book 21, Page 450, and Plat Book 21, Page 451, in the Caldwell County Public Registry, North Carolina; (ii) any maps of any portions of the Additional Property which are subjected to this Declaration; and (iii) any revisions of such map or maps recorded in Caldwell County Public Registry.

Section 1.15. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.16. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 1.17. "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

Section 1.18. "Owner" shall mean and refer to the record owner(s), whether one or more persons or entities, of fee simple title to any Lot within the Development, including the Declarant if it owns any Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.19. "Outlot Ponds" shall mean and refer to the ponds located on the Common Area between Lot 7 and Lot 8, Plat Book 21, Page 350, Caldwell County Registry, and on any other Common Area to be determined at a later date.

Section 1.20. "Private Road Easements" shall mean and refer to the non-exclusive, perpetual easements twenty-five feet (25') to fifty feet (50') in width identified on the Map as "Private Road Easements", which have been granted to the Owners of Lots fronting Private Roads in the Subdivision (the "Private Road Lots"), their heirs, successors and assigns for access, ingress, egress to and from such Private Road Lots. The Private Road Easements are also reserved unto the Declarant and the Association, their successors and assigns for access, ingress and egress to the Private Road Lots, for

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the installation of the Private Roads, and for the installation and maintenance of any utilities and drainage facilities.

Section 1.21. "Private Roads" shall mean and refer to those certain private roads to be constructed within the Private Road Easements which will provide access to each of the Private Road Lots upon completion, and will be dedicated to the Owners of the Private Road Lots, all to be maintained by the Owners of the Private Road Lots as addressed in this Declaration.

Section 1.22. "Private Drives" shall mean and refer to the driveway leading from the Private Roads through each lot to the house constructed on each lot.

Section 1.23. "Property" shall mean and refer to the property shown on the Map, including the Lots, Common Areas and Private Roads, together with any leasehold interest or easement which the Association has or may hereafter acquire in any property adjacent to the Development.

Section 1.24. "Subdivision" shall mean and refer to The Bluffs of Wilson Creek Subdivision, as shown on the Map.

Section 1.25. "Trails and/or Trail Connectors" shall mean and refer to the trails to be used by pedestrians, bicycles and electric golf carts along certain lot lines, said trails leading to Collettsville Community Park and the Pisgah National Forest, which are adjacent to the subdivision.

ARTICLE 2

PROPERTY SUBJECT TO THE DECLARATION AND WITHIN THE JURISDICTION OF THE ASSOCIATION

Section 2.1. Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and which is and shall be within the jurisdiction of the Association, is located in Caldwell County, North Carolina, and is the Property as defined above and as more particularly described and shown on the Map.

Section 2.2. Additions to the Property.

(a) Declarant may cause Additional Property to be made subject to the terms and scheme of the Declaration by filing one or more Supplemental Declarations in the Caldwell County Public Registry, containing a description of the Additional Property and a statement by the Declarant of its intent to extend the operation and effect of the Declaration to the Additional Property. Declarant may also cause additional Common Areas within or adjacent to any Additional Property to be constructed and made subject to the terms and scheme of the Declaration by the filing of one or more Supplemental Declarations describing the Common Areas to be added, and a statement by Declarant of its intent to extend the operation and effect of the Declaration to the additional Common Areas. Notwithstanding the foregoing, the covenants and restrictions established herein as

applied to, or imposed upon, the Additional Property may be altered or modified by the filing of one or more Supplemental Declarations as provided in Subparagraph (b) below.

(b) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants and restrictions contained herein with respect to the Property, nor revoke, modify, change or add to the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for Amendment set forth in this Declaration.

(c) In addition to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration, Declarant shall have the right, at its election without the consent of any Owner or Owners, to subject any phase, section or portion of the Property owned by Declarant to additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens, by filing an Additional Declaration in the Office of the Register of Deeds of Caldwell County covering only such Phase, section or portion of the Property. Such an Additional Declaration may or may not provide for the establishment of a property owners' association to govern the ownership and/or maintenance of the Property affected by and the enforcement of the provisions of such Additional Declaration. Whether or not a property owners' association is formed pursuant to such Additional Declaration, the Association shall have the right and authority to enforce all controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens imposed by such Additional Declaration and any amendments thereto, whether or not such right and authority is expressly provided for in such Additional Declaration.

(d) Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any supplemental Declaration and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

ARTICLE 3

PROPERTY RIGHTS

Section 3.1. Ownership of Common Areas. Declarant shall convey to the Association the Common Areas to be owned and maintained by the Association. The Declarant reserves the right to construct: (i) trails, ponds and pathways upon the Common Areas; (ii) the Entrance Monument to be located at the entrance to the Development; and (iii) the Private Roads, as reflected on the Map, for the use and enjoyment of the Owners who are entitled to the use of such Common Areas as provided in this Declaration.

Notwithstanding the recordation of any Map or any other action by Declarant or the Association, all Common Areas Trails and Trail Connectors and the Private Roads shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public. Furthermore, the Declarant has created the Private Road Easements over and upon portions of the Private Road Lots for sole benefit and use of the Owners of the Private Road Lots, and these are not Common Areas.

Section 3.2. Owners' Rights to Use and Enjoy Common Areas, Trails and the Private Roads. Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas and Trails, and such right shall be appurtenant to and conveyed with title to such Owner's Lot, subject to the following:

(a) the right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Areas and Trails to insure the availability of the right to use the Common Areas to the Owners and the safety of all Owners on the Common Areas;

(b) the right of the Association to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Common Areas and Trails by an Owner for any period during which any assessment against his/her Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Declarant or the Association to grant utility, drainage and other easements across the Common Areas and Trails;

(d) the provisions of Section 4.6 and Section 4.8 below; and

(e) the provisions of Article 7 of the Declaration;

Section 3.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, the Owner's right of enjoyment to certain Common Areas, trails and facilities located thereon to the members of the Owner's family, guests or invitees.

Section 3.4. Rights in the Private Roads. Each Private Road Lot Owner, the Declarant and the Association, their successors and assigns, shall have and are hereby granted the perpetual, exclusive right to use the Private Roads within the Private Road Easements for the purpose of pedestrian and vehicular access, ingress, egress, and regress to and from each Private Road Lot, the Trails and the Common Areas, and for the purpose of installation and maintenance of drainage facilities and other utilities facilities to serve the Private Road Lots.

Section 3.5. Rights in the Trails and Trail Connectors. Each Private Road Lot Owner, the Declarant and the Association, their successors and assigns, shall have and are hereby granted the perpetual, exclusive right to use the Trails and Trail Connectors for the purpose of pedestrian, bicycle and electric golf cart access, ingress, egress, and regress to and from each Private Road Lot, the Trails and the Common Areas, and for the purpose of installation and maintenance of drainage facilities and other utilities facilities to serve the Private Road Lots.

ARTICLE 4

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THE ASSOCIATION

Section 4.1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws attached as Exhibit "B" hereto.

Section 4.2. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote for each Class A Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said 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 Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. The Declarant shall be entitled to six (6) votes for each Class B Lot owned by it.

Section 4.3. Relinquishment of Control. The Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

(a) when the number of votes in the Class A membership held by Owners occupying full-time homes in the Subdivision equals the total number of votes outstanding in the Class B membership and the Declarant surrenders its right to annex any Additional Property to the Property pursuant to the Declaration and the Bylaws; or

(b) Declarant, in its sole discretion, elects to convert the Class B Lots to Class A Lots. Any such election, to be effective, must be in writing and recorded in the Caldwell County Public Registry, North Carolina.

Section 4.4. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Development as well as its own books, records and financial statements which shall be available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by Lots. All such documents shall be available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

Section 4.5. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation level to be established by the Board of Directors and to perform all of the powers and duties of the Association. Provided,

however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

Section 4.6. Maintenance. The Common Areas, Trails, Trail Connectors and Entrance Monuments, together with all utilities, easements and amenities located within the Common Areas, Trails and Entrance Monuments and not otherwise maintained by public entities or utilities, shall be maintained by the Declarant until these areas are conveyed to the Association, at which time the Association shall activate the collection of the initial Annual Assessment from each Owner for such maintenance of the Common Areas. Maintenance of the Private Roads shall be performed by Declarant until the Homeowners Association is turned over by the Declarant to the Lot Owners. After such transfer, the Association shall be solely responsible for all maintenance of the Common Areas, Trails, Ponds and Entrance Monuments. Provided, however, Declarant hereby reserves the right and easement, but not the obligation, to go upon any portion of the Common Areas, Trails and Private Roads at any time in order to repair and maintain such Common Areas, Trails and Private Roads where needed, in Declarant's sole discretion, to bring such Common Areas, Trails and Private Roads within the standards required by Declarant. Should Declarant so go upon the Common Areas, Trails or Private Roads to perform maintenance and repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for the cost of such maintenance and repairs to the Common Areas, Trails and/or Private Roads upon receipt of a statement for such cost from Declarant. The Common Areas, Trails and Private Roads shall be maintained as more particularly described below:

(a) Maintenance of the Entrance Monument shall include maintenance, repair, replacement and reconstruction, when necessary, of the stone monument or monuments, signage, irrigation, planters and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the stone monument or monuments and signage located thereon (if any).

(b) All Common Areas (and all improvements located thereon) shall be clean and free from debris and maintained in an orderly condition, together with the landscaping thereon (if any) in accordance with the highest standards for private parks, including any removal, repair, reconstruction and replacement of any landscaping, utilities, or improvements located thereon.

(c) The Private Roads located within the Private Road Easements which will serve the Private Road Lots shall be maintained by the Association. Such maintenance shall include cleaning, maintaining, repairing, reconstructing and replacing (if destroyed), when necessary.

(d) The Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the operation and maintenance of the Private Drives or any improvements within the lot boundaries thereof. The Owners of such Lots shall be responsible for same.

(e) The Association shall be responsible for the maintenance of the Trails and

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Trail Connectors, and shall keep the same sufficiently cleared in order to allow pedestrian, bicycle and golf cart traffic.

Section 4.7. Reserve Fund. The Association shall establish and maintain an adequate reserve fund (the "Reserve Fund") for the periodic maintenance, repair, reconstruction and replacement of the Common Areas and any improvements located on such Common Areas which the Association is obligated to maintain in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Annual Assessment, as hereinafter defined.

Section 4.8. Private Roads. Declarant shall have the exclusive right to construct the Private Roads within the Private Road Easements, in the approximate location shown on the Map, as well as any additional Private Roads which may be added to the Development in the future pursuant to the provisions of this Declaration. The Private Roads and the Private Road Easement, as shown on the Map, shall be maintained and repaired by the Association. No structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the Private Roads or other utilities or drainage facilities located therein.

Section 4.9. Liability Limitations. Neither Declarant, nor any Association Member, nor the Board, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Association Member, whether or not such other Association Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

ARTICLE 5

COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation for Annual, Special, and Special Individual Assessments. Declarant, for each Lot owned within the Property,

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hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the Annual Assessment, Special Assessments, and Special Individual Assessments, as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 5.2. Purpose of the Annual Assessment. The assessment to be levied annually by the Association against each Lot ("Annual Assessment") shall be used as follows:

(a) to repair, maintain, reconstruct (when necessary), keep clean and free from debris, the Common Areas and any improvements located thereon, including, but not limited to, the Entrance Monuments, Ponds, Trails, Parking Area, Private Roads and any improvements associated therewith, and to maintain the landscaping thereon in accordance with the highest standards for private parks, including any necessary removal or replacement of landscaping, as more particularly set forth in this Declaration;

(b) to maintain and repair or caused to be maintained the Private Roads;

(c) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association and any improvements located thereon, and any other property owned in connection therewith;

(d) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws, except for such insurance carried specifically in connection with any improvements located thereon;

(e) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws, except for such fees incurred specifically; and

(g) to maintain contingency reserves as to the amounts described above for the purposes set forth in Section 4.7 hereof in amounts as determined by the Board of Directors.

Section 5.3. Payment of Annual Assessment; Due Dates. The Annual Assessment provided for herein shall commence upon the sale by the Declarant of two-thirds (2/3) of the Lots in each phase. Each phase shall be treated separately. After two-thirds of the lots for each phase have been sold, Declarant and the Board of Directors shall notify each Lot Owner in that phase in writing as to the commencement of the Annual Assessments. If the Annual Assessments shall commence after January 1 of the year of such commencement, the amount due shall be prorated to include only the remainder of the calendar year (as prorated using a 365 day year). After commencement of the Annual Assessments, the Annual Assessment shall be collected at the closing of the sale of each Lot to the Lot Owner, and also shall be prorated to include only the remainder of the calendar year (as prorated using a 365 day year) after the sale date of each Lot.

The Annual Assessment for each and every year shall be due on January 1 of each year, shall be in an amount as set by the Board of Directors, and shall be due and payable in one (1) annual installment, such installment being due and payable no later than January 15 of each such year. The Board of Directors shall fix the amount of the Annual Assessment as to each Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year, and the Association shall send written notice of the amount of the Annual Assessment, as well as the amount of the first installment due, to each Owner on or before January 1 of such calendar year. The failure of the Association to send, or of an Owner to receive, such notice shall not relieve any Owner of its obligation to pay the Annual Assessment. Notwithstanding the foregoing, the Board of Directors may alter the dates of the fiscal year for setting the Annual Assessment and may increase or decrease the frequency of collection of Annual Assessment installments in any reasonable manner.

Section 5.4. Special Assessment for Capital Improvements. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Common Area improvements which are not originally constructed by Declarant; or (ii) the reconstruction, repair or replacement of Common Areas, including but not limited to, the Private Roads, Ponds, Trails or Entrance Monuments and any additional Common Areas which may be constructed including all improvements located thereon, and including fixtures and personal property related thereto. Provided, however, that any such assessment must be approved by a vote of a majority of those of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.5. Special Individual Assessment. In addition to the Annual Assessments, Supplemental Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Lot Owner ("Special Individual Assessment"): (i) for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Private Roads, Ponds, Trails and Common Areas, including, but not limited to, the Public Roads and Entrance Monument, including all improvements located thereon, whether occasioned by any act or omission of such Owner(s), members of such Owner's family, or such Owner's agents, guests, employees or invitees (including Owner's contractors) and not the result of ordinary wear and tear; or (ii) for payment of fines, penalties or other charges imposed against any particular Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated by the Association or the Declarant pursuant to this Declaration or the Bylaws. Provided, however, that Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

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Section 5.6. Assessment Rate.

(a) Subject to the exception set forth in subsection (b) below, the Annual and Special Assessments must be fixed at a uniform rate for all Lots.

(b) Annual and Special Assessments for each Lot owned by Declarant and unoccupied as a residence shall be one-fourth (1/4) of the Annual and Special Assessments for each other Lot in the Subdivision not owned by Declarant.

ARTICLE 6

GENERAL ASSESSMENT PROVISIONS

Section 6.1. Certificate Regarding Assessments. 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 Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 6.2. Effect of Nonpayment of Assessments; Remedies of the Association. Any Annual Assessment, Special Assessment, Special Individual Assessment, (or installment thereof) not paid by its due date as set forth in this Declaration, or any other assessment not paid by its due date, shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot and the right to use the Common Areas if applicable, and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Area or by abandoning his Lot.

Section 6.3. Subordination of the Lien to Mortgages. The lien of the assessments provided for in Articles 5 and 6 of this Declaration shall be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of trust to the Declarant. Sale or transfer of any Lot shall not affect the assessment lien. Provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual Assessment, Special Assessment, as applicable, collectable pro rata from all Owners including the foreclosure sale purchaser. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE 7

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RESTRICTIONS

Section 7.1. Land Use, Building Type and Residential Restrictions. All Lots in the Subdivision shall be known and described as residential lots and shall be used only for private residential and recreational purposes, with the exception of Lots 16 at Plat Book 21, Page 351, and Lot 17 at Plat Book 21, Page 352, Caldwell County Registry. Said Lots 16 and 17 may be used as Bed and Breakfast establishments or as recreational bungalows or suites as approved by Crescent Resources, LLC, the Caldwell County Planning Board and the Architectural Control Committee. Except for said Lots, no structure shall be erected, altered, placed or permitted to remain on any Lot other than for use as a single family residential dwelling, unless otherwise provided herein, and only one single-family residential dwelling not exceeding 40 feet in height above ground shall be erected or permitted to remain upon any Lot.

No mobile home, modular home or shell home may be erected or permitted to remain on any Lot.

A private garage (not exceeding four (4) car capacity), outbuildings, incidental to the residential use of the Lot are expressly permitted upon the condition that they are not rented, leased nor otherwise used for remuneration, subject to the other covenants and restrictions contained herein. No detached garage or outbuildings, (which is appurtenant to any Property in the Subdivision), shall at any time be used as a residence. Any ownership or leasing arrangement for a Lot having the characteristics of a vacation time sharing ownership plan, a vacation time sharing lease plan or shared ownership is hereby prohibited.

All pools shall be privately owned and maintained by the Lot owners, shall be below-ground pools and shall be approved by the Architectural Control Committee. No above-ground pools of any type are permitted. All pools must be contained within a four foot high fenced area. The elevation of the top of any swimming pool construction on any Lot may not be over two (2) feet above the natural grade unless integrated into terraced construction upon Architectural Review Committee approval. All swimming pools, spas, hot tubs, pool decks, screen enclosures, or patio/decks shall be located within the building envelope. No above-ground swimming pools are permitted. Swimming pools, spas, and hot tubs shall not be permitted on the street side of the residence unless approved by the Architectural Control Committee. Safety barriers which meet the standards of the North Carolina State Building Code are required.

Section 7.2. Dwelling Size. The square footage requirements hereinafter set forth are enclosed heated floor area and are exclusive of the area in unfinished basements, finished basements, walkouts basements, porches, breezeways of any type, attached or detached garages, carports, and unheated storage areas, decks, or patios.

(a) Lots: Any one story dwelling shall contain not less than 1,500 square feet; any 1 1/2 story dwelling shall contain not less than 1,800 square feet; and any 2, 2 1/2 or 3 story dwelling shall not contain less than 2,000 square feet.

(b) No Dwelling erected upon a Lot shall exceed 40 feet in height above ground level; provided, however, the Architectural Control Committee shall have the right (but

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not the obligation), because of steep topography, unique Lot configuration or similar reasons, to allow Dwelling heights greater than 40 feet above ground level.

(c) Should any Lot Owner desire to vary from the above guidelines as to dwelling size, he/she may submit site plans to the Architectural Control Committee for consideration. The Architectural Control Committee shall have the discretion to approve such plans after consideration of the impact of such variation on the subdivision.

Section 7.3. Building Construction and Quality. All buildings and outbuildings erected upon any Lot shall be constructed of new material of good grade, quality and appearance and shall be constructed in a proper, workmanlike manner. Permanent wood foundations are prohibited. All exposed areas below the main level, garage floor, including foundation, crawl space, and basement areas must be faced with stone or brick. No building shall be erected unless it is completely underpinned with a brick or stone. The exterior surface of any building shall not be of asbestos shingle siding, vinyl siding, or exposed concrete or cement blocks. The exterior surface of any garage, outbuilding or appurtenant structure or building erected on or located on any Lot shall be architecturally compatible with, and of material and construction comparable in cost and design to, the exterior surface of the dwelling located on said Lot. All buildings shall have roofs (with the exception of dormers, porches, bay windows and other minor architectural details) of not less than 6 by 12 pitch and not less than 12 inch overhang, covered with slate, cedar shakes, tile or fiberglass shingles. Tin or rolled roofing material is not permitted (except for copper and metal roofs and raised rib roofs).

Section 7.4. Temporary Structures; Structure Materials. No residence or building of a temporary nature shall be erected or allowed to remain on any Lot, and no metal, fiberglass, plastic, vinyl or canvas tent, barn, carport, garage, utility building, storage building, or other metal, fiberglass, plastic, vinyl or canvas structure shall be placed or erected on any Lot or attached to any residence. Provided, however, that nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto the Lots owned by Declarant, to be used for storage or for construction or sales offices.

Section 7.5. Building Setback Lines. No building on any Lot (including any stoops, porches, or decks) shall be erected or permitted to remain within the front street easement or side abutting right-of-way (for a corner Lot) or back property line building setback lines as noted on the Map. In the event any zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of that zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation shall conform to said requirements.

No masonry mailboxes or other structures or improvements may be constructed or placed within the right-of-way of any the Private Roads. Declarant hereby reserves the right and easement, benefiting Declarant and the Association and burdening the Property, to go upon any Lot or other portion of the Property in order to remove any mailboxes or other structures or improvements constructed within the right-of-way of any of Private Road. Should Declarant or the Association exercise its easement rights pursuant to the terms of this Section, the Owner of the nonconforming Lot shall reimburse Declarant or

the Association (as applicable) within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or nonexercise of the easement rights contained in this Section shall be subject to the discretion of the Declarant and the Association and neither Declarant nor the Association shall have the obligation to exercise such rights.

The Association shall have the authority but not the obligation, in its sole discretion, to assess penalties against an Owner who fails to abide by the terms of this Section. The penalties authorized by this Section as well as the expenses to be reimbursed Declarant or the Association shall be considered a Special Individual Assessment against the respective Owner's Lot, entitling the Association to the assessment collection remedies specified in Article 5 of the Declaration.

Section 7.6. Subdivision of Lots. No Lot shall be subdivided by sale or otherwise so as to change the Lot area shown on the Map.

Notwithstanding the foregoing, Declarant reserves the right to change the boundaries or dimensions of any Lots still owned by Declarant as may be needed to meet septic system requirements or for any other reason and any Lot or Lots which result from such change by Declarant shall not be subject to any additional assessment.

Section 7.7. Utility Easements. Declarant hereby reserves for the benefit of Declarant and the Association, their successors and assigns, easements for the installation and maintenance of utilities (i.e., electricity, sewer, water, gas, telephone, cable TV, etc.) and drainage facilities as specified on the Map.

Additional drainage easements and utility easements are reserved as more particularly shown and delineated on the Map and in other recorded easement documents. Within such easements, no structure, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may interfere with drainage and the flow of water within the easement areas. The Owner of each Lot shall maintain that portion of the Lot lying within the easement areas as defined herein and shall maintain any improvements located thereon, except those improvements installed and maintained by a public authority or utility company. Declarant reserves the right to create and impose additional easements over any unsold Lot or Lots for road drainage, utility and entry signage installation purposes by the recording of appropriate instruments, and such easements shall not be construed to invalidate any of these covenants.

All utility lines, pipes, propane tanks, etc., must be located underground in accordance with the Architectural Control Committee Guidelines.

Section 7.8. Entrance Monument Easement. Declarant hereby grants, establishes and reserves, for the benefit of Declarant and the Association, and their successors and assigns, nonexclusive perpetual easements (the "Entrance Monument Easements") for the purpose of landscaping and maintaining the entryway and erecting and maintaining the Entrance Monuments for the Subdivision portions of the Subdivision identified as "Entrance Monument Easement" on the Map.

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Declarant or the Association shall have the right to enter, landscape and maintain the Entrance Monument Easements as an entryway to the Subdivision. Further, Declarant or the Association may erect and maintain one or more stone monuments, with an entrance sign thereon (collectively, the "Entrance Sign") bearing the name of the Subdivision and Declarant, which Entrance Signs shall be built to the applicable governmental standards for signs, and may erect and maintain lighting for the Entrance Sign, planters and other improvements typically used for an entryway.

Section 7.9. Easements for Trails and Trail Connectors. Declarant hereby reserves for the benefit of Declarant and the Association, their successors and assigns, easements for the installation and maintenance of trails and trail connectors which lead through the Subdivision and along certain Lot lines to Collettsville Community Park. Said easements are specifically reserved as shown at Plat Book 21, Page 449, Plat Book 21, Page 450, and Plat Book 21, Book 451, Caldwell County Registry.

Declarant hereby reserves for the benefit of Declarant and the Association, their successors and assigns, the right to reserve additional easements along lot lines in future plats to be recorded for other phases of the Subdivision, including easements along lot lines in Phase 4 for Trail Connectors to the Pisgah National Forest. Declarant does not guarantee when or if the U.S. Forest Service will provide trails on the Pisgah National Forest property which will connect with the Trail Connectors established in this Subdivision.

The Owner of each Lot shall maintain that portion of the Lot lying within the easement areas as defined herein; however, Declarant or the Association shall have the right to enter, landscape and maintain the Trails located along these lot lines.

All Lot Owners in the Subdivision are hereby granted an easement for ingress, egress and regress on and through the above mentioned Trails and Trail Connectors along the above mentioned Lots and along the Trails defined in future phases for use only as pedestrians, on bicycles or in electric golf carts. No other use is permitted except as may be specifically granted to the Collettsville Volunteer Fire and Rescue Department, Inc., for access to its tower and equipment along Lots 1 and 53, Plat Book 21, Page 350, and Plat Book 21, Page 449, and which may also be specifically granted to the Lot Owners of Lot 8, Plat Book 21, Page 350, and Lot 9, Plat Book 21, Page 351, for limited driveway purposes only. Declarant specifically reserves for Declarant and the Association, their successors and assigns, the right to grant said easements to the Collettsville Volunteer Fire and Rescue Department, Inc., and to the Lot Owner of Lots 8 and 9 at a future time.

Declarant also hereby reserves for Declarant and the Association, their successors and assigns easements along the Trail Connectors for the installation and maintenance of utility easements as more specifically described in Section 7.7 herein.

Section 7.10. Fences and Walls. Fences and walls are not encouraged, although they are required for pool areas as described in Section 7.1 above. For safety concerns or retaining uses fences and walls may be constructed of wood, brick or stone. Chain link or other metal fencing is not permitted. No fences or walls greater than six (6) feet in height are permitted. No fence or wall facing the street shall be erected on a Lot nearer the street right of way line than the front face of the dwelling located on such Lot, except for fencing not higher than 30" in height. In the case of a corner Lot, no sideyard fence or

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wall shall be erected nearer the street right of way line than the side of the dwelling located on such Lot. No fences or walls may be constructed within the building setback areas for each Lot.

Provided, however, that the restrictions described in this Section shall not apply to any improvements originally installed by Declarant on any Common Area.

Any fences and walls which do not meet the above requirements may be submitted to the Architectural Control Committee for consideration as an exception to this Section.

Section 7.11. Signs. No signs of any kind shall be displayed to the public view on any Common Area other than the Entrance Monument as set forth in Section 7.8 above or approved in writing by the Architectural Control Committee. No signs of any kind may be displayed to the public view on any Lot with the following exceptions which may not exceed five (5) square feet in size:

- (a) one sign (on the Lot only) advertising the Property for sale; and
- (b) one sign (on the Lot only) used by a builder to advertise the Lot during the construction and sales period.

These restrictions shall never apply to permanent Entrance Monuments, or to temporary entry signs or advertising by Declarant, or "for sale" signs installed by Declarant or its agents prior to the sellout of the Subdivision.

Section 7.12. Antennas; Satellite Dishes or Discs. No radio or television transmission or reception towers, antenna, satellite dishes or discs shall be erected or maintained on any Lot, except that one (1) dish or disc not exceeding thirty (30) inches in diameter or diagonal measurement for receiving direct broadcast satellite service ("DBS") or multi-point distribution services ("MDS"). No roof-mounted antenna, dishes or discs shall be permitted on any Lot if adequate broadcast reception can be obtained without mounting such equipment on the roof of the house; provided, however, that if such roof-mounted equipment is required, no antenna or related structures may be mounted on masts exceeding twelve (12) feet in height above the highest roof line ridge of the house. Any dish, disc, or antenna (with associated mast) shall be reasonably camouflaged and screened from view from adjacent lots, the Private Roads, or Adako Road, and shall not be located in the area between the street right-of-way line and the building setback lines applicable to the Lot.

Section 7.13. Lot Maintenance; Trash Disposal. Each Owner shall keep his Lot in a clean and orderly condition and shall keep the improvements thereon in a suitable state of painting and repair, promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot that is viewable by the streets or other lots. No Lot shall be used in whole or in part for storage of trash of any character whatsoever and no trash, rubbish, stored materials or similar unsightly items shall be allowed to be visible from the street or side view of the Lot, except when temporarily placed in closed, sanitary containers pending collection by trash collection authorities or companies.

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Section 7.14. Off-Road Parking; Each Lot Owner shall provide a concrete, asphalt, gravel or stone driveway prior to the occupancy of any dwelling constructed on the Lot which provides space for parking two automobiles off the Private Roads.

No truck or commercial vehicle in excess of one-ton load capacity or any vehicle under repair, or wrecked or junked motor vehicle shall be parked upon or permitted to remain on any Lot or any Common Area. No boat or boat trailer may be parked, left or stored on the Common Area. No trailer, motor home, recreational vehicle, or camper shall be used as a residence, either permanently or temporarily, or be parked upon or be permitted to remain on any Lot for a period exceeding 24 hours unless it is parked off the Private Roads and is not visible from the front or side yard of the Lot. All trucks, trailers, campers, boats, motor homes and recreational vehicles must have a current license plate affixed and must be parked as not to be visible from the front or side of the house. Any unlicensed trucks, trailers, campers, boats, motor homes and recreational vehicles must be parked in an enclosed garage. All other automobiles must have a current license plate affixed.

Section 7.15. Nuisances. No noxious or offensive trade or activity shall be carried on or upon any Lot or in any residential dwelling or outbuilding, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

No substance, thing or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or in any residential dwelling or outbuilding with the exception of dogs, cats, or other household pets which may be kept or maintained provided they are not kept, bred, or maintained for commercial purposes. The number of household pets kept or maintained, per Lot, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months in age.

Section 7.16. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot or Common Area, except during such reasonable time period as is necessary for completion. The exterior of all houses and other structures must be completed within one (1) year from the date of commencement of construction, unless a longer time is approved by the Architectural Control Committee. No construction materials of any kind may be stored within twenty-five (25) feet of any Private Road on any Lot. Any damage to any Private Roads, curb or sidewalk or any part of any Common Area or any utility system caused by an Owner or any builder shall be repaired by such responsible party. If such responsible party fails to repair such damage, Declarant or the Association may make or provide for such repairs, and the responsible Owner shall immediately reimburse the repairing party for its out of pocket expenses in making such repairs. The Owner of each Lot and any builders shall at all times keep contiguous public and private areas free from any dirt, mud, garbage, trash or other debris which is occasioned by construction of improvements on the Lots, Private Roads and any Common Areas. Declarant or the Association may provide for the cleaning of public and

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private areas due to the activities of the responsible party and may assess the responsible party a reasonable charge not to exceed the actual cost for such cleaning. All Owners and builders shall, consistent with standard construction practices: (i) keep all portions of the Lots, Private Roads and the Common Areas free of unsightly construction debris; and (ii) shall at all times during construction either provide dumpsters for the containment of garbage, trash or other debris which is occasioned by construction of improvements on a Lot or Common Areas, or take other measures consistent with standard construction practices necessary to keep the Lot, Private Roads and all Common Areas free of such garbage, trash, or other debris. Each Owner and any Owner's builder shall be responsible for using best management practices for adequate erosion control protection during any earth-disturbing operation.

Section 7.17. Removal of Trees and Other Vegetation. Tree clearing on all lots shall be subject to the approval of the Architectural Control Committee. Such clearing must be shown on the site plans for each lot.

Declarant hereby reserves the right and easement benefitting Declarant and the Association to go upon any Lot or other portion of the Property to replant or order the replanting of any trees, shrubs or other vegetation removed within the Subdivision in violation of the terms of this Section. Should Declarant or the Association exercise its easement rights pursuant to the terms of this Section, the Owner of the nonconforming Lot shall reimburse Declarant or the Association (as applicable) within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or nonexercise of the easement rights contained in this Section shall be subject to the discretion of the Declarant and the Association and neither Declarant, nor the Association shall have the obligation to exercise such rights.

Declarant and/or the Association shall have the authority but not the obligation, in their sole discretion, to assess penalties against an Owner who cuts, damages, or removes any trees, shrubs or other vegetation on any part of the Common Areas, its Lot or any other Lot or Common Area, contrary to the above provisions.

The penalties authorized by this Section, as well as all related expenses to be reimbursed, shall be considered a Special Individual Assessment against the respective Owner's Lot, entitling the Association to the assessment collection remedies specified in this Declaration.

Section 7.18 Private Drive Maintenance. The Private Drives shall be maintained and periodically repaired, as needed, by the Association.

Except as otherwise expressly set forth herein, the Private Roads may only be used by Owners of Private Road Lots, their families, guests or invitees.

Section 7.19 Building Envelope. No building or other Improvement on any Lot (including any stoops or porches, patios, decks, terraces, etc.) shall be erected or permitted to remain outside of the "Building Envelope" for that particular Lot as established by the Architectural Control Committee (as to each Lot, the "Building Envelope"). The Building Envelope approved for any Lot will be available from the Architectural Control Committee on an unrecorded map. The Architectural Control

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Committee shall have the right in its sole discretion to make exceptions to any Building Envelope to recognize any special topography, vegetation, Lot shape or dimension, or other site-related conditions. In the event any zoning or subdivision ordinance, floodway regulation or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of such requirements shall conform thereto.

Section 7.20 Mail and Newspaper Boxes. All Mail and Newspaper Boxes shall be constructed or installed on any Lot in accordance with the applicable provisions of the Guidelines of the Architectural Control Committee.

Section 7.21 Golf Carts. The use of electric golf carts shall be allowed in the Development for use by licensed drivers. Each cart must be appropriately lighted for nighttime use and shall be operated in such a manner as to be respectful of others.

The use of gasoline golf carts, mo-peds, untagged and/or unlicensed motorcycles and ATV's is prohibited in all areas of the Development; however, the Declarant may use ATV's in its course of business during the development of the subdivision.

Section 7.22. Outdoor Lighting. All outdoor lighting on the Lots and the Common Areas shall be shielded to direct light to the ground and to preserve the viewshed of other property owners.

Section 7.23 Governmental Requirements; Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to the Lot(s) or other portion of the Property owned by such Owner. Furthermore, each Owner shall comply with the conditions, limitations and restrictions set forth in the Guidelines.

ARTICLE 8

ARCHITECTURAL GUIDELINES

Section 8.1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including, without limitation, site preparation on any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, or any landscaping or cutting of trees on any Lot shall be commenced, erected or maintained on any portion of the Property, until: (a) the Architectural Control Committee, appointed as hereinafter provided, has approved the plans and specifications therefor and the location of such Improvements and has given its written approval for commencement of construction, all in accordance with the terms and requirements in the Guidelines; (b) the fees set forth in or contemplated in this Article have been paid; and (c) the contracts identified in this Article have been executed. The provisions of this Article

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shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or upon any of the Common Areas.

The Board may delegate to the Architectural Control Committee any powers or authority reserved or granted to the Board under this Article.

Section 8.2. Composition of Architectural Control Committee. So long as Declarant owns any Lot or other portion of the Property, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than five (5) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Development. In the event of the death or resignation of any member of the Architectural Control Committee, the party or body then having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint a successor. Members of the Architectural Control Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the party or body then having the authority to appoint such members.

Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee as described in this Article.

Section 8.3. Architectural Guidelines.

(a) The Architectural Control Committee shall, from time to time, publish and promulgate architectural, landscape guidelines (the "Architectural Guidelines"). The Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements. The Guidelines shall specify timeframes regarding excavation, construction, landscaping and reestablishing vegetation for the Development. The Guidelines shall also set out, among other things, the procedures for submission, review and approval of plans and specifications (for the construction of Improvements) to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee. In any event, the Guidelines shall not be binding upon the Architectural Control Committee, and may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials (for the construction of Improvements) submitted to the Architectural Control Committee for approval.

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(b) The Guidelines shall also be explanatory and illustrative of the general intent of the landscape development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for landscape Improvements. In addition, the Guidelines shall establish approved standards, methods, timeframes and procedures for landscaping, landscape management and landscape maintenance in the Property. Such authorized standards, methods and procedures shall be utilized by Owners and their contractors and subcontractors, and the approval by the Architectural Control Committee of any landscaping plan or other landscaping improvement in connection with landscaping on a Lot or other portion of the Property shall be based upon the conformity of such plan or improvement with the Guidelines.

(c) The Architectural Control Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all Owners and builders performing work or constructing or installing Improvements on the Property.

(d) The Architectural Control Committee may issue and amend the Guidelines from time to time and may publish and promulgate different Guidelines for different Phases, sections or portions of the Property.

Section 8.4. Definition of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes, etc.); storage sheds or areas; roofed structures; parking areas; fences; pet "runs," lines and similar tethers or enclosures; landscaping (including cutting trees); hedges; mass plantings; irrigation equipment, apparatus and systems; driveways; signs; site preparation; changes in grade or slope; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 8.5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration and any Additional Declarations are to permit control of the architectural design and to establish quality standards for construction and construction activity in the Development and to help preserve values of properties in the Development. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owners of property in the Development and to Declarant, and to the values of their respective properties in the Development, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but not the obligation) to enforce and/or to prevent any violation of the provisions contained in

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this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and grants unto the Architectural Control Committee, the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee or the Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Guidelines, the terms of this Declaration or any Additional Declaration, or the terms of any amendments hereto or thereto.

(b) As to nonconforming or unapproved Improvements, the Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements) if such Improvements were commenced or constructed in violation of this Article. In addition, the Association may, but has no obligation to, cause such restoration, demolition and removal to be performed and to levy the amount of the cost thereof as a Special Individual Assessment against the Lot or portion of the Property upon which such Improvements were commenced or constructed. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of the Guidelines, the Association shall be entitled to recover court costs, attorneys' fees and expenses incurred by the Association and/or the Architectural Control Committee in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the Lot or other portion of the Property upon which such Improvement was commenced or constructed.

Section 8.6. Failure of the Architectural Control Committee to Act. If the Architectural Control Committee fails to approve or disapprove any plans and specifications and other submittals which conform (and which relate to Improvements which will conform) with the requirements hereof and of the Guidelines or to reject them as being inadequate or unacceptable within sixty (60) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Guidelines, of all items that were to have been submitted to the Architectural Control Committee, and provided the Architectural Control Committee shall again fail to approve or disapprove of such plans, specifications and other submittals within ten (10) days after additional written request to act on such items is delivered to the Architectural Control Committee following the passage of such first above-described sixty (60) business day period, it shall be conclusively presumed that the Architectural Control Committee has approved such conforming plans and specifications and other submittals, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration or any Additional Declaration, and EXCEPT FURTHER, that the Architectural Control Committee shall not be deemed to have waived any of the requirements set forth in Section 7 hereof. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The Architectural

Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 8.7. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Control Committee has not expressly and in writing approved such request within sixty (60) business days of the submission of such request.

No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration against any other Owner.

Section 8.8. Site Plans. Site Plans shall be submitted to the Architectural Control Committee by each Lot Owner prior to the commencement of construction. Site Plan location must include the proposed footprint of the house, drive, septic system, well dimensions of the property lines, soil erosion plans, grades/elevations, dimensions of all buildings with distances to property lines and clearing areas and must be prepared by an engineer or surveyor licensed in North Carolina.

Prior to final occupancy, an as-built plan prepared by a licensed engineer or surveyor of all improvements shall be submitted to the Architectural Control Committee for approval.

Clearing limits shall be no closer than 35 feet from the sideyards and 75 feet from the front property line of each lot unless approved by the Architectural Control Committee.

Section 8.9. Fees Required by the Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each Person submitting plans and specifications for Improvements to the Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant as a condition to commencement of construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established by, and may be increased from time to time by, the Architectural Control Committee and shall be set forth in the Guidelines.

Section 8.10. Notices and Submittals. Notices and submittals to the Architectural

Control Committee shall be in accordance with the notice provisions set forth from time to time in the Guidelines.

Section 8.11. Separate Committee for Changes to Existing Improvements. The Board shall have the right, power and authority, in its sole discretion, to appoint a committee separate and apart from the Architectural Control Committee to review plans and specifications for any and all renovations, changes and additions to existing Improvements located on a Lot or other portion of the Property (herein, the "Architectural Changes Committee"). Should the Board appoint such an Architectural Changes Committee, then the Architectural Control Committee shall relinquish to the Architectural Changes Committee its authority to review plans and specifications for any such changes to existing Improvements, and the Architectural Changes Committee shall be solely responsible for review and approval of the same. The composition of the Architectural Changes Committee shall be determined by the Board in its sole discretion and the procedure for submission, review and approval of plans and specifications to and by the Architectural Changes Committee shall be set forth in the Guidelines. Notwithstanding the foregoing, nothing herein shall be deemed to obligate the Board to appoint an Architectural Changes Committee, and until an Architectural Changes Committee is appointed, the Architectural Control Committee shall be responsible for reviewing and approving or disapproving all plans and specifications for renovations, changes and additions to existing Improvements in accordance with the provisions of this Article and the Guidelines.

Section 8.12. Limitation of Liability. No member of the Architectural Control Committee or the Architectural Changes Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article. Neither the Architectural Control Committee, nor the Architectural Changes Committee (if applicable), nor the members thereof, nor the Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Control Committee or the Architectural Changes Committee (if applicable) shall not be deemed or construed as a representation or warranty of the Architectural Control Committee or the Architectural Changes Committee (as the case may be), Declarant, or any officer, director, member, employee, agent or affiliate of any of them, (i) that Improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasigovernmental laws, ordinances, rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefor is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, any Association, the Architectural Control

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Committee, the Architectural Changes Committee (if applicable), the Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 8.13. Miscellaneous. Members of the Architectural Control Committee and, if applicable, the Architectural Changes Committee, in the sole discretion of the party or body appointing such members (i.e., either Declarant or the Board, as the case may be) may be compensated for their services. The Association shall reimburse members of the Architectural Control Committee and the Architectural Changes Committee (if applicable) for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee and the Architectural Changes Committee (if applicable), including those incurred in connection with the exercise of their enforcement or other powers as provided herein, shall be borne by the Association; provided, however, nothing herein shall be deemed to negate the Association's right to an award of court costs, attorneys' fees and expenses in accordance with of this Article.

ARTICLE 9

INSURANCE

Section 9.1. Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) Fire and Casualty. All improvements and all fixtures included in any Common Areas, including but not limited to, the Entrance Monuments, Ponds, and all personal property and supplies belonging to the Association, shall be insured in an amount equal to 100% of the current replacement cost up to the amount specified in the insurance policy (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board of Directors with the assistance of the insurance company providing coverage. The Board of Directors shall, at least annually, review the insurance coverage required herein and determine 100% of the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against loss or damage by fire, windstorm, vandalism and malicious damage and all perils covered by a standard "all risk" insurance policy. All such policies shall provide that adjustment of loss shall be approved by the Board of

Directors and the insurance company. In addition to the provisions and endorsements set forth in this Declaration, the fire and casualty insurance described herein shall contain the following provisions:

(i) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and their employees, agents, tenants and invitees; and

(ii) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

The property and public liability insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Association, the Owners or the Mortgagees; (2) loss payments are contingent upon action by the carriers, directors, policy holders or Members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

(b) Public Liability. The Board of Directors shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to any Common Areas, and customary for the activities and obligations of property owners' associations for projects similar to the Development, covering each member of the Board of Directors, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas and out of the activities of the Association; provided, however, that in no event shall the amounts of such public liability insurance ever be less than \$1,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and damage to Property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the Property or any portion thereof. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Owners, such public liability insurance shall be in amounts of not less than \$1,000,000 per occurrence for claims for bodily injury and property damage.

(c) Fidelity Coverage. The Board of Directors shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association, in an amount determined by the Board of Directors in its discretion. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverages, including flood insurance and worker's compensation, as the Board of Directors shall determine from time to time desirable.

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Section 9.2. Premium Expense. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged as a common expense to be collected from the Owners pursuant to this Declaration.

Section 9.3. Special Endorsements. The Board of Directors shall make diligent effort to secure insurance policies that will provide for the following:

- (a) recognition of any insurance trust agreement entered into by the Association;
- (b) coverage that may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least forty-five (45) days prior written notice to the named insured, any insurance trustee and all Mortgagees; and
- (c) coverage that cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner or any Mortgagee.

Section 9.4. General Guidelines. All insurance policies purchased by the Board of Directors shall be with a company or companies licensed to do business in the State of North Carolina and holding a rating of "A-10" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and shall be issued in the name of, and provide that all proceeds thereof shall be payable to, the Association.

Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 9.5. Owner's Personal Property. The Association or the Declarant shall not be liable in any manner for the safekeeping or conditions of any personal property belonging to or used by any Owner or his family, guests or invitees, located on or used at the Common Areas. Further, neither the Association, nor the Declarant shall be responsible or liable for any damage or loss to, or of, any personal property of any Owner, his family, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all such personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase, at such Owner's sole cost and expense, of any liability insurance or other insurance for damage to or loss of such property.

ARTICLE 10

RIGHTS OF MORTGAGEES

Section 10.1. Approval of Mortgagees. Unless at least seventy-five percent (75%) of the Mortgagees holding Mortgages on Lots located within the Development then

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subject to the full application of the Declaration have given their prior written approval, the Association shall not:

(a) except as otherwise specifically provided herein, by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for utilities or other purposes pursuant to the terms of the Declaration shall not be deemed a transfer within the meaning of this clause);

(b) except as otherwise specifically provided herein, change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) fail to maintain fire and extended coverage insurance on insurable improvements in any Common Areas in the Subdivision (with the exception of Public Roads) on a current replacement cost basis in an amount not less than 100% of the insurable value; or

(d) use the proceeds of any hazard insurance policy covering losses to any part of any Common Area for other than the repair, replacement or reconstruction of the damaged Common Areas or other common amenities.

Section 10.2. Additional Rights. Any Mortgagee shall have the following rights, to wit:

(a) to be furnished at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year;

(b) to be given notice by the Association of the call of any meeting of the Association's membership, and to designate a representative to attend all such meetings;

(c) to be given prompt written notice of default under the Declaration, the Bylaws or any rules and regulations promulgated by the Association by any Owner owning a Lot encumbered by a Mortgage held by the Mortgagee, such notice to be sent to the principal office of such Mortgagee or the place which it may designate in writing;

(d) to be given prompt written notice of any casualty loss to the Common Areas, or loss by eminent domain or other taking of (i) the Common Areas or (ii) any Lot encumbered by a Mortgage held by the Mortgagee;

(e) to be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(f) to be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property; and

(g) to be given prompt written notice of any action which requires the consent of all or any portion of the Mortgagees as specified herein.

Whenever any Mortgagee desires the provisions of this Section to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by certified mail, return receipt requested, addressed to the Association and sent to its address stated herein, identifying the Lot or Lots upon which any such Mortgagee holds any Mortgage or identifying any Lot owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it and which notice shall designate the place to which notices are to be given by the Association to such Mortgagee.

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Section 10.3. Books and Records. Any Mortgagee will have the right to examine the books and records of the Association during any reasonable business hours.

Section 10.4. Payment of Taxes and Insurance Premiums. The Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE 11

CONDEMNATION

Section 11.1. Partial Taking Without Direct Effect on Lots. If part of the Property shall be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all compensation and damages for and on account of the taking of the Common Areas, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors in trust for all Owners and their Mortgagees according to the loss or damages to their respective interests in such Common Areas; The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Areas, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Areas. Such proceeds shall be used to restore the Common Areas with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board of Directors, in its sole discretion. Nothing herein is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Areas. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such allocation, the award shall be divided between affected Owners and the Association, as their interests may appear, by the Board of Directors in its sole discretion.

Section 11.2. Partial or Total Taking Directly Affecting Lots. If part or all of the Property shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific easements assigned to any Lot) is taken, the Association shall have the right to act on behalf of the Owners with respect to Common Area as provided in Section 11.1 and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All

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compensation and damages for and on account of the taking of any one or more of the Lots, or improvements, fixtures or personal property thereon, shall be paid to the Owners of the affected Lots and their Mortgagees, as their interests may appear. If all of the Property shall be taken such that the Association no longer has reason to exist and shall thereafter be dissolved and/or liquidated, all compensation and damages for and on account of the taking of the Common Areas shall be distributed with the other assets of the Association in accordance with the Articles of Incorporation.

Section 11.3. Notice to Mortgagees. A notice of any eminent domain or condemnation proceeding shall be sent to all Mortgagees who have served written notice upon the Association in accordance with Section 11.2 hereof.

ARTICLE 12

GENERAL PROVISIONS

Section 12.1. Enforcement. Declarant, being the developer of other subdivisions in the area of the Subdivision, wishes to maintain a high standard in the appearance and quality of the Subdivision. Though damages would be difficult to measure, the failure of the Owners or the Association to abide by the terms, covenants and restrictions contained in the Declaration would result in irreparable damage to Declarant and its reputation. Accordingly, Declarant, during the term of the Declaration as set forth in Section 12.4, as well as the Association or any Owner or Owners, shall have the right, but not the obligation, to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such restriction, condition, covenant, reservation, lien or charge, either to restrain violation thereof or to recover damages therefor. Each Owner and the Declarant shall have all appropriate remedies at law or in equity to enforce the provisions of the Declaration and the Bylaws and any duly authorized rules and regulations governing the Development against the Association.

In addition, the Association and the Owners hereby covenant and agree that they shall exercise their power of enforcement hereunder in order to maintain a first class subdivision in appearance and quality, and that they shall, upon the request of Declarant, enforce any restriction, condition, covenant or reservation contained in the Declaration deemed by Declarant, in its sole discretion, to have been violated, using all remedies available to them at law or in equity. Failure by Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant hereby reserves the right and easement, but not the obligation, to go upon any portion of the Common Areas at any time in order to repair and maintain such Common Areas where needed, in Declarant's sole discretion, to bring such Common Areas within the standards required by Declarant. Should Declarant go upon the Common Areas to perform maintenance and/or repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for

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the cost of such maintenance and/or repairs, upon receipt of a statement for such cost from Declarant.

Section 12.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 12.3. Amendment. The covenants, conditions and restrictions of the Declaration may be amended at any time and from time to time by an agreement signed by Owners holding at least 67% of votes appurtenant to the Lots which are then subject to the Declaration; provided, however, that such amendment must be consented to by Declarant so long as Declarant is the Owner of any Lot in the Development. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Notwithstanding the foregoing, the consent of a majority of the Owners of Lots, plus the written consent of the Declarant shall be required to contract the land in the Development, to withdraw any portion of the Property from the requirements of the Declaration, or to restrict or revoke Declarant's right of enforcement as provided for in Section 12.1 of this Declaration.

Notwithstanding the foregoing, no such consent shall be required for any addition or amendment which Declarant is authorized to make under other Sections of this Declaration. Notwithstanding anything in this Section to the contrary, Declarant may, at Declarant's option, amend the Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause the Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency.

Declarant, without obtaining the approval of any other person or entity, may also make amendments or modifications hereto which are correctional in nature only and do not involve a change which materially adversely affects the rights, duties or obligations specified herein.

Section 12.4. Term. The covenants and restrictions of the Declaration are to run with the land (unless otherwise specified herein) and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date the Declaration is recorded; after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by 67% of the then Owners of the Lots, plus Declarant, has been recorded, agreeing to terminate said covenants and restrictions in whole or in part. Provided, however, that the residential use restrictions set forth in Article 7 of this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them in perpetuity.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed as of the day and year first above written.

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THE BLUFFS OF WILSON CREEK, LLC

[Signature] (SEAL)
Steven N. Basile, Member

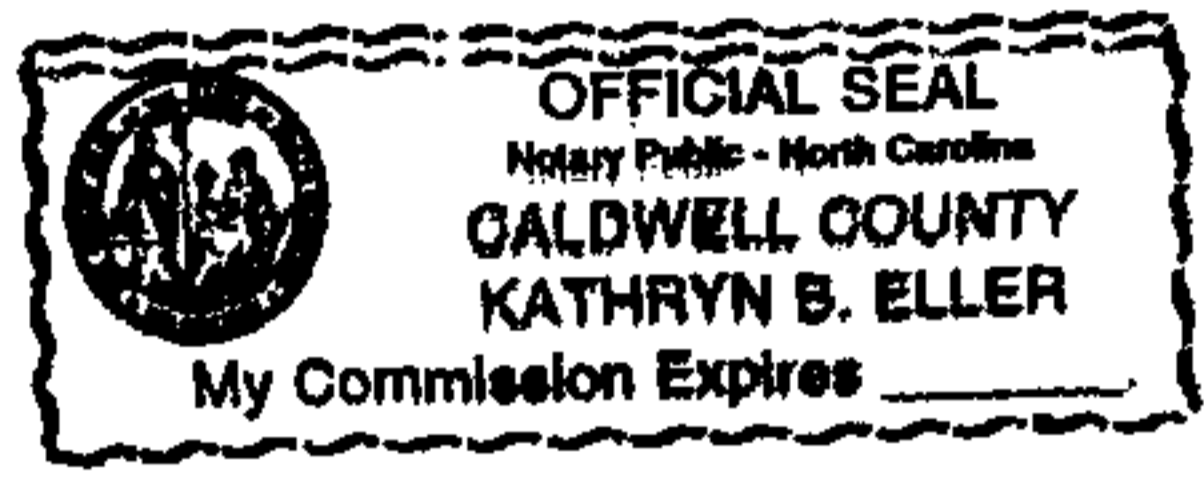
STATE OF NC

COUNTY OF Caldwell

I, a Notary Public for the County and State aforementioned certify that STEVEN N. BASILE, MEMBER, ^{of The Bluffs of Wilson Creek, LLC} personally appeared before me this day and acknowledged the execution of the foregoing instrument. WITNESS MY HAND AND OFFICIAL SEAL, this the 2 day of Nov, 2004.

My commission expires:
7-28-05

[Signature]
Notary Public



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THE BLUFFS OF WILSON CREEK, LLC

Buffalo Creek Nurseries, Inc. , Member

By: Chadrick M. Gragg
Chadrick M. Gragg, Vice-President

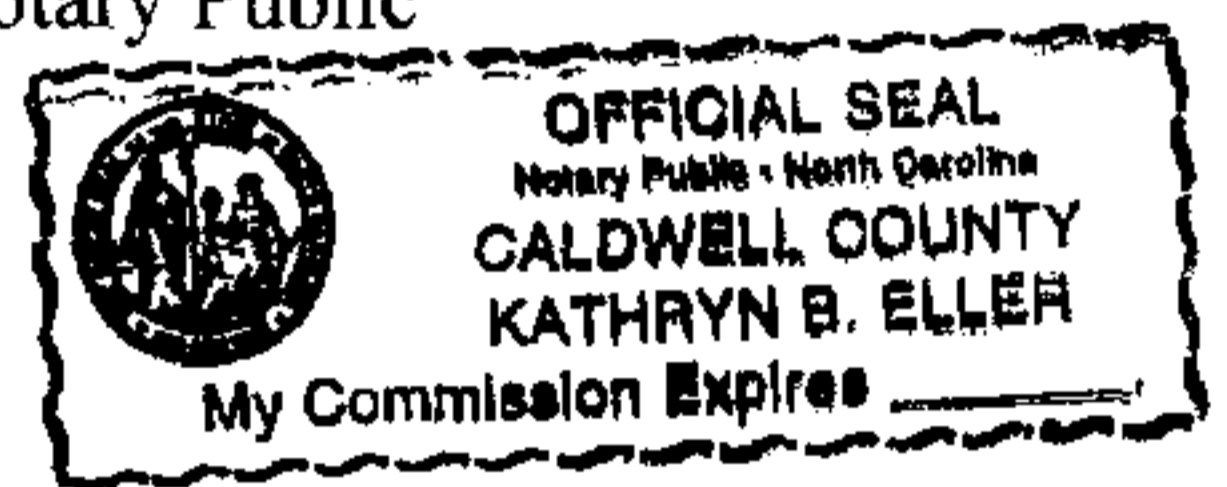
STATE OF NORTH CAROLINA

COUNTY OF CALDWELL

I, a Notary Public of the County and State aforesaid, certify that CHADRICK M. GRAGG, personally came before me this day and acknowledged that he (or she) is Vice-President of Buffalo Creek Nurseries, Inc., North Carolina corporation and that he/she, as Vice-President, being authorized to do so, executed the foregoing on behalf of the corporation, and as a Member of the Bluffs of Wilson Creek, LLC. WITNESS MY HAND AND OFFICIAL SEAL, this the 3rd day of NOV, 2004.

My commission expires:
7-28-05

Kathryn B. Eller
Notary Public



THE BLUFFS OF WILSON CREEK, LLC

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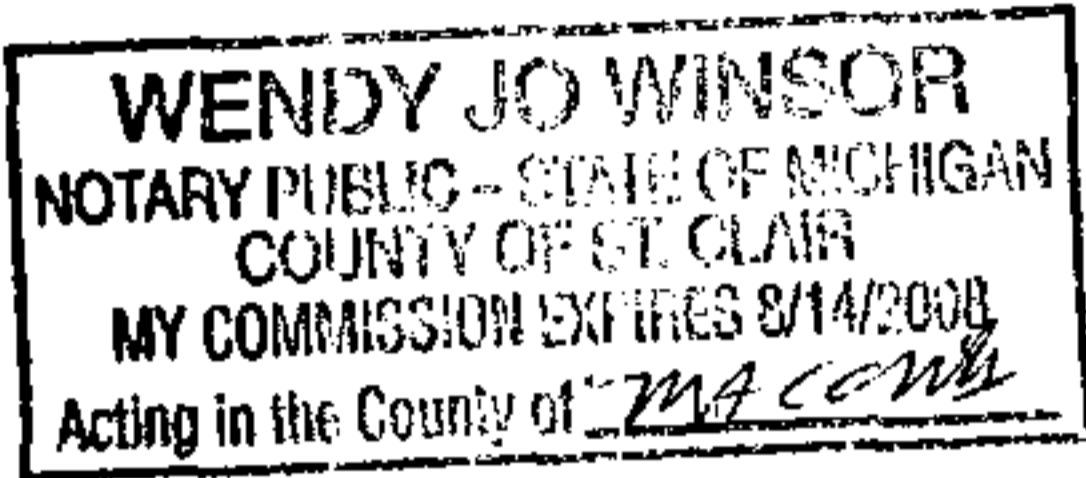
Michael J. Tandeski (SEAL)
Michael J. Tandeski

STATE OF Michigan
COUNTY OF Macomb

I, a Notary Public for the County and State aforementioned certify that MICHAEL J. TANDESKI, Member, ^{of the Bluffs of Wilson Creek, LLC} personally appeared before me this day and acknowledged the execution of the foregoing instrument. WITNESS MY HAND AND OFFICIAL SEAL, this the 1 day of Nov., 2004.

My commission expires:

Wendy Jo Winsor
Notary Public



THE BLUFFS OF WILSON CREEK, LLC

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NORTH CAROLINA PROPERTIES, LC member

By: [Signature]
Patrick S. Conroy, Member

STATE OF Michigan

COUNTY OF Oakland

The Bluffs of Wilson Creek, LLC, by its member,

I, a Notary Public for the County and State aforementioned certify that, NORTH CAROLINA PROPERTIES, LC, By its Member, PATRICK S. CONROY, personally appeared before me this day and acknowledged the execution of the foregoing instrument. WITNESS MY HAND AND OFFICIAL SEAL, this the 26 day of October, 2004.

My commission expires:
December 5, 2006

Olga Nevill
Notary Public

OLGA NEVILL
Notary Public, Oakland County, MI
My Commission Expires Dec. 5, 2006

North Carolina
Caldwell County

THE CERTIFICATE OF:
Kathryn B. Eller, Wendy Jo Winsor,
& Olga Nevill Notaries Public

~~IS CERTIFIED TO BE CORRECT.~~

are

Wayne L. Rash,
REGISTER OF DEEDS

BY: Margaret Nighthawer



NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

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

ARTICLES OF CORRECTION

OF

THE BLUFFS AT WILSON CREEK HOMEOWNERS ASSOCIATION WHICH CORRECTS ITS NAME TO THE BLUFFS OF WILSON CREEK HOMEOWNERS ASSOCIATION

the original of which was filed in this office on the 28th day of September, 2004.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 28th day of September, 2004

Elaine F. Marshall

Secretary of State

State of North Carolina
Department of the Secretary of State

ARTICLES OF CORRECTION

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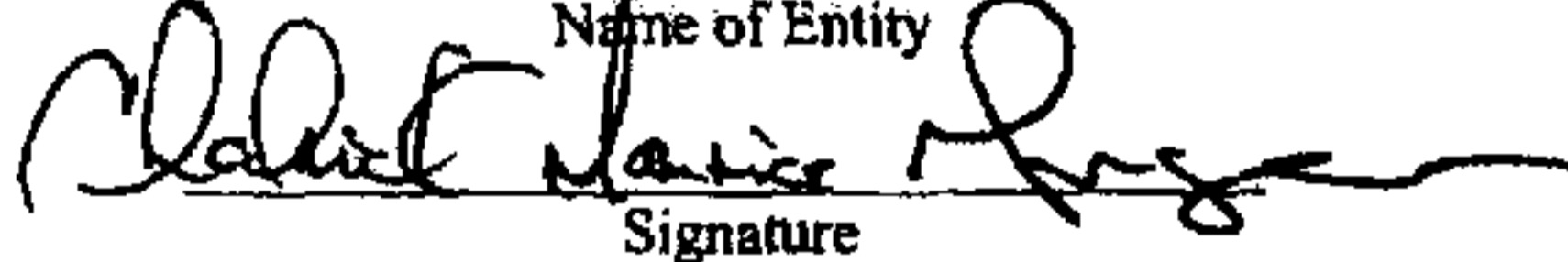
Pursuant to §55D-14 of the General Statutes of North Carolina, the undersigned entity hereby submits these Articles of Correction for the purpose of correcting a document filed by the Secretary of State.

1. The name of the entity is: The Bluffs at Wilson Creek Homeowners Association
2. The type of business entity is: Domestic Corporation, Foreign Corporation,
 Domestic Nonprofit Corporation, Foreign Nonprofit Corporation,
 Domestic Limited Liability Company, Foreign Limited Liability Company
 Domestic Limited Partnership, Foreign Limited Partnership
 Domestic Limited Liability Partnership, Foreign Limited Liability Partnership.
3. On the 16 day of July, 2004, the business entity filed:
 - a. The following described document: _____
 - OR-
 - b. The attached document (Check here X if applicable).
4. This document was incorrect in the following manner (specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective):
The word "at" in the name of the nonprofit corporation should have been
the word "of".
5. The incorrect matters stated in Item 4 above should be revised as follows or the corrected document may be attached:
Change the name to read "The Bluffs of Wilson Creek Homeowners Association".

This the 24th day of September, 2004

The Bluffs of Wilson Creek Homeowners Association

Name of Entity



Signature

Chad Maurice Gragg, Organizer & President

Type or Print Name and Title

NOTES:

1. Filing fee is \$16. This document must be filed with the Secretary of State.
2. For effective date of these Articles of Correction, see N.C.G.S. §55D-14.

ARTICLES OF INCORPORATION
OF
THE BLUFFS AT WILSON CREEK HOMEOWNERS ASSOCIATION

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In compliance with the requirements of Chapter 55A of the General Statutes of the State of North Carolina, as amended, the undersigned, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

ARTICLE I
CORPORATE NAME

The name of the corporation is The Bluffs at Wilson Creek Homeowners Association, hereinafter called the "Association."

ARTICLE II
REGISTERED OFFICE

The principal and registered office of the Association is located at 4441 Collettsville Road, Collettsville, Caldwell County, North Carolina 28611.

ARTICLE III
REGISTERED AGENT

Chadrick Maurice Gragg, whose address is 4441 Collettsville Road, Collettsville, Caldwell County, North Carolina 28611 is hereby appointed the initial registered agent of this Association.

ARTICLE IV
PURPOSE AND POWERS

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of residence Lots and Common Area within that certain tract of property described as The Bluffs at Wilson Creek, Plat Book 21, Pages 209 and 210, Plat Book 21, Page 350, 351 and 352, Caldwell County Registry, and said other properties as may be annexed thereto, and to promote the health, safety, and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for these purposes to:

(a) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration," applicable to the property and recorded or to be recorded in the Office of the Register of Deeds of Caldwell County, North Carolina, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length.

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(b) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association.

(c) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real property in connection with affairs of the Association, provided any conveyance, sale, dedication or disposition of real property is not inconsistent with the laws and ordinances of the County of Caldwell.

(d) Borrow money, and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder.

(e) Dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, utility or other non-profit corporation for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by a majority of the members in attendance, agreeing to such dedication, sale or transfer.

(f) Participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of the members.

(g) To annex additional properties in such manner and upon such terms as set out in a Declaration of Covenants, Conditions, and Restrictions executed by The Bluffs at Wilson Creek, LLC, which is recorded, or to be recorded, in the Office of the Register of Deeds of Caldwell County, North Carolina.

(h) Have and to exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation law of the State of North Carolina by law may now or hereafter have or exercise.

This corporation is organized and shall be operated exclusively as a homeowners association and not for profit. No part of the earnings of this corporation or the funds contributed by any person or corporation shall inure to the benefit of any director, officer, or member of the corporation, or any private individual (other than by acquiring, constructing, or providing management, maintenance, and care of Association property, and other than by a rebate of excess membership dues, fees, or assessments), except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes. In the event of the liquidation or dissolution of the corporation, either voluntary or involuntary, no director or

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officer of the corporation or any private individual shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the corporation from any source, after the payment of all debts and obligations of the corporation, shall be used or distributed exclusively to an entity or entities whose purposes are substantially similar to those set forth in this Article IV and within the intent of the Internal Revenue Code of 1986 and the regulations thereunder as the same now exist or as they may be hereafter amended from time to time or to an appropriate public agency to be or used for purposes similar to those stated in this Article IV or to an organization which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended.

Anything to the contrary notwithstanding, the corporation shall not possess or exercise any power or authority either expressly, by implication, or by operation of law that will prevent it at any time from qualifying as a "Residential Real Estate Management Association" as defined in of the Internal Revenue Code of 1986 as amended and the regulations thereunder, nor shall it engage directly or indirectly in any activity which would cause the loss of such qualification or deny it such election under such section of the Internal Revenue Code.

In order to properly prosecute the objects and purposes set forth, this corporation shall have all the powers vested in corporations by the laws of the State of North Carolina, Chapter 55A, and other laws relating to corporations which may appear in the General Statutes of North Carolina, together with all amendments thereto, past and future, which powers shall include, but the inclusion of such powers shall not be deemed as exclusive of other powers vested in the corporation, the following powers: This corporation shall have full power and authority to acquire real or personal property, tangible or intangible, by gift, contribution, bequest, devise, purchase, lease, exchange, or by any other manner, and to hold legal or equitable title to real and personal property; to borrow money, issue bonds, indentures or other evidences of indebtedness, secured or unsecured; to sell, buy, lease, encumber, mortgage, pledge, donate and otherwise deal with, acquire and dispose of real and personal property, either one or both, and generally to perform all acts which may be deemed necessary, expedient or proper by the corporation for the successful carrying out of the objects and purposes for which the corporation is formed.

ARTICLE V MEMBERSHIP

Every person or entity which is a 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, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association.

1888

ARTICLE VI
VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A members shall be all lot owners, except the Developer of the Subdivision, 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 vote be cast with respect to any lot. Fractional voting with respect to any lot is hereby prohibited.

The Developer of the Subdivision is the Class B member. The Developer shall have six votes for each lot it owns until the developer has relinquished its control pursuant to the terms of the Declaration.

ARTICLE VII
BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of at least five (5) directors, who need not be members of the Association. The number of directors may change to more than five (5) after the first year by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the election of their successors are:

<u>Name</u>	<u>Address</u>
Chadrick Maurice Gragg	4441 Collettsville Road, Collettsville, NC 28611
Michael Joseph Tandeski	4441 Collettsville Road, Collettsville, NC 28611
Albert Paul Mickalich	4441 Collettsville Road, Collettsville, NC 28611
Patrick Stephen Conroy	4441 Collettsville Road, Collettsville, NC 28611
Steven Noel Basile	4441 Collettsville Road, Collettsville, NC 28611

ARTICLE VIII
DISSOLUTION

In the event of the dissolution of the Corporation, no director or officer shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the Corporation from any source, after the payment of all debts and obligations of the Corporation, shall be disposed of exclusively for the purposes of the Corporation in such manner or to such organization or organizations organized and operated for substantially the same purposes as this Corporation or exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine.

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ARTICLE IX
DURATION

The corporation shall exist perpetually.

ARTICLE X
AMENDMENTS

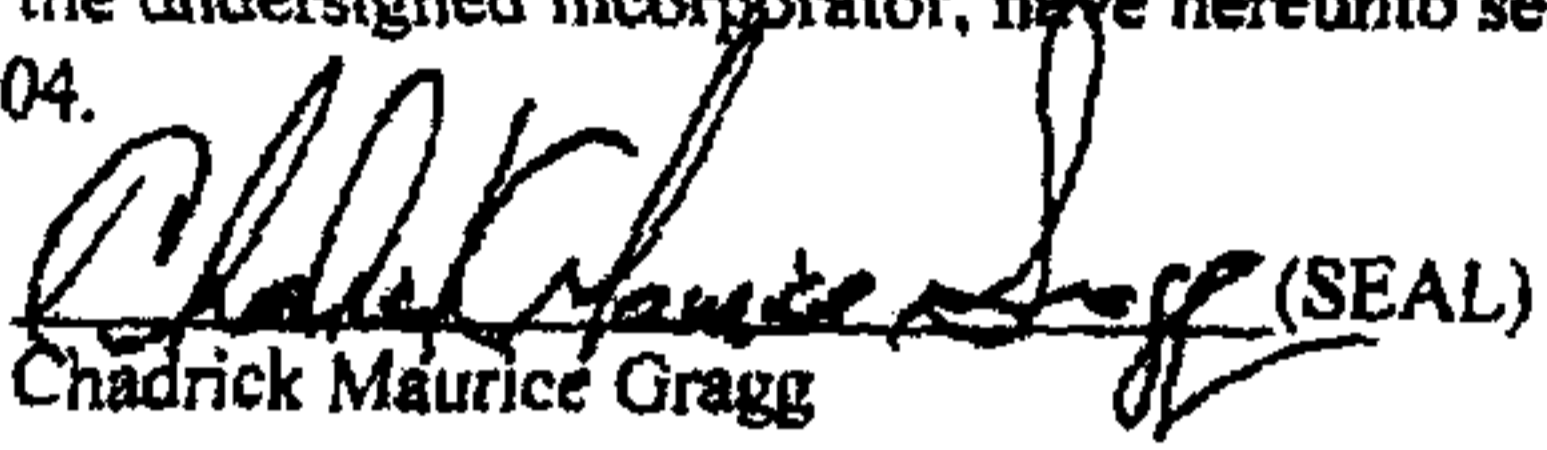
Amendment to these Articles shall require the assent of a majority of the membership present at a legally called meeting.

ARTICLE XI
INCORPORATOR

The name and address of the incorporator is as follows:

Chadrick Maurice Gragg
4441 Collettsville Road
Collettsville, NC 28611

IN WITNESS WHEREOF, I, the undersigned incorporator, have hereunto set my hand and seal this the 14 day of July, 2004.

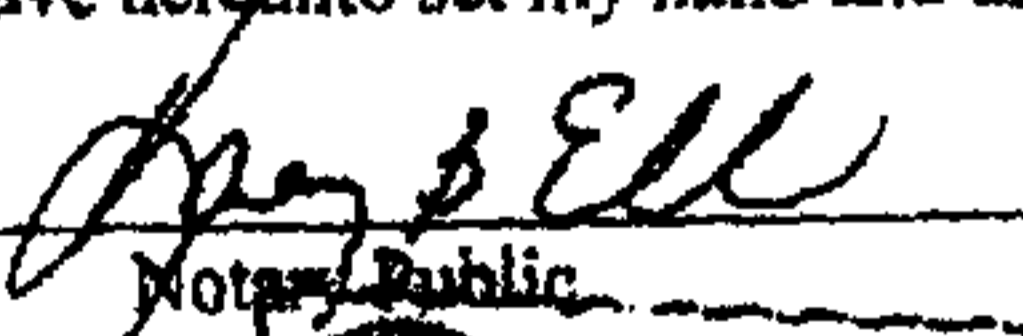
 (SEAL)
Chadrick Maurice Gragg

STATE OF NORTH CAROLINA

COUNTY OF CALDWELL

This is to certify that on the 14 day of July, 2004, before me, Kathryn B. Eller, a Notary Public, personally appeared Chadrick Maurice Gragg, who I am satisfied is the person named in and who executed the foregoing Articles of Incorporation, and I, having first made known to him the contents thereof, he did acknowledge that he signed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this 14 day of July, 2004.


Notary Public

My commission expires: 7-28-05



Exhibit B

BY-LAWS

OF

THE BLUFFS OF WILSON CREEK HOMEOWNERS ASSOCIATION

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ARTICLE I

NAME

The name of the corporation is THE BLUFFS OF WILSON CREEK HOMEOWNERS ASSOCIATION, hereinafter referred to as the "Association". The principal office of the corporation shall be located in Caldwell County, North Carolina 28645, but the meetings of members and directors may be held at such places within the State of North Carolina, County of Caldwell, or any other place as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1. "Association" shall mean and refer to the Bluffs of Wilson Creek Homeowners Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Areas" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the owners. The Common Areas to be owned by the Association at the time of the conveyance of the first lot shall be all the area designated as "Common Area" on the plat of The Bluffs of Wilson Creek recorded in the Caldwell County Registry at Plat Book 21, Page 209, Plat Book 21, Page 210, Plat Book 21, Page 350, Plat Book 21, Page 351, Plat Book 21, Page 352, Plat Book 21, Page 449, Plat Book 21, Page 450, and Plat Book 21, Page 451.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Areas.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the 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 6. "Declarant" shall mean and refer to The Bluffs of Wilson Creek, LLC, its

successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds, Caldwell County, North Carolina.

Section 8. "Member" shall mean and refer to those persons or entities entitled to membership as provided in the Declaration.

Section 9. "Common Expense" shall mean and include:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of the Common Areas, including administration, maintenance and/or repair;
- (c) Expenses declared to be common expenses by the provisions of the Declaration or the By-Laws.
- (d) Hazard, liability, or such other insurance premiums as the Declaration or the By-Laws may require the Association to purchase;
- (e) Ad valorem taxes and public assessment charges lawfully levied against the Common Areas.
- (f) Expenses agreed by the members to be common expenses of the Association.

ARTICLE III
MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held in April or May of 2005, or on such other date as determined by a vote of the Board of Directors, and each subsequent regular annual meeting of the members shall be held on in May of each year hereafter. If the day for the annual meeting of the members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes appurtenant to the Lots.

Section 3. Notice of Meetings. Unless otherwise specified in the Declaration, Articles of Incorporation or By-Laws, written notice of each meeting of the members shall be given by, or at

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the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than 30 days nor more than 60 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. Unless otherwise specified in the Declaration, Articles of Incorporation or By-Laws, the presence at the meeting of members entitled to cast, or of proxies entitled to cast, ten percent (10%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. The quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent 50% from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted. No such meeting replacing the adjourned meeting shall be held more than 60 days following the preceding meeting. All subsequent meetings as mentioned in this section shall be subject to the same notice requirements as the originally called meeting.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV
BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, all of whom need not be members of the Association, after the first annual meeting of the members following relinquishment of Declarant's control.

Section 2. Initial Directors. The initial directors shall be selected by the Declarant. Such initial directors shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the office of the Register of Deeds of Caldwell County until such time as their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board of Directors from the date upon which this Declaration is recorded in the Office of the Register of Deeds for Caldwell County until such time as their successors are duly elected and qualified are as follows:

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Name	Address
Chadrick Maurice Gragg	4441 Collettsville Road, Collettsville, NC 28611
Michael Joseph Tandeski	4441 Collettsville Road, Collettsville, NC 28611
Albert Paul Mickalich	4441 Collettsville Road, Collettsville, NC 28611
Patrick Stephen Conroy	4441 Collettsville Road, Collettsville, NC 28611
Steven Noel Basile	4441 Collettsville Road, Collettsville, NC 28611

Section 3. *Nomination.* . Nomination for election to the Board of Directors shall be made from the floor at the first meeting of the members after the Declarant has relinquished control. After the first election of directors, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. *The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.*

Section 4. *Election.* Except as provided in Section 4.6, Directors shall be elected at the annual meeting of the members by written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. *Term of Office.* Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At the first annual meeting of the Members following the relinquishment of Declarant control, the members shall elect one (1) member of the Board of Directors for a term of three (3) years, who shall be the person receiving the largest number of votes, and one (1) member of the Board of Directors for a term of two (2) years, who shall be the person receiving the second largest number of votes, and one (1) member of the Board of Directors for a term of one (1) year, who shall be the person receiving the third largest number of votes. At all annual elections thereafter, a director shall be elected by the members to succeed that director whose term then expires. Nothing herein contained shall be construed to prevent the election of a director to succeed himself.

Section 6. *Removal.* Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and

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shall serve for the unexpired term of his predecessor. The members may elect a director at any time to fill any vacancy not filled by the directors.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 8. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V
MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular Meetings of the Board of Directors shall be held on a regular basis as often as the Board sees fit, but no less than annually, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) days notice to each director.

Section 3. Quorum. Fifty percent (50%) of the number of directors shall constitute a quorum for the transaction of business. If, however, such quorum shall not be present or represented at any meeting, the meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person. The quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent 50% from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted. No such meeting replacing the adjourned meeting shall be held more than 60 days following the preceding meeting. Every act or decision done or made by a fifty percent vote of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. All subsequent meetings as mentioned in this section shall be subject to the same notice requirements as the originally called meeting.

Section 4. Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether

done before or after the action so taken.

1895

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 6. Liability of the Board. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

ARTICLE VI POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt, amend and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

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

(f) employ attorneys to represent the Association when deemed necessary;

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(g) grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across the Common Areas without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Property;

(h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient;

(i) do anything necessary or desirable, including, but not limited to, establishing any rules or regulations which the Association deems necessary to carry out the purposes of the Association as set forth herein or as permitted by law;

(j) enforce the provisions of the Declaration and any one or more Amendments or Supplementary Declarations and any rules or regulations made hereunder or thereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessment against any Owner for violation of such provisions, rules or regulations pursuant to the provisions of the Declaration; and

(k) to levy assessments as more particularly set forth in the Declaration.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-third (1/3) of the members who are entitled to vote;

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

(c) as more fully provided in the Declaration, to:

(1) fix the amount of each assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally

obligated to pay the same.

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(4) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(5) procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate and hazard insurance on the property owned by the Association;

(6) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(7) cause the Common Areas to be maintained, and if damaged to replace or repair such Common Areas (and any improvements thereon) as they see fit;

(8) pay ad valorem taxes and public assessments levied against the Common Areas.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a President and a Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer of the Association may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified

therein, the acceptance of such resignation shall not be necessary to make it effective.

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Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the office he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 9. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse the funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members. The Treasurer shall issue certificates indicating the payment or non-payment of assessments on specified lots.

After relinquishment of the Homeowners Association by the Developer, all checks must be signed by both the Treasurer and either the President or Vice-President.

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ARTICLE VIII
COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE IX
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE IX
ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property on which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the date of delinquency at the highest rate allowable by law on the date the assessment became due, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner that Deeds of Trust may be foreclosed under Power of Sale under Chapter 45 of the North Carolina General Statutes, or its successors; and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waiver or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his Lot.

ARTICLE XI
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: THE BUFFS OF WILSON CREEK HOMEOWNERS ASSOCIATION.

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ARTICLE XII
AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special duly called meeting of the members, by a vote of 50% of members present in person or by proxy. All requirements and provisions contained in Article III above shall apply to any meeting called to amend these By-Laws.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIII
MISCELLANEOUS

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

ARTICLE XIV
INDEMNIFICATION OF DIRECTORS AND OFFICERS
CERTIFICATION

The Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request

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of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

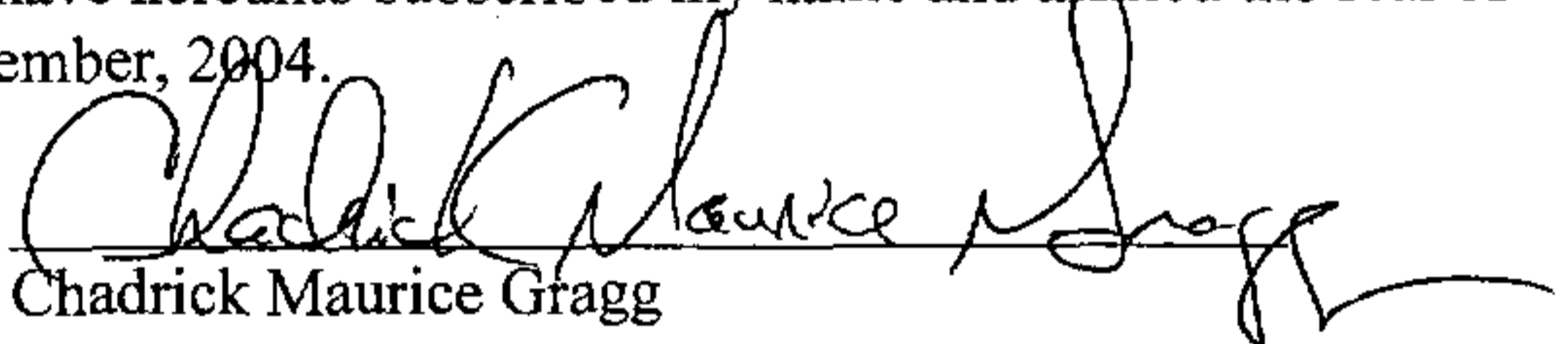
The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article 14, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable State or Federal law.

I, the undersigned, do hereby certify that I am the duly elected and acting secretary of The Bluffs at Wilson Creek Homeowners Association, a non-profit North Carolina Corporation, and,

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 2nd day of November, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 2nd day of November, 2004.


Chadrick Maurice Gragg