

## FELLOW ASSOCIATION MEMBERS:

This is an abridged edition of the Declaration of Covenants, Conditions and Restrictions for Sheffield Manor, hereinafter referred to as “the Covenants” or “the CCRs”. It is intended to provide a more readable edition of the Covenants for the benefit of the Board of Directors, the Architectural Review and Covenants Committee, other Association committees and the Membership in general. The original, filed edition of the Covenants is available as a (poorly scanned) public record at the Cabarrus County Register of Deeds at the referenced Book and Page numbers.

The process of abridging this document has been to:

- Render the document readable and searchable
- Remove most references to the builder, John Crosland Company
- Remove references to “Declarant” which is the same as the above item
- Remove references to one-class and two-class voting systems, as this no longer applies in our community
- Remove references to “Class A” and “Class B” members. This was again a convention of the period when the builder was still a property owner and no longer applies
- Remove references to certain requirements regarding VA, FHA, etc. that no longer apply as there is no longer a builder as a member in the Association
- Generally modify the appearance (but not the content other than above) to improve readability

Where these removals have occurred, there will often appear [...] to indicate this and where additional wording has been substituted for clarity, it will appear as *[italics]*

This abridged copy is not a legal replacement for the filed CCRs; however every effort has been made to ensure no material changes have been made that affect the content or meaning of the document for the Association and its Members. I hope you find this beneficial.

Best regards,

Steve Peoples  
Director, Sheffield Manor HOA  
Liaison to the Association’s ARC Committee  
June 2009

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*ABRIDGED*  
**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**  
**FOR**  
**SHEFFIELD MANOR**

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**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
SHEFFIELD MANOR**

This Declaration is made as of the 25th day of October 1993 by JOHN CROSLAND COMPANY, a North Carolina corporation... [...] *[It is deemed]* desirable for the management and administration of the planned development and for the preservation of the values and amenities of the planned development to incorporate the Sheffield Manor Homeowners Association, Inc. as a non-profit corporation under the laws of the State of North Carolina for the purposes of administering and enforcing the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof, and exercising such other powers as may be authorized by this Declaration, by law, or by its Articles of Incorporation and Bylaws.

[...]

ARTICLE 1  
DEFINITIONS

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

- 1.01 Additional Land.** "Additional Land" means the real property described in Exhibit "B", all or any portion of which may from time to time be made subject to this Declaration pursuant to the provisions of Article 16 hereof.
- 1.02 Appraisal.** "Appraisal" means an appraisal by a member of the Appraisal Institute of the National Association of Real Estate Boards (or, if such Institute is not then in existence, a like organization).
- 1.03 Articles.** "Articles" means the Articles of Incorporation of the Association, including any amendments thereto.
- 1.04 Association.** "Association" means the Sheffield Manor Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.
- 1.05 Board.** "Board" means the Board of Directors of the Association.
- 1.06 Bylaws.** "Bylaws" means the Bylaws of the Association, including any amendments thereto.
- 1.07 City.** "City" means the City of Concord in Cabarrus County in the State of North Carolina.
- 1.08 Common Area.** "Common Area" means all real property owned by or held in trust for the benefit of the Association for the common use and enjoyment of its Members, including the Recreational Common Area [...], but does not include real property over which the Association has only an easement.
- 1.09 [...]**
- 1.10 County.** "County" means Cabarrus County in the State of North Carolina.
- 1.11 CPI.** "CPI" means The Consumer Price Index For All Urban Consumer of the United States Bureau of Labor Statistics for all Items for the City of Concord, Cabarrus County, North Carolina.

- 1.12 [...]
- 1.13 **Declaration.** "Declaration" means this Declaration and all amendments or supplements hereto.
- 1.14 **FHA.** "FHA" means the Federal Housing Administration.
- 1.15 **Insurance Trustee.** "Insurance Trustee" means a national banking association or title company licensed to do business in North Carolina as may be designated by the Association to hold and disburse funds as trustee for the Association and the Owners, as provided in this Declaration.
- 1.16 **Lot.** "Lot" means any numbered lot or plot of land, together with any improvements thereon, as shown upon any recorded final subdivision map covering the Project or a part thereof, which is not a dedicated street or Common Area.
- 1.17 **Member.** "Member" means a member of the Association.
- 1.18 **Mortgage.** "Mortgage" means a mortgage or deed of trust which constitutes a first lien upon a Lot given to a bank, savings and loan association or other institutional lender for the purpose of securing indebtedness incurred to purchase or improve a Lot.
- 1.19 **Mortgagee.** "Mortgagee" means the holder of the beneficial interest in any Mortgage.
- 1.20 **Notice and Opportunity for Hearing.** "Notice and Opportunity for Hearing" means giving at least fifteen (15) days' prior notice of a proposed action and the reasons therefore, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.
- 1.21 **Owner.** "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot [...]. "Owner" shall not include any person or entity who holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.
- 1.22 **Person.** "Person" means an individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.
- 1.23 **Project.** "Project" means the planned development known as Sheffield Manor [...] and any additional Villages of real property made subject to this Declaration by recordation of a Supplemental Declaration pursuant to Section 16.02 of this Declaration.
- 1.24 **Property.** "Property" means collectively Villages C & F and the real property described in Exhibit "B". Exhibit "B" describes 129.78 acres, more or less, which is comprised of (i) 127 Lots in Sheffield Manor Villages C & F and (ii) 88.97 acres consisting of the Additional Lands.

- 1.25 Recreational Common Area.** "Recreational Common Area" means that portion of the Project[...] for the common use and enjoyment of its Members as recreational land, together with any and all improvements constructed thereon, including, but not limited to a swimming pool, tennis court(s) and cabana.
- 1.26 Rules and Regulations.** "Rules and Regulations" means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association, provided notice of such rules and regulations has been given to Owners in accordance with the requirements of this Declaration.
- 1.27 Supplemental Declaration.** "Supplemental Declaration" means a supplemental declaration of covenants, conditions and restrictions which shall be recorded for the purposes of annexing additional property, including all or any portion of the Additional Land, to the Project and causing such property to be subject to the scheme of covenants, conditions and restrictions contained in this Declaration.
- 1.28 Village.** "Village" means each of Villages C & F and all the real property covered by a Supplemental Declaration recorded pursuant to Section 16.02 of this Declaration.
- 1.29 Villages C & F.** "Villages C & F" means the real estate described on Exhibit "A", which comprises 22.28 acres in Village C and 18.53 acres in Village F, more or less, and is designed for (i) 127 single family detached homes, (ii) recreational use and (iii) entryway and rights-of-way. Villages C & F may also be referred to as "Sheffield Manor Villages C & F".
- 1.30 Voting Power.** "Voting Power" means the total number of votes held by Members [...]whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of this Declaration or the Rules and Regulations. Voting Power shall be computed by including all such Members whether or not such Members are present in person or by proxy at a meeting. All voting specifications and requirements shall apply to the entire Project.

ARTICLE 2  
**SUBMISSION AND TERM**

**2.01 Submission.** The Project shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared to be

- (i) in furtherance of a common scheme and general plan for the development, improvement and maintenance of the Project and
- (ii) for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Project.

All of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein shall run with, be binding upon and inure to the benefit of the Project, shall be binding on and inure to the benefit of each and every person having or acquiring any right, title or interest in the Project, shall be binding upon and inure to the benefit of the successors in interest of such persons, and shall inure to the benefit of the Association, its successors and assigns.

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

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

ARTICLE 3  
**COMPLIANCE WITH MANAGEMENT DOCUMENTS**

- 3.01 Compliance with Declaration and Other Documents.** Each Owner, resident or tenant of a Lot shall comply with the provisions of this Declaration, the Bylaws, Rules and Regulations duly adopted by the Association, decisions and resolutions of the Association and its duly authorized representative, all as may be amended from time to time, and failure to comply with any such provisions, decisions or resolutions, shall be grounds for an action to recover sums due for damages or for injunctive relief.
- 3.02 Resolution of Conflicts Between Documents.** Each Owner covenants and agrees that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles, the Bylaws and Rules and Regulations duly adopted by the Association. If there are any matters of conflict or inconsistencies in the Bylaws, Articles and this Declaration, then the provisions of the Declaration shall prevail. In the event that anything shown on a recorded final subdivision map for all or any portion of the Project is in any way inconsistent with provisions of this Declaration, then the provisions of this Declaration shall prevail. If a dispute arises among Owners in regard to the administration of the Project, then the provisions of this Declaration shall prevail.

ARTICLE 4  
**PROPERTY RIGHTS**

**4.01 Common Area Easements.** Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area and of access to and from his Lot over any streets comprising a portion of the Common Area (if any), which rights and easements shall be appurtenant to and shall pass with the title to his Lot and subject to the following rights and restrictions:

- (a) The right of the Association, after Notice and Opportunity for Hearing, to limit the number of guests of an Owner, to charge reasonable admission and other fees for the use of the Recreational Common Area facilities, if any, and to limit the use of said facilities to Owners who occupy a residence in the Project.
- (b) The right of the Association to suspend the right of an Owner to use any Recreational Common Area facilities
  - (1) for any period during which any fine against a Member or any assessment against such Owner's Lot remains unpaid; and,
  - (2) after Notice and Opportunity for hearing, for a period not to exceed thirty (30) days for any infraction of the Rules and Regulations;
- (c) The right of the Association to grant easements and to dedicate or otherwise convey all or any part of the Common Area as provided in this Declaration.
- (d) The right of the Association to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes, subject to the approval of Members and Mortgagees as otherwise provided in this Declaration;
- (e) The right of the Association to adopt Rules and Regulations governing use and enjoyment of the Common Area; and
- (f) Easements for ingress, egress, use and enjoyment over, in, to and throughout the Common Area[...].

**4.02 Delegation.** Any Owner may delegate his rights of use and enjoyment of the Common Area and any facilities thereon to the members of his family or household residing on his Lot and to his guests and invitees while he is in possession of his Lot, subject, however, to reasonable restrictions imposed by the provisions of this Declaration, the Bylaws and the Rules and Regulations. Provided the notice required by Section 4.03 of this Declaration has first been given to the Association, a tenant of an Owner, while residing on such Owner's Lot, shall be entitled to use and enjoy the Common Area and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if such tenant were the Owner of such Lot. No such delegation shall release an Owner from his obligations hereunder, including, without limitation, the obligation to pay regular and special assessments. Upon request, each Owner or tenant shall notify the secretary of the Association of the names of all persons to whom such Owner or tenant has delegated any rights of use and enjoyment of the Common Area and the relationship that each such person bears to such Owner or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the rights of Owners.

#### **4.03 Tenants.**

- (a) Any Owner who rents or leases his Lot to a tenant shall not be entitled to use and enjoy any recreational or other common facilities on the Common Area during the period the Lot is occupied by such tenant.
- (b) No Owner shall lease or rent less than an entire Lot and no more than one family shall live in any one Lot. Except as provided in Section 7.11, the Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than sixty (60) days. Subject to the foregoing restrictions, Owners shall have the right to lease or rent their Lots, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Rules and Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the Bylaws, and the Rules and Regulations.
- (c) In the event an Owner shall rent or lease his Lot such Owner shall immediately give to the Association in writing:
  - (1) the name of the tenant and the Lot rented or leased;
  - (2) the current address of such Owner;
  - (3) a true and complete copy of the lease or rental agreement; and
  - (4) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the Bylaws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as tenant.
- (d) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

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



- 4.05 Utility Easements.** Any easements for installation, maintenance, use or repair of public utilities or drainage facilities which are dedicated on any final subdivision map of the Project or created in some other way shall be kept free of buildings, and within such easements no structure shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, use or repair of such public utilities or drainage facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. All such easements at all times shall be accessible [...]to all persons installing, repairing, using or maintaining such utilities and drainage facilities.
- 4.06 No Subdivision of Lots; No Time-Sharing.** [...]there shall be no further subdivision or partition of any Lot nor shall any Owner[...], or any other person acquiring any interest in a Lot seek any partition or subdivision thereof. There shall be no time-sharing or other co-ownership which allows multiple Owners sequential possessory interests in a Lot.
- 4.07 Sale of Common Area.** Except as otherwise provided in this Declaration, no sale, transfer, dedication, hypothecation, partition, subdivision, abandonment, release or alienation of the Common Area shall occur or be valid, whether by act or omission of the association, without [...]the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association[...].
- 4.08 Rules and Regulations.** The Association shall have the right to adopt, publish and enforce Rules and Regulations governing the Project, the use and enjoyment of the Common Area, the Recreational Common Area and any facilities thereon, and the personal conduct thereon of the Owners, their guests, invitees, members of their families or households and tenants. Such Rules and Regulations shall be reasonable, [...] and must be consistent with this Declaration, the Articles and the Bylaws. Rules and Regulations shall not be effective until written notice thereof has been given by mailing a copy of the Rules and Regulations, postage prepaid, at least ten (10) days before the effective date of the Rules and Regulations, to each Owner addressed to the Owner's address last appearing in the books of the Association.
- 4.09 Enforcement.** The Association shall have the right, after Notice and Opportunity for Hearing, to levy fines for infraction of the provisions of this Declaration or the Rules and Regulations, provided
- (i) the Member shall have been warned in writing of a previous infraction within the preceding one (1) year, and
  - (ii) the fine conforms to the provisions of Section 9.11.
- 4.10 Recreational Common Area.** [...]a Recreational Common Area for use by Owners as a recreational facility. The Recreational Common Area facilities shall include a swimming pool, cabana and tennis court(s) and shall be located on a portion of the Common Area to be owned by the Association. The Board may appoint a recreational committee composed of one (1) member of the Board and one (1) or more members of the Association to make recommendations to the Board regarding coordination and supervision of the operation and use of the pool and tennis facilities.

ARTICLE 5  
**COMMON AREA EASEMENTS AND RIGHTS OF WAY; ENCUMBRANCES**

**5.01 Dedications.** The Association shall have the power to grant easements in, on, over, through and across the Common Area for any public or quasi-public improvements or facilities and their appurtenances, including, without limitation, street, sewer, drainage, water, gas and sprinkler improvements and facilities, provided

- (i) any such easement does not unreasonably interfere with the use and enjoyment of the Common Area or any Lot,
- (ii) [...], and
- (iii) [...].

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

**5.02 Encumbrances.** The Association shall have the right to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes

- (i) [...]
- (ii) [...] upon the vote or written consent of Sixty-seven percent (67%) of the total Voting Power of the Association. [...]

ARTICLE 6  
COMMON AREA AND LOT MAINTENANCE

**6.01 Maintenance by Association.** The Association shall repair and maintain the Common Area including the Recreational Common Area, any improvements, utilities and facilities located on the Common Area. The Association may, but not be obligated to, provide enhanced landscaping and maintenance to those areas located within the rights-of-way for major streets located within the Project. Any maintenance or enhancement called for herein shall be subject to governmental authorities' rules and regulations in the Cabarrus County area. [...].

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

No building or other structure shall be placed or permitted to remain on any Lot which may damage or interfere with the use, maintenance, repair or replacement of such drainage facilities and appurtenances and no Owner shall do any work, construct any improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Area as established in connection with the approval of the subdivision map or maps applicable to the Project by the County, except to the extent such alteration in drainage pattern is approved in writing by the Association and all public authorities having jurisdiction. All such drainage facilities and appurtenances shall at all times be accessible to [...]the Association and all persons installing, using, maintaining, repairing or replacing such drainage facilities and appurtenances. [...]

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

**6.04 Right to Enter.** After reasonable notice to the occupant, the Association or its agents shall have access over and upon any Lot when necessary in connection with any repair, maintenance, or replacement of improvements for which the Association is responsible or for the enforcement of this Declaration, and each Owner shall accept title to his Lot subject to such right of access of the Association or its agents.

ARTICLE 7  
USE RESTRICTIONS

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

- 7.01 Residential Use.** Except as otherwise provided in this Declaration, Lots shall be used as a residence for a single family and for no other purpose. [...]No Owner shall use or cause or permit to be used his Lot for any business, commercial, manufacturing or mercantile use or purpose, or for any other non-residential use or purpose. The foregoing notwithstanding, it shall be expressly permissible for Owners to conduct certain business or commercial activities within their residence which do not conflict with local zoning ordinance restrictions and regulations. No such activity shall be conducted which shall unduly burden traffic flows within the Property or cause the parking of non-resident vehicles upon the street for unreasonable or excessive periods of time. It shall be within the discretion of the Board to determine, on a case-by-case basis, which commercial and business related activities will be compatible with the residential nature of the subdivision.
- 7.02 Unlawful Activity.** No unlawful activity shall be conducted on any Lot or in any other part of the Project. Nothing shall be done within the Project that is an unreasonable annoyance, inconvenience or nuisance to the residents of the Project, or that unreasonably interferes with the quiet enjoyment of occupants of Lots. No doorways, walkways or streets shall be obstructed in any manner which would interfere with their use for ingress or egress in the event of fire, earthquake or other emergency.
- 7.03 Parking.** Unless otherwise permitted by the Rules and Regulations no boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle shall be parked, stored or left
- (a) on any part of the Common Area
  - (b) in any driveway or
  - (c) on any other part of a Lot unless the same are fully enclosed within the garage located on the Lot or are kept behind the front line of the house on the Lot and behind a fence no less than six (6) feet in height and which screens them from the view of the public walking by such Lot.

Any automobile, motorcycle or truck shall be parked, stored or left wholly within the garage located upon the Lot, except to the extent a garage is already occupied to capacity, in which case such vehicle may be parked temporarily in the driveway but no more than 24 consecutive hours. [...] No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living or dwelling area within the Project. No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway within the Project, except in the case of emergency and except as may be permitted by the Rules and Regulations.

- 7.04 Signs and Curtains.** No Owner shall place on or about any window any metallic foil or other coating, substance or material which similarly acts as a reflector of light nor shall an Owner place newspapers or bed sheets in any window. No Owner shall display, hang, store or use any signs outside of the dwelling on any Lot or in any dwelling so as to be visible from outside the Lot, other than as may be permitted by the Rules and Regulations. Notwithstanding the foregoing, one sign of customary and reasonable dimensions, conforming to such reasonable standard as may be adopted by the Board, advertising a Lot for sale or rent may be placed by the Owner on his Lot in such manner that it will be visible from outside the Lot. [...]
- 7.05 Antennas.** Except as may be permitted by the architectural control committee, no Owner shall construct, install, erect or maintain any television or radio pole, antenna, aerial, receiving or sending signal including, but not limited to ham radios, satellite dish, tower or support thereof upon any Lot or improvement thereon.
- 7.06 Laundry.** No laundry or wash shall be dried or hung upon the exterior of any Lot or any place visible within the project from outside such Lot.
- 7.07 Fences.** No fence or wall shall be erected on any Lot closer to the street than any building setback line, the side street setback or the rear of the building facade [...]. Perimeter fencing and privacy fencing around patios, decks, or pools may not exceed six (6) feet in height. Perimeter fencing, unless constructed of brick or stone masonry, shall not have more than 80% of any of its surface closed as viewed from a point on a line of sight perpendicular to the line formed by the line of the fence. Chain link fencing is expressly prohibited, except that 2" x 4" mesh may be used with split rail fencing to contain animals within the yard.
- 7.08 Pets.**
- (a) No animals shall be raised, bred or kept on any Lot or the Common Area, except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets generally considered to be outdoor pets, such as dogs, cats, et cetera, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months of age. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience or nuisance to any other Owner. If the Board receives any complaint that an animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board shall afford the Owner of such animal Notice and Opportunity for Hearing, and if the Board finds that such animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board may require that such animal be removed from the Project.
  - (b) The Board may adopt Rules and Regulations concerning animals which are more restrictive than the provisions of this Declaration, including rules requiring that all animals be kept on a leash when in the Common Area and that animals be restricted to designated areas within the Common Area and that Owners are responsible for cleaning up any mess that a pet creates within the Common Area. The Board may adopt a rule prohibiting certain pets, which is more restrictive than the provisions of this Declaration, except that such rule shall not apply to animals residing in the Project at the time such rule is adopted. In any event, the Board at any time may require that any animal found to be an unreasonable annoyance, inconvenience or nuisance be removed as provided in Section 7.08(a).

- 7.09 Trash and Vegetation.** No trash, rubbish, garbage or other waste material shall be kept or permitted upon any Lot or the Common Area, except in sanitary containers located in an appropriate area screened and concealed from view. No weeds, vegetation, rubbish, debris, garbage, waste materials or materials of any kind whatsoever shall be placed or permitted to accumulate on any Lot or any portion of the Project which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the project shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants which die shall be promptly removed.
- 7.10 Nuisance.** No noxious or offensive activity shall be carried on in or upon any Lot or the Common Area nor shall anything be done thereon which may be or become an unreasonable annoyance, inconvenience or nuisance to the residents of the Project or unreasonably interferes with the quiet enjoyment of occupants of Lots. No Owner shall permit anything to be done or kept on his Lot which would result in the cancellation of insurance on any other residence or any part of the Common Area or which would be in violation of any law.
- 7.11 [...]**
- 7.12 Right to Enter.** Any governmental agency, including, but not limited to the County, its agents, and employees, shall have the right of immediate access to the Common Area at all times if necessary for the preservation of public health, safety and welfare.

ARTICLE 8  
MEMBERSHIP AND VOTING RIGHTS

- 8.01 Governing Body.** The Association shall be the governing body for all Owners with respect to the management, administration, maintenance, repair and replacement of the Project, as provided by this Declaration and the Bylaws.
- 8.02 Membership.** Membership in the Association shall be composed of and limited to Owners. Each Owner[...] shall automatically be a Member of the Association and entitled to vote as set forth below. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Upon termination of ownership, an Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Lot.
- 8.03 Voting.** The Association [...] membership [...] shall be all Owners [...] [*and*] shall be entitled to one (1) vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves. In the event of disagreement, the decision of Members holding a majority of interest in such Lot shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Lot. [...]
- 8.04 Commencement of Voting Rights.** Voting rights attributable to an ownership interest shall not vest until the assessment against that interest has been levied by the Association as provided in Article 9; provided, however, that voting rights shall be immediately vested with respect to amendments to this Declaration pursuant to Section 17.08.

ARTICLE 9  
COVENANTS FOR ASSESSMENTS

**9.01 Covenant to Pay Assessments; Lien.** [...] Every Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association such regular annual assessments or charges and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration. The amount of any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees), as such may be provided in this Declaration, shall be and become a lien upon the Lot assessed when the Association causes to be recorded in the official records of the County a notice of assessment, which notice shall state:

- (a) The amount of such assessment and such other charges thereon as may be authorized by this Declaration;
- (b) A description of the Lot against which the same has been assessed; and
- (c) The name of the record owner of the Lot assessed.

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

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

**9.03 Use of Assessments.** Regular annual or special assessments paid by [...] Owners shall be used to pay for operation, maintenance, preservation, enhancement, repair and improvement of the Common Area, other purposes reasonably related to the foregoing, and to promote the recreation, health, safety and welfare of the Owners. In addition, such assessments shall be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration. The foregoing is intended as an authorization to the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

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

**9.05 Regular Assessments.** The regular annual assessment for each Lot for the first assessment year shall be a maximum of \$350.00 per Lot owned. [...] The regular annual assessment [...] may be increased by the Board to an amount equal to the previous year's annual assessments times the greater of

- (1) ten percent (10%) or
- (2) the annual percentage increase in the CPI for the most recent twelve (12) month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living.

If the annual assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the annual assessments may be increased by that amount in a future year, by a vote of the Board of Directors, without a vote of the Members. [...]

The Board shall fix the amount and due date of the regular annual assessment on a yearly basis at least sixty (60) days in advance of each assessment year. The Board may not impose a regular annual assessment which is more than ten percent (10%) greater than the regular assessment for the immediately preceding fiscal year without [...] the vote or written consent of a majority of [...] the Voting Power of the Association[...]. Written notice of the regular annual assessment shall be sent to every Owner who is not present at the time the regular annual assessment is so fixed. If the Board fails to so fix the regular annual assessment, the assessment applicable for the previous assessment year shall remain in effect until the Board shall fix a new regular annual assessment. Regular annual assessments shall be payable annually on the first day of each January or at such other time as the Board may fix. The Association shall, upon demand, and for a reasonable charge, furnish to any person having a legitimate interest a certificate signed by an officer of the Association stating whether the regular annual assessment and special assessments, if any, on a specified Lot have been paid and, if not, the amount due.

- 9.06 Special Assessments.** In addition to the regular annual assessments authorized herein, the Board may levy, in any assessment year, a special assessment against all Owners applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvements and related fixtures and personal property on or comprising a part of the Common Area; provided, however, [...]in any fiscal year, special assessments which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without [...] the vote or written consent of a majority of [...] the Voting Power of the Association[...].
- 9.07 Assessment as Remedy.** After Notice and Opportunity for Hearing, the Board, without the vote or written consent of Members, may levy a special assessment against an Owner as a remedy to reimburse the Association for costs (including attorneys' fees) incurred in bringing the Owner, his Lot or his residence into compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations.
- 9.08 Allocation of Assessments.** Except as otherwise provided in this Declaration [...] all regular and special assessments shall be levied equally against all Owners.
- 9.09 [...]**
- 9.10 Revised Assessments.** Subject to the provisions of Section 9.05, if at any time during the course of any year the Board shall deem the amount of the regular annual assessment to be inadequate or over adequate by reason of a revision of its estimate of either expenses or income or otherwise, the Board shall have the right, at a regular or special meeting, to revise the regular annual assessment for the balance of the assessment year. Any such revised assessment shall become effective on the first day of the month next following the date of adoption, and additional amounts payable shall be due (or refunds of overages shall be made by the Association) at such time as determined by the Board.

**9.11 Delinquent Assessments; Fines.** Any assessment not paid within ten (10) days after the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Late charges on delinquent assessments and fines levied as provided in Section 4.09 shall not exceed the following rates computed on the outstanding balance, which shall include any late charges previously assessed and unpaid, from month to month:

- (a) On so much of the outstanding balance as does not exceed one thousand dollars (\$1,000), one and one-half percent (1.50%).
- (b) If the outstanding balance is more than one thousand dollars (\$1,000), one percent (1%) on the excess over one thousand dollars (\$1,000) of the outstanding balance.
- (c) If the late charge so computed is less than ten dollars (\$10) for any month, ten dollars (\$10).

No charge may be imposed more than once each month for the delinquency of the same payment, provided, however, that the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. When an assessment is paid more than ten (10) days after the due date of the assessment, late charges shall accrue from the first day following the due date of the assessment. The Association may bring legal action against the Owner personally obligated to pay a delinquent assessment or fine and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's membership rights in the Association while the assessment or fine remains unpaid. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees.

**9.12** [...]

ARTICLE 10  
INSURANCE

**10.01 Duty to Maintain Insurance.**

- (a) The Association shall have the duty and the authority to maintain fire and extended coverage casualty insurance on the Common Area in an amount not less than the full insurable value thereof (based upon current replacement cost), and liability insurance with limits in and amounts adequate, under standards in the insurance industry existing from time to time, to protect the Association and the Owners in the event of property damage, personal injury or death occurring in or about the Project. The Board shall have the authority to settle or enforce on behalf of the Association and on behalf of the Owners, by legal action or otherwise, any claim arising under any insurance carried by the Association.
- (b) Each Owner shall maintain casualty and personal liability insurance pertaining to his Lot, in such form and in such amounts as the Rules and Regulations may require.
- (c) All policies of insurance carried by the Association or the Owners shall include a waiver of subornation if such waiver can be obtained, unless otherwise provided in the Rules and Regulations.
- (d) Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit development projects established by the Federal National Mortgage Association and Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or Government National Mortgage Association.

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

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

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

ARTICLE 11  
DAMAGE AND DESTRUCTION

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

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

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

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

- (a) The Board shall as soon as reasonably practicable obtain such information as it deems necessary to make an informed judgment about whether to proceed with the repair, restoration or reconstruction of the Common Area so damaged or destroyed, which information may include:
  - (i) obtaining firm bids from two (2) or more responsible and licensed general contractors for the repair, restoration and reconstruction of the Common Area so damaged or destroyed in accordance with the original plans and specifications to the extent reasonably practicable; and
  - (ii) obtaining an Appraisal setting forth an opinion as to the value of the Common Area as it then exists together with an opinion of the increment in value, if any, which would accrue if the Common Area or some portion thereof were razed.
  
- (b) No later than one hundred eighty (180) days after the occurrence of Major Damage, the Board shall hold a special meeting of Members after notice as provided in the Bylaws. Such notice shall include a summary of the Appraisal (if any) and of the bids for repair, restoration and reconstruction (if any), the amount of insurance proceeds payable to the Association as a result of such damage and destruction, and the amount of the special assessment, if any, necessary to make any difference between the insurance proceeds and the total cost of repair, restoration and reconstruction.

- (c) Unless within two hundred forty (240) days after the occurrence of such Major Damage [...] sixty-seven percent (67%) of the total Voting Power of the Association agree by vote or written consent and a majority of all Mortgagees (based upon one (1) vote for each Mortgage owned) agree in writing that such repair, restoration or reconstruction of the Common Area improvements which have been damaged or destroyed shall not take place:
- (a) the Association shall promptly contract for and complete such repair, restoration and reconstruction in accordance with plans and specifications approved by the Board; and
  - (b) the difference, if any, between the insurance proceeds and the total cost of repair, restoration and reconstruction shall be recovered by a special assessment levied by the Association equally against all Owners.
- (d) Funds collected and held by the Insurance Trustee shall be disbursed by the Insurance Trustee for the purpose of repair, restoration or reconstruction (if any) in accordance with the terms and conditions of such contract or an agreement between the Association and the Insurance Trustee. Funds from any special assessment shall be delivered to and held in trust by the Insurance Trustee and shall be held and disbursed for repair, restoration and reconstruction in the same manner as insurance proceeds. The Insurance Trustee may invest and reinvest funds held by it in a manner consistent with its duties as trustee. The Insurance Trustee shall be entitled to a reasonable fee for its services.
- (e) If Major Damage occurs and it is determined in accordance with this Section 11.04 that the Common Area or any portion thereof shall not be repaired, restored or reconstructed, the Board shall cause an Appraisal to be made (if such Appraisal has not previously been obtained) and the Appraisal shall be made available to the Owners and Mortgagees. The Association shall then sell the Common Area or any portion thereof, for and on behalf of all Owners upon such terms and conditions and for such price as may be approved by a majority of the Board and ratified [...] by the vote or written consent of a majority of the total Voting Power of the Association. For such purposes, the Board shall be and hereby is irrevocably appointed attorney in fact to act on behalf of all Owners to sell the Common Area or any portion thereof upon such terms and conditions and for such price as shall have been ratified and approved by the Members and to do such acts incidental to the sale and to incur such expense as in its opinion will increase the value of the Common Area for the purpose of sale or as may be deemed necessary or convenient in connection with the sale, including but not limited to, the razing of any or all improvements. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. In connection with the sale of the Common Area or any portion thereof, the Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including, but not limited to, maps, plans, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be necessary or convenient for the sale. The Board shall be authorized to incur fees for legal and accounting services, appraisals, engineering, examination of title and other expenses reasonably related to the sale.

- (f) After payment of expenses directly relating to the sale of the Common Area and properly payable out of the escrow at the closing of the sale, the Insurance Trustee shall receive the remaining sale proceeds and shall disburse such proceeds, together with any insurance proceeds it holds, as follows:
- (1) To pay any outstanding expenses of the Association or of the Insurance Trustee relating to the sale of the Common Area, including but not limited to, costs of Appraisal, collection of insurance proceeds, compensation of the Insurance Trustee, engineering, legal and accounting expenses, costs of preparing the Common Area for sale and other related expenses; and
  - (2) To pay equally to the respective Owners in the Project; provided, however, that an equitable adjustment shall be made in the distribution to provide for any Owner's liability to the Association, including but not limited to, liability for unpaid assessments and charges.

ARTICLE 12  
EMINENT DOMAIN

**12.01 Eminent Domain.** If all or any portion of the Common Area is taken by action in eminent domain (hereinafter called a "taking"), the Association shall give written notice of the proceedings to all Owners and Mortgagees, and the condemnation award shall be fairly and equitably apportioned among the Owners, Mortgagees and the Association as the court may determine. A condemnation award which is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each affected Owner shall be allocated first to the repair, restoration and reconstruction of any remaining portion of the Common Area and then any excess shall be distributed equally among the affected Owners (or any Mortgagee of an Owner to the extent such Mortgagee is entitled to such Owner's share of the proceeds). If requested by the court, an Insurance Trustee shall be employed to make disbursement of the award.

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

ARTICLE 13  
[...]

**13.01** [...]

ARTICLE 14  
ARCHITECTURAL CONTROL

**14.01 Architectural Control.** No building, pool, fence, wall, antenna or other structure or improvement on any Lot shall be erected, constructed, demolished, or altered until an application, including plans and specifications showing the nature, kind, shape, height, materials, and location of the same, shall have been submitted to and approved in writing by the Board or an architectural control committee which has been empowered by the Board to approve such applications and comprised of three (3) or more Association Members who have been appointed by the Board; provided, however, that no such approval shall be required for alterations to the interior of any residential structure. The Board may require a reasonable fee to accompany each application for approval. If the Board or such architectural control committee, having not theretofore approved or disapproved an application, fails to approve or disapprove an application within ten (10) days following receipt of written notice of failure to act, which written notice is given at least thirty (30) days following receipt of the initial application, the application shall be deemed approved unless the application calls for construction of improvements which are contrary to specific restrictions or covenants contained in this Declaration, in which event the application shall be deemed denied. The foregoing notwithstanding, with regard to satellite dishes, receiving or sending signals, including but not limited to ham radio antennas, failure of the architectural control committee to act on requests for approval for satellite dishes, receiving or sending signals will be deemed denied. Further, the architectural control committee's failure to act within thirty (30) days shall not operate to permit any Owner to construct or maintain any improvement that violates any provision of this Declaration or any applicable legal requirement, the committee at all times retaining the right to object to any improvement that violates this Declaration or any applicable legal requirement. The restrictions herein contained shall have no application to the development, improvement, maintenance and repair of the Property [...] by the Association[...].

**14.02 Reconstruction of Residences.** In the event of damage or destruction to a residence by fire or other casualty, the Owner shall within four (4) months diligently commence to reconstruct such residence as soon as reasonably possible and substantially in accordance with the original plans and specifications thereof; provided, however, that such residence shall be restored so that the exterior appearances thereof substantially resemble their appearances in form and in color prior to such damage or destruction. Notwithstanding the foregoing, however, any Owner of a damaged residence may request permission from the Board or duly authorized architectural control committee to reconstruct or repair his residence in accordance with revisions in the plans and specifications. The Board or said committee shall grant such requests only in the event that the proposed change or deviation will materially benefit and enhance the entire Project in a manner generally consistent with the plan and development thereof.

ARTICLE 15  
**MORTGAGEE PROTECTION**

**15.01 Interpretation.** In the event any provision of this Article 15 is inconsistent with or contrary to any other provision of this Declaration, the provisions of this Article 15 shall control.

**15.02 Notices.** Any Mortgagee of any Lot, by written notice to the Association setting forth the Lot encumbered, the Owner thereof and the address to which notices may be sent, may request and thereby be entitled to receive written notice from the Association of

- (i) any default which is outstanding for sixty (60) days or longer by the Owner of such Lot in the performance of his obligations under or in compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations,
- (ii) any substantial damage to or destruction of the Common Area, including the improvements located thereon, or, if known to the Association, any substantial damage to or destruction of a Lot, including the improvements located thereon, and
- (iii) any proposed or threatened taking by power of eminent domain of the Common Area or any portion thereof or of any Lot or portion thereof.

**15.03 Mortgagee's Right to Information.** Upon written request to the Association, a Mortgagee is entitled to:

- (1) inspect the books and records of the Association during normal business hours; and
- (2) receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the project; and
- (3) receive written notice of all meetings of the Association and to designate a representative to attend all such meetings.

**15.04 Damage and Destruction Rights.** In the event of substantial damage to or destruction of any Lot or improvements to a Lot or any part of the Common Area no provision of any document establishing the Project shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

**15.05 Condemnation Rights.** If any Lot or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation proceedings or is otherwise sought to be acquired by a condemning authority, no provision of any document establishing the Project shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of the proceeds of any award or settlement.

**15.06 Right of First Refusal.** Any right given by an Owner of a Lot to any third person to purchase such Lot before it is offered for sale or sold to any other person (such right commonly known as a "right of first refusal") shall not be binding upon or enforceable against any Mortgagee acquiring such Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, or by acceptance of a deed or assignment in lieu of foreclosure.

**15.07 Subordination.** No provisions contained in this Declaration shall defeat or render invalid the lien of any Mortgage which is made in good faith and for value. The lien of the assessments provided for herein shall be subordinate to the lien of any Mortgage recorded prior to the date any such assessment becomes due. This subordination shall apply only to assessments on a Lot which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or exercise of power of sale. Any Mortgagee who acquires title to or comes into possession of a Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, and any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges against the Lot which have accrued prior to the time such Mortgagee or purchaser acquires title to or comes into possession of the Lot; provided, however, this exception shall not be applicable to any claim for assessments or charges levied by the Association against all Lots for the purpose of recovering any revenue lost by reason of the nonpayment of past due assessments upon such Lot: and provided further, that except as otherwise provided in this section, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Lot shall not relieve a selling Owner from personal liability for any assessments which became due and payable prior to such sale, transfer or conveyance, nor relieve such Lot from a duly recorded lien for any such prior unpaid assessment.

**15.08 Payments by Mortgagees.** Any Mortgagee, after at least ten (10) days' prior written notification to the Association of the items to be paid and the failure of the Association within such time to make payment, may pay, alone or in conjunction with other Mortgagees, delinquent taxes, liens or assessments which may be or become a charge against the Common Area, or any portion thereof, and any overdue premiums on policies of fire and extended coverage insurance for the Common Area and in the event of a lapse of such a policy of insurance, may pay premiums to secure a new policy. In the event such payments are made, the Mortgagee making such payment shall be entitled to immediate reimbursement from the Association to the extent of the payment made.

**15.09 Professional Management.** In the event that [...] the Association enters into any contract with any person or entity to provide management or maintenance services to the Project, such contract shall not exceed one (1) year and shall provide that the Association shall have the right to terminate the contract for cause upon thirty (30) days' written notice and without cause upon ninety (90) days' written notice, without payment of a termination fee.

ARTICLE 16  
ANNEXATION

**16.01 Right to Annex.** [...]Annexation of any [...] real property shall require the vote or written consent of not less than sixty-seven percent (67%) of the total voting power of the Association[...]. Annexation of additional property may be accomplished in Villages.

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

**16.03 Annexed Property.** Each Owner of a Lot in an annexed Village automatically shall be a Member of the Association and such Owners and annexed real property shall be subject to assessment by the Association for the benefit of the Project or any part thereof. Assessments of Lots in an annexed Village shall commence upon the last to occur of:

- (a) commencement of regular annual assessments for the Project, and
- (b) the first day of the month next following the first conveyance of a Lot in such Village to a purchaser[...].

The Association shall have the duties, responsibilities and powers set forth in this Declaration, the Articles and Bylaws with respect to annexed real property. Except as may otherwise be expressly provided in this Declaration or any Supplemental Declaration, the Project shall be managed and governed by the Association as an entirety. Assessments collected from Owners in the Project may be expended by the Association anywhere in the Project without regard to the particular Village, area or subdivision from which such assessments came. All Owners shall have ingress and egress to and from all the Common Area throughout the project and any Village thereof and shall have use and enjoyment of any recreational facilities and other amenities contained within the Common Area throughout the project, provided that any such use shall be subject to the provisions of this Declaration, any Supplemental Declaration, the Bylaws and the Rules and Regulations.

ARTICLE 17  
MISCELLANEOUS PROVISIONS

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

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

**17.03 Notices.** Notices shall be in writing and shall be addressed as follows:

- (i) if to an Owner, to the address of his Lot;
- (ii) [...]
- (iii) if to the Association, to [...][*Post Office Box 191; Concord, N.C. 28026-0191*]. The Association may designate a different address for notices by giving written notice of such change of address to all Owners [...]. Any Owner may designate a different address for notices by giving written notice of such change of address to the Association[...].

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

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

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

**17.07 [...]**

**17.08 Amendments.** [...]Should the Department of Veterans' Affairs, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Declaration or make such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Declaration to be recorded to reflect such changes.

Any other amendments of this Declaration shall require [...]the vote or written consent of [...] sixty-seven percent (67%) of the Voting Power of the Association[...]; provided, however, that the percentage of the Voting Power [...] necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

Notwithstanding anything to the contrary contained in this Declaration, any amendment which establishes, governs, provides for or regulates anyone of the following:

- (i) voting;
- (ii) assessments, assessment liens or subordination of such liens;
- (iii) reserves for maintenance, repair and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) right to use of the Common Area;
- (vi) responsibility for maintenance and repair of the Project;
- (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
- (viii) the boundaries of any Lot;
- (ix) interests in the Common Area;
- (x) leasing of ownership interests;
- (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot;
- (xii) any provisions which are for the express benefit of Mortgagees; or
- (xiii) any other material amendment

shall require [...] the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association, and the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each Mortgage owned). Any Mortgagee who does not respond within thirty (30) days request by the Association for consent to an amendment of this Declaration shall be deemed to have approved such request. Any instrument amending this Declaration must contain a certification by the Secretary of the Association that the amendment has been correctly adopted in accordance with the provisions of this Declaration and be recorded in the official records of the County. Any such amendment shall be effective upon the date of recordation.

## EXHIBIT A

BEING all of the property in Sheffield Manor Villages C and F as shown on maps recorded in Map Book 26 at pages 97, 98, 99 and 100 in the Cabarrus County Public Registry, together with the property shown on map recorded in Map Book 26 at page 101 in the Cabarrus County Public Registry.

## EXHIBIT B

Lying and being in No. 2 Township, Cabarrus County, North Carolina, on the south side of Weddington Road (SR 1/1431), adjoining the property Ellie Barr Cress (Deed Book 270, Page 158), First Charter National Bank ("FCNB"), Trustee (Deed Book 680, Page 167), Eugonia W. Garrison [by Will (Will Book 6, Page 295)], Mrs. Clarence C. Little, Widow (Deed Book 238, Page 267), and Pioneer Farms, Inc. (Deed Book 367, Page 165), and being the Mary Ella Weddington Tract, as shown on the Plat Showing Property of BOYDEN M. WEDDINGTON ESTATE, a map of said property being on file in the Office of the Register of Deeds for Cabarrus County, North Carolina, in Map Book 4, page 50, and being more particularly described as follows:

BEGINNING at an existing iron pipe by a 30" sweet gum, on the south side of, but not adjoining, Weddington Road, a corner of FCNB in the line of Cress, and runs thence two (2) courses and distances with the line of FCNB, as follows: (1) S. 07-30-00 E. 1139.92 feet to an existing iron rod in stone pile; and thence (2) S. 26-51-10 E. 693.85 feet to a set nail in oak stump, a corner of Garrison; thence two (2) courses and distances with the line of Garrison, as follows: (1) S. 35-38-20 W. 801.04 feet to an existing iron rod; and thence (2) S. 37-20-22 W. 1264.85 feet to an existing iron pipe in farm road, a corner of Garrison, Little, and Pioneer Farms, Inc.; thence four (4) courses and distances with the line of Pioneer Farms, Inc., as follows: (1) N. 26-18-31 W. 1030.68 feet to an existing granite monument by an existing iron pipe; thence (2) N. 11-36-19 W. 725.83 feet to an axle by an existing iron pipe; thence (3) N. 88-53-36 W. 805.79 feet to a flint stone by an existing iron pipe; and thence (4) N. 15-53-22 E. 518.21 feet to an existing iron pipe, a corner of Cress; thence with the line of Cress, N. 15-54-35 E. 1521.55 feet to an existing rebar by an existing iron pipe (bent) in Weddington Road; thence with Weddington Road, and continuing with the line of Cress, N. 06-27-04

E. 1137.64 feet to an existing flat iron (bent) I thence leaving Weddington Road, and continuing with the line of Cress, S. 60-22-17 E. 562.09 feet to the point of BEGINNING, containing 129.7834 acres, as surveyed and platted by Timothy A. Rudolph, R.L.S. of ESP Associates, P.A., January 7, 1993.

**SUBJECT TO the right-of-way of Weddington .Road (SR #1431).**

SAVE AND EXCEPT the property described in Exhibit A which is comprised of Sheffield Manor Villages C and F and the property shown on map recorded in Map Book 26 at page 101 in the Cabarrus County Public Registry.