

FOR REGISTRATION JUDITH A. GIBSON
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
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**DECLARATION OF CREATION OF VINEYARDS ON LAKE WYLIE,
A NORTH CAROLINA PLANNED COMMUNITY**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE
UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA.**

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

**NOTE FOR TITLE ABTRACTOR: THIS DOCUMENT PROVIDES FOR THE PAYMENT OF
A CONTRIBUTION FEE UPON THE CONVEYANCE OR TRANSFER OF A LOT AND/OR
BOAT SLIP.**

Prepared By and Return To:

**Johnston, Allison & Hord, P.A., (JAP)
Box 50**

**DECLARATION OF CREATION OF VINEYARDS ON LAKE WYLIE,
A NORTH CAROLINA PLANNED COMMUNITY**

This Declaration of Creation of Vineyards on Lake Wylie (the "Declaration") is made _____, 2008, by D.R. HORTON, INC., a Delaware corporation, hereinafter referred to as the "Declarant." The Declarant states and declares as follows:

A. The Declarant is the owner of those tracts of land located in Mecklenburg County, North Carolina, and described in **Exhibit A** attached hereto and incorporated herein (the "Property").

B. The Declarant intends to subdivide the Property into residential lots, common areas, public rights-of-way and boat club facilities (which may be developed and operated by an unaffiliated third party), and to create from the Property and such additional land as may be subjected to this Declaration pursuant to Article X below, a planned community to be known as Vineyards on Lake Wylie (the "Community"); and

C. Declarant desires to protect and to promote the beneficial ownership, use and enjoyment of the residential lots, amenities and improvements within the Community and to this end desires to subject the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and/or described.

THEREFORE, pursuant to Chapter 47F of the North Carolina General Statutes (the "Planned Community Act"), the Declarant hereby executes this Declaration to create the Community, and declares that henceforth all portions of the Property shall be held, owned, leased, transferred, sold, mortgaged and/or conveyed subject to the following terms, provisions, covenants, conditions, easements, restrictions, charges and liens, which shall run with the Property and which shall be binding upon all owners of any portion of the Property and their lessees, guests, mortgagees, heirs, executors, administrators, successors and assigns and inure to the benefit of each owner of the Property or any part thereof.

Article I. Application of the North Carolina Planned Community Act.

The terms and provisions of the Planned Community Act, as the same shall be amended from time to time, shall apply to the Community.

Article II. Definitions.

The definitions set forth in North Carolina General Statutes § 47F-1-103 shall apply to this Declaration and are incorporated herein, except that the terms listed below shall have the specific meanings stated:

"Amenities" shall, if constructed, mean and refer to, collectively, a clubhouse, pool, dog park, tennis court, pocket parks, kayak and canoe dock, walking trails, chapel, boat ramp, boat and RV storage area, chapel and any other recreational center or similar facility located upon the Common Areas or other

lands adjacent to or near the Community and made available to Owners for recreational activities, which Amenities (if constructed) may be owned by Declarant or the Association. The pool amenity shall be available for the use of certain non-Owners as set forth herein. The Declarant shall have no obligation to construct the Amenities and may, in its sole discretion alter the Amenities shown on the Master Plan from time to time and may construct all, a portion or none of the Amenities.

“Annexation Declaration” shall mean an instrument recorded at the Mecklenburg County Registry that subjects additional land to this Declaration as set forth in Article X of this Declaration.

“Architectural Guidelines” shall mean the architectural, design and construction guidelines and review procedures adopted pursuant to Article V of this Declaration, as they may be amended from time to time.

“Articles of Incorporation” shall mean the Articles of Incorporations for Vineyards on Lake Wylie Homeowners Association, a North Carolina nonprofit corporation.

“Association” shall mean Vineyards on Lake Wylie Homeowners Association, a North Carolina non-profit corporation, its successors and assigns.

“Base Assessment” shall mean the assessment levied on all Lots subject to assessment under Article IX of this Declaration to fund common expenses, as determined in accordance with Article IX of this Declaration.

“Board of Directors” or “Board” shall mean the executive board of the Association, as defined by the Planned Community Act and as created by the Bylaws.

“Boat Slip Lease” or “Boat Slip Leases” shall have the same meaning as set forth in Section 4.10(a)(i) of this Declaration hereof.

“Boat Club” shall mean a company owned and managed by a third party unrelated to Declarant that will operate and provide certain marina services to the Owners pursuant to the terms of a separate agreement between the Boat Club and the Declarant or Association and that will own, operate and manage an exclusive boat club to which only Owners and contract purchasers of Lots may be members for a fee pursuant to the terms of an agreement between the Boat Club and such Owners and contract purchasers.

“Boat Club Lease” shall have the meaning as set forth in Section 4.10(a)(i).

“Boat Club Slips” shall have the meaning as set forth in Section 4.10(a)(i).

“Boat Slip Lots” shall mean and refer to those Lots in the Community which have, as an appurtenance to the Lot, an assigned Common Boat Slip in accordance with and as more particularly set forth in Section 4.10 of this Declaration.

“Boat Slip Maintenance and Operation Costs” shall have the meaning set forth in Section 4.10(b) of this Declaration.

“Bylaws” shall mean the bylaws of the Association as they now or hereafter exist and as they may be amended from time to time.

“Common Area” or “Common Areas” shall mean and refer to the Lake Access Areas (and other

similar areas used to access Common Boat Slips), Piers, Common Boat Slips, Parking Area(s), Street Lights and the Roadways, including sidewalks, drainage facilities and other improvements located therein (prior to their acceptance for maintenance by the North Carolina Department of Transportation or other governmental entity), the Amenities and any other property specifically shown and designated on any Recorded Document as "Common Area," "Common Open Area," "Common Open Space" or "COS" (or in the case of "Limited Common Areas," as defined below, one or more but less than all of the Owners). The Common Areas shall be owned by the Association (except as otherwise provided herein) or held in trust for the benefit of the Association for the common use, benefit and enjoyment of the Owners (or in the case of "Limited Common Areas," as defined below, one or more but less than all of the Owners). Provided, however, and notwithstanding any other provision in this paragraph or in this Declaration to the contrary, only the Owners of Boat Slip Lots and the Boat Club shall be entitled to the exclusive rights applicable to the use, benefit and enjoyment of the Lake Access Areas, Piers and Common Boat Slips, pursuant and subject to individual their rights under their respective Boat Slip Leases. The Declaration reserves the right, but not the obligation, to provide additional Common Areas within the Community.

"Common Boat Slip" or "Common Boat Slips" shall mean and refer to the boat slips located on the Piers which are leased to individual Owners pursuant to a Boat Slip Lease and the Boat Club Slips, together with any additional Common Boat Slips which Declarant may cause or permit to be constructed in accordance with the terms of Section 4.10 of this Declaration.

"Common Expense" shall mean and refer to the actual and estimated costs and expenses incurred, or anticipated to be incurred, by the Association in connection with the maintenance, repair, replacement and operation of Maintenance Areas and Common Areas, including but not limited to ad valorem taxes assessed on Common Areas, insurance premiums, all costs associated with the lease and operation of Street Lights (including but not limited to monthly lease payments and utility costs), legal, accounting and professional fees incurred by the Association in carrying out its duties set forth in this Declaration or the Bylaws, to maintain reserves, to maintain, repair, operate and, when necessary reconstruct, entryways to the Community, including signage, landscaping, irrigation, and lighting, to maintain, repair, operate and when necessary reconstruct Roadways until same are accepted by applicable governmental entities for public maintenance, fees associated with Systems, and association management fees. Provided, however, and notwithstanding any other provision in this paragraph or in this Declaration to the contrary, only the Owners of Boat Slip Lots and the Boat Club shall be obligated to pay for costs associated with the maintenance, repair, replacement, taxes, insurance and utilities related to the Common Boat Slips, Piers, and Lake Access Areas which such expenses shall be a Limited Common Expense.

"Community System(s)" or "System(s)" shall mean any or all of a central telecommunication receiving and distribution system (*e.g.*, cable television, high speed data/Internet/intranet services, and security monitoring), and its components, including associated infrastructure, equipment, hardware, and software, serving Vineyards at Lake Wylie.

"Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community or the minimum standards established pursuant to the Architectural Guidelines, Rules and Regulations, and Board resolutions, whichever is the higher standard. Declarant shall initially establish such standard, which may involve both objective and subjective elements. The Community-Wide Standard shall evolve as the Community evolves.

"Declarant" shall mean D.R. Horton, Inc., a Delaware corporation, or any successor or assign designated as Declarant in a Recorded Document executed by the immediately preceding Declarant.

"Declarant Control Period" shall mean the period of time during which Declarant holds a fee interest or contractual right in any portion, however small, of the land described in **Exhibit A** and/or

Exhibit B attached hereto and incorporated herein.

“Declaration” shall mean this Declaration of Creation of Vineyards on Lake Wylie, a North Carolina planned community, and any amendments hereto or restatements hereof.

“Governing Documents” shall mean, collectively, this Declaration, any Annexation Declaration, any applicable Supplemental Declaration, the Articles of Incorporation, the Bylaws, the Architectural Guidelines, the Rules and Regulations, as the same may be amended from time to time.

“Lake” shall mean and refer to the certain body of water commonly known as Lake Wylie, located adjacent to the Community.

“Lake Access Areas” shall mean and refer to the portions of the Property designated as “Lake Access Area” (or the like) on any Recorded Document, to be used exclusively by Boat Slip Lot Owners and the Boat Club for purposes of providing pedestrian access to and from their assigned Common Boat Slips.

“Lot” or “Lots” shall mean any separate parcel of land within the Community designated for separate ownership or occupancy and residential use. The term shall include “Townhome Lots” and “Waterfront Lots” as defined below.

“Limited Common Area” shall mean a portion of the Common Area reserved for the exclusive use of one or more, but less than all, of the Lots. Limited Common Area shall include any Townhome Common Area, any Lake Access Areas, Common Boat Slips, Piers, and other Limited Common Areas designated by Declarant in a Supplemental Declaration.

“Limited Common Expense” shall mean the actual and estimated expenses incurred or anticipated to be incurred by the Association in connection with the maintenance, repair, replacement and operation of the Limited Common Areas including but not limited to ad valorem taxes, insurance premiums, utilities, legal, accounting and professional fees incurred by the Association in connection with carrying out its duties set forth in this Declaration as to Limited Common Areas, and any reasonable reserves. Provided, however, and notwithstanding any other provision in this paragraph or in this Declaration to the contrary, only the Owners of Lots to which a Limited Common Area is appurtenant shall be obligated to pay for Limited Common Expenses applicable to such Owners respective Limited Common Areas.

“Limited Common Area Assessment” shall refer to assessments levied on Lots subject to assessments under Article IX to fund Limited Common Area Expenses for the benefit of one (1) or more but less than all of the Lots which have exclusive use or primary benefits from Limited Common Areas.

“Maintenance Areas” shall mean and refer to areas located within easements along or adjacent to or within medians within Amos Smith Road and Old Dowd Road including but not limited to sidewalks, bike trails, street lights, landscaping, entrance monumentation, and irrigation along, adjacent to or within Amos Smith Road and Old Dowd Road.

“Master Plan” shall mean the master land-use plan for the development of the Community approved by Mecklenburg County as it may be amended from time to time. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration or obligate Declarant to develop the Community in accordance with the Master Plan or prevent Declarant from changing the Master Plan from time to time, or annexing land to or withdrawing land from, the Community.

“Member” shall mean and refer to every person or entity entitled to membership in the Association as provided in Article III below.

“Mortgage” shall mean a deed of trust recorded at the Mecklenburg County Registry that is a lien against any Lot. “Mortgagee” shall refer to a beneficiary or holder of a Mortgage. A “First Mortgage” shall be a Mortgage having priority over all other Mortgages encumbering a Lot. “First Mortgagee” shall refer to a beneficiary or holder of a First Mortgage.

“Neighborhood” shall mean any area or areas within the Community designated by a Supplemental Declaration to be a distinct or separate residential area within the Community, the residents of which will share or have in common expenses, interests, concerns, responsibilities, needs or uses not shared by or common to all residents within the Community.

“Neighborhood Assessments” shall mean assessments levied in accordance with Section 9.4 below.

“Neighborhood Expenses” shall mean the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include reasonable reserves for capital repairs and replacements and reasonable administrative charges, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

“Non-Boat Slip Lots” shall mean and refer to those Lots in the Community which do not have as an appurtenance thereto an assigned Common Boat Slip.

“Owner” shall mean and refer to an owner of record of a fee simple interest in any Lot, including contract sellers, but excluding those having an interest only as security for the performance of an obligation. There may be more than one Owner of any single Lot.

“Parking Areas” shall mean and refer to the parking lot or lots which may be constructed over certain portions of the Common Area(s) for the common use, benefit and enjoyment of the Owners, their families, guests and invitees.

“Person” or “Persons” shall mean an individual, a corporation, a partnership, a trustee, or any other legal entity.

“Pier” or “Piers” shall mean and refer to the pier or piers containing the Common Boat Slips, which Declarant may construct and which may be constructed in phases, in and over the waters of the Lake.

“Ranch Lot” shall mean any Lot designated as a “Ranch Lot” in a Supplemental Declaration for which the Association shall be responsible for providing certain exterior maintenance, pursuant to Section 6.5 below.

“Recorded Document” shall mean any document, including any map or plat of survey, recorded at the Office of the Register of Deeds of Mecklenburg County, North Carolina.

“Roadways” shall mean and refer to the roads, streets, entranceways and cul-de-sacs in the Community, as shown on the Recorded Documents, and any other roads, streets, entranceways and cul-de-sacs on the Property, all to be privately maintained by the Association until accepted for maintenance by the North Carolina Department of Transportation or other governmental entity, as set forth herein.

“Rules and Regulations” shall mean the initial rules and regulations for use and occupancy of the Lots and the Common Area set forth in **Exhibit C**, as they may be supplemented, modified, restated or superseded pursuant to Article IV below.

“Special Assessments” shall mean assessments levied in accordance with Section 9.2 below.

“Specific Assessments” shall mean assessments levied in accordance with Section 9.3 below.

“Street Lights” shall mean and refer to those certain street lights which may be constructed upon, along and/or over the rights-of-way of the Roadways, Parking Area(s) (if any), Maintenance Areas and Common Areas.

“Supplemental Declaration” shall mean any declaration of covenants, conditions and/or restrictions that Declarant may file at the Mecklenburg County Registry subsequently to filing this Declaration, which shall apply only to a particular area or areas within the Community. Such Supplemental Declaration may impose a separate set of restrictive covenants on a particular area or areas within the Community; establish separate, sub-associations for a particular area or areas within the Community; or supplement, change, amend or supersede the terms and provisions of this Declaration as necessary to accommodate differences between the plan of the development for the subject property and the plan of the development for the rest of the Community.

“Townhome Building” shall mean any building comprised of residences located upon Townhome Lots.

“Townhome Common Area” shall mean that portion of the Common Area located within the Townhome Property and intended to be used exclusively by Owners of Townhome Lots.

“Townhome Expenses” shall mean actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the exclusive benefit of Owners of Townhome Lots.

“Townhome Lot” or “Townhome Lots” shall mean any Lot or Lots designated for construction and maintenance of a townhome residence.

“Townhome Property” shall mean any portion of the Property that Declarant shall designate for development and subdivision into Townhome Lots and Townhome Common Area.

“Waterfront Lots” shall mean, if and when the applicable property is made subject to this Declaration, those Lots adjacent to the Lake and which are designated as having Lake access on any Annexation or Supplemental Declaration.

Article III. Vineyards on Lake Wylie Homeowners Association.

Every person or entity who is an owner of a fee or undivided fee simple interest in any of the Lots shall be a Member of the Association. Ownership of such interest shall be the sole qualification for membership, and membership shall be appurtenant to and shall not be separated from such ownership. The Association shall be organized and governed by the Bylaws and as follows:

3.1. Purposes. The purposes of the Association shall be:

- a. To maintain and preserve Common Areas and Maintenance Areas as set forth in Article VI;

- b. To enforce the provisions of the Governing Documents;
- c. To perform all duties and functions allotted to owner's associations pursuant to Article 3 of the Planned Community Act;
- d. To promote and to protect the enjoyment and beneficial use and ownership of the Lots;
and
- e. To promulgate and enforce the Rules and Regulations and administrative rules and regulations for use of the Common Area.

3.2. Powers and Responsibilities. The Association shall have all powers and responsibilities and shall perform all duties and functions allotted to owner's associations by Article 3 of the Planned Community Act, the terms and provisions of which are incorporated herein. The Association shall also have all rights and powers and shall perform all duties and functions that may be assigned to it by Declarant pursuant to this Declaration.

3.3. Voting Rights and Meetings. On matters of Association business submitted to vote of the membership, there shall be two classes of membership:

Class A. Every person who is an Owner, with the exception of the Declarant, shall be a Class A Member. Class A Members shall be entitled to one (1) vote per Lot. No more than one vote per Lot may be cast by Class A Members, regardless of the number of Owners of a given Lot.

Class B. The Declarant shall be the sole Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Member shall be entitled to vote on all matters or issues before or considered by the Association. The Class B Member shall be entitled to one (1) vote for each Lot it owns, plus one (1) vote for each Lot owned by a Person other than the Declarant. The Class B membership shall cease and shall be converted to Class A membership at such time as the first of the following events occur: (i) the date that all the Lots in the Community have been conveyed by the Declarant to other Owners; (ii) the surrender by the Declarant of the right to appoint or remove any officer of the Association or member of the Board by a Recorded Document executed by the Declarant; or (iii) the expiration of Declarant's rights to appoint or remove any officer of the Association or member of the Board pursuant to Article XI below.

Unless otherwise provided herein or in the Planned Community Act or the Bylaws, all voting matters shall be decided by a simple majority vote. Requirements for a quorum shall be as provided by the Bylaws. The Members shall meet as provided by the Bylaws.

3.4 Bylaws. The initial Board shall enact and adopt all and any Bylaws that they deem necessary for the operation of the Association, which Bylaws shall be binding upon all Members, their Mortgagees, lessees, agents and invitees.

3.5 Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Community as well as its own books, records, and financial statements 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.

3.6 Management Contracts. The Association is authorized and empowered to engage the services

of any person, firm or corporation to act as management agent of the Association at a compensation level to be established by the Board 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.

3.7 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 IV. Use and Occupancy of Lots and Common Areas.

11.1. Fundamental Restriction on Use.

The Lots and Common Area shall be used for residential and related purposes only, subject to and consistent with the Governing Documents, including the Rules and Regulations; provided that Declarant and/or the Association may maintain a business or management office within the Community, and provided that Declarant and/or any brokers or builders approved by Declarant may maintain information centers, model homes and sales offices and construction offices within the Community and provided further that Declarant and/or the Association may designate space in certain Common Areas out of which the Boat Club may operate. Notwithstanding the above, home business use ancillary to the primary residential use of a Lot is permitted, subject to the Rules and Regulations and all applicable laws and ordinances of governmental authorities.

11.2. Fundamental Restriction on Occupancy.

All occupants of a single Lot shall be members of a single housekeeping unit. For purposes of this Declaration, a single housekeeping unit is defined as one person or two or more individuals living together sharing household responsibilities and activities which may include, sharing expenses, chores eating evening meals together and participating in recreational activities and having close social, economic and psychological commitments to each other. The number of occupants on each Lot shall also be reasonably limited by the Lot's size and facilities, by a policy against disproportionate use of the Common Areas, and by local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

11.3. Additional Restrictions on Use and Occupancy of Lots.

Use and occupancy of all Lots shall be restricted as follows:

4.3.1 Completion of Construction. Other than in connection with Declarant's development and construction activities, once construction of any structure located within the Community is begun, it must be prosecuted diligently and must be completed within thirty (30) days of its commencement, unless otherwise specified in the notice of approval or otherwise approved in writing by Declarant or, after the termination of the Declarant Control Period, the Board.

4.3.2 Subdivision of Lots. No dwelling shall be erected on less than one Lot and no Lot shall be subdivided; however, owners of adjoining Lots may adjust a common boundary line, provided that the adjustment conforms in all respects with all applicable governmental regulations and ordinances, and with this Declaration. Provided, however, Declarant reserves the right to change the size, boundaries or dimensions of any Lot owned by Declarant for any reason.

4.3.3 Signs and Flags. No signs of any kind shall be displayed to public view on any Lot. This provision shall not apply to marketing or informational signs placed on any Lot by Declarant. This provision shall not apply to signs used to advertise a Lot for sale or rent, provided that no such sign shall be larger than 18" x 24" and subject to the Rules and Regulations. Placement and display of political signs and flags on any Lot shall be subject to the Rules and Regulations.

4.3.4 Refuse Storage. All trash, garbage and refuse stored outside of a dwelling shall be stored in a solidly screened, enclosed, covered receptacle out of view from any street or any other Lot. Garbage receptacles may be placed at the curb at the front of each Lot the night before its scheduled pick up and must be returned to the screened enclosure within twenty-four (24) hours after the scheduled pick up.

4.3.5 Storage of Building Materials. No lumber, brick, stone, cinder block, concrete block, cement or other materials used for building purposes shall be stored upon any Lot longer than fifteen (15) days following the completion of the construction in which they were used.

4.3.6 Temporary Structures. No temporary structures such as sheds shall be erected or placed on a Lot without the written approval of the Declarant or the Association. Such structures, if permitted, may be used only during periods of construction, and never as a residence.

4.3.7 Parking and Vehicle (Including Boat) Storage. Only licensed and operative vehicles, classified as passenger cars, station wagons, passenger pick-up trucks or passenger vans may be regularly parked in driveways. No vehicle will be permitted to park regularly on any Roadway within the Community. Recreational vehicles must be screened from view. No vehicle located on a Lot may be used as a dwelling, even temporarily. No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home or "camper" vehicle may be maintained, stored or kept on any portion of the Community, except in enclosed garages or in an enclosure specifically approved for such maintenance or storage by the ARC or designated as such by Declarant on any Recorded Document.

4.3.8 Offensive Activities Prohibited. No noxious or offensive activity shall be conducted upon any Lot or Common Area, nor shall anything be conducted thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood or to the occupants of any Lot.

4.3.9 Underground Utilities. All utility lines serving structures located on Lots shall be placed underground.

4.3.10 Fences and Walls. No fence or wall (including densely planted hedges, rows, or similar landscape barriers) shall be placed, erected, or installed upon any Ranch Lot except for black aluminum or steel fencing, 48" in height, substantially similar to **Exhibit D** attached hereto, which has been

approved in writing in advance by the ARC. In the event a fence is installed upon any Ranch Lot, such Ranch Lot shall be required to maintain the portion of its yard which the fence is surrounding and around the fencing, including related irrigation, notwithstanding any yard maintenance services and irrigation provided to the other Ranch Lots. No fences or walls may be constructed on any other Lot without first obtaining the prior written approval of the ARC and subject to the Architectural Guidelines.

4.3.11 Mobile Homes, Manufactured Housing and Houseboats. No mobile home, trailer or manufactured housing shall be located on any Lot. No boat (including a houseboat), whether existing on a Lot or docked in the Lake may at any time be used as a residence.

4.3.12 Use of Bodies of Water; Boat Dock Licenses. No boat docks, decks, rafts or similar structures or improvements shall be permitted on or near the lakes, ponds, streams, or other bodies of water within the Community, except as specifically set forth herein or in any other Governing Documents. No Owner of any Lot shall do or permit to be done any action or activity which could result in the pollution of the lakes, ponds, streams, or other bodies of water within the Community, diversion of water, change in elevation of the water level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper lake management or otherwise impair or interfere with the use of the lakes, ponds, streams, or other bodies of water within the Community for drainage and related purposes for the benefit of the Community.

Notwithstanding anything to the contrary contained herein, the Owners of Waterfront Lots will be allowed to construct one (1) pier within the Lake adjacent to such Waterfront Lot upon the terms and conditions set forth herein and in accordance with the applicable provisions of the Architectural Guidelines, provided that such Waterfront Lot is not located in an area where the narrowness of a cove precludes construction of a boat dock as determined by Duke Energy Corporation, its successors or assigns, and/or any governmental entity having jurisdiction at the time such improvement is to be constructed. The placement, construction, and use of any boat dock within the Lake is and shall be subject to each of the following:

- (i) the size, style and location of the boat dock and any cover or canopy shall be approved by the ARC as provided in Article V herein;
- (ii) the plans for the boat dock shall comply with the boat dock specifications (including the specifications for any cover or canopy) set forth in the Architectural Guidelines as provided in Article V herein;
- (iii) the Owner shall obtain any and all municipal or other approvals required for construction of a boat dock, including but not limited to any necessary approval or permit from any Duke Energy Corporation, its successors or assigns, and/or any governmental entity having jurisdiction (Duke Energy Corporation controls access to, and the use and level of, the waters of Lake Wylie. All Owners, the Association, and the Declarant must receive a permit from Duke Energy Corporation [or a successor manager of Lake Wylie, under authority from the Federal Energy Regulatory Commission] prior to any construction or alterations therein); and the Owner shall submit copies of any and all such municipal or other approvals to the ARC along with the Owner's application for approval of the boat dock by the ARC;
- (iv) the Owner shall obtain and maintain any and all necessary licenses from Duke Energy Corporation, its successors and assigns, and/or any governmental entity having jurisdiction at the time for the right to use Lake Wylie and the underlying submerged land (the "Lake Use License"), and the Owner shall submit copies of the

Lake Use License to the ARC along with the Owner's application for approval of the boat dock by the ARC;

- (v) no boat or any attachment on any boat and no watercraft or any attachment on any watercraft docked at a boat dock shall exceed thirty-five (35) feet in length and no sailboat shall be docked at a boat dock;
- (vi) each boat dock shall only hold the number of watercraft (i.e., boat, jet ski, or other type of watercraft) for the personal, recreational use of such Owner which is permitted by Duke Energy Corporation, its successors or assigns, and/or any governmental entity having jurisdiction, applicable laws, rules and regulations, and the Rules and Regulations;
- (vii) no boat dock shall be constructed by Waterfront Lot Owners outside the area approved by the ARC and no boat docked at a boat dock shall be located outside the boat dock area approved by the ARC;
- (viii) no alterations, modifications or changes shall be made to any boat dock unless approved in advance by the ARC as provided in Article V herein and approved in advanced by Duke Energy Corporation, its successors or assigns, and/or any governmental entity having jurisdiction;
- (ix) no boat dock shall be rented, leased or otherwise used for remuneration except in connection with the lease of the Waterfront Lot to which the boat dock is appurtenant, which leases shall be in writing, shall be for a term of not less than one (1) year and which shall specify that use of the dock is subject to the Governing Documents;
- (x) Owner's rights to use such boat dock shall be subject to the terms and conditions contained in the Governing Documents, the Lake Use License, and the rules and regulations, privileges and easements affecting the waters of Lake Wylie and the submerged land of the Lake Wylie as established by Duke Energy Corporation, its successors and assigns, and/or any governmental entity having jurisdiction at the time such improvement is to be constructed; and
- (xi) ALL WATERFRONT LOT OWNERS, BY PURCHASING PROPERTY SUBJECT TO THIS DECLARATION, ACKNOWLEDGE THAT THEY SHALL BE RESPONSIBLE FOR OBTAINING (AND FOR CONDUCTING ALL REQUIRED ACTIVITIES, INCLUDING ANY DREDGING, NECESSARY IN CONNECTION WITH OBTAINING) ANY PERMIT, LICENSE OR LEASE ALLOWING FOR THE CONSTRUCTIONS AND USE OF ANY PIER, DOCK, BOAT SLIP STRUCTURE OR OTHER SIMILAR IMPROVEMENT WITHIN OR UPON THE WATERS OF THE LAKE AND THAT SUCH PERMIT, LICENSE OR LEASE SHALL BE LIMITED IN DURATION, AND NEITHER DECLARANT, NOR THE ASSOCIATION, NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AGENTS OR AFFILIATES OF EITHER OF THEM, SHALL HAVE ANY LIABILITY ARISING DIRECTLY OR INDIRECTLY OUT OF OR IN ANY WAY RELATED TO ANY SUCH PERMIT, LICENSE OR LEASE.
- (xii) Marine Toilets. No water craft equipped with a marine toilet having a fixed or portable holding tank shall be permitted at any Waterfront Lot Owners' docks or

piers or the Piers or Common Boat Slips. In addition, no water craft shall be moored at any Waterfront Lot Owners' docks or piers or the Piers or Common Boat Slips if equipped with a through hull or overboard discharge toilet which has not been certified by the United States Coast Guard as an approved marine sanitation device.

4.3.13 Screening. Except for boats, jet skis or other watercraft which are stored at an approved boat dock as provided under Section 4.3.12 above, boats, boat trailers, jet skis or other watercraft, campers, satellite dishes, antennae, clotheslines, pet enclosures and the like shall not be located on a Lot so as to be visible from any Roadway or any other Lot.

4.3.14 Boat Ramp. No boat ramps of any kind shall be permitted on any Lot, and no boat shall be placed in (or removed from) the waters of the Lake from any Lot; provided, however, small watercraft such as canoes, dinghies, and jet skis may be launched from any Lot if launched without a ramp. All other watercraft shall be launched at a public boat ramp outside the Community, or at a boat ramp (if any) located within the Common Area. Finally, all boats shall be refueled and maintained at a public boat ramp outside the Community, or within a portion of the Common Area designated by the Declarant or Association for boat maintenance and/or refueling.

4.3.15 Bulk Rate Service Agreements. The Association may enter into contracts, including bulk rate service agreements, with providers of Community Systems components and other utilities and with other Persons for the maintenance, management, administration, upgrading, modification and operation of the Systems and utilities. The Association's expenses in connection with any such bulk rate contracts shall be a Common Expense to be included in the Base Assessment; provided, if particular or additional services or benefits are provided to particular Lots, the Owner(s) benefitting from the services shall pay the service provider directly for such services, or the Association may assess the costs as a Specific Assessment.

The terms of any Association contract for Community Systems or other utilities may obligate individual Owners or occupants to execute subscription agreements or other contracts directly with the Persons providing components or services prior to gaining access to the System or utility, or in the alternative, the Association may execute a subscription agreement or contract on behalf of all Owners. Such subscription agreements or other contracts may contain terms and conditions relating to use and access to the Community Systems or utility which, if violated by the Owner or occupant of a Lot, may result in services to such Owner's or occupant's Lot being terminated by the System or utility provider or by the Association. The termination of service for such a violation shall not relieve the Owner of the continuing obligation to pay that portion of assessments or other Association charges pertaining to the Community Systems or common utilities.

The Association shall have no obligation to utilize any particular provider or providers; provided, except for cause (as defined under a written agreement with the provider), the Association may not, without Declarant's consent, terminate or refuse to renew any contract entered into during the Declarant Control Period.

11.4. Rules and Regulations

In addition to the restrictions stated in this Declaration, which may be modified or rescinded only by an amendment to this Declaration, use and occupancy of the Lots and Common Area shall be subject to the Rules and Regulations, which are intended to govern day-to-day use and occupancy of the Lots and Common Areas. The initial Rules and Regulations for the Community are set forth in **Exhibit C** attached hereto and incorporated herein. In order to adapt and respond to changing or unforeseen circumstances affecting the Community, the Declarant, the Association and the Owners must have the ability to change

the Rules and Regulations in an expedited and inexpensive manner. Accordingly, the Rules and Regulations may be amended, supplemented and/or rescinded and restated as set forth in this Section 4.4 without the recording of any amendment of this Declaration.

11.4.1. Declarant's Authority. During the Declarant Control Period, the Declarant shall have the unilateral right to amend, supplement and/or rescind and restate the Rules and Regulations, without prior notice to the Association or to other Owners; provided that no such action by Declarant may have a materially adverse effect on title to or marketability of any Lot.

11.4.2. Board Authority. The Board may amend, supplement and/or rescind and restate the Rules and Regulations. The Board shall send notice by mail to all Members concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. The Board's decision on such action shall be final, subject only to subsection 4.4.1 above.

11.4.3. Members' Authority. Members representing more than Fifty (50%) percent of the total votes in the Association, at an Association meeting duly called for such purpose, may amend, supplement and/or rescind and restate the Rules and Regulations.

11.4.4. Conflicts. Nothing in this Article shall authorize the Board to modify, repeal or expand the Architectural Guidelines or any provision of this Declaration. In the event of a conflict between the Architectural Guidelines and the Rules and Regulations, the Architectural Guidelines shall control. In the event of a conflict between this Declaration and the Rules and Regulations, this Declaration shall control.

4.5. Limitations. The right and ability of the Declarant and the Board to amend, supplement or restate the Rules and Regulations shall be limited as follows:

4.5.1. Displays. The rights of Owners to display religious and holiday signs, symbols and decorations inside structures on their Lots of the kinds normally displayed in single-family residential neighborhoods shall not be abridged, but no such display may violate the Community-Wide Standard or violate any other provision of this Declaration.

4.5.2. Activities Within Dwellings. No rule established pursuant to this Article shall interfere with the activities carried on within the confines of dwellings, except that the Association may restrict or prohibit any activities that create costs for the Association or other Owners, that create a danger to the health or safety of others, that generate excessive noise, traffic or use of parking facilities, that create unsightly conditions visible outside the dwelling or that otherwise violate the provisions of this Declaration or any applicable governmental law, ordinance or regulation.

4.5.3 Alienation. No rule promulgated pursuant to this Section shall prohibit leasing or transfer of any Lot or require consent of the Association or Board for leasing or transfer of any Lot; however, the Association may require that all leases be in writing and for a minimum lease term of six (6) months and otherwise regulate the leasing of Lots.

4.5.4 Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Lot prior to the adoption of such rule and which was in compliance with all rules previously in force. This limitation shall apply only for the duration of such Owner's ownership of the Lot personally, and this right shall not run with title to any Lot.

The limitations stated in this subsection 4.5.4 shall not apply to amendments to this Declaration.

4.6 Common Area Administrative Rules.

The Board may promulgate and enforce administrative rules and regulations governing use of the Common Areas without notice to the Members or any hearing. Examples of such administrative rules and regulations shall include, but not be limited to, setting hours of operation of a facility within the Community, allocating or reserving use of a facility by particular groups or individuals at particular times, and/or establishing fees for such reserved or exclusive use.

4.7 Notice to Purchasers and Mortgagees.

All prospective purchasers and mortgagees are given notice that use of the Lots and the Common Area is restricted and governed by the Rules and Regulations, as they may be amended, expanded, and otherwise modified hereunder. Each Purchaser, by acceptance of a deed, acknowledges and agrees that the use, enjoyment and marketability of his or her Lot shall be affected by the Rules and Regulations which may change from time to time, and that the current Rules and Regulations may not be set forth in a Recorded Document. **Take notice that the Declarant or the Association may have changed the initial Rules and Regulations since the recording of this Declaration.** The Association shall provide a copy of the current Rules and Regulations to any prospective purchaser Member or Mortgagee upon written request and payment of the reasonable cost of such copy.

4.8 Governmental Requirements. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot (including any Common Boat Slip) and all applicable governmental requirements or restrictions relative to the constructions of improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied within regard to the Lots (including any Common Boat Slip). Each Owner shall comply with all laws, regulations, ordinances and other governmental rules and restrictions in regard to the Lot(s) and such Owner's Common Boat Slip, if applicable, or other portion of the Property owned by such Owner (including, without limitation, applicable zoning and watershed laws, rules, regulations and ordinances).

4.9 Occupants Bound. All provisions of the Governing Documents which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of a dwelling on a Lot even though such occupants are not specifically mentioned.

4.10. Piers and Common Boat Slips. Subject to and contingent upon the approval of the Federal Energy Regulatory Commission, Duke Energy Corporation and any other regulatory body having jurisdiction, Declarant and the Association shall have the exclusive right to construct some or all of the Piers and Common Boat Slips (including all improvements located thereon), in the approximate locations shown on Recorded Documents or as otherwise shown in any Supplemental Declaration or other document which may be filed pursuant to the provisions of this Declaration. Neither Declarant nor the Association shall construct more Common Boat Slips than are approved by Duke Energy Corporation, or its successors and assigns, pursuant to Declarant's boat slip permit request for the Community.

(a) Following the construction of the Piers and Common Boat Slips as set forth above, Common Boat Slips shall be leased by Declarant to a third party for the use and operation of the Boat Club and to the Owners of certain Lots and transferred among Owners as follows:

(i) Pursuant to that certain boat slip lease form provided by Declarant (the "Boat Slip Lease"), Declarant shall lease one (1) Common Boat Slip to the Owner of each Boat Slip Lot (for purposes of allowing such Owner to dock only one (1) boat at such Boat Slip on a first come, first served bases and designated in a memorandum of lease filed with the Mecklenburg County Registry or in

the deed from Declarant to the Owner of the Owner's Lot). Each Boat Slip Lease (relative to a Common Boat Slip that is not a Boat Club Slip) shall be appurtenant to and may not be separated from the ownership of the applicable Boat Slip Lot. Notwithstanding the foregoing or anything in this Declaration to the Contrary, Declarant and/or the Association may lease up to 15 Common Boat Slips (the "Boat Club Slips") to the Boat Club pursuant to the terms of a separate agreement between Declarant and/or Association and the Boat Club (the "Boat Club Lease"). Such Boat Club Slips shall be designated in a memorandum of lease filed in the Mecklenburg County Registry and may be leased in phases as Common Boat Slips and Piers are constructed. The Boat Club Slips shall be only for the use of members of the Boat Club pursuant to the terms of each membership agreement between the Boat Club and an Owner for the provision of marina boat club services. Only Owners and contract purchasers of a Lot shall be eligible to be members of the Boat Club.

(ii) The Lot to which a Boat Slip Lease is entered into as an appurtenance shall thereafter be a Boat Slip Lot subject to the provisions of subparagraph 4.10(a)(iii) below. Once entered into between Declarant and the Boat Slip Lot Owner, the relevant Boat Slip Lease shall not be separated from the ownership of the Boat Slip Lot to which it is appurtenant, but, rather, shall run with the title to such Boat Slip Lot unless and until such Boat Slip Lease is assigned by the Boat Slip Lot Owner to another Lot Owner in accordance with subparagraph 4.10(a)(iii). In this regard, provided the applicable Boat Slip Lease has not been previously assigned in accordance with subparagraph 4.10(a)(iii), any conveyance by a Boat Slip Lot Owner of its ownership interest in a Boat Slip Lot shall automatically assign to the transferee of such ownership interest all rights and duties of said Boat Slip Lot Owner under the Boat Slip Lease; provided, however, in such event, the Boat Slip Lot Owner and the transferee of the Boat Slip Lot Owner's ownership interest in the Boat Slip Lot shall immediately execute and record an instrument in the Mecklenburg County Public Registry sufficient to provide record evidence of such assignment (a filed copy of which instrument shall be provided to Declarant, as lessor, and the Association following recordation). Any deed of trust, mortgage or other encumbrance of a Boat Slip Lot shall also encumber the Boat Slip Lease appurtenant thereto, even if not expressly included therein. Provided, however, no mortgagee, trustee or other person claiming by, through or under any instrument creating any such encumbrance shall by virtue thereof acquire any greater rights in the relevant Common Boat Slip than the Boat Slip Lot Owner may have under the Boat Slip Lease at the time of such encumbrance; and provided further, such deed of trust, mortgage or other instrument of encumbrance, and the indebtedness secured thereby, shall at all times be and remain subordinate and subject to all of the terms and conditions of the Boat Slip Lease and to all of the rights of Declarant (as lessor) thereunder. Any successor to a Boat Slip Lot Owner's interest in a Boat Slip Lease, whether such interest is acquired by sale, assignment, foreclosure, deed in lieu of foreclosure, power of sale, execution or otherwise, shall take such interest subject to all of the terms, covenants, conditions, duties, and obligations of such Boat Slip Lot Owner under the Boat Slip Lease, shall be deemed to have attorned to Declarant (as lessor) and shall execute an attornment agreement upon the request of Declarant (as lessor).

(iii) Except for Boat Club Slips (the assignment of which is governed by the terms of the Boat Club Lease), any Boat Slip Lease may be assigned by the relevant Owner only to an Owner of a Non-Boat Slip Lot. Upon such assignment, the Boat Slip Lot Owner and the assignee of such Boat Slip Lot Owner's interest in the Boat Slip Lease shall immediately execute and record an instrument in the Mecklenburg County Public Registry (a filed copy of which shall be provided to Declarant, as lessor, and the Association) sufficient to provide record evidence of such assignment. Following such assignment, the assignor's Boat Slip Lot shall automatically cease to be a Boat Slip Lot and the assignee's Non-Boat Slip Lot shall thereafter be a Boat Slip Lot (until further assignment of said assignee's lease rights), in which case the relevant Boat Slip Lease shall then run with the title to such Boat Slip Lot as set forth in subparagraph 4.10(a)(ii). No Boat Slip Lease shall be separated from the ownership of any Boat Slip Lot and assigned to anyone or any entity other than another Owner in accordance with this subparagraph 4.10(a)(iii) and the Declaration. Subject to the foregoing, a Boat Slip Owner shall include

in any lease of such Owner's Boat Slip Lot the right to use the Boat Slip associated with such Boat Slip Lot. Any agreement between an Owner of a Boat Slip Lot and a tenant of such Lot (a) shall be in writing; (b) shall provide that it is in all respect subject to the provisions of the master lease from Duke Energy Corporation; and (c) shall not be for a period of less than one (1) year. However, the failure of any agreement to so provide shall not excuse any person from complying with the provisions of the master lease from Duke Energy Corporation and the Governing Documents. In the event that an Owner rents his or her Boat Slip Lot, such Owner shall immediately give to the Association, in writing, the following:

- (iv) The name of the tenant;
- (v) Identification of the Boat Slip Lot and the Boat Slip leased;
- (vi) The current address of such tenant;
- (vii) A true and complete copy of the rental agreement; and

(viii) The certification of the Owner that the tenant has been given a copy of the master lease from Duke Energy Corporation and the Governing Documents and that such tenant has been advised of any obligations he or she may have thereunder as to the use of the Boat Slip.

(b) The Association shall repair and maintain the Piers, Common Boat Slips and Lake Access Areas. The Association's maintenance obligations as to each Pier and the Common Boat Slips within the Pier and Lake Access Areas serving the Pier shall arise upon the completion of the Pier and related improvements, or any portion thereof, and the commencement of Limited Common Area Assessments against the Boat Slip Lots. Notwithstanding the foregoing, a Boat Slip Lot Owner and the Boat Club shall maintain his, her or its Common Boat Slip in good condition and repair, free of trash and other refuse at the Boat Slip Lot Owner's and Boat Club's sole cost and expense. Each Boat Slip Lot Owner's and the Boat Club's proportionate share of the Limited Common Expenses applicable to the Piers, Common Boat Slips and Lake Access Areas shall be calculated based on the number of Common Boat Slips being leased by such Boat Slip Lot Owner and Boat Club within such Pier bears to the total number of Common Boat Slips within such Pier. Limited Common Expenses applicable to the Piers, Common Boat Slips and Lake Access Areas shall include the rent and any other costs and expenses payable to Duke Energy Corporation under the master lease for same. Notwithstanding the foregoing, in the event any Boat Slip Lot Owner(s) and/or the Boat Club fail in any of the duties or responsibilities of such Boat Slip Lot Owner(s) and/or the Boat Club as set forth in this subparagraph 4.10(b), then the Board of Directors and Declarant, either jointly or severally, may give such Boat Slip Lot Owner(s) and/or the Boat Club written notice of such failure and such Boat Slip Lot Owner(s) and/or the Boat Club, within ten (10) days after receiving such notice (which notice shall be deemed to have been received on the first business day after such notice is deposited in an official depository of the United States mail, addressed to the party(ies) to whom it is intended to be delivered, and sent by certified mail, return receipt requested), must cure any failure to perform the duties and responsibilities of such Boat Slip Lot Owner(s) and/or the Boat Club as described in this subparagraph 4.10(b). Should any such Boat Slip Lot Owner(s) and/or the Boat Club fail to fulfill this duty and responsibility within such ten (10) day period, then the Association, acting through its authorized agent or agents, or Declarant (so long as it owns any portion of the Property), acting through its authorized agent or agents, either jointly or severally, shall have the right and power to enter onto the applicable Pier and perform such duties and/or responsibilities without any liability for damages for wrongful entry, trespass or otherwise to any Person. The Boat Slip Lot Owner(s) and/or the Boat Club for whom such duties and/or responsibilities are performed shall be liable for the cost of such performance, together with interest on the amounts expended by the Association or Declarant in connection with same computed at the highest lawful rate as shall be permitted by law from the date(s) such amounts are expended until repayment to the Association or

Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Boat Slip Lot Owner(s) and/or the Boat Club with the duties and responsibilities hereunder, and such Boat Slip Lot Owner(s) and/or the Boat Club shall reimburse the Association or Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Boat Slip Lot Owner(s) shall fail to reimburse the Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Boat Slip Lot Owner(s) of statement(s) of such costs and expenses, then, without limitation of any other rights of the Association or Declarant, the Association may impose a Special Individual Assessment against such Boat Slip Lot Owner(s). If the Boat Club shall fail to reimburse the Association or Declarant, as the case may be, within thirty (30) days after the mailing to the Boat Club of a statement of such costs and expenses, then the Association and/or Declarant may exercise its rights under the Boat Club Lease.

(c) Declarant shall have the right to use Common Boat Slips not leased to another Owner or the Boat Club and shall have the obligations to pay its prorata share of the applicable Boat Slip Maintenance and Operation Costs relative to any Common Boat Slips constructed by Declarant and not leased to another Owner or the Boat Club. In addition, notwithstanding any term or provision herein to the contrary, Declarant shall have the right to lease to any third party not owning a Lot (including the Boat Club) any Common Boat Slip which has not theretofore been leased to an Owner or the Boat Club, pursuant to terms and conditions specified by Declarant. At Declarant's option, Declarant shall be entitled to assign all rights and duties of Declarant under any Boat Slip Lease and/or the Duke Lease (as defined below) to any person or entity, including, without limitation, the Association, whereupon Declarant shall have no further rights, duties, obligations or liabilities thereunder.

(d) Except as expressly provided in subparagraph (c) above, in the event that a Pier contains a Common Boat Slip which has not been leased as an appurtenance to a Boat Slip Lot or to the Boat Club, said Common Boat Slip may be retained by Declarant and the Association for the common use and enjoyment of only the Owners of Boat Slip Lots, their families, guests and invitees, for the purpose of temporarily docking boats, and said Common Boat Slip may not be used by the public and/or such Common Boat Slips may be leased by Declarant and/or the association to the Boat Club pursuant to the terms of a separate lease agreement. Except as approved in writing by Declarant, no boat or other recreational vehicle shall be permitted to remain overnight in any unleased Common Boat Slip.

The use of the Piers and Common Boat Slips is and shall be subject to each of the following:

- (i) Rules and regulations for use promulgated by Declarant and/or the Association;
 - (ii) All laws, statutes, ordinances and regulations of all federal, state and local governmental bodies having jurisdiction thereon;
 - (iii) Rules and regulations for use established by Duke Energy Corporation, its successors and assigns; and
 - (iv) The terms and provisions of that certain Lease Agreement between Duke Energy Corporation and Declarant (the "Duke Lease") pertaining to the lease of the lake beds underlying the Common Boat Slips (a copy of said Duke Lease is attached to the Boat Slip Lease form).
- (e) The Board of Directors, pursuant to the Bylaws, shall adopt rules and regulations governing the maintenance, operation and use of the Piers and Common Boat Slips and the

personal conduct thereon of the Members owning Boat Slip Lots (including but not limited to the members of the Boat Club) and their families, guests, tenants and invitees.

(f) Except as expressly provided in subparagraph (c) above, Piers may only be used by Owners of Boat Slip Lots, their families, guests and invitees. Except as expressly provided in subparagraph (c) and (d) above, each Common Boat Slip may only be used by the Owner(s) of the Boat Slip Lot to which such Common Boat Slip is appurtenant, their families, guests, tenants and invitees.

(g) Notwithstanding anything herein to the contrary, the boat ramp which may be constructed on Common Area and within the waters of the Lake shall be Common Area for use by all Owners and the Boat Club subject to Rules and Regulations.

(h) Notwithstanding anything herein to the contrary, the canoe dock which may be constructed in and over the waters of the Lake shall be Common Area for use by all Owners and the Boat Club for the purpose of launching non-motorized water craft such as canoes and kayaks. No such watercraft may be stored or permanently docked at such canoe dock. The use of the canoe dock shall be subject to Rules and Regulations. Declarant and/or the Association may designate an area within Common Area for Owners and/or the Boat Club to store non-motorized watercraft.

(i) The successful maintenance of a Boat Slip is greatly dependent on the volume of the Lake. Each Owner realizes that there is a risk that the water level may drop precipitously at any time for reasons beyond the control of Declarant, the Association and the Owner. By way of example and not limitation, a drought might cause the level of water to drop to or beyond the point where the Boat Slip is no longer in the water and/or access to the main body of the Lake is impeded. Owner acknowledges that Declarant and/or the Association has made no representation or warranty whatsoever, expressed or implied, with reference to (i) the level of water in the Lake, or (ii) the Owner's ability to use the Lake for boating or other recreational uses, all of which are controlled by the Federal Energy Regulatory Commission, Duke Energy Corporation and any other regulatory body having jurisdiction over the Lake.

(j) In order to protect the quality and reputation of the Piers and the Community as a residential community, no boat or watercraft shall be brought or kept within the Piers or any Boat Slip unless it is first approved by the Association to size, appearance, seaworthiness and safety. In this regard, the Association shall have the right to require in advance a recent photograph and description of the boat or watercraft, proof of its ownership and registration, and such other information as the Association considers appropriate under the circumstances. The Association shall have the right to require an Owner to remove an unauthorized boat upon three (3) days notice to such Owner. In the event of an emergency, the Association shall have the right to remove the unauthorized boat and charge the Owner for all costs associated therewith. The Association shall have no liability to an Owner as a result of the Association's exercise of its rights hereunder.

4.11 Boat Club. Declarant may lease portions of the Amenities such as office area in the club house and areas within the dry dock boat storage area, together with a right to use Parking Areas, the common area boat ramp and the canoe/kayak dock (in addition to the Boat Club Slips) to the Boat Club to operate the Boat Club and to provide Owners with other marina and boating services pursuant to the terms of a marina services agreement between the Boat Club and the Declarant, for the benefit of the Association, and/or the Association.

4.12 Pool Amenity. Declarant and/or the Association may offer a special membership in order to permit certain non-Owners (owners of certain property lying west of the Vineyards and south of the railroad tracts that lie along the northern boundary of portions of the Property) to use the pool Amenity

(but not any other Amenity) as may be required in order to comply with that certain PUD zoning applicable to the Property. Declarant and/or the Association may charge a fee for such special memberships and subject such memberships to reasonable rules and regulations. The holder of any such special membership shall not be deemed a "Member" or "Owner" under this Declaration.

Article V. Architecture and Landscaping

5.1. General.

No structure or thing, including but not limited to fences and boat docks, shall be placed, erected, or installed upon or adjacent to any Lot and no improvements or other work (including staking, clearing, excavation, grading, and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place on such Lot except pursuant to approval and in compliance with this Article and the Architectural Guidelines. In addition to any standards established pursuant to this Declaration, Declarant may establish, by Supplemental or Annexation Declaration, architectural and landscaping control standards, guidelines and restrictions in regulation and to various phases or sections of the Property.

Any Owner may remodel, paint, or redecorate the interior of a dwelling located on his or her Lot without approval; provided that modifications to the interior of a dwelling visible from outside the structure shall be subject to approval.

Any improvements constructed on or adjacent to any Lot shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by Declarant or its designee in its sole discretion.

This Article shall not apply to Declarant's activities or to the Association's activities during the Declarant Control Period.

5.2. Architectural Review.

5.2.1. By Declarant. Each Owner, by accepting a deed or other instrument conveying any legal or equitable interest in a Lot, acknowledges that, as the developer and owner of real estate in the vicinity of and within the Community, Declarant has a substantial interest in the quality and appearance of improvements within the Community, and in determining that they enhance Declarant's reputation as a developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, no Owner shall commence any activity within the scope of this Article on his or her Lot unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall act solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue or as long as Declarant owns any portion of the real property described in **Exhibit A** or **B** or has the right to expand the Community pursuant to Section 10.1, unless earlier terminated by Declarant by a Recorded Document.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to any other Person or committee. Any such delegation shall be in

