

2007  
Return to:  
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Kennedy Cowlington Lobdell and Hickman, L.L.P.  
100 N. Tryon Street, Suite 4200  
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DUPLICATE  
3146/356

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

WOODLAND BAY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS – WOODLAND BAY (the “Declaration”) is made this 24<sup>th</sup> day of October, 2000, by CRESCENT COMMUNITIES N.C., INC., a North Carolina corporation, hereinafter referred to as the “Declarant”. All capitalized terms used herein shall have the meanings set forth in Article I, Section 1 or elsewhere in this Declaration.

STATEMENT OF PURPOSE

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Declarant is the owner of certain property located in Gaston County, North Carolina, which is more particularly described on that certain map recorded in Plat Book 102, Pages —, 82 and 83 in the Office of the Register of Deeds of Gaston County, North Carolina. Declarant desires to provide for the creation (on the property shown on that map together with other contiguous or nearby property hereafter made subject to this Declaration as another Phase as provided herein) of a residential community of single-family residences to be named WOODLAND BAY (the “Development”).

Declarant desires to insure the attractiveness of the Development, to prevent any future impairment thereof, to prevent nuisances and to enhance the value and amenities of all properties within the Development. Furthermore, Declarant desires to provide for the maintenance and upkeep of certain Common Areas within the Development, including, but not limited to, the Lake Access Area, street lights (to be leased) and the Roadways (prior to acceptance by governmental authorities for public maintenance). As part of such Common Area, Declarant desires to construct and provide for the maintenance and upkeep of a lighted Entrance Monument to be located at the entrance to the Development, which Entrance Monument will be for the common use and benefit of all Owners. In addition, as part of such Common Area, Declarant reserves the right to construct a Parking Area over the Lake Access Area and Pier containing Boatslips over the waters of Lake Wylie (the “Lake”). The Pier and Boatslips will be for the use and benefit of Owners who are entitled to the use of said improvements, as more specifically provided in this Declaration.

Declarant desires to provide for a system whereby all Owners will pay for the maintenance and upkeep of the Common Areas; provided, however, that maintenance and upkeep of the Pier and Boatslips will be paid for only by Owners in the Development who are entitled to the use of the Pier and Boatslip, as more specifically provided in this Declaration. All Owners in the Development will pay the cost associated with leasing the Street Lights and the cost of maintenance and upkeep of the Lake Access Area, Entrance Monument and Roadways (prior to their acceptance for public maintenance) and such other Common Areas as such Owners are entitled to use and enjoy.

Declarant also has constructed, or shall construct, portions of the “Off-Site Septic System” (hereinafter defined) for the use and benefit of the Owners of the “Septic Lots” (as

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hereinafter defined). Declarant further desires to provide for a system whereby the maintenance and upkeep of the Off-Site Septic Systems and portions of the Septic Easement Areas (as hereinafter defined) used by the Septic Lot Owners (as hereinafter defined) will be paid for only by such Septic Lot Owners; and for a system for the periodic inspection for all "Septic Systems" (including "Off-Site Septic Systems").

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

Declarant further desires to create an organization to which will be delegated and assigned the powers of: (a) owning, maintaining and administering the Common Areas, except as otherwise provided in the Declaration; (b) administering and enforcing the maintenance of the Off-Site Septic System and Septic Easement Areas used by the Septic Lots; (c) administering and enforcing the covenants and restrictions contained herein; (d) collecting and disbursing the assessments and charges hereinafter created, in order to efficiently preserve, protect and enhance the values and amenities in the Development, including the Common Areas, to ensure specific rights, privileges and easements in the Common Areas, and to provide for the maintenance and upkeep of the Common Areas as provided in the Declaration; and (e) providing for the inspection of all "Septic Systems" in the Subdivision.

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

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

## ARTICLE I

### DEFINITIONS

Section 1. "Additional Property" shall mean and refer to any additional real estate near or contiguous to the Property, including, without limitation, any real property located within four thousand (4,000) feet of any boundary of the Property, which may be made subject to the terms of this Declaration in accordance with the provisions of Article II, Section 2 of this Declaration.

Section 2. "Architectural Changes Committee" shall have the meaning set forth in Article IX, Section 12 hereof.

Section 3. "Architectural Control Committee" shall mean and refer to the committee appointed by the Board to oversee the development and enforcement of architectural control standards and restrictions with respect to the Development and to perform certain other functions described in the Declaration.

Section 4. "Architectural, Landscape and Lake Buffer Guidelines" shall have the meaning as set forth in Article X, Section 3 hereof.

Section 5. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association attached as Exhibit "A" hereto and incorporated herein by reference.

Section 6. "Association" shall mean and refer to WOODLAND BAY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 7. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 8. "Boatslip Lots" shall mean and refer to Lots 7, 8, 14-15, 29 and 30 which have, as an appurtenance to the Lot, the right to use an assigned Boatslip in accordance with and as more particularly set forth in Article IV, Section 8 of this Declaration.

Section 9. "Bylaws" shall mean and refer to the Bylaws for the Association, attached as Exhibit "B" hereto and incorporated herein by reference.

Section 10. "Common Area" or "Common Areas" shall mean and refer to the Lake Access Area, Pier, Boatslip, Entrance Monument, Parking Area, Street Lights, Septic Easement Areas and the Roadways (including drainage facilities and other improvements located therein) prior to their acceptance for maintenance by the North Carolina Department of Transportation or other governmental entity, collectively, and any other property specifically shown and designated on the Map as "Common Open Area," "Common Open Space" or "COS." The Common Areas shall be owned by the Association (except as otherwise provided herein) for the common use, benefit and enjoyment of the Owners. Provided, however, and notwithstanding any other provision in this Section 11, or in this Declaration to the contrary, (i) only the Owners of Boatslip Lots shall be entitled to the exclusive rights applicable to the use, benefit and enjoyment of the Pier and Boatslips, subject to individual Boatslip Lot Owners' exclusive rights to use specified Boatslip; and (ii) Septic Easement Areas. The Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Subdivision.

Section 11. "Boatslip" or "Boatslips" shall mean and refer to the boatslips over the waters of Lake Wylie, which Boatslips are designated as Boatslips 1 through 6 as shown on the Map together with any additional Boatslips which Declarant may cause to be constructed in

accordance with the terms of Article II, Section 2 of this Declaration, and which Boatslips are more particularly addressed in Article IV of this Declaration.

Section 12. "Declarant" shall mean and refer to Crescent Communities N.C., Inc., and such of its successors and assigns to whom the rights of Declarant hereunder are transferred by written instrument recorded in the Office of the Register of Deeds of Gaston County, North Carolina.

Section 13. "Development" shall mean and refer to WOODLAND BAY, a single-family residential development proposed to be developed on the Property by Declarant.

Section 14. "Dwelling" shall mean and refer to a structure for the use and occupancy as a detached single family residence. Each Lot shall contain no more than one (1) Dwelling.

Section 15. "Entrance Monument" shall mean and refer to the area(s) (the "Entrance Monument Areas") designated by Declarant over the Common Open Space parcels located at the entryway to the Development, at the intersection of Woodland Bay Drive and South New Hope Road, as shown on the Map, and the stone monuments and entrance signs located on such parcels, together with lighting, irrigation system, landscaping and other improvements to be constructed within such Entrance Monument Areas, to be used as an entryway or entryways (as the case may be) for the Development, and for the purposes set forth in this Declaration.

Section 16. "Guidelines" shall mean and refer to the Architectural, Landscape and Lake Buffer Guidelines.

Section 17. "Improvement" shall have the same meaning as set forth in Article IX, Section 4.

Section 18. "Lake Buffer Area" shall have the same meaning as set forth in the Architectural, Landscape and Lake Buffer Guidelines.

Section 19. "Lake Buffer Guidelines" shall have the same meaning as set forth in the Architectural, Landscape and Lake Buffer Guidelines.

Section 20. "Lot" or "Lots" shall mean and refer to the separately numbered parcels depicted on the Map, which Lots do not include the Common Areas.

Section 21. "Map" shall mean and refer to (i) the map of WOODLAND BAY Subdivision recorded in Map Book 62, Pages —, 82 and 83 in the Office of the Register of Deeds of Gaston County, North Carolina, (ii) any map of Additional Property, and (iii) any revision of any such map recorded in such Office.

Section 22. "Lake Access Area" shall mean and refer to the parcel of land labeled "Lake Access Area" (or a similar term) on the Map, together with any parking area constructed or placed thereon for the common use and enjoyment of all Boatslip Lot Owners.

Section 23. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 24. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 25. "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

Section 26. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot within the Development, but excluding those having such interest merely as security for the performance of an obligation.

Section 27. "Parking Area" shall mean and refer to the parking lot or lots which may be constructed over the Lake Access Area(s) and/or other common areas for the common use, benefit and enjoyment of the Boatslip Lot Owners, their families, guests and invitees.

Section 28. "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust or other legal entity.

Section 29. "Phase" shall mean and refer to any phase, section or portion of the Property for which a separate Map or Maps are recorded in the Office of the Register of Deeds of Gaston County, North Carolina.

Section 30. "Pier" or "Piers" shall mean and refer to the pier or piers containing the Boatslips, which will be constructed in and over the waters of the Lake, including the Piers shown on the map, together with any additional Piers which Declarant may cause to be constructed in accordance with the terms of Article II, Section 2 of this Declaration.

Section 31. "Property" shall mean and refer to the property shown on the Map, exclusive of the public rights-of-way as shown on the Map, which Property includes the Lots and the Common Areas as defined herein and as more particularly shown on the Map.

Section 32. "Roadways" shall mean and refer to all roads and cul-de-sacs in the Subdivision as shown on the Map, all to be maintained by the Association as more particularly set forth in Article IV, Section 6 of this Declaration until accepted for dedication and public maintenance by the North Carolina Department of Transportation or other governmental entity.

Section 33. "Septic Easement" or "Septic Easements" shall mean and refer to the septic easement or septic easements reserved over the Septic Easement Areas for the benefit of the Septic Lot Owners, as more particularly described in Article IX of this Declaration.

Section 34. "Septic Easement Areas" shall mean and refer to those certain parcels described on the Map as 15A, 16A, 17A, 18A, 19A, 20A, 21A, 22A, 23A, 26A, 27A, 28A, 41A, 45A, 46A, 47A, 56A, 57A, 58A, 59A, 64A, 65A and 67A or other similar designation, which parcels are to be conveyed to the Association as common Area, subject to the Septic Easement and Declarant's option to repurchase such Septic Easement Areas as more particularly described in Article IX of this Declaration.

Section 35. "Septic Lots" shall mean and refer to those Lots utilizing the Septic Easement Areas to drain sewage from such Lots through a Septic System serving the Septic Lot. The Owner of a Septic Lot shall be hereinafter referred to as a "Septic Lot Owner."

Section 36. "Off-Site Septic System" shall mean and refer to all portions of any Septic System serving a Septic Lot located upon a Septic Easement Area and all pipes related to the transportation of the sewage from Septic Lots to Septic Easement Areas.

Section 37. "Septic System" shall mean and refer to the ground absorption sewer system serving each Lot, including all pipes, lines, tanks, drain fields, pumps, and related apparatus, whether located upon the Lot or located upon a Septic Easement Area, including without limitation the Off-Site Septic System.

Section 38. "Street Lights" shall mean and refer to those certain street lights which may be constructed upon and over the rights of way of the Roadways, Parking Area and other Common Areas.

Section 39. "Subdivision" shall mean and refer to WOODLAND BAY Subdivision, as the same is shown on the Map.

Section 40. "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions filed in the Office of the Register of Deeds of Gaston County, North Carolina to bring additional property within the coverage of this Declaration and the jurisdiction of the Association, as more particularly described in Article II, Section 2 hereof.

Section 41. "Waterfront Lots" shall mean and refer to Lots 16-28 and 40-46 all as shown on the Map.

Section 42. "Well Sites" shall mean and refer to those certain parcels labeled "Well Sites" (or the like) on the Plat(s), upon which may be constructed and conveyed to a utility company (regulated by the North Carolina Utilities Commission) for the ownership, operation and maintenance of one or more wells by said utility company as part of the Water System, all as more particularly described in Article VII of this Declaration.

## ARTICLE II

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

Section 1. Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and which is and shall be within the jurisdiction of the Association, is located in Gaston County, North Carolina, and is the Property as defined above and as more particularly described and shown on the Map recorded in Map Book \_\_\_\_, Pages \_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ in the Office of the Register of Deeds of Gaston County, North Carolina, together with any Additional Property.

Section 2. Additions to the Property.

(a) Declarant may cause Additional Property (including Common Areas) to be made subject to the terms and scheme of this Declaration by filing one or more Supplemental Declarations in the Office of the Register of Deeds of Gaston County, North Carolina, containing a description of the Additional Property and a statement by the Declarant of its intent to extend the operation and effect of this Declaration to the Additional Property. Declarant may also cause additional Piers and Boatslips adjacent to or near the Lake Access Area, Common Area or any Additional Property to be constructed and made subject to the terms and scheme of this Declaration by the filing of one or more Supplemental Declarations describing the location and number of Piers and Boatslips to be added and containing a statement by Declarant of its intent to extend the operation and effect of this Declaration to the additional Piers and Boatslips. Notwithstanding the foregoing, the covenants and restrictions established herein as applied to, or imposed upon, the Additional Property may be altered or modified by the filing of one or more Supplemental Declarations as provided in Subparagraph (b) below.

(b) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants and restrictions contained herein with respect to the Property, nor revoke, modify, change or add to the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for Amendment set forth in this Declaration, except as may be otherwise specifically set forth herein. Notwithstanding the foregoing, Declarant or the Association shall have the right, without meeting the requirements for Amendment set forth in Article XV, Section 3 of this Declaration, to amend this Declaration to reconfigure any proposed Piers, Boatslips, Septic Easement Areas or Septic System to reflect the actual final configuration of such areas and the "as-built" construction of such amenities.

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

### ARTICLE III

#### PROPERTY RIGHTS

Section 1. Ownership of Common Areas. Except as otherwise provided herein, Declarant shall convey to the Association the Common Areas to be owned and maintained by the Association. The Declarant reserves the right to construct within the Common Areas (i) certain improvements within the Lake Access Area; (ii) the Boatslips and Piers; (iii) the Entrance Monument(s) to be located at the entrance to the Development; (iv) the Water System; and (v) the Roadways (including drainage facilities and other improvements), as reflected on the Map, for the use and enjoyment of the Owners who are entitled to the use of such Common Areas as provided in this Declaration. Notwithstanding the recordation of any Map or any other action by Declarant or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public (with the exception of the Roadways, which shall eventually be accepted for public dedication and maintenance by the North Carolina Department of Transportation or other governmental entity).

Section 2. Owners' Rights to Use and Enjoy Common Areas. Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas, and such right shall be appurtenant to and conveyed with title to such Owner's Lot, subject to the following:

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

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

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

(d) the Pier and Boatslips may be used only by those Owners specifically entitled thereto under this Declaration; and



- (e) the provisions of Article IX of this Declaration.
- (f) the non-exclusive Septic Easements reserved and granted over, across and under portions of the Common Areas as more particularly described in Article IX, Section 28 of this Declaration.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Areas and facilities located thereon to the members of his or her family, his or her guests, invitees, or his or her tenants.

## ARTICLE IV

### THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws attached as Exhibit "B" hereto.

Section 2. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. Each Class B Lot shall entitle the Owner of said Lot to four (4) votes for each Class B Lot owned by it.

Section 3. Relinquishment of Control. Notwithstanding anything contained herein to the contrary, the Class B membership shall cease and be converted to the Class A membership upon the earliest to occur of (a) the date on which Declarant no longer owns any part of the Property; (b) the date Declarant shall elect, in its sole discretion, that the Class B membership shall cease and be converted to the Class A membership (which election may be made, if at all, upon Declarant giving written notice of the election to the Board); or (c) December 31, 2005. The earliest to occur of (a), (b) or (c) above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class A member.

Section 4. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Development as well as its own books, records, and financial statements available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by Lots. All such documents shall be available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

Section 5. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation level to be established by the Board and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

Section 6. Maintenance. Prior to their acceptance for public maintenance, the Roadways shall be maintained by the Association, provided that the Declarant, in its sole discretion, has the right to reimburse the Association for maintenance costs until the Roadways are accepted for maintenance by the North Carolina Department of Transportation or other governmental entity. Such maintenance shall include repair and reconstruction, when necessary. Maintenance of the Roadways shall conform to the standard of maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or other governmental entity before it would accept such Roadways for maintenance.

The Common Areas together with all easements and amenities located within the Common Areas and not otherwise maintained by public entities or utilities, shall be maintained by the Association as more particularly described below:

- (a) Maintenance of the Entrance Monument(s) shall include maintenance, repair and reconstruction, when necessary, of the stone monuments, signage, irrigation, planters and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the stone monuments and signage located thereon.
- (b) Maintenance of the Parking Area shall include repair and reconstruction of the pavement and payment of the costs of lighting.
- (c) Maintenance of the Pier and Boatslips shall include the maintenance, repair and reconstruction, when necessary, of the Pier and Boatslips, including all lighting, water lines and other fixtures, wire, railings, and other facilities located thereon, and providing and paying for utility charges therefor.
- (d) All Common Areas, including, but not limited to, the Roadways (prior to governmental acceptance for operation and maintenance), the Lake Access Area,

Entrance Monument, Pier and Boatslips (and all improvements located thereon), shall be clean and free from debris and maintained in an orderly condition, together with the landscaping thereon (if any) in accordance with the highest standards for private parks, including any removal and replacement of any landscaping, utilities, or improvements located thereon.

(e) Maintenance of the Lake Access Area and other similar Common Areas used to access Boatslips shall be limited to maintaining the path, parking areas and other improvements constructed thereon in passable condition for pedestrian use, and in accordance with the construction standards and materials as the original path constructed by Declarant, reasonable wear and tear excepted.

(f) The Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the improvements within the boundaries thereof, including, without limitation, any dock, pier or boatslip located within the Pier Zone (as defined in Section 23 of Article IX) adjacent to any Waterfront Lot. The Owners of such Lots shall be solely responsible for same.

(g) The general maintenance of the surface of the Septic Easement Areas will be performed by the Association. The Off-Site Septic System for each Septic Lot must be maintained by the Owner of such Septic Lot in an orderly operating condition and in compliance with any requirements imposed by the Declarant, the Association, or any governmental authority. If maintenance, repair or replacement by the Septic Lot Owner is not in compliance with such requirements, the Declarant or the Association may, but is not obligated to, exercise its rights under Article IX, Section 28 of this Declaration.

Section 7. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements located on all Common Areas and the Roadways (prior to acceptance) and in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Annual and Boatslip Assessments, as hereinafter defined.

Section 8. Pier and Boatslips. Subject to and contingent upon the approval of the Federal Energy Regulatory Commission, Duke Energy Corporation and any other regulatory body having jurisdiction, Declarant shall have the exclusive right to construct some or all of the Pier and Boatslips (including all improvements located thereon), in the approximate locations shown on the Map or as otherwise shown in any Supplemental Declaration or other document which may be filed pursuant to the provisions of this Declaration. The Declarant shall not construct more Boatslips than are approved by Duke Energy Corporation pursuant to Declarant's boatslip permit request for the Subdivision.

(a) Following the construction of the Pier and Boatslips as set forth above, Boatslips shall be leased by Declarant to the Owners of certain Lots and transferred among Owners as follows:

(i) Declarant, in its sole discretion, has the right to require that the Owner of any Boatslip Lot lease a Boatslip. Each Boatslip Lease (relative to a Boatslip) shall be appurtenant to the ownership of the applicable Boatslip Lot and shall only be assigned as provided below.

(ii) The Lot to which a Boatslip Lease is entered into as an appurtenance shall thereafter be a Boatslip Lot subject to the provisions of subparagraph 8(a)(iii) below. Once entered into between Declarant and the Boatslip Lot Owner, the relevant Boatslip Lease shall not be separated from the ownership of the Boatslip Lot to which it is appurtenant, but, rather, shall run with the title to such Boatslip Lot unless and until such Boatslip Lease is assigned by the Boatslip Lot Owner to another Lot Owner in accordance with subparagraph 8(a)(iii). In this regard, provided the applicable Boatslip Lease has not been previously assigned in accordance with subparagraph 8(a)(iii), any conveyance by a Boatslip Lot Owner of its ownership interest in a Boatslip Lot shall automatically assign to the transferee of such ownership interest all rights and duties of said Boatslip Lot Owner under the Boatslip Lease; provided, however, in such event, the Boatslip Lot Owner and the transferee of the Boatslip Lot Owner's ownership interest in the Boatslip Lot shall immediately execute and record an instrument in the Office of the Register of Deeds of Gaston County, North Carolina, 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 Boatslip Lot shall also encumber the Boatslip 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 Boatslip than the Boatslip Lot Owner may have under the Boatslip 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 Boatslip Lease and to all of the rights of Declarant (as lessor) thereunder. Any successor to a Boatslip Lot Owner's interest in a Boatslip 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 Boatslip Lot Owner under the Boatslip 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) Any Boatslip Lease which pertains to a Boatslip may be assigned by the relevant Boatslip Lot Owner only to another Boatslip Lot Owner. Upon such assignment, the Boatslip Lot Owner and the assignee of such Lot Owner's interest in the Boatslip Lease shall immediately execute and record an instrument

in the Office of the Register of Deeds of Gaston County, North Carolina (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 Boatslip Lot shall automatically cease to be a Boatslip Lot and the assignee's Boatslip Lot shall thereafter be a Boatslip Lot (until further assignment of said assignee's lease rights), in which case the relevant Boatslip Lease shall then run with the title to such Boatslip Lot as set forth in subparagraph 8(a)(ii). No Boatslip Lease shall be separated from the ownership of any Boatslip Lot and assigned to anyone or any entity other than another Owner in accordance with this subparagraph 8(a)(iii) and the Declaration.

(b) Declarant shall have the right to use Boatslips not leased to another Owner and shall have the obligation to pay Boatslip, Supplemental Boatslip and Special Boatslip Assessments on any Boatslips constructed by Declarant and not leased to another Owner. At Declarant's option, Declarant shall be entitled to assign all rights and duties of Declarant under any Boatslip 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.

(c) In the event that a Pier contains a Boatslip which has not been leased as an appurtenance to a Boatslip Lot, said Boatslip may be retained by Declarant and the Association for the common use and enjoyment of only the Owners of Boatslip Lots, their families, guests and invitees, for the purpose of temporarily docking boats, and may not be leased or otherwise transferred by Declarant to, or used by, any other party or the public. No boat or other recreational vehicle shall be permitted to remain overnight in any unleased Boatslip.

The use of the Pier and Boatslips is and shall be subject to each of the following:

(i) rules and regulations for use promulgated by Declarant and/or 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 bed underlying the Boatslips (a copy of said Duke Lease is attached to the Boatslip Lease form).

(d) The Board of Directors, pursuant to the Bylaws attached hereto as Exhibit "B", shall adopt rules and regulations governing the use of the Pier and Boatslips and the

personal conduct thereon of the Members owning Boatslip Lots and their families, guests and invitees. Should Members owning Boatslip Lots desire to amend such rules and regulations, then a meeting of the Members owning Boatslip Lots may be called and held, in accordance with the terms and provisions of the Bylaws, for the purpose of voting to amend such rules and regulations. If such a meeting is duly called and held, the Boatslip Lot Owners may direct the Board of Directors to make such amendments to the rules and regulations governing the use of the Pier and Boatslips, including additions to and deletions of portions of such rules and regulations, as are approved by a vote of the Members owning Boatslip Lots in accordance with the terms and provisions of the Bylaws, and as are permitted under the Duke Lease. Boatslips may only be installed by Declarant.

(e) Piers may only be used by Owners of Boatslip Lots, their families, guests and invitees. Each Boatslip may only be used by the Owner(s) of the Boatslip Lot to which such Boatslip is appurtenant, their families, guests and invitees.

Section 9. Parking Area. Declarant shall construct, and the Association shall maintain, repair and, if destroyed, replace, as a common expense of the Association, the paved Parking Area located on the Lake Access Area. The Parking Area shall be constructed and maintained in order to provide parking for the Owners, and may be used by Declarant and its assigns and the Owners, their families, guests and invitees, in connection with their use of the Lake Access Area and/or Boatslips.

Section 10. 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 V

## COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Annual, Supplemental Annual, Special and Special Individual Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association Annual Assessments, Supplemental Annual Assessments, Special Assessments and Special Individual Assessments, as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, provided such assessments or charges, together with interest, costs, and reasonable attorneys' fees, shall, as set forth above, be a continuing lien upon the Lot against which such assessments or charges are made.

Section 2. Purpose of Annual Assessments. The assessments to be levied annually by the Association against each Lot ("Annual Assessments") shall be used as follows:

- (a) to repair, maintain, reconstruct (when necessary) and keep clean and free from debris the Common Areas and any improvements located thereon (and excluding the Pier and Boatslips), including, but not limited to, the Lake Access Area, Street Lights, Entrance Monument(s), and to maintain the landscaping thereon in accordance with the highest standards for private parks, including any necessary removal or replacement of landscaping;
- (b) to maintain and repair the Roadways to the standards of the maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or other governmental entity before it would accept such Roadway for maintenance;
- (c) to pay all costs associated with the lease of the Street Lights, including, but not limited to, monthly lease payments and utility costs;
- (d) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association [other than the Pier and Boatslips and any improvements located thereon (and any other property owned in connection therewith)];
- (e) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws, except for such insurance carried specifically in connection with the Pier and Boatslips and any improvements located thereon;

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

(g) to maintain contingency reserves for the purposes set forth in Article IV, Section 7 hereof in amounts as determined by the Board of Directors.

Section 3. Payment of Annual Assessments; Due Dates. Annual Assessments provided for herein shall commence as to each Lot on July 1, 2001. The Annual Assessment for the calendar year beginning January 1, 2001, and ending December 31, 2001, shall be Six Hundred Fifty and No/100 Dollars (\$650.00) per Lot, which amount prorated for the remaining six (6) months of 2001 shall be due and payable in full no later than July 31, 2001. The Annual Assessment for each and every year thereafter shall be in an amount as set by the Board of Directors, in accordance with Article V, Section 4, and shall be due and payable in one annual payment, such payment being due and payable no later than January 31 of each such year. The Board of Directors shall adopt a proposed budget and fix the amount of the Annual Assessment as to each Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year, and the Association shall send written notice of the amount of the Annual Assessment and a summary of the proposed budget, as well as the amount of the payment due, to each Owner on or before January 5 of such calendar year. To the extent required by North Carolina General Statutes 47F-3-103(c) or other applicable law, such notice shall include notice of a meeting of the Members to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by N.C. General Statutes 47F-3-103(c), or other applicable law, the Board of Directors shall set a date for a meeting of the Members to consider ratification of the budget to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. If the proposed budget to be voted on at any such meeting is within the maximum increase limits set forth in Section 4(a) below, the budget is ratified unless at such meeting Members exercising all of the votes in the Association reject the budget. If the proposed budget to be voted on at any such meeting exceeds the maximum increase limits set forth in Section 4(a), the budget is ratified unless at such meeting Members exercising a majority vote in the Association reject the budget. The failure of the Association to send, or of a Member to receive, such notice shall not relieve any Member of the obligation to pay Annual Assessments.

Section 4. Maximum Annual Assessment.

(a) For years following the first year of Annual Assessments and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members (unless required under N.C. General Statute 47F-3-103(c) or other applicable law, in which case the procedures set forth in Section 3 above shall apply), may increase the Annual Assessment each year by a maximum amount equal to the previous year's Annual Assessment times the greater of (i) ten percent (10%) or (ii) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items



(1982-84 ' 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then the index most similar to the CPI (published by the United States Government indicating changes in the cost of living) shall be used. 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, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the Members.

(b) From and after the first year of Annual Assessments, the maximum annual assessment may be increased above the maximum amount set forth in subparagraph (a) of this Section 4 by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration, plus the written consent of Declarant (so long as Declarant owns any part of the Property), subject to the procedures set forth in Section 3 above if applicable.

(c) The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum set forth in Subparagraph (a) of this Section 4 (the "Maximum Annual Assessment"), subject to the procedures set forth in Section 3 above if applicable. If the Board of Directors shall levy less than the Maximum Annual Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by vote in accordance with the Bylaws, levy a supplemental Annual Assessment ("Supplemental Annual Assessment"), subject to the procedures set forth in Section 3 above, if applicable. In no event shall the sum of the Annual and Supplemental Annual Assessments for any year exceed the applicable Maximum Annual Assessment for such year other than as set forth herein.

Section 5. Special Assessments for Capital Improvements. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Common Area improvements which are not originally constructed by Declarant; or (ii) the reconstruction, repair or replacement of the Common Areas, including, but not limited to, the Roadways (prior to acceptance for public maintenance), the Lake Access Area or the Entrance Monument(s) (but excluding the Pier and Boatslips) and all improvements located thereon, including fixtures and personal property related thereto. Provided, however, any such assessment must be approved by Declarant (so long as Declarant owns any part of the Property) and by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration.

Section 6. Special Individual Assessments. In addition to the Annual Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Lot Owner ("Special Individual Assessment") (i)

for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas, including the Roadways (prior to acceptance for public maintenance), Lake Access Area, Entrance Monument(s), Street Lights, Pier and Boatslips, including all improvements located thereon, whether occasioned by any act or omission of such Lot Owner(s), members of such Lot Owner's family, or such Lot Owner's agents, guests, employees or invitees and not the result of ordinary wear and tear; (ii) for the purpose of paying for the cost of maintaining, repairing or replacing the Septic System serving a Septic Lot; or (iii) for payment of fines, penalties or other charges imposed against any particular Lot Owner relative to such Lot Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated by the Association or the Declarant pursuant to this Declaration or the Bylaws. Provided, however, Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 6 shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

Section 7. Assessment Rate.

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

(b) Annual, Supplemental Annual and Special Assessments for each Lot owned by Declarant shall be one-third (1/3) of the Annual, Supplemental Annual and Special Assessments for each other Lot in the Subdivision not owned by Declarant.

ARTICLE VI

COVENANT FOR BOATSLIP, SUPPLEMENTAL BOATSLIP AND SPECIAL BOATSLIP ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Boatslip, Supplemental Boatslip and Special Boatslip Assessments. Declarant, for each Boatslip Lot owned within the Property, hereby covenants, and each Owner of any Boatslip Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, or by entering into a Boatslip Lease (or an assignment thereof) for a Boatslip as an appurtenance to such Owner's Lot as more particularly set forth in Article IV, Section 8 of this Declaration, is deemed to covenant and agree to pay to the Association, in addition to the Annual, Supplemental Annual, Special and Special Individual Assessments provided for herein, Boatslip Assessments, Supplemental Boatslip Assessments and Special Boatslip Assessments, as hereinafter defined, for maintenance and repair costs of the Pier and Boatslips (including all improvements thereon) established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Boatslip Lot

against which each such assessment or charge is made and upon the right to use the Pier and Boat-slip appurtenant to such Boat-slip Lot. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Boat-slip Lot effective at the time when the assessment falls due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, provided such assessments or charges, together with interest, costs, and reasonable attorneys' fees, shall, as set forth above, be a continuing lien upon the Boat-slip Lot against which such assessments or charges are made.

Section 2. Purpose of Boat-slip Assessments. The assessments to be levied annually by the Association against each Boat-slip Lot (the "Boat-slip Assessments") shall be used as follows:

- (a) to clean, maintain, repair and reconstruct, when necessary, the Pier and Boat-slips, including all lighting and other fixtures, wires, railings and other facilities located thereon (if any), all as more particularly set forth in Article IV, Section 8 of this Declaration;
- (b) to provide and pay for lighting of and water service to the Pier and Boat-slips (if any) to the extent necessary for the safety and enjoyment of the users thereof;
- (c) to pay all ad valorem taxes levied against the Pier and Boat-slips and any other property owned by the Association in connection therewith;
- (d) to pay all lease payments, if applicable, to Duke Energy Corporation for the lease of the land on which the Pier and Boat-slips are located;
- (e) to pay the premiums on all insurance carried by the Association in connection with the Pier and Boat-slips (including all improvements located thereon) pursuant hereto or pursuant to the Bylaws;
- (f) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws in connection with the Pier and Boat-slips (including all improvements located thereon); and
- (g) to maintain contingency reserves for the purposes set forth in Article IV, Section 7 hereof in amounts as determined by the Board of Directors.

Section 3. Payment of Boat-slip Assessments; Due Dates. The Boat-slip Assessments provided for herein shall be payable, annually, in advance, and shall commence as to each Boat-slip Lot (to which a completed Boat-slip is appurtenant), and shall be due and payable thirty (30) days following the lease of a completed Boat-slip to a Boat-slip Lot as set forth in Article IV, Section 8 of this Declaration (such assessment shall be prorated from the date of such lease through the remainder of the calendar year for which such assessment is due). Notwithstanding

the foregoing, no Boatslip Assessments shall be due prior to July 1, 2001. The initial Boatslip Assessments applicable to all Boatslip Lots (if assessed on or before July 1, 2001) shall be Four Hundred Seventy-five and No/100 Dollars (\$475.00) per Boatslip Lot. Boatslip Assessments for each and every year thereafter shall be payable no later than January 31 of such year. The Boatslip Assessments for each and every year thereafter shall be in an amount as set by the Board of Directors, in accordance with Section 4 of this Article VI, and shall be due and payable no later than January 31 of each such year. The Board of Directors shall adopt a proposed budget and fix the amount of the Boatslip Assessment as to each Boatslip Lot for any year at least thirty (30) days prior to January 1 of such year, and the Association shall send written notice of the amount of the Boatslip Assessment and a summary of the proposed budget, to each Boatslip Lot Owner on or before January 5 of such year. To the extent required by North Carolina General Statutes 47F-3-103(c) or other applicable law, such notice shall include notice of a meeting of the Members owning Boatslip Lots to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by N.C. General Statutes 47F-3-103(c), or other applicable law, the Board of Directors shall set a date for a meeting of the Members owning Boatslip Lots to consider ratification of the budget to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. If the proposed budget to be voted on at any such meeting is within the maximum increase limits set forth in Section 4(a) below, the budget is ratified unless at such meeting Members of Boatslip Lots exercising all of the votes in the Association reject the budget. If the proposed budget to be voted on at any such meeting exceeds the maximum increase limits set forth in Section 4(a), the budget is ratified unless at such meeting Members of Boatslip Lots exercising a majority vote in the Association reject the budget. Failure of the Association to send the notice described in this Section 3 shall not relieve the Owners of their liability for Boatslip Assessments. Notwithstanding the foregoing, the Board of Directors may alter the dates of the fiscal year for setting the Boatslip Assessments, and may increase or decrease the frequency of the collection of the Boatslip Assessments (or installments thereof) in any reasonable manner.

Section 4. Maximum Boatslip Assessment.

(a) For years following the first year of Boatslip Assessments and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Boatslip Lot Owners (unless required under N.C. General Statute 47F-3-103(c), or other applicable law, in which case the procedures set forth in Section 3 above shall apply), may increase the Boatslip Assessment each year by a maximum amount equal to the previous year's Boatslip Assessment times the greater of (i) ten percent (10%); or (ii) the annual percentage increase in the CPI issued by the U.S. Bureau of Labor Statistics for the most recent 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 Boatslip 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 Boatslip

Assessment may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the Members.

(b) From and after the first year of Boatslip Assessments, the Boatslip Assessments may be increased without limitation if such increase is approved by Declarant (so long as Declarant owns any part of the Property) and by a vote of a majority of the votes appurtenant to the Boatslip Lots, subject to the procedures set forth in Section 3 above, if applicable.

(c) The Board of Directors may fix the Boatslip Assessments at an amount not in excess of the maximum set forth in subparagraph (a) of this Section 4 (the "Maximum Boatslip Assessment") subject to the procedures set forth in Section 3 above, if applicable. If the Board of Directors shall levy less than the Maximum Boatslip Assessment for any calendar year and thereafter, during such year, determine that the important and essential functions of the Association as to the Pier and Boatslips cannot be funded by such lesser assessment, the Board may, by a vote in accordance with the Bylaws, levy a supplemental Boatslip Assessment (the "Supplemental Boatslip Assessment"). In no event shall the sum of the Boatslip and Supplemental Boatslip Assessments for any year exceed the applicable Maximum Boatslip Assessment for such year other than as set forth herein.

Section 5. Special Assessments for Boatslip Improvements. In addition to the Boatslip Assessments authorized above, the Association may levy, in any assessment year, a special Boatslip Assessment (the "Special Boatslip Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of the Pier and Boatslips and any capital improvement located thereon, including lighting, water lines and other fixtures, poles, wires, railings and other facilities located thereon and personal property related thereto. Provided, however, (i) any such Special Boatslip Assessment must be approved by Declarant (so long as Declarant owns any part of the Property) and by a vote of a majority of the votes appurtenant to the Boatslip Lots, and (ii) any such Special Boatslip Assessment may be levied only against the Owners of Boatslip Lots.

Section 6. Assessment Rate.

(a) Except as set forth in subsection (b) below, Boatslip, Supplemental Boatslip and Special Boatslip Assessments must be fixed at a uniform rate for all Boatslip Lots;

(b) Boatslip, Supplemental Boatslip and Special Boatslip Assessments for each Boatslip Lot owned by Declarant shall be one-third (1/3) of the Boatslip, Supplemental and Special Boatslip Assessments for each other Boatslip Lot in the Subdivision not owned by Declarant.

## ARTICLE VII

## COVENANT FOR SEPTIC SYSTEM ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Special Septic System Assessment. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association, in addition to the Annual, Supplemental Annual, Special and Special Individual Assessments provided for herein, Septic System Assessments and Supplemental Septic System Assessments, as hereinafter defined, for the inspection of the ground absorption sewer system serving each Lot, including all pipes, lines, tanks, drain fields, pumps, and related apparatus, whether located upon the Lot or located upon a Septic Easement Area, including without limitation the Off-Site Septic Systems (collectively, "Septic System"). Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner effective at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, provided such assessments or charges, together with interest, costs, and reasonable attorneys' fees, shall, as set forth above, be a continuing lien upon the Lot against which such assessments or charges are made.

Section 2. Purpose of the Septic System Assessments. The assessments to be levied annually by the Association against each Lot upon which a Septic System has been constructed shall be used to inspect each Septic System to ensure that the Septic Systems are in compliance with any requirements imposed by the Association or any governmental authority such assessments, together with the initial inspection fees provided for in Section 3 below, are referred to herein as the "Septic System Assessment."

Section 3. Payment of Septic System Assessment; Due Date. The initial Septic System Assessments provided for herein shall be payable annually, in advance, and shall commence as to each Lot at the time of submission of plans and specifications to the Architectural Control Committee as provided in Article X hereof. A one time fee for the inspection of the Septic System at the completion of installation of the Septic System in the amount of One Hundred Fifty Dollars (\$150.00) shall be payable to the Association at the time of submission of plans and specifications to the Architectural Control Committee. In addition, any reinspections of the installation of the Septic System as needed shall be paid by the Lot Owner to the Association at the rate of \$75.00 per reinspection. The initial Septic System Assessments applicable to all Lots (payable to the Association) shall be Three Hundred Dollars (\$300.00) per Lot. The Septic System Assessments for each and every year thereafter shall be in the amount of Two Hundred Seventy-five Dollars (\$275.00) or the amount as set by the Board of Directors, in accordance with Section 4 of this Article VII and shall be due and payable no later than January 31 of each such year. However, the initial Septic System Assessment shall be payable at the time plans and specifications are submitted to the Architectural Control Committee and shall

constitute payment for the one (1) year period beginning on the date of submission. The second Septic System Assessment shall be due and payable on the first anniversary of the payment of the initial Septic System Assessment; shall be in the amount established by the Board of Directors of the Association for that calendar year; and shall be prorated from the due date thereof through the end of the calendar year in which it is paid. The third and all subsequent annual Septic System Assessments shall be due and payable on a calendar year basis, on or before January 31 of each calendar year, as set forth above. The Board of Directors shall adopt a proposed budget and fix the amount of the Septic System Assessment as to each Lot for any year at least thirty (30) days prior to January 1 of such year, and the Association shall send written notice of the amount of the Septic System Assessment and a summary of the proposed budget to each Lot Owner on or before January 5 of such calendar year. To the extent required by North Carolina General Statutes 47F-3-103(c) or other applicable law, such notice shall include notice of a meeting of the Members to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by N.C. General Statutes 47F-3-103(c) or other applicable law, the Board of Directors shall set a date for a meeting of the Members to consider ratification of the budget to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. If the proposed budget to be voted on at any such meeting is within the maximum increase limits set forth in Section 4(a) below, the budget is ratified unless at such meeting Members exercising all of the votes in the Association reject the budget. If the proposed budget to be voted on at any such meeting exceeds the maximum increase limits set forth in Section 4(a), the budget is ratified unless at such meeting Members exercising a majority vote in the Association reject the budget. Failure of the Association to send the notice described in this Section shall not relieve the Owners of their liability for Septic System Assessments. Notwithstanding the foregoing, the Board of Directors may alter the dates of the fiscal year for setting the Septic System Assessments, and may increase or decrease the frequency of the collection of the Septic System Assessments (or installments thereof) in any reasonable manner.

Section 4. Maximum Septic System Assessment.

(a) For years following the first year of Septic System Assessments and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members (unless required under N.C. General Statute 47F-3-103(c) or other applicable law, in which case the procedures set forth in Section 3 above shall apply), may increase the Septic System Assessment each year by a maximum amount equal to the previous year's Septic System Assessment times the greater of (i) ten percent (10%) or (ii) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84 = 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then the index most similar to the CPI (published by the United States Government indicating changes in the cost of living) shall be used. If the Septic System Assessments are not increased by the maximum amount permitted under the terms of this provisions, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Septic System

Assessments may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the Members.

(b) From and after the first year of Septic System Assessments, the maximum annual assessment may be increased above the maximum amount set forth in subparagraph (a) of this Section 4 by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration, plus the written consent of Declarant (so long as Declarant owns any part of the Property) subject to the procedures set forth in Section 3 above, if applicable.

(c) The Board of Directors may fix the Septic System Assessment at an amount not in excess of the maximum set forth in Subparagraph (a) of this Section 4 (the "Maximum Septic System Assessment") subject to the procedures set forth in Section 3 above, if applicable. If the Board of Directors shall levy less than the Maximum Septic System Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by vote in accordance with the Bylaws, levy a supplemental Septic System Assessment ("Supplemental Septic System Assessment"). In no event shall the sum of the Septic System Assessment and Supplemental Septic System Assessment for any calendar year exceed the applicable Maximum Septic System Assessment for such year, other than as set forth herein.

Section 5. Assessment Rate.

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

ARTICLE VIII

GENERAL ASSESSMENT PROVISIONS

Section 1. Certificate Regarding Assessments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 2. Effect of Nonpayment of Assessments; Remedies of the Association. Any Annual, Special, Special Individual, Supplemental, Boatslip, Special Boatslip, Supplemental Boatslip, Septic System or Supplemental Septic System Assessment (or installment thereof) not paid by its due date as set forth herein, or any other assessment not paid by its due date, shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of



Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner (or foreclose the lien against the Lot), and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Areas, and/or such Owner's Boatslip, if applicable.

Section 3. Subordination of a Lien to Mortgages. The lien of the assessments provided for in Articles V, VI, and VII of this Declaration shall be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of trust to CLT Development Corp. or any affiliated entity. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to a mortgage foreclosure under any first Mortgage on a Lot or any mortgage or deed of trust to CLT Development Corp. or any affiliated entity, or any proceeding in lieu thereof, however, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual, Special, Supplemental, Boatslip, Special Boatslip, Supplemental Boatslip, Septic System or Supplemental Septic System Assessment, as applicable, collectable pro rata from all Owners (or from Boatslip Lot Owners if a Boatslip, Supplemental Boatslip or Special Boatslip Assessment), including the foreclosure sale purchaser. Such pro rata portions are payable by all Owners (or Boatslip Lot Owners if a Boatslip, Supplemental Boatslip, or Special Boatslip Assessment) notwithstanding the fact that such pro rata portions may cause the Annual Assessment, Boatslip Assessment or Septic System Assessment to be in excess of the Maximum Annual Assessment, Maximum Boatslip Assessment, or Maximum Septic System Assessment permitted hereunder. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof but the lien provided for herein shall continue to be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of trust to CLT Development Corp. or any affiliated entity as above provided.

## ARTICLE IX

### RESTRICTIONS

Section 1. Residential Restrictions. Each Lot shall be used exclusively for single-family, non-transient residential purposes; provided, however, Declarant shall have the right to use the Lots designated from time to time by Declarant for the purpose of construction and operation of construction offices and sales/marketing offices (and for related uses) for the Development. No trade, business or business activity of any kind shall be conducted upon a Lot or any part thereof except by Declarant as described hereinabove or except with the written approval of the Board. Provided, however, the Board may permit a business or business activity to be conducted on a Lot so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of this Declaration, does not create a disturbance and does not unduly increase traffic flow or parking congestion on the Property or in the Development. The Board may issue rules regarding permitted business activities. Leasing of a residence on a Lot shall not be considered a business or business activity.

Except those to be utilized by Declarant as described hereinabove, no structure shall be erected, placed, altered, used or permitted to remain on any Lot other than one detached single-family private Dwelling and one private garage for not less than two (2) vehicles and only such other accessory structures as are approved in advance in writing by the Architectural Control Committee pursuant to the Guidelines. No Lot and no Improvements may be used for hotel or other transient residential purposes. Each lease relating to any Lot or any Improvements thereon (or any part of either thereof) must be for a term of at least six (6) months, must be in writing, and must provide that the tenant is obligated to observe and perform all of the terms and provisions hereof applicable to such Lot and/or Improvements.

Subject to the requirements set forth herein and in the Guidelines, fixed piers and floating boat dock facilities incidental to the residential use of Waterfront Lots are expressly permitted only within the Pier Zone (as defined below) of Waterfront Lots upon the condition that they are not rented, leased or otherwise used for remuneration. Furthermore, no boat (including a houseboat), whether existing on a Lot, docked at a Pier or docked at a fixed pier or floating boat dock appurtenant to any Waterfront Lot in the Development, may at any time be used as a residence.

Section 2. Dwelling Size. The square footage requirements set forth below are for enclosed heated floor area and are exclusive of the areas in heated or unheated basements, vaulted ceiling areas and attics, unheated porches of any type, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios.

Any Dwelling erected upon any Lot shall contain not less than the following heated floor areas:

	<u>Minimum Total Heated Area</u>	<u>Minimum Ground Floor Heated Area</u>
1 Story	2,000	2,000
1-1/2 story, bi-level, tri-level and others	2,400	1,600 main floor for bi-level upper two floors for tri-level
2 story, 2-1/2 story	2,600	1,600

Notwithstanding the foregoing requirements, the Architectural Control Committee shall have the right (but not the obligation), because of restrictive topography, lot dimensions or unusual site related conditions or other reasons, to allow variances from such minimum square footage requirements of up to ten percent (10%) of such minimum square footage requirements by granting a specific written variance.

No Dwelling erected upon a Lot shall contain more than two and one-half (2 1/2) stories above ground level; provided, however, the Architectural Control Committee shall have the right (but not the obligation), because of steep topography, unique Lot configuration or similar

reasons. to allow Dwelling heights greater than two and one-half (2 1/2) stories on rear and side elevations.

Section 3. HVAC Equipment. No air conditioning or heating equipment or apparatus shall be installed on the ground in front of, or attached to any front wall of, any Dwelling on a Lot. Additionally, air conditioning and heating equipment and apparatus shall be screened from view from streets by landscape improvements, as more particularly provided in the Guidelines.

Section 4. Exterior Lighting. Exterior lighting on Lots shall be subject to the applicable requirements and limitations in the Guidelines. Night lighting of recreational facilities on Lots is not permitted.

Section 5. Fences and Walls. All fences and walls shall be constructed of wood, brick, stone, or other material approved by the Architectural Control Committee. Chain link or other metal fencing is not permitted. No fence or wall may be erected nearer the front lot line of a Lot than the front face of the Dwelling located on such Lot, unless otherwise approved in advance in writing by the Architectural Control Committee. In the case of a corner Lot, no sideyard fence or wall shall be located nearer than the side of the house facing the side street line, unless otherwise approved in advance in writing by the Architectural Control Committee. No fences or walls greater than six (6) feet in height are permitted. Perimeter fencing shall not have more than fifty percent (50%) of any of its surface closed as viewed from a point on a line of sight perpendicular to the line of the fence. A wall constructed of brick or stone and used in lieu of a fence is exempt from the openness test. All fences and walls shall be erected in accordance with the provisions of the Guidelines. The restrictions described herein shall not apply to any improvements originally installed by Declarant on any Common Area.

Section 6. Signs. No sign of any kind shall be displayed on any Lot except for sign(s) provided by Declarant or approved in writing by the Architectural Control Committee. The Architectural Control Committee shall have the power, but not the obligation, to adopt and issue from time to time sign guidelines, as part of the Guidelines, to assist the Architectural Control Committee in reviewing and approving proposed signs to be erected on the Property. Provided, however, the foregoing shall not act to restrict or prohibit Declarant from erecting and maintaining signs and billboards advertising the Property, the Development or portions of either, or for any other purpose, on any portion of the Property owned by Declarant or in the Common Areas.

Section 7. Temporary Structures; Structure Materials. No residence or building of a temporary nature, including a construction trailer (except during construction of a house on said Lot), shall be erected or allowed to remain on any Lot, and no metal, fiberglass, plastic or canvas tent, barn, carport, garage, utility building, storage building or other metal, fiberglass, plastic or canvas structure shall be erected on any Lot or attached to any residence. Provided, however, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used for storage, or for construction or sales offices.

Section 8. Utilities. All utilities and utility connections installed by Owners shall be located underground, including electrical, telephone and cable television lines. Transformers, electric, gas or other meters of any type, or other apparatus shall be located at the rear of the buildings constructed on Lots or, if approved by the Architectural Control Committee in writing, located elsewhere on the Lot provided they are adequately screened as required by the Architectural Control Committee in accordance with the provisions of this Declaration.

Section 9. Erosion and Sediment Controls. Prior to any earth-disturbing activity, erosion and sediment control measures shall be implemented and undertaken by the Owner or Owner's builder in accordance with the applicable provisions of the Guidelines and as described and attached hereto as Exhibit "C".

Section 10. Building Envelope. No building or other Improvement on any Lot (including any stoops or porches, patios, decks, terraces, etc.) shall be erected or permitted to remain outside of the "Building Envelope" for that particular Lot as established by the Architectural Control Committee (as to each Lot, the "Building Envelope"). The Building Envelope approved for any Lot will be available from the Architectural Control Committee on an unrecorded map. Provided, however, and notwithstanding the foregoing to the contrary, (i) docks, piers (including any gazebos proposed to be attached thereto) and boatslips are exempt from this Building Envelope restriction, provided they are approved by the Architectural Control Committee in accordance with the applicable provisions of the Guidelines, (ii) exterior steps at the front and rear of a Dwelling may project into the setback area established by the Building Envelope up to a distance of five (5) feet, and (iii) fireplace chimney structures projecting from the side of a Dwelling may encroach no more than eighteen (18) inches into the side yard setback established by the Building Envelope. The Architectural Control Committee shall have the right in its sole discretion to make exceptions to any Building Envelope to recognize any special topography, vegetation, lot shape or dimension, or other site-related conditions. In the event any zoning or subdivision ordinance, floodway regulation or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of such requirements shall conform thereto.

Section 11. Waste. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. During construction of Improvements on a Lot, all rubbish and debris shall be stored and disposed of in accordance with the rules and regulations set forth in the Guidelines.

Section 12. Combination or Subdivision of Lots. Should the Owner of a Lot own an adjacent Lot(s) and desire that two (2) or more such Lots be considered as one Lot, then such Lots shall (except in connection with the payment of assessments and except as provided herein) be considered as one Lot for the purposes of this Article IX upon the recordation in the Office of the Register of Deeds of Gaston County, North Carolina, of an instrument by such Owner expressing such intent (such instrument shall refer specifically to this section in this Declaration and shall identify the Lots to be considered as one Lot for purposes of this Article IX, and a copy of such recorded instrument shall be promptly delivered by such Owner to the Architectural Control Committee); and in each such case, Building Envelopes, setback lines, and easements

reserved in this Declaration shall be adjusted accordingly by the Architectural Control Committee. No Lot shall be subdivided by sale, lease or otherwise without the prior written consent of Declarant. Provided, however, Declarant reserves the right to change the size, boundaries or dimensions of any Lot owned by Declarant for any reason.

Section 13. Restricted Activities in Common Areas. No cutting of vegetation, dumping, digging, filling, destruction or other waste shall be committed on the Common Areas. There shall be no obstruction of the Common Areas, nor shall anything be kept or stored in the Common Areas, nor shall anything be altered, or constructed or planted in, or removed from, the Common Areas, without the prior written consent of the Declarant and the Association. Each Owner shall be liable to the Association and/or Declarant for any damage to any Common Area caused by the negligence or willful misconduct of the Owner or his family, tenants, guests, agents, employees, or invitees. Provided, however, the provisions in this paragraph shall not apply to Declarant in connection with Declarant's construction activities on the Property.

Section 14. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any Lot, other than in enclosed garages.

Section 15. Rules of the Board. All Owners of any Lot shall abide by all rules and regulations adopted by the Board from time to time. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association and/or Declarant for all damages and costs, including attorneys' fees.

Section 16. Entrance Monument Easement. Declarant hereby reserves a non-exclusive perpetual easement for the purpose of landscaping and maintaining the entryway and erecting and maintaining the Entrance Monument for the Subdivision. An easement is hereby reserved by Declarant for itself, its successors in interest and assigns, and granted to the Association over portions of the Subdivision identified as "Entrance Monument Easement", "Entrance Monument Area" or other similar term on the Map (the "Easement Tract").

Declarant or the Association shall have the right to landscape and maintain the Easement Tract as an entryway to the Subdivision. Further, Declarant or the Association shall erect and maintain one or more stone monuments with an entrance sign thereon (collectively, the "Entrance Sign") bearing the name of the Development, which Entrance Sign shall be built in accordance with the applicable governmental standards for signs; and Declarant shall erect and maintain lighting for the Entrance Sign, planters and other improvements typically used for an entryway (the Easement Tract, the Entrance Sign, lighting, landscaping, irrigation and other improvements to be constructed on the Easement Tract are herein collectively referred to as the "Entrance Monument Easement").

Section 17. Parking: Off-Water Boat Storage.

(a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any Roadway within the Property.

(b) Commercial-use vehicles and trucks not involved with construction activity on the Property and having a carrying capacity and/or size designation greater than or equal to three-fourths (3/4) ton, shall not be permitted to park overnight on the Roadways, driveways or otherwise within the Property, unless stored in an enclosed garage. No vehicle of any size which transports inflammatory or explosive cargo may be kept within the Property at any time. No vehicles that are not in a condition to be normally operated or that do not have a current registration tag may be stored or situated on any Lot for more than thirty (30) days unless stored in an enclosed garage.

(c) The Owner of each Lot will be responsible for providing on such Owner's Lot a sufficient paved parking area for all vehicles normally parked and/or situated on or in regard to such Lot.

(d) 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 Property, except in enclosed garages or in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee.

(e) No construction office trailers may be placed, erected or allowed to remain on any Lots during construction, except as approved in writing by the Architectural Control Committee. Provided, however, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used as construction or sales offices. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any Lot or Roadway) only in accordance with such rules as may be established by the Architectural Control Committee.

Section 18. Sewage Disposal. Every dwelling erected on every Lot shall be served by a Septic System approved by the appropriate governmental agency for the disposal of sewage, or connected to a private or public sewage disposal system. All Septic Systems or other private sewage disposal systems shall be approved by, and constructed and maintained in accordance with all the regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction, the terms and provisions of Section 28 and Section 30 of Article IX hereof.

Section 19. Nuisances. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. No Lot shall be used, in whole or in part, for the deposit, storage or burial of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the

peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within any Lot, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Development. There shall not be maintained on any Lot any plants or animals or device or thing of any sort whose activity or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Development. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

Section 20. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed Dwelling or other Improvements shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved by the Architectural Control Committee. Any damage to the Roadways, curbs or sidewalks or any part of any Common Area or any utility system caused by an Owner or Owner's builder or such builder's contractors or subcontractors shall be repaired by such responsible Owner. Any builder of Improvements (and such builder's contractors and subcontractors) on any portion of the Property shall keep such portion of the Property free of unsightly construction debris, in accordance with the construction rules established by the Architectural Control Committee, and shall similarly keep contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements. The Board may levy a Special Individual Assessment against an Owner's Lot to pay for the cost of repairing any damage to Roadways, curbs or sidewalks or any part of any Roadway, Common Area or utility system, to pay for the cost of cleaning public and private areas, including the Roadways, and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or such builder's contractors or subcontractors during the construction of Improvements. Declarant, and each Owner, shall be responsible for erosion control protection and shoreline stabilization during any earth-disturbing operation on any Lot, as described and defined in the "Erosion Control Practices" on Exhibit "C" and in the "Shoreline Stabilization and Dock Improvements" on Exhibit "D", attached hereto and incorporated herein by reference.

Section 21. Community Water System; No Private Individual Wells; Irrigation Restrictions. Declarant shall cause to be constructed a water system in order to provide water supplies necessary to serve the Subdivision (the "Water System"). All community wells, water mains, pipes and other equipment necessary for the operation and maintenance of the Water System shall be located upon the Well Sites and within the utility easements described herein or within the Common Areas and/or Roadways. Upon completion, the Water System and all mains, pipes and equipment and other personal property which are part thereof shall become the property of a private utility company duly licensed and operating under the authority granted by the North Carolina Department of Public Utilities Commission. The Well Sites may be conveyed (by the Declarant) to and owned by such utility company, subject to the use restriction

hereby imposed that said Well Sites be used only for the operation of the Water System and subject to Declarant's right to repurchase the Well Sites as specified in the deed(s) from Declarant to such utility company. Declarant hereby reserves for itself, its successors and assigns, and hereby grants to the Association, a perpetual, exclusive right and easement to enter upon and occupy the Well Sites (for the purpose of operating the Water System) in the event the owner thereof should ever fail to operate the Water System in a manner sufficient to provide an adequate supply of potable water to the Subdivision. Such easement may be transferred to any person or entity later charged with operating the Water System. The Water System shall be the sole source of water supplies to the Subdivision, and no well may be dug or constructed on any Lot for the purpose of providing domestic water supply. Provided, however, and notwithstanding the foregoing, in the event that any Owner of a Waterfront Lot operates or uses any type of irrigation system to service the landscaping and/or other exterior areas on such Waterfront Lot, all water necessary for the operation and use of such irrigation system shall be obtained from the Lake through lines and/or other equipment approved by Declarant and any regulatory body having jurisdiction.

Section 22. Marine Toilets. No water craft equipped with a marine toilet having a fixed or portable holding tank, or a through hull or overboard discharge toilet, shall be permitted at any Waterfront Lot Owners' docks or piers, unless otherwise approved by the Declarant or Architectural Control Committee. No water craft equipped with a marine toilet having a fixed or portable holding tank, or a through hull or overboard discharge toilet, shall be permitted at the Piers or Boatslips shown on the Map, or such additional Pier and Boatslips as are added pursuant to a Supplemental Declaration as set forth in Article II, Section 2 of this Declaration.

Section 23. Docks and Piers. Only the Owner of a Waterfront Lot may construct one (1) pier within the Pier Zone adjacent to said Waterfront Lot (in accordance with the applicable provisions of the Guidelines), provided that such Lot is not located in an area where the narrowness of a cove precludes construction of a dock or pier as determined by Duke Energy Corporation and/or any governmental entity having jurisdiction at the time such improvements are to be constructed.

The placement, construction, or use of any pier, dock, boatslip structure or other improvement within or upon the waters of the Lake is and shall be subject to each of the following:

- (a) easements, restrictions, rules and regulations for construction and use promulgated by the Association;
- (b) all laws, statutes, ordinances and regulations of all Federal, State and local governmental bodies having jurisdiction thereon, including without limitation the Federal Energy Regulatory Commission; and
- (c) rules and regulations, privileges and easements affecting the Property and the waters and submerged land of the Lake established by Duke Energy Corporation, its successors and assigns. (Duke Energy Corporation controls access to, and the use and



level of, the waters of the Lake. All Owners, the Association and the Declarant must receive a permit from Duke Power [or a successor manager of the Lake, under authority from the Federal Energy Regulatory Commission] prior to any alterations therein.)

No pier, dock, boatslip structure or other similar improvement shall be constructed by Waterfront Lot Owners outside of the area designated as "Pier Zone" on the Map or in any Supplemental Declaration or other document which may be filed pursuant to the provisions of this Declaration. Additionally, no boat (including a houseboat) docked at a fixed pier or a floating boat dock (appurtenant to any Waterfront Lot) shall be located outside the Pier Zone. Generally, any waterfront improvement should have a low profile and open design to minimize obstruction of neighbors' views. Two level boat houses or docks will not be allowed.

Section 24. Boat Ramps. 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.

Section 25. Mail and Newspaper Boxes. All mail and newspaper boxes shall be constructed or installed on any Lot in accordance with the applicable provisions of the Guidelines.

Section 26. Animals. No animals, livestock or poultry shall be raised, bred or kept on any portion of the Property except that dogs, cats or other household pets may be kept, but not for any commercial purposes, provided that they do not create a nuisance (in the judgment of the Board) such as, but without limitation, by noise, odor, damage or destruction of property or refuse. The number of household pets kept or maintained outside the Dwelling on a Lot shall not exceed three (3) in number, except for newborn offspring of such household pets which are all under nine (9) months in age. Dogs shall at all times whenever they are outside of a Dwelling be on a leash or otherwise confined in a manner acceptable to the Board. Animal control authorities shall be permitted to enter the Development and the Property to patrol and remove pets and wild animals. All pets shall be registered, licensed and inoculated as required by law. No fenced dog enclosure or other structure for pets may be constructed or maintained on any Lot unless the same has been approved in writing by the Architectural Control Committee.

Section 27. Governmental Requirements; Lake Buffer Guidelines. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to the Lot(s) or other portion of the Property owned by such Owner. Furthermore, each Owner shall comply with the conditions, limitations and restrictions set forth in the Lake Buffer Guidelines.

Section 28. Sewage Disposal: Septic Easements. Every Lot shall either be served by a septic system approved by the appropriate governmental agency for the disposal of sewage or connected to a private or public sewage disposal system. Declarant makes no representations regarding the future availability of municipal sewer service. All septic systems or other private sewage disposal systems shall be approved by, and constructed and maintained in accordance with all the regulations and requirements of, the Architectural Control Committee (including all requirements set forth in the Guidelines) and all governmental authorities and regulatory agencies having jurisdiction. All Owners, by purchasing property subject to this Declaration, acknowledge that any governmental permit or approval allowing for the construction and operation of a septic system or other private sewage disposal system may be limited in duration in accordance with the terms thereof, and neither Declarant, nor the Association, nor the Architectural Control Committee, nor the officers, directors, members, employees, agents or affiliates or any of them, shall have any liability arising directly or indirectly out of the inability of an Owner to obtain any such permit or approval (including an extension or continuation) following the initial expiration thereof.

Non-exclusive easements for the purpose of providing septic service and for use as septic drainage fields (the "Septic Easements") are hereby reserved and granted, over, across and under the Septic Easement Areas, labeled as "Septic Lot Easement", "C.O.S. Septic", or "Common Open Space Septic Lot" on the Map, to and for the benefit of the Association and the Septic Lot Owners, as more particularly provided herein. Each of the Septic Easements shall be an appurtenance to and run with the title to the Lot it services and for which it is reserved. Any deed, deed of trust, mortgage, transfer or other conveyance of any of said Lots shall also transfer or convey the Septic Easement appurtenant to such Lot, even if not expressly included therein. Each Septic Easement shall grant to the Septic Lot Owner and the Association and shall reserve in favor of Declarant the right to construct, install, excavate, dig, build, maintain, operate, remove and reinstall a septic system and related lines, equipment and apparatus in and upon the Septic Easement Area over which such Septic Easement is reserved, and to clear (and continue to clear as necessary) all trees, brush and other plants and to remove all rocks if necessary for the proper construction, installation and maintenance of said system and related lines, equipment and apparatus, all at the sole expense of the Owner of the Lot which the septic system is to service; provided, however, that if the need to repair said septic system is caused by the negligent or willful act of the Association, its successors and assigns, their agents, employees, members, invitees or licensees, then the cost to repair shall be borne by the Association or its successors and assigns. Except for damage caused by the negligent or willful act of the Association, its successors and assigns, their agents, employees, members, invitees or licensees as provided above, the Owner of the Lot which the septic system is to service shall promptly and reasonably restore any portion of the surface of the Septic Easement Area (but not trees, brush or other plants, except grass) disturbed by the installation or maintenance of said septic system. Should the Owner of such Lot fail to so restore the surface of such Septic Easement Area, in the sole judgment of the Declarant or the Board of Directors, then the Board of Directors shall have the power to specially assess such Owner for the cost of said restoration by Special Individual Assessment pursuant to Section 6 of Article V.

Some Septic Easement Areas may not be accessible without crossing portions of other Septic Easement Areas. Therefore, in addition to the above-described rights, the Owners of each of the Septic Lots, their agents, independent contractors, successors and assigns, are hereby granted the right of ingress, egress and regress over and across those portions of other Septic Easement Areas necessary to obtain access to the Septic Easement Areas benefiting their Septic Lots.

The Owner of the Septic Lot for which an Off-Site Septic System is being installed shall be responsible for obtaining all necessary environmental permits and other permits for the use of said Off-Site Septic System and shall hold the Association, its successors and assigns, harmless from any loss, damage or liability relating thereto, except to the extent that such loss, damage or liability results from the negligent or willful act of the Association, its successors and assigns, their agents, employees, members, invitees or licensees. Prior to the installation of an Off-Site Septic System within the Septic Easement Area, the Owner of the Lot for which the Off-Site Septic System is being installed shall have the proposed location of such Off-Site Septic System staked and approved by the appropriate governmental authorities, and such Off-Site Septic System shall be approved by, and constructed and maintained in accordance with all regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction thereof. The Owner of the Septic Lot to which a Septic Easement Area is appurtenant shall be responsible to operate and maintain the Off-Site Septic System located thereon at such Owner's sole cost and expense.

The Association shall hold fee simple title to the Septic Easement Area subject to the Septic Easement and subject to Declarant's right to buy back the Septic Easement Area as specified in the Deed from Declarant to the Association. Provided, however, that if the Septic Easement Area is at any time reconveyed to Declarant, the property shall be subject to the single-family residential use restrictions set forth in Article IX, Section 1 of this Declaration. For so long as the Subdivision is not serviced by a public or private sewer line, the Association shall not transfer, mortgage, pledge, encumber or otherwise convey the Septic Easement Area or any portion thereof to any other party.

The Septic Easements hereby granted and reserved shall run with the title to the Septic Lots to which they are appurtenant and shall be in full force and effect until such time as the Subdivision is serviced by a public or private sewer line servicing said Septic Lots, such that there is no need for a septic system servicing said Septic Lots. At such time as such Septic Lots are connected to a public or private sewer line and are serviced thereby, then the Septic Easements reserved and granted hereby shall terminate and shall thereafter be null and void and of no further force and effect. If Declarant exercises its option to repurchase the Septic Easement Areas upon the termination of the Septic Easement, the Septic Easement Areas shall no longer be subject to the terms of this Declaration, except for the single-family residential use restrictions set forth in Article IX, Section 1 of this Declaration.

Declarant hereby reserves and grants unto itself, its successors in interest, and assigns, a non-exclusive easement benefiting Declarant and burdening each Septic Lot to which a Septic Easement is appurtenant for the purpose of connecting any residence(s) upon such Septic Lot(s)

to any public or private sewer line providing service accessible to such Septic Lots, including access across the Septic Lots and the right to install any pipes and apparatus as may be necessary to connect any such residence(s) to such sewer line (the "Sewer Connection Easement"). By reserving the Sewer Connection Easement, Declarant has not obligated itself or its successors or assigns to connect any public or private sewer line to the above-described Lots to make any sewer service available to such Lots and the exercise of such rights and the Sewer Connection Easement shall be at the sole discretion of Declarant, its successors in interest and assigns.

Notwithstanding any provision herein to the contrary, the Septic Easement conveyed hereby is subject to the rights of the public and other interested parties including, but not limited to, the State Department of Transportation or other applicable governmental entities in the Public Road.

Section 29. Encroachment Agreement with the North Carolina Department of Transportation. The pipes, which are a part of the Off-Site Septic Systems, transporting the sewage from the Septic Lots to the Septic Easement Areas, will be or have been constructed within the rights-of-way of the Roadways which will be maintained by the Association as set forth in Section 6 of Article IV until accepted for dedication and public maintenance by the North Carolina Department of Transportation or other governmental entity. Prior to such acceptance for public maintenance, the North Carolina Department of Transportation will require all Lot Owners to execute an Encroachment Agreement to allow the Association, Declarant and/or a Septic Lot Owner to have the right to construct, install, excavate, dig, build, maintain, operate, remove and reinstall septic lines, pipes and related equipment and apparatus within and upon the road rights-of-way adjacent to the Lots. Upon the request of the Association or Declarant, each Lot Owner, by acceptance of a deed of a Lot in Woodland Bay, agrees to execute any such Encroachment Agreement required by the North Carolina Department of Transportation or other governmental entity. In the event a Lot Owner does not execute the requested Encroachment Agreement, the North Carolina Department of Transportation will not accept the Roadways for dedication and will not maintain the Roadways as public roads and therefor, the Association will be required to continue to maintain the Roadways. Provided, however, that the Association shall have the power and right to levy a Special Individual Assessment as provided in Section 6 of Article V against any Lot Owner(s) who has failed to execute an Encroachment Agreement, thereby resulting in the failure of the North Carolina Department of Transportation to accept the Roadways for maintenance, in the amount of any required expenditures incurred by the Association in maintaining the Roadways. The failure of the North Carolina Department of Transportation to accept the Roadways for maintenance may also prevent school buses from using the Roadways.

Section 30. Septic System Inspections and Septic Inspection and Repair Easement. The Association shall cause all private Septic Systems located within the Subdivision to be inspected no less than every six (6) months. Such inspections shall be conducted in order to confirm that each such system is properly functioning and is generally in compliance with any applicable laws, ordinances or governmental regulations. If an inspection reveals that a Septic System is not functioning properly, or is otherwise not in compliance with any applicable law, ordinance or regulations, the inspector shall notify the Association and any other party or agency

as required by law. The Association shall notify the Owner of the Lot to which the Septic System is appurtenant of the problem or noncompliance and such Owner shall be responsible for immediately repairing the Septic System at such Owner's sole cost and expense and providing the Association, within thirty (30) days, with proof of such repair. The Association shall be authorized to notify any applicable governmental or regulatory agencies or officials of the malfunctioning or noncompliance of any Septic System located within the Subdivision.

The foregoing notwithstanding, neither Declarant, the Association, nor its directors, officers, agents or employees shall be responsible for damages or otherwise to anyone by reason of mistake of judgment, omission, negligence or nonfeasance arising out of the inspection services performed pursuant to this Declaration including, without limitation, any damages to any Lot or property by reason of the failure to inspect or the failure of such inspections to detect any malfunction, damage or noncompliance with law.

Declarant hereby reserves a non-exclusive perpetual easement over all property within the Subdivision, including Lots, benefiting Declarant and the Association for the purposes of conducting the Septic System inspections and repairing and/or replacing the Septic System if an owner fails to repair or replace the Septic System within thirty (30) days of notification by the Association. The Board of Directors shall have the right to levy a Special Individual Assessment against such Lot Owner pursuant to Section 6 of Article V hereof to recover the costs and expenses incurred by the Association in maintaining, repairing or replacing the Lot Owner's Septic System.

Section 31. Additional Shoreline Improvements Requirements. Duke Energy Corporation has prepared maps of the Lake Wylie ("Lake") and Lake shoreline, which show areas of shoreline within the Subdivision that Duke Energy Corporation (as Lake manager, under authority granted by FERC) has designated as "Environmental Areas" and "Impact Minimization Zones" ("IM Zones"). If a Lot has an "Environmental Area" or "IM Zone" on it, the ability to develop and use the Lot may be affected, and the Owner may be required to obtain the permission of Duke Energy Corporation before undertaking certain development activities upon or constructing improvements on or adjacent to the Lot, as set forth below.

(a) Environmental Areas. Environmental Areas are vegetated areas or cove heads with stream confluence located on them. Duke Energy Corporation restricts any construction (including, but not limited to, the construction or placement of piers and docks), and any related excavation or shoreline stabilization within these Environmental Areas in the following circumstances:

(i) if stable, emergent vegetation (minimum lakeward width of 5 feet) composes greater than 50% of the area between full pond elevation and a depth of five (5) feet from full pond for a minimum linear distance of 100 feet;

(ii) if intermittent or permanent streams enter the upper ends of shallow coves (with or without vegetation); and

(iii) for cove heads with a stream, but lacking emergent vegetation, the environmental classification extends fifty (50) feet from the edge of the intersection of the stream centerline or the sediment delta, when present, and the full pond contour.

To the best of Declarant's knowledge, based on a review of the Duke Energy Corporation maps, it appears that portions of the shoreline on Lots 7, 8, 14, 15 and 16 have been identified as Environmental Areas.

(b) Impact Minimization Zones. The maps prepared by Duke Energy Corporation also identify certain lands and waters within certain areas of the Subdivision as Impact Minimization Zones ("IM Zones"). These IM Zones are areas that have specifically identified importance on the Lake from a scenic, environmental, or cultural standpoint. Protection of those important values does not necessarily preclude access to the Lake. To the best of Declarant's knowledge, based on a review of the Duke Energy Corporation maps, none of the Lots in the Subdivision contain IM Zones. The owners of Lots containing IM Zones must use efforts to avoid any disturbance of IM Zones, but if avoidance is not a practicable alternative, then the following specific Lake use restrictions will apply:

No boat ramps (except those required for public recreation), no excavation and no stabilization will be allowed within the boundaries of the IM Zones. Construction within these areas may also be subject to specific mitigation requirements imposed by the Federal, State or local resource agencies.

Section 32. Shoreline Stabilization and Dock Improvements. Prior to any earth-disturbing activity, shoreline stabilization measures shall be implemented and undertaken by the Owner or Owner's builder in accordance with the applicable provisions of the Guidelines and as described and attached hereto as Exhibit "D".

ARTICLE X

ARCHITECTURAL, LANDSCAPE AND LAKE BUFFER GUIDELINES

Section 1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including, without limitation, site preparation on any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, or any landscaping or cutting of trees on any Lot or in the Lake Buffer Area, shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Section 7 hereof, until: (a) the Architectural Control Committee, appointed as hereinafter provided, has approved the plans and specifications therefor and the location of such Improvements and has given its written approval for commencement of construction, all in accordance with the terms and requirements in the Guidelines; (b) the fees set forth in or contemplated in this Article X have been paid; and (c) the contracts identified in this Article X have been executed. The

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

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

Section 2. Composition of Architectural Control Committee. So long as Declarant owns any Lot or other portion of the Property, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than seven (7) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Development. In the event of the death or resignation of any member of the Architectural Control Committee, the party or body then having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint a successor. Members of the Architectural Control Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the party or body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee as described in this Article X.

Section 3. Architectural, Landscape and Lake Buffer Guidelines.

(a) The Architectural Control Committee shall, from time to time, publish and promulgate architectural, landscape and lake buffer guidelines (the "Architectural, Landscape and Lake Buffer Guidelines"). The Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements. The Guidelines shall also set out, among other things, the procedures for submission, review and approval of plans and specifications (for the construction of Improvements) to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee, as more specifically described in Section 8 hereof. In any event, the Guidelines shall not be binding upon the Architectural Control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials (for the construction of Improvements) submitted to the Architectural Control Committee for approval.

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

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

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

Section 4. Definition of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes, etc.); storage sheds or areas; piers, docks and boatslips; roofed structures; parking areas; fences; statuary and fountains; pet "runs," lines and similar tethers or enclosures; landscaping (including cutting trees); hedges; mass plantings; irrigation equipment, apparatus and systems; driveways; signs; site preparation; changes in grade or slope; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration are to permit control of the architectural design and landscaping and to establish quality standards for construction and construction activity in the Development and to help preserve values of properties in the Development. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owners of property in the



Development and to Declarant, and to the values of their respective properties in the Development, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but not the obligation) to enforce and/or to prevent any violation of the provisions contained in this Article X by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and grants unto the Architectural Control Committee, the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee or the Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Guidelines, the terms of this Declaration or any Additional Declaration, or the terms of any amendments hereto or thereto.

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

Section 6. Failure of the Architectural Control Committee to Act. If the Architectural Control Committee fails to approve or disapprove any plans and specifications and other submittals which conform (and which relate to Improvements which will conform) with the requirements hereof and of the Guidelines or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Guidelines, of all items that were to have been submitted to the Architectural Control Committee, and provided the Architectural Control Committee shall again fail to approve or disapprove of such plans, specifications and other submittals within ten (10) days after additional written request to act on such items is delivered to the Architectural Control Committee following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the Architectural Control Committee has approved such conforming plans and specifications and other submittals, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration or any Additional Declaration, and EXCEPT FURTHER, that the Architectural

Control Committee shall not be deemed to have waived any of the requirements set forth in Section 8 or Section 9 hereof. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 7. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Control Committee has not expressly and in writing approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration against any other Owner.

Section 8. Fees Required by the Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each Person submitting plans and specifications for Improvements to the Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant as a condition to commencement of construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established by, and may be increased from time to time by, the Architectural Control Committee and shall be set forth in the Guidelines.

Section 9. No Construction Without Payment of Fees. Notwithstanding anything contained in this Article X to the contrary, plans and specifications for Improvements to be constructed on a Lot or other portion of the Property shall not be deemed to have been properly submitted unless and until any and all fees required by the Architectural Control Committee to be paid in connection with such Improvements, as provided in Section 8 above, shall have been paid to the Architectural Control Committee or Declarant as required.

Section 10. Notices and Submittals. Notices and submittals to the Architectural Control Committee shall be in accordance with the notice provisions set forth from time to time in the Guidelines.

Section 11. Separate Committee for Changes to Existing Improvements. The Board shall have the right, power and authority, in its sole discretion, to appoint a committee separate

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

Section 12. Limitation of Liability. No member of the Architectural Control Committee or the Architectural Changes Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article X. Neither the Architectural Control Committee, nor the Architectural Changes Committee (if applicable), nor the members thereof, nor the Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Control Committee or the Architectural Changes Committee (if applicable) shall not be deemed or construed as a representation or warranty of the Architectural Control Committee or the Architectural Changes Committee (as the case may be), Declarant, or any officer, director, member, employee, agent or affiliate of any of them, (i) that Improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasi-governmental laws, ordinances, rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefor is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, any Association, the Architectural Control Committee, the Architectural Changes Committee (if applicable), the Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity

affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 13. Miscellaneous. Members of the Architectural Control Committee and, if applicable, the Architectural Changes Committee, in the sole discretion of the party or body appointing such members (i.e., either Declarant or the Board, as the case may be) may be compensated for their services. The Association shall reimburse members of the Architectural Control Committee and the Architectural Changes Committee (if applicable) for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee and the Architectural Changes Committee (if applicable), including those incurred in connection with the exercise of their enforcement or other powers as provided herein, shall be borne by the Association; provided, however, nothing herein shall be deemed to negate the Association's right to an award of court costs, attorneys' fees and expenses in accordance with Section 5 of this Article X.

## ARTICLE XI

### INSURANCE

Section 1. Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) Fire. All improvements and all fixtures included in the Common Area, including, but not limited to, the Entrance Monument(s), Pier, Lake Access Area, Boatslips and Roadways (prior to acceptance by governmental authorities for maintenance), and all personal property and supplies belonging to the Association, shall be insured in an amount equal to 100% of the current replacement cost up to the amount specified in the insurance policy (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board of Directors with the assistance of the insurance company providing coverage. The Board of Directors shall, at least annually, review the insurance coverage required herein and determine 100% of the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against loss or damage by fire, windstorm, vandalism and malicious damage and all perils covered by a standard "all risk" insurance policy. All such policies shall provide that adjustment of loss shall be approved by the Board of Directors and the insurance company. In addition to the provisions and endorsements set forth in this Article, the fire and casualty insurance described herein shall contain the following provisions:

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

(ii) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control

of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

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

(b) Public Liability. The Board of Directors shall also be required to obtain and maintain to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to the Development, covering each member of the Board of Directors, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas; provided, however, that in no event shall the amounts of such public liability insurance ever be less than \$2,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the Property or any portion thereof. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Owners, such public liability insurance shall be in amounts of not less than \$2,000,000 per occurrence for claims for bodily injury and property damage.

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

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

Section 2. Premium Expense. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged as a common expense to be collected from the Owners pursuant to Articles V, VI and VII hereof.

Section 3. Special Endorsements. The Board of Directors shall use diligent efforts to secure insurance policies that will provide for the following:

(a) recognition of any insurance trust agreement entered into by the Association;

(b) coverage that may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least forty-five (45) days prior written notice to the named insured, any insurance trustee and all Mortgagees; and

(c) coverage that cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner or any Mortgagee.

Section 4. General Guidelines. All insurance policies purchased by the Board of Directors shall be with a company or companies licensed to do business in the State of North Carolina and holding a rating of "A-10" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and shall be issued in the name of, and provide that all proceeds thereof shall be payable to, the Association. Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 5. Owner's Personal Property. The Association or the Declarant shall not be liable in any manner for the safekeeping or conditions of any boat or other personal property belonging to or used by any Owner or his family, guests or invitees, located on or used at the Piers, Boatslips, Parking Area or other Common Areas. Further, the Association or the Declarant shall not be responsible or liable for any damage or loss to or of any boat, its tackle, gear, equipment or other property located thereon, or any other personal property of any Owner, his family, guests or invitees located on or used at the Pier, Boatslips, Parking Area, or other Common Areas. Each Owner shall be solely responsible for all such boats and other personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase, at such Owner's sole cost and expense, of any liability or other insurance for damage to or loss of such property. Every Lot Owner shall submit to the Association a Certificate of Insurance showing proof of boat liability insurance coverage at the time of initiating the use of the Pier and Boatslips. By virtue of taking title to a Lot within the Development, each Owner acknowledges that neither the Association nor Declarant has any obligation to provide any insurance for any portion of such Owner's Lot or any Dwelling or other property located thereon.

## ARTICLE XII

## RIGHTS OF MORTGAGEES

wit: Section 1. Rights of Mortgagees. Any Mortgagee shall have the following rights, to

- (a) to be furnished at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year;
- (b) to be given notice by the Association of the call of any meeting of the Association's membership, and to designate a representative to attend all such meetings;
- (c) to be given prompt written notice of default under the Declaration, the Bylaws or any rules and regulations promulgated by the Association by any Owner owning a Lot encumbered by a Mortgage held by the Mortgagee, such notice to be sent to the principal office of such Mortgagee or the place which it may designate in writing;
- (d) to be given prompt written notice of any casualty loss to the Common Areas, or loss by eminent domain or other taking of (i) the Common Areas or (ii) any Lot encumbered by a Mortgage held by the Mortgagee;
- (e) to be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (f) to be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property.

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

Section 2. Books and Records. Any Mortgagee will have the right to examine the books and records of the Association during any reasonable business hours.

Section 3. Payment of Taxes and Insurance Premiums. The Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned

by the Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

## ARTICLE XIII

### CONDEMNATION

Section 1. Partial Taking Without Direct Effect on Lots. If part of the Property shall be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all compensation and damages for and on account of the taking of the Common Areas, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors in trust for all Owners and their Mortgagees according to the loss or damages to their respective interests in such Common Areas; provided, however, that all compensation and damages for and on account of the taking of Pier and Boatslips, Lake Access Area or other similar Common Areas used to access Boatslips shall be held in trust for all applicable Owners of Boatslip Lots and their Mortgagees according to the loss or damages to their respective interests in such Pier and Boatslips, Lake Access Area or other similar Common Areas used to access Boatslips. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Areas, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Areas. Such proceeds shall be used to restore the Common Areas with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board of Directors, in its sole discretion. Nothing herein is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Areas. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such allocation, the award shall be divided between affected Owners and the Association, as their interests may appear, by the Board of Directors in its sole discretion.

Section 2. Partial or Total Taking Directly Affecting Lots. If part or all of the Property shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific easements assigned to any Lot) is taken, the Association shall have the right to act on behalf of the Owners with respect to Common Area as provided in Section 1 of this Article and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All compensation and damages for and on account of the taking of any one or more of the Lots or improvements, fixtures or personal property thereon, shall be paid to the Owners of the affected Lots and their Mortgagees, as their interests may appear. If all of the Property shall be taken such that the Association no longer has reason to exist and shall thereafter be dissolved and/or liquidated, all compensation and damages



for and on account of the taking of the Common Areas shall be distributed with the other assets of the Association in accordance with the Articles of Incorporation.

Section 3. Notice to Mortgagees. A notice of any eminent domain or condemnation proceeding shall be sent to all Mortgagees who have served written notice upon the Association in accordance with Article XII hereof.

#### ARTICLE XIV

#### EASEMENTS AND OTHER RIGHTS

Declarant, in addition to any other easements granted or reserved herein, hereby reserves unto itself, its successors and assigns, and grants to the Association and any other persons or entities hereinafter set forth, the following non-exclusive easements on, upon, over, across, through and under the Property. In addition, Declarant hereby reserves unto itself, its successors and assigns, the right, on behalf of itself and the Association, to grant additional easements on, upon, over, across, through and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Development, including, but not limited to, easements in favor of Declarant, the Association and any designees of the foregoing, the Owners, and all their family members, guests, invitees and lessees and to various governmental and quasi-governmental authorities and agencies and private concerns for the purposes and uses hereinafter specified.

Section 1. Easements and Cross-Easements on Common Areas. Declarant, for itself, its designees and the Association, reserves the right to impose upon the Common Areas henceforth and from time to time such easements and cross-easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, governmental and quasi-governmental purposes, sewer, Septic Systems, water, gas, drainage, irrigation, lake access and maintenance, storm water management, lighting, television transmission, garbage and waste removal, emergency services, and the like as it deems to be in the best interests of, and necessary and proper for, the Development or any portion thereof.

Section 2. Use of Common Areas. Subject to any limitation or restriction set forth in this Declaration, Declarant declares that the Common Areas are subject to a perpetual nonexclusive easement in favor of Declarant, the Association and their designees, the Owners and all their family members, guests, invitees and lessees, and appropriate governmental and quasi-governmental agencies to use the Common Areas for all proper and normal purposes including, but not limited to, ingress, egress and access for the furnishing of services and utilities and for such use of the facilities as the same are reasonably intended in accordance with the terms of this Declaration. If ingress or egress to any Lot or other portion of the Property is through any Common Area, any conveyance or encumbrance of such area is subject to this easement.

Section 3. Right-of-Way Over Roadways. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Association, its agents, employees, lessees, invitees, designees, successors and assigns, and to each Owner of a Lot, their family members, guests, invitees, successors and assigns, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Roadways for the purpose of providing access, ingress and egress to and from, through and between the Property.

Section 4. Right of the Association and Declarant to Enter Upon the Common Area. Declarant hereby reserves for the benefit of itself, its successors in interest and assigns, and grants to the Association and all agents, employees or other designees of Declarant or the Association an easement for ingress, egress and access to enter upon or over the Common Areas for the purposes of inspecting any construction, proposed construction, or Improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Declarant or the Association, as appropriate. Such easement includes an easement in favor of the Association and Declarant to enter upon the Common Areas now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter redesignated or as Declarant otherwise determines them to be reasonably suited. Notwithstanding the foregoing, nothing contained herein shall be interpreted as imposing any obligation upon the Association or Declarant to maintain, repair, or construct Improvements which an Owner is required to maintain, construct or repair.

Section 5. Easement for Encroachments. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, the Owners, their successors and assigns, easements for encroachments, to the extent necessary, in the event any portion of the Improvements located on any portion of the Property now or hereafter encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching Improvements in favor of Declarant, the Association, the Owners and all their designees.

Section 6. Utility and Drainage Easements. The Property shall be subject to all easements and rights-of-way for utilities and drainage shown on the Maps, including, but not limited to, those certain easements shown and designated on the Maps as:

- (a) "Utility and Drainage Easement";
- (b) "Public Storm Drainage Easement"; and
- (c) "Septic Easement."

Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Association, its successors and assigns.

Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along a 10-foot strip of land adjacent to the front boundary line of all Lots, a 5-foot strip of land adjacent to the side boundary lines of all Lots and a 5-foot strip of land adjacent to the rear boundary line of all Lots (other than those Lots which front the Lake) for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, gas, telephone service, cable service, water, irrigation, septic sewer and drainage facilities, storm drainage and/or other utilities. Within the above-described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may change the direction or flow of drainage channels in the easements. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements.

Section 7. Declarant's Right to Assign Easements; Maintenance of Easement Areas.

Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any Improvements in such areas, which are not to be maintained by the Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Declarant and/or the Association may exercise the rights reserved in this Article for the purpose of enforcing the provisions of this Section 7. Notwithstanding the above, the Association and/or Declarant shall have the right, but not the obligation, to maintain the landscaping in the easement areas on any Lot.

Section 8. Easement Reserved for the Association and Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Association at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Article as well as the maintenance and repair rights described below and for the carrying out by Declarant or the Association of the rights, functions, duties and obligations of each hereunder; provided, that any such entry by Declarant or the Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Association or their employees or agents shall be repaired by Declarant or the Association, as the case may be, at the expense of Declarant or the Association, as the case may be.

Section 9. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Development, by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Association Members or Owners.

Section 10. No Merger of Easements. The easements hereby established shall not be terminated by merger or otherwise, except upon execution and recordation of an instrument specifically terminating any such easement.

## ARTICLE XV

### GENERAL PROVISIONS

Section 1. Enforcement. Declarant, being the developer of other subdivisions in the area of the Development, wishes to maintain a high standard in the appearance and quality of the Development. Though damages would be difficult to measure, the failure of the Owners and the Association to abide by the terms, covenants and restrictions contained in this Declaration would result in irreparable damage to Declarant and its reputation. Accordingly, Declarant, during the term of this Declaration, as well as the Association or any Owner or Owners, shall have the right, but not the obligation, to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such restriction, covenant, reservation, lien or charge, either to restrain violation thereof or to recover damages therefor. Each Owner and the Declarant shall have all appropriate remedies at law or in equity to enforce the provisions of this Declaration and the Bylaws and any duly authorized rules and regulations governing the Development against the Association.

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

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. Subject to the unilateral rights of Declarant pursuant to Article II hereof, this Declaration may be amended or modified at any time and from time to time by an agreement signed by Owners holding sixty-seven percent (67%) or more of votes appurtenant to the Lots which are then subject to this Declaration; provided, however, any amendment to this Declaration must be consented to by Declarant so long as Declarant is the Owner of any Lot in the Development. It is further provided that any amendment affecting the Piers and Common Boatlips, and any improvements located thereon, must be approved by a vote of sixty-seven percent (67%) or more of the votes appurtenant to the Boatlip Lots and must be consented to by Declarant so long as Declarant is the Owner of any Lot in the Development. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record.

Notwithstanding anything in this Section 3 to the contrary, Declarant may, at Declarant's option, amend this Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause this Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency. In addition, Declarant, without obtaining the approval of any other person or entity, may make amendments or modifications hereto which are correctional in nature only and do not involve a change which materially adversely affects the rights, duties or obligations specified herein.

Section 4. Term. The covenants and restrictions of this Declaration are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of thirty (30) years from the date this Declaration is recorded; after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by eighty percent (80%) or more of the then Owners of the Lots, plus Declarant, has been recorded, agreeing to terminate said covenants and restrictions in whole or in part. Provided, however, that the residential use restrictions set forth in Article IX of this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them in perpetuity.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by its officers thereunto duly authorized and its corporate seal to be hereunto affixed, all the day and year first above written.

[CORPORATE SEAL]  
ATTEST:  
Assistant Secretary  
ASST. Secretary

CRESCENT COMMUNITIES N.C., INC.  
a North Carolina corporation

By: [Signature]  
Vice President

STATE OF NORTH CAROLINA

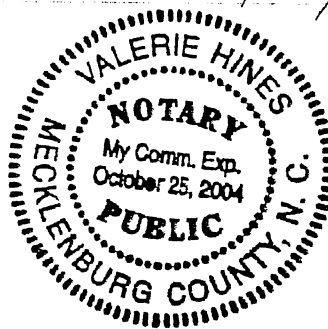
COUNTY OF MECKLENBURG

This 23<sup>rd</sup> day of October, 2000, personally came before me Stephen M. Schreiner who being by me duly sworn says that he is Vice President of Crescent Communities N.C., Inc., a North Carolina corporation; and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed by him for and on behalf of said corporation by its authority duly given. And the said Vice President acknowledged said instrument to be the act and deed of said corporation.

Valerie Hines

Notary Public

My Commission Expires: 10/25/04



NORTH CAROLINA, GASTON COUNTY

The foregoing certificate of

Valerie Hines

Notary Public of Mecklenburg

Co., N.C.

is ~~not~~ certified to be correct. This instrument was presented for registration and recorded in this office at Book 3146 Page 356

this 24<sup>th</sup> day of October, 2000 at 3:35 o'clock P. M.

ALICE B. BROWN, REGISTER OF DEEDS

By: Bene J. Robertson Deputy/Agent