



DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (hereinafter "Declaration") made this 5th day of April, 2002, by Quail Ridge Development, LLC, (hereinafter "Declarant"), a North Carolina limited Liability Company, having a North Carolina mailing address at 4110 Old Pineville Road, Charlotte, North Carolina, 28217.

BACKGROUND

Declarant is the record owner of a certain tract of land consisting of nineteen and 69/100 (19.69) acres, more or less, situated in the Huntersville Township, Mecklenburg County, North Carolina, the property being more particularly bounded and described in Exhibit "A", which is attached hereto and made a part hereof (said tract being hereinafter referred to as the "Property"). Huntersville Township has granted Declarant approval to develop the Property into forty eight (48) residential lots in accordance with a certain Plan (as that term is hereinafter defined), which Plan (and Huntersville Township's approval thereof) requires, inter alia, the construction and landscaping on a portion of the Property. Declarant further wants to provide for maintenance by the Association of certain Planted Areas within the Property. This Declaration is intended to be a master document creating certain covenants and restrictions relating to the Planted Areas.

NOW, THEREFORE, Declarant, intending to be legally bound, hereby declares that the Property, and any part thereof, as described in Exhibit "A" and shown on the Plan, is and shall hereafter be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, conditions, charges and liens, hereinafter set forth, all of which shall run with the land and shall be binding upon all parties having or hereafter acquiring any interest whatsoever in the Property, or any part thereof.

ARTICLE I DEFINITIONS

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

Section 1. "Architectural Review Committee" shall mean a committee of not less than three, nor more than five, individuals selected by the Association's Board of Directors to review plans and specifications as provided in Article X hereof and to make the determinations provided in said Article. Until December 31, 2006, the Declarant, unless the Declarant, by written recorded document, has assigned its rights under this Section 1 to the Association, shall exercise all of the rights and responsibilities herein set forth to be performed by the Architectural Review Committee.

Section 2. "Association" shall mean and refer to Quail Ridge Development, LLC, a North Carolina corporation, its successors and assigns.

Section 3. "Common Area" shall mean all real property owned by the Declarant or by the Association for the common use and enjoyment of the Owners and designated as "Common Area" on any plat of the Property duly recorded in the Mecklenburg County Public Registry, or designated as "Common Area" in this Declaration or in any supplementary declaration, and made subject to the provisions of this Declaration, such Common Areas including, but not being limited to, Alley Ways; and all right, title, and interest of the

Declarant or the Association in and to the Designated Maintenance Items, whether such Designated Maintenance Items are real or personal property, and whether, if such Designated Maintenance Items are personal property, they are located upon Common Area or upon a Home Site.

Section 4. "Declarant" shall mean and refer to Quail Ridge Development, LLC. and those of its successors and assigns, if any, to whom the rights of Declarant hereunder are specifically transferred by written instrument, subject to such terms and conditions as the Declarant may impose. The term "Declarant" shall also mean and refer to any entity of which Quail Ridge Development, LLC. is a partner, joint venture, or shareholder, which is formed to develop all or any part of the property described on Exhibit "A" attached hereto.

Section 5. "Designated Maintenance Items" shall mean the following items, which are located within the Alley Ways, and upon Common Area real property, and, to the extent specifically provided below, upon Home Sites:

- (a) Plants (including, but not limited to, trees, hedging, shrubs, flowers, ground cover and grass)
- (b) Light poles, fixtures, bulbs, traffic signs, wiring and all equipment related to the use thereof, except for such items as are maintained by a public utility company, to the extent they are so maintained.
- (c) Seasonal decorations
- (d) Alley Ways, including, but not limited to, signage, curbs and gutter, asphalt or other paving, crushed stone, striping, street signs, and storm drainage.
- (e) Subdivision Entrance Sign

Section 6. "Home Site" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded subdivision map of the Properties with the exception of any Common Area. In the event any Home Site is increased or decreased in size by Declarant by resubdivision, through recordation of a new subdivision plat, any such newly platted Home Site shall thereafter constitute a Home Site for the purposes of this Declaration.

Section 7. "Member" shall mean and refer to the owners, including Declarant, and every person or entity holding membership in the Association.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Home Site, which is a part of the Properties.

Section 9. "Alley Ways" shall mean and refer to the alleys identified as Poplar Path Alley, Locust Alley, Cypress Grove Alley, Linden Terrace Alley and Dogwood Breeze Alley on maps recorded in Map Book 36 at page 660 of the Mecklenburg Public Registry and those areas designed as Alley Ways by Declarant in deeds of portions of the Property, or on plats of portions of the Property owned by Declarant or with the consent of the then Owner of the parcel affected, or in Supplemental Declarations of Covenants, Conditions and Restrictions, which Alley Ways are for the use of all Owners, their guests, employees, and invitees, for the purpose of ingress, egress and regress from portions of the Property to public streets by vehicle or otherwise. All roadways constructed within said Alley Ways shall be initially constructed and installed by Declarant in accordance with all applicable governmental requirements and in accordance with the construction standards normally followed in similar first-class developments of the type contemplated by this Declaration.

Section 10. "Properties" or "Property" shall mean and refer to the "Existing Property" described in Article II, Section 1.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Mecklenburg County, North Carolina and is shown on map recorded in Map Book 36 at page 660.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Home Site shall be a member of the Association. Membership shall be appurtenant to and may not be separate from ownership of any Home Site.

Section 2. The voting rights of the membership shall be appurtenant to the ownership of the Home Sites. There shall be two classes of Home Sites with respect to voting rights.

- (a) Class A Home Sites. Class A Home Sites shall be all Home Sites except Class B Home Sites as the same are hereinafter described. Each Class A Home Site shall entitle the Owner(s) of said Home Site to the following votes:
 - (i) Each Class A Lot Home Site – one (1) vote
- (b) Class B Home Sites. Class B Home sites shall be all Home Sites owned by Declarant, which have not been converted to Class A Home Sites. The Declarant shall be entitled to five (5) votes for each Class B Home Site owned by Declarant.
 - (i) The Class B Home Site shall cease to exist and shall be converted to Class A Home Site when the Declarant has completed the construction of the structures and the deed has been transferred to the new owner.
- (c) For so long as Declarant holds any Home Site and notwithstanding any other provisions to the contrary herein contained in this Article III, if it shall appear at any time prior to December 31, 2005, that the voting formulae hereinabove established shall result in the Owner(s) of Home Sites other than Declarant being entitled to cast in the aggregate as many votes as, or more votes than, the aggregate number of votes entitled to be cast by Declarant, then, in such event, Declarant shall be entitled to cast a total number of votes equal to the total number of votes which all other Owner(s) (excluding Declarant) are entitled to cast, plus one additional vote. After December 31, 2005, the number of votes, which the Declarant shall be entitled to cast, shall be determined in accordance with subsections (a) and (b) of this Section 2 of Article III.

Section 3. Amendment. Notwithstanding the provisions of Section 2 above, so long as Declarant owns any Home Site, this Declaration and the Bylaws of the Association may not be amended without its written consent.

Section 4. Board of Directors. The Association shall be governed by a Board of Directors (the “Board of Directors”) in accordance with the bylaws of the Association (the “Bylaws”). Notwithstanding the provisions of Section 2 above, the Declarant shall have the right to appoint or remove by written notice to the Board of Directors any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events occurs:

- (a) Declarant no longer owns any Home Site;
- (b) Declarant surrenders the authority to appoint and remove members of the Board of Directors and officers of the Association by an express amendment to this Declaration executed and recorded by the Declarant; or
- (c) December 31, 2006.

ARTICLE IV PROPERTY RIGHTS

Section 1. Ownership of Common Areas. After conveyance of 75% of the Home Sites by Declarant to other Owners, Declarant shall convey the Common Area, including the Alley Ways, to the Association. Notwithstanding the recordation of any Map or any other action by Declarant or the Association, all Common Area shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public; provided, however, Declarant may, prior to such date, at its sole option, convey all or any part of designated Common Area to the Association. Notwithstanding the fact that the Declarant is still the owner of any of the aforesaid, the Association shall be responsible for the upkeep and maintenance of the same as soon as they are designated as Common Area by the Declarant or use by the Association or any Owner has commenced or the Association or any Owner has the right to use the same.

Section 2. Owner's Rights to Use and Enjoy Common Area. Except as limited by Section 3 of the Article IV, every Owner shall have a non-exclusive right and easement to use and enjoy the Common Area established initially and in all additions to the Property, which right and easement shall appurtenant to and shall pass with the title to every Home Site, subject to the following provisions;

- (a) The right of the Association to promulgate and enforce reasonable regulation governing the use of the same to insure the safety and rights of all Owners;
- (b) The right of the Association to suspend the voting rights and rights of an Owner to the use of any Common Area for any period during which any assessment against his Home Site 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 Association to dedicate or transfer all or any part of the Common Area to any public agency, commission, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Declarant and Members entitled to at least eighty percent (80%) of the votes appurtenant to all Class A Home Sites agree to such dedication or transfer and sign their agreement by a signed and recorded written document, provided that this Subsection shall not preclude the Board of Directors or the Association from using and/or granting easements for the installation and maintenance of water and sewerage systems, utilities, including CATV, and drainage facilities upon, over, under and across the Common Area without such agreement of the Members when such easements, in the sole opinion of said Board, are requisite or desirable for the convenient use and enjoyment of the Properties.
- (d) The right of the Association with the assent of Members entitled to at least eighty percent (80%) of the votes appurtenant to each class of Home Site (Class A and B), to mortgage, pledge, deed in trust, or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 3. Delegation of Use.

- (a) Family The right and easement of enjoyment granted to every Owner in Section 2 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Mecklenburg County, North Carolina.
- (b) Guest. The right and easement of enjoyment granted to every Owner in Section 2 of this Article may be utilized by guests of Owners or contract purchasers subject to such rules and regulations governing said use as may be established by the Board of Directors.

Section 4. Owner's Easements for Ingress and Egress. Subject to the terms hereof, and to the rules and regulations established from time to time by the Association as herein provided, every Home Site shall be conveyed with a perpetual, non-exclusive right to use any Alley Way. Such easement shall exist whether or not it is mentioned in the deed of conveyance to such Home Site.

Section 5. Rules and Regulations Regarding Parking Rights. The Board of Directors may make such reasonable rules and regulations as it may elect with respect to the parking of vehicles within the Alley Ways, or on other areas within the Properties, and the use of the Alley Ways and Common Area, provided all such rules and regulations are applied uniformly to all Owners and their employees, agents, and invitees and do not unreasonably limit access to Home Sites. The Board of Directors may, in its sole discretion, prohibit parking on all Alley Ways without the approval of any Owner.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Home Site owned within the Properties, hereby covenants, and each Owner of any Home Site, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements and other purposes, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal or corporate obligation of the person(s), firm(s), or corporations(s) owing such property at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by the successors in title, but such unpaid assessment charges shall continue to be a lien upon the property against which the assessment has been made.

Section 2. Purposes of Assessments and Duties of Association. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement, and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, Alley Ways and Home Sites including, but not limited to, the cost of repair, replacement and additions thereto and the Designated Maintenance Items, the payment of taxes assessed against such property, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys to represent the Association when necessary, payments of principal and interest on funds borrowed for Association purposes, and such other needs as may arise.

Without limiting the generality of the above-described purposes, the Association shall be responsible for performing the following in a diligent and responsible manner and the assessments levied by the Association may be used for the following purposes:

- (a) To maintain all Alley Ways to the standard of maintenance which would be required by the state of North Carolina before it would accept such roads for maintenance, provided that this provision does not require that the width or configuration of the Alley Ways be as required before such roads would be accepted by the State of North Carolina for maintenance. In the event the roads are dedicated for public use and maintenance is taken over by the State of North Carolina or some other governmental body, the maintenance responsibilities of the Association shall cease. In the event public use and the State of North Carolina (or other governmental body) requires additional right-of-way, each Owner of a Home Site hereby agrees to dedicate sufficient property to accomplish such dedication for public use and, if necessary, each Owner agrees to execute any documents required by the appropriate governmental body or agency to effect the dedication of additional street right-of-way.
- (b) To maintain all Common Area and Alley Ways in accordance with the highest standards for such private facilities;
- (c) To Keep all Common Area and Alley Ways clean and free from debris and to maintain any other amenities in a clean and orderly condition, and to maintain the landscaping.
- (d) To pay all ad valorem taxes levied against the Common Area, Alley Ways and any other property owned by the Association;
- (e) To pay premiums on all hazard insurance carried by the Association and all public liability insurance carried by the Association and officers' and directors' liability insurance;
- (f) To pay all legal, management, accounting, architectural and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;
- (g) To maintain all Designated Maintenance Items located on Common areas, or, to the extent provided for hereinabove, on the Home Site.

Section 3. Maximum Annual Assessments. Until January 1, 2006, the maximum annual assessment for each Class "A" Home Site shall be as follows:

- (i) Each Class "A" Lot Home Site – \$200.00
- (a) From and after January 1, 2004, the maximum annual assessment for each of the above groups of Home Sites may be increased or decreased by the Board of Directors effective January 1 of each year, without a vote of the Members, but subject to the limitation that the percentage of any such increase shall not exceed 10% of the assessment for the previous year, or an amount equal to the percentage increase in the United States Department of Labor Consumer Price Index-All Urban Consumers (All Cities) from the effective date of the last annual assessment to the effective date of the annual assessment being established, whichever is greater, without a vote of the Members.
- (b) The Board of Directors may fix the annual assessment at an amount not in excess of the permitted maximum.
- (c) From and after January 1, 2006, the maximum annual assessment may be increased in excess of the above maximum assessment set forth in paragraph (a) without limitation if such increase is approved by no less than a majority of the votes appurtenant to the Class A Home Sites, cast in person or by proxy, at a meeting duly called for this purpose.
- (d) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by said Board.

Section 4. Special Assessment for Capital Improvements and Other Matters. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessment(s) for the purpose of defraying, in whole or in part, the cost of any construction, repair, or replacement of a capital improvement upon Common Area including fixtures and personal property related thereto, the Alley Ways, if they remain private, repayment of indebtedness and interest thereon, providing funds to pay for unforeseen or unbudgeted expenditures, borrowing of funds to make property comply with zoning ordinance(s), borrowing of money for capital improvements and pledging or mortgaging of Association property as security for loans, provided that any such assessment shall have the same assent of the Members as provided in Section 3 (c) of this Article. Such assessments shall be calculated evenly between the Class "A" Home Sites set forth above with respect to annual assessments.

Section 5. Assessment Rate and Collection. Both Annual and special assessments shall be collected on a quarterly, semiannually or yearly basis as billed by the Association. Notwithstanding any other provisions hereof to the contrary the assessments (special and annual) applicable to each Class "A" Home Site.

Section 6. Notice of Quorum for any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than fifteen (15) days nor more than forty-five (45) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to a cast fifty-one (51%) percent of all the votes appurtenant shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called subject to the same notice requirements, and if the same is called for a date not later than (60) days after the date of the first meeting, the required quorum at the subsequent meetings shall be on-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Due Date; Certificate of Payment.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date shall incur a one-time late charge in the amount of \$25.00 and if not paid within thirty (30) days after the due date shall bear interest from the due date at a maximum rate of sixteen (16%) percent per annum or at the rate established by the Board of Directors at the beginning of the fiscal year of the Association, whichever is less. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorneys fees of 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 non-use of the Common Area, Alley Ways or other property of the Association or by abandoning his Home Site.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust, pursuant to a foreclosure thereof, and any such foreclosure shall extinguish the lien of such assessments as to the payment thereof which became due prior to any sale or transfer pursuant to such foreclosure. No such sale or transfer shall relieve such Home Site from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage of deed of trust.

Section 10. Exempt Property. All Property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI EXTERIOR MAINTENANCE

The Owner shall maintain the grounds and the improvements situated on each Home Site, including, but not limited to plantings, landscaping, and lawns, at all times in a neat and attractive manner satisfactory to the Board of Directors of the Association. Upon the Owner's failure to do so, the Association may, at its

option, after approval by a majority vote of the Board of Directors and after giving the Owner ten (10) days' written notice sent to his last known address, or to the address of the Home Site, have the grass, weeds, shrubs and vegetation mowed, cut, cleaned or pruned when and as often as the same is necessary in its judgment, and have dead trees, shrubs and plants removed from such Home Site, and replaced, and may have any portion of the Home Site reseeded or landscaped, and all expenses of the Association under this Article shall be a lien and charge against the Home Site on which the work was done and the personal obligation of the then Owner of such Home Site; provide further, that in the event the Association is required to expend any such sums during the period that an Owner has posted a \$1,500.00 deposit with the Association, as provided in Section 5 of Article VII, to insure against construction damage, such amount shall be deducted from the deposit. The Owner shall remove mud stains and any construction discoloration from the foundation of any improvements upon completion of the improvement. Upon the Owner's failure to maintain the exterior of any structure, including, without limitation, the roof, walls, trim and foundation, in good repair and appearance, the Association may, at its option, after approval by a majority vote of the Board of Directors and after giving the Owner thirty (30) days written notice sent to his last known address, make repairs and improve the appearance in a reasonable and workmanlike manner. The cost of any work performed by the Association upon the Owner's failure to do so shall be immediately due and owing from the Owner of the Home Site and shall constitute an assessment against the Home Site on which the work was performed, collectible in a lump sum and secured by the lien against the Home Site as herein provided. Any entry on a Home Site by the Association, its agents or employees, between the hours of 8:30 a.m. and 6:00 p.m., to perform the maintenance and repairs set forth herein, shall not be a trespass and an easement for such entry is hereby granted.

ARTICLE VII USE RESTRICTIONS

Section 1. Residential Purposes Only. Each Home Site shall be used exclusively for single-family, non-transient residential purposes, and garages, carports and parking spaces shall be used exclusively for the parking of passenger vehicles or light (i.e. non-commercial) vans or pick-up trucks; provided, however, Declarant (and its designees) shall have the right to use up to two (2) Home Sites designated from time to time by Declarant for the purpose of construction and operation of a sales and marketing center and for related uses. No trade or business of any kind shall be conducted upon a Home Site or any part thereof except by Declarant as permitted above. Except as permitted herein, no structure shall be erected, placed, altered, used or permitted to remain on any Home Site other than a single-family detached private dwelling, and one (1) private garage, in Phase 1 and a single-family detached private dwelling in Phase 2.

Section 2. Obstructions. There shall be no obstruction of the Common Area or Alley Ways, nor shall anything be kept or stored in such areas by any Owner, nor shall anything be altered, or constructed or planted in, or removed from such areas, without the prior written consent of the Association.

Section 3. Restricted Actions by Owners. No Owner shall permit anything to be done or kept on the Properties which will result in the cancellation of or increase in cost of any insurance carried by the Association, or any other Owner, or which would be in violation of any law. No waste shall be permitted in the Common Area. Each Owner shall comply with all laws, regulations, ordinances (including without limitation, applicable zoning ordinances) and other governmental rules and regulations applicable to such Owner's Home Site (s).

Section 4. Signs. No sign of any kind (exclusive of street address identification numbers, building permits and other signs that are legally required to be displayed) shall be displayed on any Home Site except no more than one (1) custom made professional sign of not more than four (4) square feet which is approved in writing by the Architectural Review Committee and which is for the purpose of advertising the Home Site for sale; provided, however, the foregoing shall not act to restrict or prohibit the Declarant from erecting and maintaining custom made signs advertising the Properties, or portions thereof, or prevent the Association or Declarant from posting directional and other signs relating to the use of the Properties. Notwithstanding the foregoing, all signs erected and maintained on any Home Site, Common Area or Alley Ways must conform

with all applicable governmental requirements. The Association shall have the right to install signs in the Common Area and along and in the Alley Ways.

Section 5. Damage to the Common Area. Each Owner shall be liable to the Association and/or the Declarant for damage to property owned by either of them caused by the negligence or willful misconduct of the Owner or his family, guest, agents, contractors, employees or invitees. A \$1,500.00 refundable construction deposit may be required to be submitted by each Owner to the Association prior to commencement of construction of any improvements on such Owner's Home Site. The deposit shall be held in escrow and utilized to repair any damage caused by construction personnel or equipment to adjacent property, roadways, drives, structures or amenities, or to maintain the construction site in a clean condition if not so maintained by the Owner or its contractor. Any funds not used as above provided will be returned to the Owner upon completion of construction. Owner must repair or restore any such item within ten (10) days after written notice of the same from the Declarant or Association.

Section 6. Rules of the Association. The Board of Directors shall have the power and authority to promulgate rules and regulations to enable the Association to carry out the letter and intent of this Declaration. All Owners shall abide by all rules and regulations so adopted by the Board of Directors from time to time. The Board of Directors shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and any Owner violating such rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys fees, resulting from such violations. The Board of Directors shall not have the power to impose restrictions, rules or limitations on Declarant.

Section 7. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Home Site or in any dwelling, except that dogs, cats or other household pets may be kept or maintained, provided they are not kept or maintained for commercial purposes. All dogs must be kept contained, tied or on leashes when within the Properties or on any Home Site. No dog run may be constructed or maintained on any Home Site unless such dog run has been approved in writing by the Architectural Review Committee.

Section 8. Waste. No Home Site shall be used or maintained as a dumping ground for rubbish, trash or garbage. Waste of any nature shall not be kept on any Home Site except on a temporary basis in sanitary containers.

Section 9. Vehicles. No recreational vehicles or equipment, including a motorboat, houseboat, motor home or other similar water-borne vehicle, nor any "camper" vehicle, may be maintained, stored or kept on any portion of the Property, except in enclosed garages or in areas specifically designated by the Board of Directors.

Trucks with tonnage in excess of three-fourths (3/4 tn) ton shall not be permitted to park overnight within the Properties. No vehicle of any size, which transports inflammatory or explosive cargo, may be kept within the Properties at any time. No vehicles that are not in operating condition may be stored or situated on any Home Site unless stored in an enclosed garage.

The Owner of each Home Site will be responsible for providing on site sufficient parking area for all vehicles normally parked and/or situated on such Home Site.

Section 10. No Drilling or Mining. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Home Site, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Home Site. No derrick or other structure designed for use in quarrying or for drilling for oil or natural gas shall be erected, maintained or permitted upon any Home Site.

ARTICLE VIII EASEMENTS

Section 1. Utilities. Easements for construction, installation and maintenance of driveway, walkway, parking area, water line, gas line, cable television, telephone, electric power line, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plats. Further, easements ten feet in width for such purposes are reserved over, under through and along front and rear boundary lines of all Home Sites shown on recorded plats, and easements five feet in width for such purposes are reserved over, under and through and along all side Home Sites lines of all boundaries shown on recorded plats. In the event it is determined that other and further easements are required over any Home Site or Home Sites in locations not shown on the recorded plat, and not along rear or side Home Site boundary lines, such easements may be established by the Declarant, except that if any such easements are reserved or established after the conveyance of a Home Site or Home Sites to be affected thereby, the written consent of the Owner or Owners of such Home Site or Home Sites and of the trustees and mortgages in deeds of trust constituting a lien thereon shall be required. The Association may, without the consent or approval of the Owners, reserve and grant easements for the installation and maintenance of water, sewerage, utility (including CATV), and drainage facilities over, under and through the Common area as provided in Article IV, Section 2 (c). Within any easement provided for above, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

Section 2. Maintenance of Designated Maintenance Items. The Board of Directors, or any person authorized by it, shall have the right of access over each Home Site to the extent necessary to perform its obligations of maintenance, repair, or replacement of the Designated Maintenance Items.

ARTICLE IX CONSTRUCTION OF IMPROVEMENTS AND ARCHITECTURAL CONTROL

Section 1. Construction of Improvements.

- (a) Notwithstanding anything contained within this Declaration to the contrary, no Owner shall undertake on any Home Site (i) the location of any completed Improvement or any construction of any Improvement, which shall include in addition to the actual erection of a dwelling and its appurtenances, any staking, clearing, excavation, grading or other site work, (ii) any modification, change or alteration of any Home Site or dwelling thereon, whether functional or decorative, unless and until the type and size thereof, and site plans, showing the proposed location of the dwelling, garage, and driveways upon the Home Site and final grades and landscaping plans, shall have been approved in writing by the Architectural Review Committee, and copies of said approved plans, specifications and details shall have been filed with said Architectural Review Committee. Generally all Improvements must replicate the design and finishes of the dwellings of Arbor Croft. The Architectural Review Committee may refuse approval of plans, location, exterior color or finish or specifications for any reason, including purely aesthetic reasons, which in the sole discretion of the Architectural Review Committee shall be deemed sufficient.
- (b) The term "Improvements (s)" as used throughout this Declaration shall mean and include all buildings, storage sheds or areas, roofed structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, changes in grade or slope, site preparation, swimming pools, tennis courts, signs, exterior illumination, changes in any exterior color or shape and any new exterior constructed or exterior improvement exceeding \$1,000.00 in cost which may not be included in any of

the foregoing. The definition of Improvements (s) does not include garden shrub or tree replacement or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or exterior appearances. The definition of Improvements does include both original Improvements and all later changes and repairs to Improvements.

- (c) The procedure to be followed by an Owner in obtaining approval from the Architectural Review Committee is set forth in Section 22 of this Article IX.

Section 2. Floor Areas, Stories. The total heated floor area of the main dwelling on each Home Site, exclusive of porches, terraces, garages, basements, attics and outbuildings, shall contain not less than the following:

<u>Type of Home</u>	<u>Square Footage</u>
Lot Home Site	1,300

Section 3. Building Setback Lines. The main building on each Home Site shall not be located on any Home Site nearer to the Home Site boundary line than the building setback line approved by the Architectural Review Committee or, if a wider setback is required by applicable zoning laws and other governmental requirements, as required by applicable governmental requirements

Set backs may be modified by the Architectural Review Committee to recognize any special topography, dimensional factors or other site-related conditions.

Section 4. New Construction. Construction of new buildings only shall be permitted on a Home Site, it being the intent of this covenant to prohibit the moving of any existing building onto a Home Site and remodeling or converting the same into a dwelling.

Section 5. Diligent Construction. All construction, landscaping or other work which has been commenced on an Home Site located within the Property must be continued with reasonable diligence to completion and no partially completed improvements shall be permitted to exist on any Home Site, except during such reasonable time period as is necessary for completion. No construction materials of any kind may be stored within forty-five feet (45') of the street curb. Any damage to the street, curb or sidewalk or any part of any Common Area or any utility system caused by the Owner or Owner's contractor shall be repaired by such responsible Owner. The Owner of each Home Site shall at all times keep contiguous public and private areas free from any dirt, mud, garbage, trash or other debris which is occasioned by construction of improvements. Every contractor constructing improvements within the Properties shall, consistent with standard construction practices, keep all portions of the Home Site free of unsightly construction debris and shall at all times during construction either provide dumpsters for the containment of garbage, trash or other debris which is occasioned by construction of improvements or take other measures consistent with standard construction practices necessary to keep the Home Site free of garbage, trash or other debris which is occasioned by the construction of Owners' improvements. All Owners and Owners' contractors shall comply with such rules of the Association as are from time to time adopted with respect to construction of improvements. Each Owner shall be responsible to insure that any contractor employed by such Owner complies with all Builders' Rules adopted by the Association from time to time.

Section 6. Location of Improvements. In order to assure that buildings and other structures will be located and staggered so that maximum view, privacy, sunlight and breeze will be available to each building or structure within the confines of each Home Site, and to assure that structures will be located with regard to the topography of each Home Site, taking into account the location of large trees and other aesthetic and environmental consideration, the Architectural Review Committee shall have the right to control absolutely (subject to the provisions of zoning ordinances of the appropriate governmental authorities) the precise site and location of any building or structure on any Home Site for reasons which may in the sole and uncontrolled discretion and judgment of the Architectural Review Committee seem sufficient. Such location shall be determined only after reasonable opportunity is afforded the Owner of the Home Site in question to recommend a specific site. The provisions of this Section shall in no way be construed as a guarantee that the

view, privacy, sunlight or breeze available to a building or structure on a given Home Site shall not be affected by the location of a building or structure on an adjacent Home Site.

Section 7. Landscaping.

- (a) General. Except for the building pad, Home Site driveways and sidewalks on each Home Site, the surface of each Home Site shall be of grass or other foliage and/or ground cover, and such grass, foliage and ground cover shall be neatly maintained at all times.
- (b) Landscape Guidelines. The Architectural Review Committee reserves the right to promulgate and amend, from time to time, landscape guidelines (referred to hereinafter as the "Landscape Guidelines") which shall establish approved standards, methods and procedures for landscape management on the Property, and such authorized standards, methods and procedures may be utilized by the Owners without prior written approval by the Architectural Review Committee. No trees measuring five inches (5") or more in diameter at a point two feet (2') above ground level may be removed without the prior written approval of the Association. Approval for the removal of trees located within ten feet (10') of the main dwelling or accessory building or within ten feet (10') of the approved site for such building will be granted unless such removal will substantially decrease the attractiveness of the Property.

Section 8. Sediment control. Sufficient sediment control measures must be maintained on any Home Site for any Improvements.

Section 9. Swimming Pools; Tennis Courts. No swimming pool, hot tub, Jacuzzi or tennis court shall be installed or erected on any Home Site until plans and specifications for same showing the nature, kind, shape, materials, height and location of the same shall have been approved by the Architectural Review Committee. No swimming pool shall be constructed on a Home Site in front of a dwelling or so that any portion of such pool protrudes above the finish grade of the contiguous ground as found prior to such construction; provided, however, that when the average slope of a Home Site exceeds twenty-five percent (25%), the Architectural Review Committee may approve an exception, subject to the following limitations: (a) the pool shall be located with its longer dimensions parallel to the natural contour line; (b) not more than fifty percent (50%) of the pool shall be above the finished level of the contiguous ground; and (c) at no point shall any part of the pool project more than two feet (2') above the finished level of the contiguous ground as found prior to construction. The pool itself and pool equipment shall be screened, housed or stored underground.

All tennis courts must be naturally screened from adjacent Home Sites and Common Area, and wind screens should no be greater than ten feet (10') in height. A plot plan showing the tennis court location shall be submitted to the Architectural Review Committee showing any and all proposed grading and screening. Design and color of fencing materials should blend naturally into the surrounding area and plant materials should be added where necessary to soften the visual impact. Surface colors shall be soft and not highly reflective. Night lights for tennis courts will be permitted at the discretion of the Architectural Review Committee.

Section 10. Fences and Walls. All walls shall be constructed of brick, wrought iron, wood (split rail must be at least 3 rails), stone or stucco and shall not exceed six feet (6') in height. Owners must obtain from the Architectural Review Committee its written approval of any proposed fence, hedge or wall, including approval of the location and materials, before erecting or installing the same.

Section 11. Garages. Each single-family residence located upon a Home Site shall include an attached or detached garage large enough to accommodate at least two-passenger vehicles. Any garage located upon any Home Site must be fully enclosed with doors for at least two (2) vehicles and consistent in design with the overall architectural design of the dwelling on the Home Site as determined by the Architectural Review Committee. The vehicle entry point of each garage must be approved by the Architectural Review Committee.

Section 12. Sight Line Limitations. To the extent that governmental requirements shall not impose a stricter standard, no fence, wall hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner Home Site within the triangular area formed by the street property lines and lines connecting them at a point thirty-five feet (35') from the intersection of the street line, or in the case of a rounded street property corner, from the intersection of the street property lines, as extended. The same sight line limitations shall apply on any Home Site within ten feet (10") from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

Section 13. Septic Tanks and Wells. No septic tanks shall be installed, used or maintained on any Home Site. No wells shall be installed, used or maintained on any Home Site for human domestic water consumption nor shall any wells be connected in any manner whatsoever to the water mains, laterals and piping serving the dwelling which shall furnish domestic water from sources beyond the boundary lines of the Home Site. Notwithstanding the foregoing prohibition, the Architectural Review Committee may permit in writing the installation, use and maintenance of septic tanks or wells.

Section 14. Air Conditioning Equipment. No air conditioning or heating apparatus shall be installed on the ground in front of any residence on a Home Site. No air conditioning or heating apparatus shall be attached to any front wall of a residence on a Home Site. No air conditioning or heating apparatus shall be installed on the side wall of a residence on a Home Site unless the same shall be screened from view from the street abutting such Home Site and any adjacent Home Site.

Section 15. Antenna. No exterior antenna, earth satellite station, microwave dish, skylight, or solar panel or other similar equipment may be constructed, placed or maintained on any Home Site without Architectural Review Committee approval.

Section 16. Gas Meters. No gas meters shall be set in the front of a residence on a Home Site unless such meter is of an underground type.

Section 17. Mail Boxes and Newspaper or News Box. No mailbox, newspaper or news box shall be erected or maintained on any Home Site unless approved by the Architectural Review Committee.

Section 18. No clothes Lines. No clothes lines of any description or type, or the outside drying of clothes, shall be allowed on the outside of the dwelling unit on any Home Site.

Section 19. Hoses and Pipes. Except for the temporary use of hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no hose, water pipe, sewer pipe, gas pipe, drainage pipe, television cable or other similar transmission shall be installed on the surface of the ground, unless such installation is expressly approved by the Architectural Review Committee.

Section 20. No Subdivision of Home Sites. Except for Home Sites owned by Declarant, no home site shall be subdivided by sale, lease or otherwise so as to reduce the total Home Site area as shown on the recorded map or plan.

Section 21. Governmental Requirements. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Home Site and all applicable governmental requirements or restrictions relative to the construction of improvements on and/or use and utilization of any Home Site shall continue to be applicable and shall be complied with in regard to the Home Sites. The Architectural Review Committee does not provide governmental approval of improvements. Owner is responsible for obtaining all necessary Permits required to construct improvements.

Section 22. Procedure. No Improvements of any kind or nature shall be erected, remodeled or placed on any Home Site until all plans and specifications therefore and a site plan therefore have been submitted to and approved in writing by the Architectural Review Committee, as to:

- (i) location with respect to topography and finished grade elevation and effect of location and use on neighboring Home Sites;
- (ii) quality of workmanship and materials, adequacy of site dimensions, and alignment of main elevation with respect to nearby streets;
- (iii) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping; and
- (iv) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Architectural Review Committee, or matters in which the Architectural Review Committee has been vested with the authority to render a final interpretation and decision.

Final plans and specifications for all improvements proposed to be constructed on a Home Site shall be submitted in duplicate to the Architectural Review Committee for approval or disapproval. The Architectural Review Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Architectural Review Committee, one (1) complete set of plans and specifications will be marked "Approved" and returned to the Home Site Owner or his designated representative and the remaining set will be filed in the offices of the Architectural Review Committee. If found not to be in compliance with these covenants, conditions and restrictions or if found to be otherwise unacceptable to the Architectural Review Committee pursuant hereto, one (1) set of plans and specifications shall be returned to the Home Site Owner marked "Disapproved", accompanied by a reasonable statement of items found not to be in compliance with these covenants, conditions and restrictions or otherwise being so unacceptable. Any modification or change to the Approved set of plans and specifications must again be submitted in duplicate to the Architectural Review Committee for its inspection and approval. The Architectural Review Committee's approval or disapproval, as required herein, shall be in writing. Once the Architectural Review Committee has approved the plans and specifications for the improvements, the construction of such improvements must be promptly commenced and diligently pursued to completion and if such construction is not commenced within twelve (12) months following the date of approval of the plans and specifications therefore by the Architectural Review Committee, such approval shall be deemed rescinded and before construction of improvements can thereafter be commenced on the Home Site in question, the plans and specifications therefore must again be approved by the Architectural Review Committee pursuant to this Article IX.

The final plans and specifications as referred to in the preceding paragraph shall mean the following:

- (i) Final site plan which is dimensional and shows topography at two foot (2') contours (at a scale of one inch equals twenty feet or larger scale);
- (ii) Final floor plans at a scale of one-fourth inch (1/4") equals one foot (1');
- (iii) Final elevations, showing all sides, and accurate grade at a scale of one-fourth inch (1/4") equals one foot (1'); and
- (iv) All material selections and color selections.

In addition to the procedure described in this section, and in recognition of the cost involved in producing the final plans and specifications, the Home Site Owner may request a preliminary review of the design of the improvements upon the submission of the following:

- (i) Schematic site plan, which is dimensional and shows topography at two foot (2') contours (at a scale of one inch equals twenty feet or at a larger scale);
- (ii) Schematic floors plans at a scale of one-fourth inch (1/4") equals one foot (1'); and

- (iii) Final elevations, showing all sides, and accurate grade at a scale of one-fourth inch (1/4") equals one foot (1').

The Architectural Review Committee may from time to time publish and promulgate architectural standards bulletins, which shall be, fair, reasonable and uniformly applied in regard to the Home Sites and shall carry forward the spirit and intention of these covenants, conditions and restrictions. The Architectural Review Committee shall be responsive to technological advances or general changes in architectural design and materials are related conditions in future years and use its best efforts to balance the equities between matters of taste and design (on the one hand) and use of private property (on the other hand). Such bulletins shall supplement these covenants, conditions and restrictions and are incorporated herein by reference. The Architectural Review Committee may refuse approval of plans, location, exterior color or finish or specification for any reason including purely aesthetic reasons, which in the sole discretion of the Architectural Review Committee shall be deemed sufficient.

An Owner may defer submitting landscape plans to the Architectural Review Committee until no later than one (1) month after the commencement of construction on his Home Site. The procedure for review and approval of such plans shall be the same as that provided for the other plans, except that no separate fee shall be required.

Section 23. Jurisdiction. The Architectural Review Committee is authorized and empowered to consider and review any and all aspects of the construction of any improvements on a Home Site which may, in the reasonable opinion of the Architectural Review Committee, adversely affect the living enjoyment of one or more Owners or the general value of the property.

Section 24. Enforcement.

- (a) The Association shall have the specific right (but not the obligation) to enforce the provisions contained in this Article of this Declaration and/or to prevent any violation of the provisions contained in this Article of this Declaration by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained in this Article of this Declaration.
- (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 and levy the amount of the cost thereof as a special individual assessment against the Home Site upon which such improvements were commenced or constructed.

Section 25. Failure of the Architectural Review Committee to Act. If the Architectural Review 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 or to reject them as being inadequate or unacceptable within thirty (30) days after receipt thereof, and provided such submittal was a full and complete submittal of all items that were to have been submitted to the Architectural Review Committee, and provided the Architectural Review 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 Review Committee following the passage of such first above described thirty (30) day period, it shall be conclusively presumed that the Architectural Review Committee has approved such conforming plans and specifications and other submittals, except that the Architectural Review 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, except where variances shall be expressly permitted herein. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Review Committee may reject them as being inadequate or may

approve or disapprove part, conditionally or unconditionally, and reject the balance. The Architectural Review Committee is authorized to request the submission of samples of proposed construction materials.

Section 26. Limitation of Liability. Neither the Architectural Review Committee nor the members thereof nor the Association nor Declarant shall be liable in damages or otherwise to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with any submittal for approval or disapproval or failure to approve or disapprove and plans or specifications. Every person who submits plans or specifications, and every Owner of any Property agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Board of Directors or the officers, directors, members, employees and agents of any of them, to recover any such damages and hereby releases, remises and quitclaims all claims, demands, and causes of action arising out of or in connection with any judgment, negligence or nonfeasance general release does not extend to claims, demands and causes of action not known at the time the release is given.

Section 27. Design Guidelines. The Architectural Review Committee may, from time to time, publish and promulgate Design Guidelines (herein so called), and such Design 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 Review Committee in reviewing plans and specifications. In any event, the basis for approval or disapproval of plans, specifications and other materials submitted to the Architectural Review Committee for approval.

Section 28. Variances. Upon submission of a written request for same, the Architectural Review Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install improvements which are at variance with the setback requirements, architectural standards or similar provisions of this Declaration or Supplemental Declarations which may be promulgated in the future. 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 Review Committee has not expressly and in writing approved such request within thirty (30) days of the submission of such request. No member of the Architectural Review 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 Review Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder against any other Owner.

Section 29. Review Fee and Address. No review fee shall be imposed for initial submittals of plans and specifications for Improvements to be located on an Owner's Home Site. Provided, however, following the initial review and approval (or disapproval) process, the Association Board may impose a review fee, not to exceed \$25.00 (as adjusted by cost-of-living increases for the years following the calendar year 2004, these adjustments to be based upon increases to the United States Department of Labor Consumer Price Index-All Urban Consumers [All Cities]) for each resubmittal of plans and specifications to the Architectural Review Committee. All plans and specifications shall be hand delivered to 4110 Old Pineville Road, Charlotte, NC 28217, Attention: President, Quail Ridge Development, LLC. The date of receipt of the plans and specifications shall be established by receipt signed by someone in the office of Quail Ridge Development, LLC. The address of the Architectural Review Committee may be changed from time to time by written notice to the Owners at the last address of each Owner as shown on the records of the Association. Such address shall be the place of the submittal of any plans and specifications and the place where the current rules and regulations, if any, of the Architectural Review Committee shall be kept.

Section 30. No Liability for Design Defects. Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither Declarant, the Architectural Review Committee, the members thereof, nor the Association assumes liability or responsibility therefore, or for any defect in any structure constructed from such plans and specifications.

Section 31. Utilities. All utilities and utility connections shall be located underground, including electrical and telephone cables and wires. Transformers, electric, gas or other meters of any type, or other apparatus shall be located at the rear of the buildings constructed on Home Sites or, if approved by the Architectural Review Committee in writing, located elsewhere on the Home Site provided they are adequately screened as required by the Architectural Review Committee in accordance with the provisions providing telephone service to the Owner's Home Site with a dedicated electrical outlet upon request.

ARTICLE X SPECIAL RESTRICTIONS AFFECTING COMMON AREAS

Section 1. Declarant's Right of Entry. The Declarant reserves unto itself, its successors and assigns the right to go on, over and under the ground to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities in the Common Area. These reservations and rights expressly include the right to cut any trees, bushes, or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations and tanks within the Common Area. Such rights may be exercised by any contractor or licensee of the Declarant.

Section 2. Prohibition Against Dumping. No dumping of trash, garbage, sewage, sawdust or other similar materials shall occur and no unsightly or offensive materials shall be placed upon the Common Area, except as is temporary and incidental to the bona fide improvement of the area in a manner consistent with its classification as Common Area.

Section 3. No Public Rights. The establishment of the Common Area does in no way grant the public or to the owners of any surrounding or adjacent land the right to enter such Common Area without the express permission of the Declarant or the Association.

ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by 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. Amendment. The covenants and restrictions of this Declaration shall run and bind the land, for a term of thirty-five (35) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless, prior to the expiration of such thirty-five (35) year period, or the expiration of such successive ten (10) year period, they are terminated or altered in accordance with this Section 2. This Declaration may be amended by an instrument signed by the Owners of not less than eighty (80%) of the Home Sites. Any termination or amendment must be properly recorded. Notwithstanding the above, no amendment may be made without the consent of the Declarant, so long as it owns a Home Site. For the purpose of this section, additions to existing property as provided in Article II, Section 2 hereof shall not constitute and "amendment."

Section 3. Rule Against Perpetuities. If any covenant, condition, restriction or other provision of this Declaration shall be unlawful, void or voidable, as being violative of the Rule Against Perpetuities, then such provision shall continue only until twenty (20) years after death of the last person or the following group of persons living at the date of the recording of this Declaration: Sherwood L. Webb.

IN WITNESS WHEREOF, Quail Ridge Development, LLC, has caused these presents to be signed in its name by its proper member-managers and acknowledged as of the _____ day of _____, 2002, all by proper authority.

QUAIL RIDGE DEVELOPMENT, LLC.

A North Carolina Limited Liability Company by its members as follows:

BY:_____

Sherwood L. Webb/Member

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, the undersigned notary public of the state and county aforesaid, certify that Sherwood L. Webb, a Member and James M. Clements, a Member of Quail Ridge Development, LLC, a North Carolina Limited Liability Company, personally appeared before me this day and acknowledged the execution of the foregoing instrument, for and on behalf of Quail Ridge Development, LLC.

Witness my hand and official stamp or seal this _____ day of April, 2002.

BY:_____

Notary

(Corporate Seal)