

occurs on such Lot, prorated based upon the number of days remaining in such installment period. With respect to any Lot conveyed by any Owner other than Declarant, the amount of the Annual Assessment applicable to such Lot for the installment period in which such closing occurs shall be prorated between the buyer and seller thereof as of the date of closing of such conveyance.

(e) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of all or a portion of the Common Areas 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 Assessments, as hereinafter defined. Assessments collected as reserves shall not be considered to be advance payments of Annual Assessments.

**Section 5. Special Assessments.** 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 any Improvements located thereon. Provided, however, (a) Declarant shall not be obligated to pay any Special Assessments on Lots owned by Declarant except with Declarant's prior written approval, and (b) any Special 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 any 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, tenants or invitees and not the result of ordinary wear and tear; or (ii) for the purpose of maintaining, repairing or replacing the septic system; or (iii) for payment of fines, penalties or other charges imposed against any particular Lot Owner's 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 Lot Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

**Section 7. Special Septic Inspection Assessments.** The cost of the Septic Inspections required under Section 25 of Article VI for each Lot for which a septic system has been installed shall be levied as a Special Septic Inspection Assessment on that Lot. The due date of the Special Septic Inspection Assessments shall be established by the Board of Directors.

**Section 8. Collection Agent.** At the option of the Board of Directors, any person or entity designated by the Board of Directors may act as collection agent for any and all assessments imposed by the Association and/or the Board against the Owners.

**Section 9. 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 10. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment (or installment thereof) not paid by its due date as set forth herein 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 Lot 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 Lot Owner (or foreclose the lien against the applicable portion of the Property), 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 and assessment lien. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of his or her property or the Common Areas or otherwise.

**Section 11. Subordination of the Lien to Mortgages.** The lien of the assessments provided for in Article V and in Article 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 **Anniston, LLC** 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 **Anniston, LLC** or any affiliated entity, or any proceeding in lieu thereof, however, shall extinguish the lien (but not the personal obligation of the mortgagor or any prior Lot Owner) 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 or Special Individual Assessment or a Special Septic System Assessment (as the case may be), as applicable, collectable pro rata from all Lot Owners, including the foreclosure sale purchaser. Such pro rata portions are payable by all Lot Owners notwithstanding the fact that such pro rata portions may cause the Annual Assessment to be in excess of the Maximum Annual 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.

**Section 12. Right to Borrow:** The Association shall have the right and authority to borrow funds, evidenced by one or more promissory notes, for [i] payment of Common Area maintenance subsequent to January 1, 2005, but prior to the time that assessments will cover the reasonable cost of such, and [ii] to pay the costs incurred in adding to recreational facilities or Amenities. Such loans shall be at such interest rates and upon such repayment terms as the Board of Directors (see the Association Bylaws) approves, provided the Association at a called-meeting may grant authorization that limits the authority of the Board in these matters. The Board is specifically authorized to borrow from the Declarant for payment of Common Area maintenance.

**Section 13. Contribution by Declarant:** Declarant agrees to contribute to the Association such funds as may be required to maintain the Common Area, to the extent that the maximum Annual Assessments are insufficient to pay the cost thereof, through the calendar year 2006.

## **ARTICLE VI**

### **RESTRICTIONS**

**Section 1. Residential Restrictions.** Each Lot shall be used exclusively for single-family, non-transient residential purposes; provided, however, Declarant or assigns 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 Property. 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. 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 attached or detached single-family

private dwelling unit 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.

**Section 2. Dwelling Unit Size.** The square footage requirements set forth below are for enclosed heated floor area, are measured from the ground level up (said ground level being the first level of any dwelling unit as viewed from the Roadway fronting same) 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 unit erected upon any Lot shall contain not less than 2,400 square feet heated floor area.

Notwithstanding the foregoing requirements, the Architectural Control Committee shall have the right (but not the obligation), because of restrictive topography, lot shape, 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 unit erected upon a Lot shall contain more than two and one-half (2 ½) stories above ground level (said ground level being the first level of any dwelling unit as viewed from the Roadway fronting same). Notwithstanding the foregoing, the Architectural Control Committee shall have the right (but not the obligation), because of steep topography, unique Lot configuration or dimensions, unusual site related conditions or other similar reasons, to allow dwelling unit heights greater than two and one-half (2 ½) stories as viewed from 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 unit on a Lot. Additionally, air conditioning and heating equipment and apparatus shall be screened from view from Roadways 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 tennis courts on individual Lots is not permitted. Lighting located in the Common Area and at Builder's model homes shall be exempt of this requirement.

**Section 5. Fences and Walls.** In addition to the restrictions contained elsewhere in this Declaration and except as expressly provided below, no fence or wall (including densely planted hedges, rows or similar landscape barriers) (i) shall be erected, placed, maintained or altered on any Lot nearer to any Roadway fronting such Lot than the front building corner of the main dwelling unit constructed on such Lot (unless otherwise approved by the Architectural Control Committee) and (ii) shall not exceed six (6) feet in height, except fences enclosing approved tennis courts may be up to ten (10) feet in height if located at least twenty-five (25) feet from all Lot boundary lines. Provided, however, and notwithstanding the foregoing, in order to accentuate certain architectural styles within the Property, Declarant and/or the Architectural Control Committee, in their sole and absolute discretion, may allow the construction and use of fencing along or near the front, side and/or rear boundary lines of certain designated Lots within the Property. All fences and walls shall be maintained in a structurally sound and attractive manner. No fence or wall shall be erected on any Lot until the Architectural Control Committee has given its prior written approval of the color, size, design, materials and location for such fence or wall. The restrictions set forth shall not pertain to any fencing erected within the Common Area Open Space.

**Section 6. Animals.** No animals, bees, 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. Any excrement deposited by an animal on any portion of the Property shall be promptly removed and appropriately disposed of by the owner of such animal. The number of household pets kept or maintained outside the dwelling unit 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 unit, be on a leash or otherwise confined in a manner acceptable to the Board. Animal control authorities shall be permitted to enter 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 a Lot unless the same has been approved in writing by the Architectural Control Committee. No chained pets are permitted on any property, including the Lot Owner's property or any Common Area.

**Section 7. Signs.** No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or a sign used by the Builder or Declarant to advertise the property during the construction and sales period. Declarant shall have the right to place permanent signs for *Anniston* within the development.

**Section 8. Temporary Structures; Structure Materials.** No residence or building of a temporary nature, including a construction trailer, 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 approving erecting or moving temporary buildings onto Lots owned by Declarant to be used for storage, or for construction or sales offices.

**Section 9. 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 Lot within the triangular area as shown on the Plat as "Sight Triangle." The same sight line limitations shall apply on any Lot within the triangular area formed by (i) the line that runs from the point of intersection of (a) the edge of a roadway's pavement and (b) the edge of the pavement of the driveway on such Lot for a distance of ten (10) feet along such roadway pavement away from such driveway pavement, (ii) the line that runs from said point of intersection for a distance of ten (10) feet along such driveway pavement away from such Roadway pavement, and (iii) the straight line that connects the ending points of the lines described in the foregoing clauses (i) and (ii). No tree shall be permitted to remain within such triangular areas unless the foliage line is maintained at an appropriate height to prevent obstruction of sight lines.

**Section 10. Utilities.** All utilities and utility connections shall be located underground, including electrical, telephone and cable television lines. 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 11. Radio and Television Antennas.** No freestanding radio or television transmission or reception towers, antennas, dishes or discs shall be erected on a lot. Only one radio and/or one television antenna attached to the residence not exceeding five (5) feet in height above the roofline of the residence and only one (1) dish attached to the house not exceeding three (3) feet in diameter.

**Section 12. Sediment Control.** Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant or the Architectural Control Committee, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any

land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion.

**Section 13. 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) exterior steps at the front and rear of a Dwelling unit may Property into the setback area established by the Building Envelope up to a distance of five (5) feet, and (ii) fireplace chimney structures Property from the side of a Dwelling unit 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 dimensions, 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 14. Driveways.** Any driveway or any vehicle parking area constructed on any lot in the property shall have either an asphalt, brick or concrete surface which shall be kept and maintained in good condition and repair.

**Section 15. Mailboxes.** No brick or stone mailboxes shall be erected or allowed to remain within the right-of-way of any street located within the Submitted Property. The Architectural Control Committee may adopt more restrictive requirements including the requirement for the use of a uniform mailbox design for *Anniston*. All mailboxes shall comply with the requirements of North Carolina Department of Transportation (NCDOT).

**Section 16. Garbage Cans.** Except for the scheduled day of pickup, all garbage receptacles shall be kept in an enclosed structure or screened by adequate planting or fencing as to conceal same from the view of neighboring owners and roadways. On the day of pickup, any garbage receptacle shall promptly be removed from the street.

**Section 17. 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 as provided herein) be considered as one Lot for the purposes of this Article VI upon the recordation in the Office of the Register of Deeds of Iredell County, North Carolina, of an instrument by such Owner expressing such intent (such instrument to refer specifically to this section in this Declaration and to identify the Lots to be considered as one Lot for purposes of this Article VI, 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. The Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relating any existing easements. With respect to combined Lots, Declarant reserves the right to designate said combined Lots as one (1) Lot or multiple Lots, in Declarant's sole and absolute discretion, for purposes of payment of assessments. 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 18. Restricted Activities in Common Areas and Maintenance 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 19. 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 20. Seasonal Decorations.** Seasonal house and yard decorations shall be removed within thirty (30) days following the holiday period.

**Section 21. 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 22. Recreational and Other Equipment**

(a) No recreational equipment (including, but not limited to, basketball backboards and hoops, trampolines, swing sets, tree houses, children's climbing or play apparatus and other equipment associated with either adult or juvenile leisure or recreation) shall be attached to the exterior of any dwelling unit or otherwise placed or kept on any Lot, except in accordance with the requirements as set forth in the Guidelines.

(b) No such recreational equipment shall be located in such a manner as to constitute a nuisance or unsightly condition to adjoining Owners.

(c) Children's play toys and other moveable equipment of any type (such as lawn mowers, garden tools, etc.) shall not remain repeatedly overnight within any front yard of any Lot, or within the side yards of any Lot located on a roadway corner, in such number or for such a long period of time as to create a continuing, unsightly condition.

**Section 23. Parking; 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<sup>th</sup>) 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 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 an enclosed garage 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.

- (f) The discharge of firearms is strictly prohibited within the property.

**Section 24. Sewage Disposal; Including Wells and Septic Easements.** Every dwelling unit erected on any Lot shall be served by an approved septic system for the disposal of sewage, or connected to a private or public sewage disposal system. All well water and 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. Owners shall construct a well only at a site approved in writing by the Declarant, or by the Association when Declarant no longer owns a lot within the Property. Deviations on the permitted location of well sites may only be made with the written consent of Declarant or Association as the case may be because the location of a well on one Lot affects the permissible location of septic fields on that Lot and other Lots. 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 officers, directors, members, employees, agents or affiliates of 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 following the initial expiration thereof.

Non-exclusive Septic Field Easements are hereby established, declared and reserved by Declarant, its successors and assigns, over those portions of the Common Areas labeled "SFE" or "Septic Field Easements" on plats of the Property recorded, or to be recorded, in the Iredell County Public Registry. The Septic Field Easements are for the purpose of providing septic service, for the installation and maintenance of septic systems and for use as drainage fields over, across and under those portions of the Common Areas so labeled to and for the benefit of the Owners and the Association as is more particularly described herein. Each of the Septic Field Easements shall be an appurtenance to and run with the title to the Lot it services and for which it is reserved. The Lots which have been platted as of the recording of this Declaration and the Septic Field Easements which are an appurtenance to such Lots are set forth on Exhibit B attached hereto. Any Deed, Deed of Trust, mortgage, transfer or other conveyance of any of said Lots shall also convey the Septic Field Easement appurtenant to such Lot, even if not expressly included therein. The Owner of the Lot to which such Septic Field Easement is appurtenant may use such Easement to construct, install, excavate, dig, build, maintain, operate and remove and reinstall a septic system and related lines, equipment and apparatus in and upon the area over which such Septic Field Easement is reserved, and to clear (and to 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 septic system and related lines, equipment and apparatus.

In addition, Declarant for itself and Owners reserves an easement over those areas designated as Septic Supply Pressure Line Easements ("Pressure Line Easements") shown on Plats for the purpose of locating, installing, repairing and maintaining sewer lines to carry sewage to the Septic Field Easements areas from the individual Lots and for the purposes set forth herein. The sewage lines within the Pressure Line Easements shall be installed and maintained as provided in this Declaration. The Pressure Line Easements shall be appurtenant to the Lots.

Each Lot Owner shall maintain, in accordance with all rules, regulations and requirements, all portions of any septic system or other sewage disposal system located on such Lot, Septic Field Easement, Septic Supply Pressure Line Easement and Roadway: (i) in an orderly condition, clean and free from debris, including any upkeep, repair, removal and replacement of any Improvements located thereon, and (ii) in a good operating condition in compliance with any requirements imposed by the Declarant, the Association, or any governmental authority. If any septic system or other sewage disposal system located on a Lot or Septic Field Easement and any Septic Supply Pressure Line is not maintained by the applicable

Lot Owner as set forth herein, the Declarant or the Association, in its sole discretion, may enter such Lot to perform such maintenance and may levy a Special Individual Assessment upon the Lot Owner for the purpose of maintaining, repairing or replacing the Septic System or other sewage disposal system serving such Lot. In addition to the foregoing, the Association (or its designee) shall have the right to enter any Lot, Septic Field Easement or Septic Supply Pressure Line Easement from time to time for purposes of inspecting and/or maintaining any septic system or other sewage disposal system and may levy Special Septic Inspection Assessments to pay for any costs incurred in connection with any such maintenance, as more particularly described in Section 25 of this Article VI. In this regard, each Owner of a Lot (other than Declarant) 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 (in addition to other assessments provided for herein) Special Individual Assessments as levied in the discretion of the Association. 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 effective at the time when the assessment fell due.

Declarant hereby reserves unto itself, its successors and assigns, and grants to the Association, a non-exclusive easement burdening each Lot to which a Septic Field Easement is appurtenant for the purpose of connecting any residence(s) upon such Lot(s) to any public or private sewer line providing service accessible to such Lot, including access across such Lot and the right to install any pipes and apparatus as may be necessary to connect any such residences) to such sewer line (the "Septic Supply Pressure Line Easement"). By reserving the Septic Supply Pressure Line Easement, Declarant has not obligated itself, its successors or assigns, or the Association, to connect any public or private sewer line to the above-described Lots and the exercise of such rights under the Septic Supply Pressure Line Easement shall be at the sole discretion of Declarant, its successors or assigns, or the Association, as the case may be.

**Section 25. Septic System Inspection and Septic Inspection and Repair Easement.** The Association shall cause all private Septic Systems located within the Property 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 Owner, the Association and any other party or agency as required by law. The 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 Property.

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 Property 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 26. Encroachment Agreement with the North Carolina Department of Transportation.** The pipes, which are a part of the Septic System, transporting the sewage from the Lots to the Septic Field Easements will be or have been constructed within the rights-of-way of the Roadways which will be dedicated for 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 Lot Owner to have the right to construct, install, excavate, dig, building, 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 the Property, 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 therefore, the Declarant 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 Declarant 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 27. Nuisances.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's property. 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 property 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 Property. 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 Property. 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 dwelling unit or any unimproved Lot unless required by law.

**Section 28. 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 units 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 any part of any Common Area, or any utility system caused by an Owner or Owner's builder or such builder's subcontractors on any portion of the Property shall be diligently repaired by the Lot Owner. The Lot Owner shall keep such portion of the Property free of unsightly construction debris, 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 property in the Property to pay for the cost of repairing any damage to Roadways, curbs 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 in the Property, 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 subcontractors during the construction of Improvements.

**Section 29. Governmental Requirements.** Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances and other governmental rules and restrictions in regard to the Lot(s) or other portion of the Property owned by such Owner (including, without limitation, applicable zoning laws, rules, regulations and ordinances).

**Section 30. Compliance with Wetland and Buffer Regulations.** A portion of this Property has been determined to meet the requirements for designation as a wetland, stream or protected stream buffer. Any subsequent fill or alteration of this area shall conform to the requirements of the state rules adopted by the State of North Carolina in force at the time of the proposed alteration. The intent of this provision is to prevent additional wetland, stream or buffer filling or draining, so the Association or Lot Owner should not assume that a future application for filling or draining would be approved. The Association or Lot Owner shall report the name of the subdivision in any application pertaining to said rules. This covenant is intended to ensure continued compliance with all rules adopted by the State of North Carolina and therefore the State of North Carolina and therefore the State of North Carolina may enforce benefits. This covenant is to run with the land and shall be binding on all Parties and all persons claiming under them.

**Section 31. Occupants Bound.** All provisions of this Declaration, any Additional or Supplemental Declaration and the Bylaws and any and all rules and regulations, use restrictions or Architectural and Landscape Guidelines promulgated pursuant hereto or thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned.

## ARTICLE VII

### ARCHITECTURAL AND LANDSCAPING CONTROL

**Section 1. General.** Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including, without limitations, site preparation on any Lot, change in grade or slope any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any Lot as defined in Section 3 of this Article VII, shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Article VII, Section 7 hereof, until the Architectural Control Committee has approved the plans and specifications therefore 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 Architectural and Landscape Guidelines (b) the fees set forth in or contemplated in this Article VII have been paid; and (c) the contracts identified in this Article VII have been executed. In addition to any standards established pursuant to the Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. Except as otherwise expressly provided herein, the provisions of Article VII 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 VII.

**Section 2. Membership 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 three (3) members. The members of the Architectural Control Committee need not be Owners of property in the Property. In the event of death or resignation of any member of the Architectural Control Committee, the party or body having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint successor. Members of the Architectural Control Committee maybe removed or 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