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FILED JoAnn Townsend  
Register of Deeds WATAUGA COUNTY, NC  
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Deputy

*Return*

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NORTH CAROLINA

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR COUNCILL OAKS

WATAUGA COUNTY

THIS DECLARATION made this 9<sup>th</sup> day of May, 2006, by JOHN H. COUNCILL AND  
WWC DEVELOPMENT, LLC, a North Carolina Limited Liability Company, (hereinafter called  
"Declarant");

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property (hereinafter called the "Property")  
described in this Declaration of Covenants, Conditions and Restrictions (hereinafter called the  
"Covenants") and is desirous of subjecting a portion or portions of the Property as hereafter  
determined by Declarant to the protective covenants, conditions and restrictions hereinafter set forth,  
each and all of which is and are for the benefit of the Property, for the benefit of the parcels or lots  
located thereon, whether now already or hereafter subdivided and platted (hereinafter called the  
"Lots"); and for the benefit of each owner of the Lots which are not already or may hereafter be  
subdivided and platted within the Property (hereinafter called the "Property Owners"), and shall apply  
to and bind the owners thereof, their heirs, successors and assigns; and

WHEREAS, the Property is subjected to these Covenants, in order to insure the best use and the most appropriate development and improvement of the Property and Lots located therein; to protect the owners thereof against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of the Property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to encourage and insure the highest and best development of the property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereon on the Property; to prevent haphazard and inharmonious improvement of the Property; to secure and maintain an aesthetically pleasing quality of development and improvement of the Property, and thereby to enhance the values of the Property.

NOW, THEREFORE, Declarant for itself its successors and assigns, hereby declares that the Property is and shall be held, transferred, sold, devised, assigned, conveyed, given, purchased, leased, occupied, possessed, mortgaged, encumbered and used subject to these Covenants. These Covenants, the benefits of these Covenants and the affirmative and negative burdens of these Covenants, whether pertaining to items, benefits and obligations presently existing or to be created or executed in the future, do and shall, in equity and at law, touch and concern, benefit and burden, and run with the land and any estates in the land herein referred to as the Property and these Covenants are intended to be covenants and servitudes burdening and benefitting all persons now or hereafter deriving a real property estate in the Property, whether by assignment, succession or inheritance or other method of conveyance.

ARTICLE I: PROPERTY DESCRIPTION

Section 1-1: The Property. The Property which shall be subjected to the Declaration of Restrictions is located in Watauga County, North Carolina, and more particularly described in Exhibit A attached hereto and incorporated herein by reference.

ARTICLE II: BUILDING REQUIREMENTS AND USE RESTRICTIONS

Section 2-1: Building Requirements. The Property and the lots located therein shall be used for residential purposes exclusively. Except as specifically set forth in this Section, with regard to the Property described in Exhibit A, no structure shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single-family dwelling, not to exceed two (2) stories in height above basement and one (1) small one-story accessory building which may include a detached private garage, provided the use of such dwelling or accessory building does not include any activity normally conducted as a business. In addition, a guest suite or guest house may also be included as part of the main dwelling or accessory building. If a guest house is included as an accessory building, said guest house may be no larger than one-third the size of the main dwelling, and said guest house or accessory building may not be constructed prior to the construction of the main dwelling.

All single family dwellings shall consist of a minimum of 2000 square feet of finished heated living area, with a minimum of 1400 square feet on the main floor, not including unfinished basements and garages. The area designated as lots 14 through lots 24 require a minimum of 1,400 square feet with a minimum of 1,000 square feet on the main level.

Section 2-2: Other Buildings and Vehicles. No structure of a temporary character shall be placed upon any lot at anytime, provided, however, that this prohibition shall not apply to equipment shelters used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not, at anytime, be used as residences or permitted to remain on the lot after completion of construction.

No mobile home, house trailer, treehouse or other similar outbuilding or structure shall be placed on the Property at anytime without prior approval from the Declarant; and such approvals shall normally be limited to temporary use of such structures reasonably essential to economical, orderly and efficient construction during the construction process only.

Section 2-3: Architectural and Site Plan Review of Specifications for New Construction or Additions, Re-constructions, Alterations or Changes to Structures and Landscaping. No home, building, fence or other structure shall be constructed, erected, placed or altered on any Lot until the proposed building plans, specifications, exterior color or finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), and landscaping plan have been approved in writing by the Declarant, its successors or assigns. Upon written request by Property Owner for approval of plans, the "Declarant" shall have thirty (30) days to approve or disapprove the plans. In the event of failure to approve or disapprove within the thirty (30) days, said approval will not be required, provided the design of the proposed building is in harmony with existing structures in the area. Garages must be constructed of the same or compatible materials as specified for the dwelling. Refusal of approval of plans, location, or specifications may be based upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of the "Declarant" shall deem sufficient. It is the intent of "Declarant" to promote dwellings that are in

harmony with the surroundings. No alterations in the exterior appearance of any building or structure shall be made without like approval by the "Declarant". One copy of all plans and related data shall be furnished to the "Declarant" for its records.

Section 2-4: Siting. Unless where restricted to a greater degree as a part of the site plan approval by "Declarant", or unless waived by "Declarant" as a part of the site plan approval process, no building shall be located closer than twenty (20) feet to the street right-of-way and not closer than fifteen (15) feet to the adjoining property line, except for dwellings on lots 14 through 24, the patio home lots, whose setbacks shall be as determined by the Declarant.

Section 2-5: Tree and Bush Removal. No large trees measuring eight (8) inches or more in diameter at ground level may be removed without the written approval of the "Declarant", unless located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building. Unless "Declarant" gives prior written approval, no trees shall be removed from any Lot until the owner shall be ready to begin construction, following submission of building plans and approval of the same. Declarant shall have the right to permit removal of decaying or diseased trees or other dangerous trees.

Section 2-6: Completion of Construction. The exterior of all buildings and other structures must be completed within sixteen (16) months after the construction of a particular building or structure shall have commenced, except where such completion is impossible or would result in great hardship to the Property Owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. Substantially all of the landscaping shown in plans

submitted to and approved by the "Declarant" must be completed within one (1) year of the initial occupancy.

Upon completion of construction, utility lines providing direct service to each dwelling and all accessory buildings shall be placed underground unless this provision is waived in writing by "Declarant".

Section 2-7: Minimizing Construction Disturbances. During the continuance of construction, the Property Owner shall require the contractor to maintain the site of the building in a reasonably clean and uncluttered condition, and construction may not commence before 7:00 a.m. or be continued after 7:00 p.m., nor any construction activities take place on any Sunday. "Declarant" may waive the time and day restrictions if "Declarant" deems no undue nuisance is caused to any other Property Owner in the area.

Section 2-8: Service Yards. All garbage receptacles, electric and gas meters, clotheslines, water pumps, fuel tanks, equipment and service yard contents on the "Property" must be placed or stored in safe landscaped or screened-in areas to conceal them from the view on the road and adjacent properties; or installed within the main dwelling house, within any accessory building or buried underground.

Section 2-9: Lights, Signs and Advertising Devices. No "For Sale," commercial, promotional or advertising signs, lights, banners, flags or ornaments, whether mobile or fixed, may be erected or maintained on the "Property" by anyone except where approved in writing by the "Declarant". "Declarant" reserves the right, after two (2) days' notice is given to the Property Owner, to enter upon the lands or premises of any Property Owner to remove any such non-conforming sign, light, banner, ornament or advertising device at the expense of the owner thereof.

Section 2-10: Antennas, Electronic Transmission and Mechanical Disturbances. No television antenna, satellite antenna, radio receiver or transmitter or any other similar device for receipt or transmission of infrared, microwave, television or electromagnetic signals may be erected on the "Property", on any Lot or parcel or the exterior portion of any structure located on any Lot, unless specifically approved in writing by the "Declarant". Provided, that small satellite dishes measuring up to 24 inches in diameter shall be permitted subject to proper placement and screening as approved by Declarant.

Section 2-11: Parking. Each Property Owner shall provide adequate space for all parking of both owners and guests off the street right-of-way, prior to occupancy of any dwelling constructed on said Lot in accordance with reasonable standards established by "Declarant". All Parking and driveways shall be paved with asphalt unless the Declarant, in their sole discretion, approve another substance, such as concrete, for the paving. No recreational vehicles, four wheelers, campers, boats, trailers, commercial vehicles, or aircraft of any kind may be parked on any common area or lot unless specifically authorized by the Declarant, in their sole discretion.

Section 2-12: Unightly Conditions. Each Property Owner shall: prevent and remove the accumulation of litter, trash, or rubbish; prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds, either before, during or after construction; prevent and remove accumulations on his Lot which tend to substantially decrease the beauty of the specific Lot or the "Property" as a whole, as determined by "Declarant".

Section 2-13: Offensive Activities. No offensive or noxious activity shall be carried on upon the Property. "Offensive or noxious" activity or behavior shall include but not be limited to a public nuisance per se and shall also include any behavior which is inconsistent with both the reasonable

pleasurable use of the "Property" by Property Owners and their reasonable expectations of vacationing, year-round living, studying, or working free of excessively noisy behavior disrespecting the rights of others, flashing or excessively bright lights, racing or loud vehicles, significantly loud electronic music distractions, or other similar unreasonable behavior or activity curtailing or likely to curtail the reasonable pleasure and use of the "Property" by others who are not participating in such offensive or noxious activity.

This provision shall not be interpreted to prevent a Property Owner from allowing others to use, rent, or occupy their dwelling, provided, however, that any such use be subject to all of the controls preventing offensive activity as might exist or be established by "Declarant", POA, and/or assigns.

Section 2-14: Willful Destruction of Fish and Wildlife. No hunting shall be allowed within the "Property".

Section 2-15: Duty to Insure.

(a) Property Owners. Each Property Owner shall insure his buildings for their replacement value against loss by fire or other hazards.

(b) Repair or Replacement of Damaged or Destroyed Property. In the event of damage or destruction by fire or other casualty to any building, the owner of such building shall, within thirty (30) days of the receipt of the insurance proceeds paid pursuant to an insurance policy covering such building but in no event later than six (6) months from the date of such damage or destruction either (i) commence reconstruction of the damaged or destroyed building, or; (ii) clear the lot upon which the damaged or destroyed building is located of all debris and reseed the entire Lot. In the event: (i) restoration of the building is commenced but is terminated before completion of the building and



such termination continues for a period of at least ninety (90) days; or (ii) the Lot is not cleared of debris within thirty (30) days after commencement of clearance of the Lot; or (iii) restoration or commencement of clearance of the Lot does not occur within said six (6) month period, "Declarant" shall have the right to clear the Lot of debris and reseed the Lot. The cost of such repairs shall be an expense attributable to the Lot and becomes an immediately due and payable special assessment against the Lot collectible in the same manner as any other assessment.

In the event a Lot shall be cleared and reseeded, then it shall be the obligation of the owner of such Lot to continue to maintain the Lot.

Section 2-16: Duty of Property Owners to Inform "Declarant" of Current Address. Each Property Owner shall have the affirmative duty and obligation to inform "Declarant" in writing of any change of ownership of the "Property", the Property Owner's current address, and of any known failure of the Property Owners to receive any information from the "Declarant" at the correct address of the Property Owner. No Property Owner may be excused from his obligations established in these Covenants if the "Declarant" and for which "Declarant" has not received the Property Owner's current address or notice of change of ownership from the Property Owner.

Section 2-17: Pets and Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot except common household pets such as dogs or cats that are not kept for commercial purposes such as breeding. All animals when off an owners lot shall be kept on a leash of not more than six (6) feet in length. Pets shall be maintained in such a manner that the pets do not make an unreasonable amount of noise as determined by the Declarant or the POA if the Declarant assigns this right to them. There shall be no dog lots or chain link fences for the purpose of holding dogs. If a dog is allowed outside the dwelling, then the owner of the lot shall be required to have a

working underground dog fence that will prohibit the dog from leaving the lot. The owner of the lot shall not permit the dog to bark excessively at people walking or riding through the subdivision. No vicious or dangerous dogs shall be permitted on any lot at any time. The Declarant or the POA, in their sole discretion, shall have the right to determine if a dog is vicious or dangerous.

Section 2-18: Uniform Mailboxes and Garbage Cans. The Declarant shall furnish each lot owner with a mailbox and garbage can at the time that construction of the house is completed. The lot owner agrees to pay the cost of these items and to replace them with an exact match if they are damaged or destroyed.

Section 2-19: Lot Size. No lot may be subdivided. The Declarant retains the right to recombine lots and to record a new plat showing the recombined lots so long as the total number of lots is not increased. A property owner shall have the right to combine 2 lots into 1 lot with a recordable instrument. Thereafter the 2 lots cannot be divided and the property owner will be responsible for 1 assessment and shall have 1 vote in the Property Owners Association.

Section 2-20: Easements. The Declarant retains an easement along the property lines for the location of utilities. These easements shall be ten (10) feet along the rear, side, and front of the lots. These utilities shall be underground.

Section 2-21: Lighting. All exterior lighting shall be indirect or of such controlled focus and intensity so as not to disturb residents or adjacent or nearby lots, as determined by the Declarant. Landscape lighting must be approved by the Declarant and not violate the provisions of this section.

ARTICLE III: ASSESSMENTS AND OTHER CHARGES

Section 3-1: Responsibility for Maintenance and Services. Prior to the creation of the POA, as hereinafter provided, the "Declarant" shall be responsible for providing the services set forth in Section 3-2 below and for collecting the assessments set forth in this Article. Provided, however, that "Declarant" shall not be subject to any assessments for lots owned by "Declarant" prior to or subsequent to the creation of the POA. Upon the creation of the POA, the POA shall thereafter provide the services set forth in Section 3-2 and collect the assessments set forth in this Article, provided that "Declarant" shall not be obligated to pay assessments for lots still owned by "Declarant". Until such time as the POA is activated, Declarant shall be responsible for maintaining the subdivision road system.

Section 3-2: Purpose of Annual Assessments. The annual assessments levied by the POA shall be used as follows:

- (a) To maintain and repair all common roads and driveways constructed within the Property and to maintain the entrance and road signs and all street lights (if any) and landscaping adjacent to such roads in a manner consistent with the overall appearance of the Property.
- (b) To provide snow removal services during the winter months;
- (c) To pay all operating expenses of the POA, including the fees of professional consultants necessary to assist the POA in the performance of its duties.
- (d) To remove trees and debris on roads and common areas felled by wind, rain or other cause.
- (e) To provide maintenance of the trails, ponds, storm water detention, and other common areas as shown on the recorded plat.

Section 3-3: Standard Annual Assessment. Upon formation of the POA, the annual assessment shall be established at a uniform rate for all lots in the subdivision. Prior to the formation of the POA, the standard assessment for all lots shall be in the amount of \$500.00 per lot, per year paid to Declarant. The assessment year shall run from January 1 to December 31. For any assessment year, each Property Owner shall pay in advance all annual assessments due on said Property. The assessment shall be pro-rated for any lots conveyed during a year.

Section 3-4: Impact Fee. At such time as a lot owner decides to build a house on their lot, they shall pay unto the POA an impact fee in the amount of One Thousand Five Hundred and 00/100 (\$1,500.00) Dollars. This fee shall be paid prior to the commencement of any work on the lot and shall be deemed to be an assessment under the provisions of this Declaration.

Section 3-5: Effect of Non-Payment of Assessments and Other Charges. The following actions may be taken by the "Declarant" until activation of the POA as herein provided and thereafter by the POA in the event a Property Owner fails to make payment of any assessments set forth above or other charges and obligations when due:

(a) Interest on Late Payment. An interest charge at an ANNUAL PERCENTAGE RATE of fifteen percent (15%) will be charged on all late payments of assessments.

(b) Personal Liability. If the assessment or charge is not paid within thirty (30) days after the past due date, the POA may bring an action at law or in equity against the Property Owner personally, and there shall be added to the amount of such assessment the cost of preparing and filing the legal documents in such action, and in the event a Judgment against the Property Owner is obtained, such Judgment shall include interest on the assessment as provided in (a) above, reasonable attorney's fees and expenses to be fixed by the Court and the cost of the action.

(c) Execution on Lien. Subject to Section 5-2 relating to subordination of the lien to mortgages and other encumbrances, the POA may execute its lien upon the subject Property according to procedures prescribed by the law of North Carolina.

#### ARTICLE IV - ASSOCIATION

Section 4-1: Association. All Owners of lots in the Property shall be members of the COUNCILL OAKS PROPERTY OWNERS' ASSOCIATION, INC., (the "Association") a North Carolina non-profit corporation, upon its incorporation and organization as herein provided. The Association shall be formed for the benefit of such Owners, their heirs, successors and assigns. Until the Association has been formed, Declarant shall maintain the road within the Property, but retains the right to establish, assess and collect any and all assessments, as provided in Article III of this Declaration.

Section 4-2: Formation; Membership. The Declarant shall incorporate the Property Owners Association. This shall take place on or before the time that the first lot has been conveyed. Declarant shall, at its sole cost and expense, incorporate the Association and schedule an organizational meeting among the property owners of all Lots within the Property. Every Lot Owner shall be a Member of the Association. Membership of each Lot Owner shall be appurtenant to and may not be separated from the ownership of his or her Lot.

Section 4-3: Voting. All Lot Owners shall be entitled to one (1) vote for each Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot may be exercised as

they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot. The Declarant shall also have one (1) vote for each lot that they own.

Section 4-4: Board of Directors. The Association shall be governed by an elected Board of Directors (known as the "Executive Board") adopted by its Members; provided, however, that the Executive Board (of Directors) shall consist of at least three (3) directors as long as the Association shall govern the Property; provided, further, that Declarant shall have the right to appoint two (2) directors, if the total number of directors on the Board is three (3) or less, or three (3) directors, if the total number of directors is more than three (3) as long as it shall own at least one Lot in the Property. All directors shall be Owners (or individuals owners of an interest in an Owner which is a partnership, corporation or limited liability company). The executive board members (directors) and officers shall take office upon election.

Section 4-5: Assignment of Rights to the Association. At its election, Declarant may, but shall not be required to, assign all or part of its rights, authority, duties, obligations, powers, and privileges to the Association, and upon such assignment, the Association shall have all of the rights, authority, duties, obligations, powers, and privileges which Declarant may assign.

Section 4-6: Powers of Association. Upon assignment of rights by Declarant to the Association and subject to the provisions of the Articles of Incorporation of the Association, this Declaration and the Declarant's rights herein, the Association may exercise any Declarant's rights so assigned, and any and all of those powers and other rights granted by the North Carolina Planned Community Act, currently North Carolina Statutes Section 47F-3-102, including the following:

- (a) Adopt and amend bylaws and rules and regulations;

- (b) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Owners;
- (c) Hire and discharge managing agents and other employees, agents, and independent contractors;
- (d) Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the planned community;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (g) Cause additional improvements to be made as a part of the common elements;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to North Carolina state law;
- (i) Grant easements, leases, and concessions through or over the common elements;
- (j) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than the limited common elements and for services provided to Owners;
- (k) Impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges of any Owner or services to any Owner provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of 30 days or longer;
- (l) After notice an opportunity to be heard, impose reasonable fines or reasonable fines or suspend privileges or services by the Association (except rights of access to lots) for reasonable periods for violations of this Declaration, the bylaws and/or the rules and regulations of the Association;
- (m) Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the Declaration of statements of unpaid assessments;
- (n) Provide for the indemnification of, and maintain liability insurance for, its officers, executive board, directors, employees, and agents;

(o) Assign its right to future income, including the right to receive common expense assessments;

(p) Exercise all other powers that may be exercised in this State by legal entities of the same type as the Association; and

(q) Exercise any other powers necessary and proper for the governance and operation of the Association.

ARTICLE V: DURATION, OBLIGATION AND APPURTENANCY  
OF RIGHTS AND OBLIGATIONS CREATED HEREIN

Section 5-1: Duration. These Covenants shall be in effect, shall run with and bind the land, and shall inure to the benefit of and be enforceable by and against "Declarant", the POA, any Property Owner, their respective legal representatives, heirs, successors and assigns for a period of twenty (20) years from the date this Declaration is recorded. Upon the expiration of said twenty (20) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten-year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten-year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of the initial twenty (20) year period or during the last year of any subsequent ten (10) year renewal period, seventy-five percent (75%) of the members vote in favor of terminating this Declaration at the end of its then existing term.

Section 5-2: Protection of Mortgagees and Other Encumbrances. No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision or to prevent a violation shall effect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any property if such lien or deed of trust is taken in good



faith and for value and is recorded prior to the time an instrument describing such Property and listing the name or names of the owners of fee simple title to the Property and giving notice of a claimed violation, breach or failure to comply with the provisions of this Declaration is recorded. Any such violation, breach or failure to comply shall not affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust or other lien or title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien or title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien, nor shall the former owner's violation, breach or failure to comply result in any liability, personal or otherwise, of any mortgage holder or new owner resulting from foreclosure. Any such new owner on foreclosure shall, however, take subject to this Declaration with the exception of the former owner's violations hereof or failure to comply herewith with respect to such new owner, his heir, personal representatives, successors or assigns; provided, however, that any action of the new owner after taking title to, or possession of, such property, which constitutes a violation shall cause such new owner to be subject to all assessments, charges, restraints, restrictions, burdens and obligations under the Covenants.

Section 5-3: Owner's Rights and Obligations Appurtenant. All rights, easements, restrictions and obligations of a Property Owner under this Declaration and all rights of a Property Owner with respect to memberships in the POA under this Declaration are hereby declared to be and shall be appurtenant to the title held by the Property Owner and may not be transferred, conveyed, devised, bequeathed, encumbered or otherwise disposed of separate or apart from the title held by the Property Owner. Every transfer, conveyance, grant, devise, bequest, encumbrance or other

disposition of the title held by a Property Owner shall be deemed to constitute a conveyance, grant, devise, bequest, encumbrance, transfer or disposition of such rights and obligation.

Section 5-4: Amendment. This Declaration may be amended at anytime and from time to time upon the execution and recordation of an instrument approved by not less than 80% of the Property Owners, provided that so long as "Declarant" is the owner of any lot or unit, or any Property affected by this Declaration, no amendment will be effective without "Declarant"'s express written joinder and consent.

#### ARTICLE VI: EFFECT OF COVENANTS AND ENFORCEMENT

Section 6-1: Effect of Provisions of these Covenants. Each Property Owner, his heirs, successors and assigns, and all others who take an interest in land or realty within the Property do promise, covenant and undertake to comply with each provision of these Covenants, which provisions:

- (a) shall be considered incorporated in each deed or other instrument by which any right, title or interest in any real property within the Property is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument;
- (b) Shall, by virtue of acceptance of any right, title or interest in any real property within the Property by a Property Owner (i) be deemed accepted, ratified, adopted and declared as a personal covenant of the Property Owner, and (ii) be deemed a personal covenant to, with and for the benefit of "Declarant", the POA, and any other Property Owner;
- (c) shall be deemed a real covenant by "Declarant" for itself, its successors and assigns and also an equitable servitude, running in each case, as both burdens and benefits with and upon the title to each Lot of real property within the Property and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of any real property now or hereafter owned by "Declarant" within the Property and for the benefit of any and all other real property within the Property; and
- (d) shall be deemed a covenant, obligation and restriction secured by a lien binding, burdening and encumbering the title to each parcel of real property within the

Property which lien, with respect to any respective unit of real property within the Property, shall be deemed a lien in favor of the "Declarant" and the POA, jointly and severally.

Section 6-2: Who May Enforce. The benefits and burdens of these Covenants run with the land at law and in equity and "Declarant", its successors and assigns, the POA, its successors and assigns, or any Property Owner, his heirs, representatives, administrators, successors and assigns with respect to the Property, shall have the right to proceed against a party to compel compliance with the terms hereof or to prevent the violation or breach in any event.

Section 6-3: Enforcement Remedies. In the event that any residential dwelling or other structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any land use is in violation of these Covenants, "Declarant", the POA, or any Property Owner may institute appropriate legal proceedings or actions, at law, or in equity: (a) To prevent such unlawful erection, construction, reconstructions, alteration, repair, conversion, maintenance or use; (b) To restrain, correct or abate such violation, or breach of these Covenants; (c) To prevent the occupancy of said residential dwelling, structure or land; (d) To prevent any act, conduct, business or use which is in breach of these Covenants; or (e) To compel any affirmative act which, pursuant to these Covenants "shall" be performed. Violators shall be personally obligated for reimbursement in full for all direct and indirect costs or damages resulting from the violation or breach, including, but not limited to, legal fees and expenses incurred and maintaining compliance with this Declaration, and such obligation shall also constitute a lien upon the Property of the violating Property Owner.

#### ARTICLE VII: INTERPRETATION AND CONSTRUCTION

Section 7-1: Severability. Should any Covenant or restriction herein contained, or an Article, Section, paragraph, sentence, clause, phrase or term in this declaration be declared to be void, invalid,

illegal or unenforceable for any reason by the adjudication of the highest court or other tribunal which considers such matter and has jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable.

Section 7-2: Interpretation. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best effect consummation of the general plan of land use restrictions and affirmative obligations of the Property, which will carry out the intent of the "Declarant" as expressed in the recitals of these Covenants, and which will preserve the Property as a site as for a high amenity, attractive, well maintained, privately governed residential resort community.

Contrary to the restrictive common law rule of construction, these Covenants shall by this Covenant be interpreted broadly to touch and concern the Property with recognition of modern, economic, land use planning and real estate finance and development principals, theories and practices. It is "Declarant"'s intent, and all Property Owners who take subject to these Covenants to covenant and agree and are thereby estopped to deny, that any function of "Declarant" or the POA, and any other covenant, condition, restriction or obligation within these Covenants is intended to promote the use and enjoyment of the Property, is intended to foster the creation, preservation or enhancement of economic or intangible value associated with the Property, and does touch and concern, benefit and burden and run with the Property.

The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any subsequently adopted zoning ordinance or currently existing zoning ordinance which allows a less restricted use of the Property.

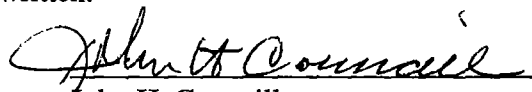
Section 7-3: No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provisions of this Declaration.

Section 7-4: Captions. The captions and heading in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

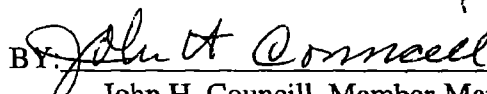
Section 7-5: No Implied Liabilities or Duties. Any rules or regulations established pursuant to these covenants shall not expressly or impliedly create any duty of care to any Property Owner.

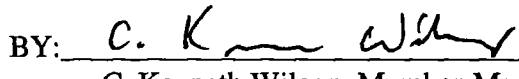
Section 7-6: Statutory Authority. To the extent specific statutory authority for the making of this Declaration shall be deemed necessary, this Declaration shall be construed in accordance with Chapter 47F of the North Carolina General Statutes. Liens for assessments would be asserted as a lien under N.C.G.S. 47F-3-116 if statutory authority is deemed necessary.

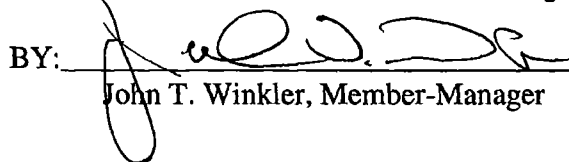
IN WITNESS WHEREOF, JOHN H. COUNCILL AND WWC DEVELOPMENT, LLC, a North Carolina Limited Liability Company, "Declarant", has caused this Declaration to be signed and sealed the day and year first above written.

 (SEAL)  
John H. Council

WWC DEVELOPMENT, LLC

BY:   
John H. Council, Member-Manager

BY:   
C. Kenneth Wilcox, Member-Manager

BY:   
John T. Winkler, Member-Manager