

045154

(N.P SEAL)  
47 RF

RECEIVED  
9-14-2006 PM 3:38:35  
J. LEE WARREN JR.  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

**NORTH CAROLINA  
CUMBERLAND COUNTY**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
BRETT COURT TOWNHOMES**

PREPARED BY AND RETURN TO: Richard M. Lewis, Jr., Esq.,  
Reid, Lewis, Deese, Nance & Person, L.L.P., P.O. Drawer 1358, Fayetteville, NC 28302

THIS DECLARATION, made the 13th day of September, 2006, by GEORGE M. ROSE and J. GARY CICCONE PARTNERSHIP, hereinafter referred to as "Declarant", a North Carolina general partnership with its principal place of business in Fayetteville, Cumberland County, North Carolina; and Ronald K. Burton and wife, Jean H. Burton, owners of Lot 4 of the below described Properties, who join in the execution of this instrument for the purpose of consenting to this Declaration and subjecting their Lot 4 to the terms and conditions of this Declaration.

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property (the "Properties") in Cross Creek Township, Cumberland County, North Carolina, which are more particularly described as follows:

BEING ALL of "HAYMOUNT HEIGHTS" a Zero Lot Line Subdivision of Lots 58 - 61", as more particularly described on a plat of same prepared by George M. Rose, P.E., duly recorded in Book of Plats 92, Page 09 (herein referred to as the "Plat", Cumberland County, North Carolina Registry.

EXCEPTED, HOWEVER, from being a part of this townhome project are Lots 1 and 2 as shown on the Plat, both being labeled as "Existing House".

NOW, THEREFORE, Owners and Declarant hereby declare that all of the Properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1. "Association" shall mean and refer to BRETT COURT HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area presently owned by the Association is described as follows:

Being all of the Common Area (all area except numbered lots and public rights of way) of HAYMOUNT HEIGHTS, a Zero Lot Line Subdivision of Lots 58 - 61, as shown on a plat of same prepared by George M. Rose, P.E., dated June, 1996 and duly recorded in Book of Plats 92, Page 09, Cumberland County Registry.

Section 5. "Lot" shall mean and refer to Lots 3 through 10, inclusive, as shown on the plat of HAYMOUNT HOMES (except the two aforementioned excluded lots shown on said plat as "Existing Home Lots 1 and 2"), recorded as aforesaid in the Cumberland County Registry, and any additional lots which may be annexed.

Section 6. "Declarant" shall mean and refer to GEORGE M. ROSE and J. GARY CICCONE PARTNERSHIP, of Cumberland County, North Carolina, its successors and assigns. The mailing address of the Declarant is Post Office Box 53668, Fayetteville, NC 28305.

Section 7. "Declaration" shall mean this instrument as it may be from time to time amended or supplemented.

Section 8. Eligible Mortgage Holder or Eligible Holders is defined as a holder of a first mortgage or lien on a unit who has requested notice of certain matters from the Association.

Section 9. Limited Common Areas and Facilities shall mean and include those Common Areas, including but not limited to, decks and facilities which are reserved for the use of a certain unit or units to the exclusion of other units, as more specifically defined herein.

Section 10. Mortgagee shall mean a beneficiary under a mortgage or Deed of Trust.

## **ARTICLE II** **PROPERTY RIGHTS**

Section 1. Owner's Easements of Enjoyment. The title to the common areas shall be preserved to the perpetual benefit of the Owners' Association. Every Owner shall have a right and easement of enjoyment in and to the Common Area, except limited common areas, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. The right of the Association to dedicate or transfer all or part of the Common Area to any public agency, 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 an instrument by two-thirds (2/3) of the members agreeing to such dedication or transfer has been recorded. If ingress or egress to any lot is through the Common Area, any conveyance or encumbrance of such area shall be subject to the lot owner's easement;

b. The right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

## **ARTICLE III** **EASEMENTS**

Section 1. Easements are reserved as necessary in the Common Areas for installation and maintenance of underground utilities, drainage facilities and irrigation system(s).

Section 2. The Association, acting through its officers, agents, servants, and/or employees shall have the right of unobstructed access at all reasonable times to the Properties as may be reasonably necessary to perform the maintenance called for in this Declaration.

Section 3. Easements are reserved over those portions of the Common Areas, Limited Common Areas and facilities that may be necessary or required to accommodate overhanging eaves or other cantilevered construction which may encroach upon the Common Areas or Limited Common Areas or the air and light space above such Common Areas.

Section 4. Each Lot and all Common Areas and facilities and Limited Common Areas and facilities are hereby subjected to an easement for the repair, maintenance, expansion, reduction, inspection, removal, relocation, or other service of or to all gas, electricity, television, telephone, water, plumbing, sewer, utility, drainage, or other Common Areas and facilities, whether or not the cause of any or all of those activities originates on the unit in which the work must be performed.

Section 5. Each Lot, and the property included in the Common Area and Limited Common Areas, shall be subject to an easement for encroachments created by construction, settling and overhangs for all buildings constructed by Declarant. A valid easement for said encroachments and for the maintenance of same, so long as such encroachments stand, shall and does exist. In the event that any structure containing two or more townhouses is partially or totally destroyed and then rebuilt, the owners of the townhouses so affected agree that minor encroachments of parts of the adjacent townhouse units or Common Areas due to construction shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 6. Easements over the Common Areas for access, ingress and egress from and to public streets and walkways and easements for enjoyment of the Common Areas and for parking areas are hereby granted to all Owners in HAYMOUNT HEIGHTS, PLAT BOOK 92, PAGE 09, their guests, families, invitees and lessees, the Association, the Declarant, its successors, and assigns. Declarant hereby reserves alienable easement over all streets and Common Areas as necessary to provide access for future development by Declarant or its successors and assigns of any properties adjoining the Project so long as said additional properties are annexed into the Homeowners' Association.

Section 7. An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services to enter upon the Lots and Common Area in the performance of their duties.

Section 8. In case of any emergency originating in or threatening any unit or lot or the Common Areas and facilities, regardless of whether the unit or lot owner is present at the time of such emergency, the Board of Directors or any other person authorized by it, shall have the right to enter any unit for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the unit owners, and such right of entry shall be immediate.

Section 9. All easements and rights described herein and shown on the recorded plats of the Properties are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

#### **ARTICLE IV** **PARTY WALLS**

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of

this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, subject however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. In the event of dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## **ARTICLE V**

### **MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

a. Class "A". Class A member(s) shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to the Lot.

b. Class "B". Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events which ever occurs earlier:

(1) when the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership, or

(2) on January 1, 2012.

## **ARTICLE VI**

### **COVENANTS FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot 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 the Association:

a. Annual assessments or charges, and

b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

c. The lien of any assessment is subordinate to the lien of any first mortgage. Mortgagees are not required to collect assessments. Failure to pay assessments does not constitute a default under a first or insured mortgage.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area and of the townhouses situated upon the Properties.

Section 3. Exterior Maintenance.

a. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts and exterior building surfaces. Such exterior maintenance shall not include glass surfaces.

b. The cost of exterior maintenance is included with the Maximum Annual Assessment. In the event that the need for maintenance, repair or replacement is caused through the willful, or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance, replacement or repairs, shall be added to and become a part of the assessment to which such Lot is subject.

Section 4. Maximum Annual Assessment. Until January 1, 2007, the maximum annual assessment shall be Six Hundred and No/100 (\$600.00) Dollars per Lot.

a. From and after January 1, 2007, the maximum annual assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year without a vote of the membership.

b. From and after January 1, 2007, the maximum annual assessment may be increased above five (5%) percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

c. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of public and private capital improvements upon the Lots and the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Liability Insurance.

a. General Liability. It shall be the duty of the Association to maintain in effect liability insurance in reasonable amounts, covering all occurrences commonly insured against death, bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Area.

b. Provisions of Policies. The Board of Directors shall make diligent efforts to insure that said insurance policies provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Lot owners and their employees, agents tenants and invitees.

(2) A waiver by the insurer of its right to repair and reconstruct instead of paying cash.

(3) Coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the named insured and all mortgagees.

(4) Coverage will not be prejudiced by act or neglect of the Lot owners when said act or neglect is not within the control of the Association or by failure of the Association to comply with any warranty or condition regarding any portion of the property over which the Association has no control.

(5) The master policy on the Common Area cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Lot owners.

(6) The master policy on the Common Area cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Lot owner or any mortgagee.

c. Officers and Directors Liability Insurance. At the election of the Board of Directors, it shall be the duty of the Association to maintain in effect liability insurance in reasonable amounts covering the officers and directors of the Association against any mistake of judgment, negligence, actions or failure to act, or otherwise, except for their own individual willful misconduct or bad faith. Such insurance shall further insure each officer and director against all contractual liability to others arising out of contracts made by them on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of these Declarations or of the By-Laws.

d. Premiums. All insurance policy premiums on the property for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense and the Association shall levy against the Owners equally as an additional annual assessment, (herein called "Insurance Assessment") which shall be in addition to the amounts provided for under Section 4 above, an amount sufficient to pay the annual cost of all insurance premiums.

e. Policies. All insurance policies purchased by the Board of Directors shall be with a company or companies permitted to do business in the State of North Carolina and holding a rating of "A" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Board of Directors and the Lot Owners and their Mortgagees as their respective interests may appear.

f. Owner's Insurance. Each Owner shall maintain appropriate and adequate insurance on and in connection with the improvements situated and constructed upon each lot, protecting the insured premises against property damage and casualty loss. In the event of property damage or casualty loss to or upon said improvements situated and constructed upon each lot, each Owner shall apply for and expend the proceeds of said insurance coverage to and in payment of expenditures incurred for services rendered or material delivered and required in order to restore, repair or renovate the damaged premises to a condition equal to or better than the condition and state of repair of said premises immediately preceding the event causing the property damage or casualty loss in question. Evidence of said insurance coverage shall be submitted to the Board of Directors of the Association upon request.

Section 7. Notice and Quorum For Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4 and 5 shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty (50%) percent of all votes of each class of membership shall constitute a quorum. The required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis or at such intervals as the Board of Directors may choose.

Section 9. Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and the Board of Directors shall have authority to require the assessments to be paid in pro rata monthly installments or at other intervals. 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 on Nonpayment of Assessments and Remedies of the Association. Any assessment levied against a Lot remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Lot when filed of record in the Office of the Clerk of Superior Court in the manner provided therefore by Article 8 of Chapter 44 of the General Statutes. The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 24 of Chapter 45 of the General Statutes, or the Association may bring an action at law to collect the debt. The delinquent Owner shall be responsible for all costs of such action, including reasonable attorney's fees. Any such unpaid assessments shall bear interest from the due date at the rate of twelve (12%) percent per annum. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 11. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association. Upon default of the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area, or assessments for insurance for or public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of remaining Lots within the Properties. If such sum is not paid by the Owner within thirty (30) days following the receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring action at law or may elect to foreclose the lien against the Lot of the Owner.

Section 12. Rights of Eligible Mortgage Holders. To the extent permitted by law, an Eligible Mortgage Holder upon written request to the Association, identifying the name and address of the holder, will be entitled to timely written notice of:

a. Any condemnation, loss or casualty loss which affects a material portion of the Property or any Lots upon which there is a mortgage held by such Eligible Mortgage Holder.

b. Any delinquency in payment of assessments or charges owed by an Owner of the Lot subject to a first mortgage held by such Eligible Holder which remains uncured for a period of sixty (60) days.

c. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

d. Any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders.

e. In addition to the foregoing rights, the Eligible Mortgage Holders shall be afforded the following rights subject to the extent permitted by law and as allowed by the North Carolina General Statutes as they now exist or as may be amended from time to time:

(1) Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the Common Area must require the approval of at least sixty-seven (67%) percent of the votes of the unit estates subject to Eligible Mortgage Holders.

(2) Unless otherwise provided in the Declaration or By-Laws, no reallocation of interest in the Common Areas resulting from a partial condemnation or partial destruction of the Common Area may be affected without the prior approval of Eligible Holders holding mortgages on all remaining unit estates whether existing in whole or in part, and which have at least sixty-seven (67%) percent of the votes of such remaining unit estates subject to Eligible Holders of Mortgages.

(3) Notwithstanding the above, an election by the Association to dedicate all or part of the Common Area to a governmental authority shall not require the consent of Eligible Mortgage Holders.

## **ARTICLE VII FIDELITY BONDS**

Section 1. General. In the discretion of the Directors, the Association shall maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association. If the Association shall delegate some or all the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association.

Section 2. Amount of Coverage. The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months aggregate assessments on all units plus reserve funds.

Section 3. Other requirements. Fidelity bonds required herein must meet the following requirements:

a. Fidelity bonds shall name the Association as an obligee.

b. The bonds shall contain waivers by the insurers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

c. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association, to any insurance trustee and each Eligible Mortgage Holder.



**ARTICLE VIII  
USE RESTRICTIONS**

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one single family townhouse dwelling not to exceed three (3) stories in height. Any building erected, altered, placed or permitted to remain on any Lot shall be subject to the provisions of Article IX of this Declaration of Covenants, Conditions and Restrictions relating to architectural control.

**Nuisance**

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently provided, however, that this paragraph shall not be deemed or construed to prevent the use of a temporary construction shed during the period of actual construction of any structure on such Property, nor the use of adequate sanitary toilet facilities for workmen which shall be provided during such construction.

Section 4. Recreational Vehicles. No boat, motor home, camper, trailer, motor or mobile home, or similar type vehicle, shall be permitted to remain on any portion of the Properties.

Section 5. Dismantled Automobiles. No automobile or motor vehicle may be dismantled or stored on said Property; and no mechanically defective automobile, motor vehicle, mechanical machine or machinery shall be placed or allowed to remain on said Property for over seven (7) days.

Section 6. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that one (1) dog and one (1) domestic cat, neither of which may exceed twenty-five (25) pounds in weight, may be kept or maintained in a dwelling provided that they are not kept or maintained for commercial purposes and are at all times properly leashed or confined.

Section 7. Outside Antennas. No outside radio or television antennas or satellite dish antennas shall be erected or placed on any Lot or dwelling unit within the Properties.

Section 8. Window Coverings. All drapes, curtains or other similar materials hung at windows, or in any manner so as to be visible from the outside of any building erected upon any Lot, shall be of a white or neutral background or material or shall be lined with a white or neutral background or material in order to insure the uniform exterior appearance of the townhouse units. If blinds are broken, the owner shall replace them with blinds as identical in color and quality as possible.

Section 9. Exterior Lights. All light bulbs or other lights installed in any fixture located on the exterior of any building or any Lot shall be clear, white or non-frost lights or bulbs.

Section 10. Signs. No sign of any character shall be displayed or placed upon any part of the Property except "For Rent" or "For Sale" signs, referring only to the premises on which displayed and not to exceed two square feet in size and one sign to a Lot.

Section 11. Clothes Drying. No outside clothes lines or drying yards shall be permitted.

Section 12. Garbage. Garbage receptacles shall be in complete conformity with sanitary rules and regulations. No garbage incinerators shall be permitted. No refuse piles shall be allowed to be placed or suffered to remain upon the Property beyond a time for normal pickup.

Section 13. Water Systems. No individual water supply system shall be permitted.

Mailboxes

Section 14. Letter and Delivery Boxes. The Architectural Committee shall determine the location, color, size, design, lettering, and all other particulars of all mail or paper delivery boxes, and standards and brackets and name signs for such boxes in order that the area be strictly uniform in appearance with respect thereto.

Commercial Vehicles

Section 15. Commercial Vehicles. No commercial vehicles, construction, or like equipment or mobile or stationary trailers of any kind shall be permitted on any Lot or on any Common Area except for normal delivery service or during the time of construction.

Rental

Section 16. Rental. No portion of a unit (other than the entire unit) may be rented, and no transient tenants may be accommodated therein. A record Owner may rent a portion to a roommate as long as the Owner is living in the unit.

Section 17. Type Construction. No construction may be constructed with an exterior wall finish of material of concrete or cinder block type construction or shall be finished in asbestos siding shingles or aluminum or vinyl siding.

Section 18. Underground Electric Service. Declarant reserves the right to subject the real property in this entire subdivision to a contract with the provider of electrical service for the installation of underground electric cables and/or the installation of street lighting, either or both, of which may require an initial payment and/or a continuing monthly payment to the provider of electric service by the Owner of each building.

**ARTICLE IX  
ARCHITECTURAL CONTROL**

Approval

Section 1. Except the initial development of the Properties by Declarant, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the color scheme, nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty(30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, the Board of Directors shall notify the Owner in writing by certified mail, return receipt requested, specifically setting forth the items complained of. Within fifteen days of the date of the notice, the Owner shall have the right to demand in writing an opportunity for a hearing before the Board of Directors. Within fifteen days of receipt of the demand for hearing, the Board of Directors shall arrange for such a hearing and shall notify the Owner no less than seven days before the date of the hearing of the place, date and time of the hearing. Such notice shall be hand delivered to the Owner or an adult person living in the Lot or shall be sent by certified mail, return receipt requested. After approval by two-thirds (2/3) vote of the Board of Directors of the action required of the Owner, the Owner shall have thirty (30) days within which to comply with the decision of the Board, or such longer period as the Board may allow. If the action required by the Board is not satisfied within such period, the Board of Directors shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

**ARTICLE X  
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 an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Lots Subject to Declaration. All present and future Owners, tenants and occupants of Lots and their guests or invitees, shall be subject to and shall comply with the provisions of this Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such Owner, tenant or occupant. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns, and shall run with and bind the land and shall bind any person having at any time any interest or estate in any Lot as though such provisions were made a part of each and every deed of conveyance or lease.

Section 4. Amendment of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than two-thirds (2/3) of the Lot owners. Any amendment must be recorded.

Section 5. Attorney's Fees. Should the Association employ counsel to enforce any of the foregoing covenants, conditions and reservations, or restrictions, all costs incurred in such enforcement, including reasonable attorney's fees, shall be paid by the Owner of such Lot or Lots and the Association shall have a lien upon such Lot or Lots to secure the payment of all costs and fees.

Section 6. Use Restrictions Survive. Notwithstanding any other provisions in these Declarations or By-Laws, in the event the Common Areas and facilities are offered for dedication to the public and such offer is accepted by a governmental agency, the Use Restrictions shall survive any termination of the Association.

Section 7. Law Controlling. This development is being undertaken pursuant to the provisions of Chapter 47A of the North Carolina General Statutes. It is the further intent of the Declarant to comply with the Fayetteville City Code. The applicable provisions of Chapter 25 of the Fayetteville City Code are incorporated herein by reference. Where a conflict arises between any provision of these Declarations and the Fayetteville City Code, the provisions of the Fayetteville City Code shall prevail. Where a conflict arises between the provisions of the Fayetteville City Code and the North Carolina General Statutes, the North Carolina General Statutes shall prevail. In the event of any conflict between the Declaration and the By-Laws, the Declaration shall control except to the extent the Declaration is inconsistent with the Statute.

[Signature page immediately follows]

IN WITNESS WHEREOF, GEORGE M. ROSE and J. GARY CICCONE PARTNERSHIP, Declarant herein, has caused this Declaration to be signed in its name this 13th day of Sept., 2006.

GEORGE M. ROSE and J. GARY CICCONE PARTNERSHIP, a North Carolina general partnership

BY: *George M. Rose* (SEAL)  
GEORGE M. ROSE, Partner  
BY: *J. Gary Ciccone* (SEAL)  
J. GARY CICCONE, Partner

*Ronald K. Bruton* (SEAL)  
Ronald K. Bruton

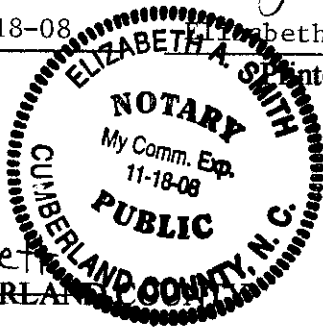
*Jean H. Bruton* (SEAL)  
Jean H. Bruton

NORTH CAROLINA, CUMBERLAND COUNTY

I certify that the following person(s) personally appeared before me this day and I have personal knowledge of the identity of the principal(s) or have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the principal(s); each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principals: GEORGE M. ROSE and J. GARY CICCONE.

Date: September, 13, 2006 *Elizabeth A. Smith*  
Notary Public

My Commission expires: 11-18-08 Elizabeth A. Smith  
Printed or Typed Name of Notary Public



HARNETT  
NORTH CAROLINA, CUMBERLAND COUNTY

I certify that the following person(s) personally appeared before me this day and I have personal knowledge of the identity of the principal(s) or have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the principal(s); each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principals: RONALD K. BRUTON and JEAN H. BRUTON..

Date: 9-13-06 *Chris J. Bennett*  
Notary Public

My Commission expires: 3/28/07 Doris J. Bennett  
Printed or Typed Name of Notary Public