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DECLARATION OF PROTECTIVE COVENANTS FOR DUCK RIDGE VILLAGE

THIS DECLARATION OF PROTECTIVE COVENANTS, made this 21st day of February, 2003 by BD&A REALTY & CONSTRUCTION, INC., a North Carolina Corporation, hereinafter referred to as the "Declarant,"

RECITALS:

1. The Declarant is the owner of certain real property located in The Town of Duck, Dare County, North Carolina and more particularly described in Section 2.01 herein and said property being hereinafter referred to as "Duck Ridge Village" and the "Subdivision" herein; and
2. The Declarant desires to provide for the preservation of the values of Duck Ridge Village and, to this end, desires to subject the real property described in Section 2.01 to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are, for the benefit of said real property and each owner thereof; and
3. The Declarant desires the development of Duck Ridge Village be patterned upon Architectural Styles which incorporate the shingle style vernacular coastal theme architecture by incorporating design and building materials as more particularly set forth within those Architectural Guidelines of Article V herein for the purpose of protecting the value and desirability of Duck Ridge Village;
4. To accomplish the objectives stated within these Recitals, the Declarant believes it is in the best interest of Duck Ridge Village for it to maintain a significant role in the implementation of the Subdivision and has therefore retained certain rights and will exercise control in the development until the developmental process has been completed;



NOW, THEREFORE, in consideration of the foregoing recitals, the provisions of which are a substantive part of this Declaration, and other good and valuable consideration, all that property more particularly described in Section 2.01, and any other property annexed pursuant to Section 2.02 shall be held, conveyed, apothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, conditions, easements and restrictions set forth in the Governing Documents, as modified and amended from time to time, all of which shall run with the real property subjected to the Governing Documents and which shall be binding on all title or interest in all or any portion of Duck Ridge Village, their respective heirs, personal representatives, successors, transferees and assigns, as well as occupants, guests and invitees, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1.01. **Definitions.** When used in this Declaration, unless the context shall prohibit or otherwise require, the following words shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

Section 1.02. "Act" refers to the North Carolina Planned Community Act as codified in Chapter 47F of the North Carolina General Statutes.

Section 1.03. "Architectural Standards Committee" (hereinafter referred to as the "ASC") shall mean and refer to the committee appointed by the Declarant to review and either approve or disapprove of all structural improvements, additions, modifications and changes at Duck Ridge Village as provided in Article V.

Section 1.04. "Articles of Incorporation" shall mean the Articles of Incorporation for Duck Ridge Village.

Section 1.05. "Assessments" shall mean and refer to any assessments levied by the Association in accordance with the governing documents.

Section 1.06. "Association" shall mean and refer to Duck Ridge Village Homeowners' Association, Inc., a non-profit corporation, its successors and assigns, the entity responsible for carrying out the objectives of the Governing Documents.

Section 1.07. "Board" shall mean and refer to the governing body of the Association as more fully described in the Bylaws and Articles of Incorporation of the Association.

Section 1.08. "Bylaws" shall mean and refer to the Bylaws of Duck Ridge Village Homeowner's Association, Inc., as adopted by the Board of Directors, as amended from time to time.



Section 1.09. "Common Area" shall refer to all real property owned or hereafter owned by conveyances or dedications by the Declaration to the Association for the use and enjoyment of the Members.

Section 1.10. "Common Expenses" shall mean and refer to (i) expenses of administration, maintenance, improvement, repair or replacement of Common Area or Common Property and/or Landscaped Rights-of-Way, (ii) expenses declared to be or described as Common Expenses by the provisions of this Declaration, (iii) premiums for hazard, liability or other insurance as may be obtained by the Association, (iv) all other expenses incurred by the Association in carrying out its functions and duties under the Declaration.

Section 1.11. "Common Expense Liability" means the liability for common expenses allocated to each lot.

Section 1.12. "Declarant" shall mean BD&A Realty & Construction, Inc., a North Carolina Corporation and their successors, transferees and assigns.

Section 1.13. "Declaration" shall mean and refer to the Declaration of Protective Covenants for Duck Ridge Village.

Section 1.14. "Dwelling Unit" shall mean and refer to any improved property intended for use and occupancy by a single household.

Section 1.15. "Improvements" shall mean and refer to any additions to a Lot including a dwelling, garage, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements and any other construction which has been approved by the Architectural Standards Committee of Duck Ridge Village.

Section 1.16. "Living Area" shall mean and refer to enclosed heated covered areas within a Dwelling, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements.

Section 1.17. "Lot" shall mean and refer to any separately numbered plot of land shown upon now or subsequently recorded on the Subdivision Plat of Duck Ridge Village.

Section 1.18. "Owner" shall mean and refer to record owner of a lot in Pebble Beach Shores.

Section 1.19. "Period of Declarant Control" shall mean and refer to the period of time commencing on the day the Declaration is recorded in the Office of the Register of Deeds of Dare County and continuing until the earlier of: (i) such time as Declarant shall cease to own at least ten percent (10%) of the lots in the Subdivision; or (ii) seven (7) years from the date this Declaration is recorded in the Register of Deeds of Dare County.



Section 1.20. "Person" means a natural person, corporation, or a business trust, estate, trust, partnership, limited liability company, joint venture or any other legal entity.

Section 1.21. "Special Declarant Rights" means rights reserved for the benefit of the Declarant including, without limitation, any right (i) to complete improvements indicated on plat and plans filed with the Declaration; (ii) to exercise any development right; (iii) to maintain sales offices, management offices, signs advertising, and models; (iv) to make a master association; or (v) to appoint or remove any officer or executive board member of the association or any master association during any Period of Declarant Control.

Section 1.22. "Subdivision Plat" shall refer to that plat entitled "Duck Ridge Village, Lots 1 through 17 - Duck Atlantic Township - Dare County, North Carolina" dated January 9, 2003 prepared by Seaboard Surveying & Planning, Inc. and recorded in Plat Cabinet E at Slide 761 of the Public Registry of Dare County, North Carolina.

ARTICLE II

STATEMENT OF SUBMISSION

Section 2.01. **Submission of Property.** The real property which shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the Governing Documents shall consist of all of those lots and property shown on the Subdivision Map of Duck Ridge Village recorded in Plat Cabinet E at Slide 761, of the Public Registry of Dare County, North Carolina, with the exception of Lot 1 which is exempt from this Declaration.

ARTICLE III

PROPERTY RIGHTS

Section 3.01. **Easements for Declarant.** As long as the Declarant retains ownership of any Lots within the Duck Ridge Village, Declarant shall have alienable and transferable right and easement, for purposes of ingress and egress of all roads within the Subdivision for the purpose of constructing any improvements in and to the Lots and for installing Duck Ridge Village which may be undertaken by Declarant but for which in no event shall Declarant have any obligation to do any of the foregoing.

Section 3.02. **Easements for Utilities and Drainage.** The Declarant reserves unto itself, its successors and assigns, a perpetual alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric, gas, water, sewer, drainage facilities, telephone systems, cable television Duck Ridge Village, on, in or over those made on the Duck Ridge Village Plat. Declarant reserves unto itself, its successors and assigns, perpetual, alienable and releasable easements within the Duck Ridge Village Subdivision and the right on, over and under the ground to cut drainways for surface water and make any grading of the soil whenever and

wherever such action may appear to Declarant to be necessary to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, take or add any soil, or take any other similar action reasonably necessary to provide economical and safe utility installation or to maintain reasonable standards of health, safety and appearance.

Section 3.03. **Maintenance Easement.** There is hereby reserved for the benefit of Declarant, its respective agents, employees, successors and assigns, the right to enter upon any Lot, such entry to be made by personnel with tractors or other suitable devices, for the purposes of mowing, removing, clearing, cutting or pruning underbrush, weeds or unsightly growth for the purpose of building or repairing any land contour or other earth work which in the opinion of the Declarant or its agents detracts from or is necessary to maintain the overall beauty, ecology, setting and safety of the property. Such entrance shall not be deemed as trespass. Declarant, and its successors, and/or assigns or designees may likewise enter upon any Lot to remove any trash which is collected without such entrance and removal being deemed as trespass. The provisions of this paragraph shall not be construed as an obligation on the part of the Declarant and/or any designee of Declarant to undertake any of the foregoing.

Section 3.04. **Environmental Easement.** It is hereby reserved for the benefit of Declarant, and its respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all Lots for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated by any governmental entity or instituted by the Board of Directors or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides.

Section 3.05. **Easements Reserved for The Association.**

(a) Full rights of ingress and egress shall be had by the Association at all times over and upon each Lot or Dwelling Unit for the Maintenance and repair of each Lot or Dwelling Unit in accordance with the provisions hereof and for the carrying out by the Association of its rights, powers duties and obligations hereunder, provided that any such entry by the Association upon any Lot or Dwelling Unit shall be made with a minimum inconvenience to the Owner as reasonably practicable, and any damage caused as a result of the negligence of the Association's employees or agents shall be repaired by the Association at the expense of the Association.

(b) In addition to the foregoing, and in order to implement effective and adequate erosion control, the Association, and its contractors, employees and agents, shall have the right to enter upon any portion of any Lot or Dwelling Unit before and after Improvements have been constructed thereon for the purpose of performing any grading or landscaping work or constructing, repairing, replacing, using and maintaining erosion control devices; provided however, no such activities shall interfere with any Permanent Improvements constructed on any such Lot or Dwelling Unit (which Improvements have been approved by the ASC). If the need for erosion control results from the construction of Improvements on any portion of



an Lot or Dwelling Unit or any excavation, grading, removal, reduction, addition or clearing of any Lot or Dwelling Unit or portion thereof, the cost of any such work performed by the Association for the purpose of implementing effective and adequate erosion control shall be assessed against the Owners of Lot or Dwelling Unit on which such corrective action is necessary on a Lot or Dwelling Unit, prior to exercising its right to enter upon such Lot or Dwelling Unit and performing any grading or landscaping work or constructing or maintaining erosion prevention devices, the Association shall give the Owner of such Lot or Dwelling Unit written notice of and the opportunity to take the corrective action specified in the notice, the Association may then exercise its right to enter upon the Lot or Dwelling Unit and take or complete the necessary corrective action.

(c) Signage on Lot 17. There is reserved along the western most 5 feet of Lot 17 and to the north of that berm with two live oaks an easement in favor of the Association for the installation, maintenance and necessary replacement of signage for the identification of Duck Ridge Village.

Section 3.06. Rights of Association.

- (a) the right of the Association to suspend the voting rights by an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;
- (b) the right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act and with the consent of the Members entitled to cast at least eighty percent (80%) of the votes in the Association, to dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Area for such purposes and subject to such conditions as may be agreed to by the Association's Board; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded; provided further that for so long as Declarant shall own any portion of Duck Ridge Village or shall have the right to annex additional properties pursuant to Article II, Section 2.02 hereof, Declarant must also consent to such action and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Area or cause any Lot or any remaining Common Area to fail to comply with applicable laws, regulations or ordinances;
- (c) the right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act and with the consent of the Members entitled to cast at least eighty percent (80%) of the votes in the Association, to dedicate to any public agency, authority or utility, or to transfer to any other party, fee simple title to all or any part of the Common Area for such purposes and subject to such conditions as may be agreed to by the Members consenting to such dedication or transfer; provided, however no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any



remaining Common Area or cause any Lot or any remaining Common Area to fail to comply with applicable laws, regulations or ordinances; and further provided for so long as the Declarant shall own any portion of Duck Ridge Village or shall have the right to annex additional properties pursuant to Article II, Section 2.02 hereof, Declarant must also consent to such action.

- (d) the right of the Association to impose rules and 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 3.07. **Schooner Ridge Subdivision.** During the Period of Declarant Control, Declarant shall have the right to contract with the Schooner Ridge Subdivision for the purpose of sharing amenities of Schooner Ridge (ocean access, clubhouse, tennis courts and indoor swimming pool) which membership rights shall be subject to membership dues or assessments per contract with the Schooner Ridge Association.

ARTICLE IV

MAINTENANCE AND INSURANCE

Section 4.01. **Responsibilities of Owners.** Each Lot or Dwelling Unit Owner shall be responsible for all maintenance and repair of his Lot and/or Dwelling Unit together with all other improvements thereon or therein and all landscaping of grounds on and within the Lot. Each owner shall be responsible for maintaining his Lot in a neat, clean and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of all improvements and other structures and all trees, shrubs, hedges, walkways, driveways and other landscaping consistent with the site plan and landscape plan approved by the ASC, including but limited to

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Lawn mowing and maintenance on a regular basis, including (subject to any applicable governmental laws or regulations) any portions of a public or private street right of way adjacent to any boundary of the Lot or Dwelling Unit;
- (c) Tree and shrub pruning and removal of dead or diseased trees and shrubs, or trees that pose a safety hazard;
- (d) Watering, by means of a lawn sprinkler system or hand watering as needed;
- (e) Keeping exterior lighting and mechanical facilities in working order;
- (f) Keeping lawn and garden area alive and removing any dead plant material;
- (g) Keeping vacant land well maintained and free of trash and weeds;



- (h) Keeping parking areas and driveways in good repair;
- (i) Repainting of Improvements;
- (j) Repair any exterior damage to Improvements; and
- (k) Being responsible to make all good faith efforts to care and maintain any live oaks on the property.

Section 4.02. **North Carolina Division of Environmental Management Water Quality Section Stormwater Regulations.** As a condition to the North Carolina Stormwater Management Permit No. SW7021104 issued by the Division of Water Quality for Duck Ridge Village, the following covenants may not be changed or deleted without the consent of the North Carolina Division of Environmental Management Water Quality Section (the "DEM").

(a) The allowable built-upon area per lot shall not exceed that square footage designated by DEM, inclusive of that portion of the right-of-way between the front lot line and the edge of the pavement, structures, walkways of brick, stone, slate, not including wood decking, a copy of the permitted lot coverages in Exhibit A attached hereto and incorporated herein reference.

(b) Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with any development except for average driveway crossings, is strictly prohibited by any persons.

Section 4.03. **Exterior Maintenance.** In addition to the maintenance of the Common Areas by the Association and after thirty (30) days written notice to any Owner which shall specify the required maintenance, the Association shall have the right but not the obligation to provide (a) maintenance upon any Lot and (b) maintenance upon any Dwelling Unit, which is subject to assessment under Article VII hereof. Such maintenance includes but is not limited to painting, repairing, replacing and care of roofs, gutters, downspouts, removal of signs in violation of this Declaration, and exterior improvements of any Dwelling Unit. Also, such maintenance may include mowing, trimming and cleanup on any Lot. The cost of any such maintenance shall be assessed against the lot or Dwelling Unit upon which such maintenance is done and shall be added to and become part of the regular annual assessment or charge to which Lot or Dwelling Unit is subject and, as part of such regular annual assessment or charge, it shall be a lien against any such Lot or Dwelling Unit as heretofore defined and limited, and a personal obligation of the Owner and shall continue to become due and payable in all respects as provided herein.

ARTICLE V

ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

Section 5.01. **Purpose.** In order to protect the natural beauty of Duck Ridge

Village and to protect property owners within Duck Ridge Village, from depreciation of values that could be caused by poor design and failure of materials, inharmonious color schemes haphazard location of improvements, Lots within Duck Ridge Village and all improvements located thereon shall be subject to the restrictions set forth in this Article V. Every grantee of any interest in Duck Ridge Village by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article V.

Section 5.02. Architectural Standards Committee.

(a) Membership: The Architectural Standards Committee (the "ASC") shall be that ASC appointed by the Declarant during the Period of Declarant Control and thereafter appointed by the Board.

(b) Procedure: At least thirty (30) days prior to the proposed commencement of any construction or home modification, the plans shall be submitted to the ASC. The ASC's approval, disapproval or waiver as required in these covenants shall be in writing and the decision of a majority of the ASC in case of any disagreement among ASC members as to the approval, disapproval or waiver by the ASC shall be controlling. In the event the ASC or its designated representatives fail to approve or disapprove within thirty (30) days after plans have been received by it, approval of the ASC will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with. Further, in the event any construction is commenced on any Lot without submission to the ASC of the plans with respect thereto, and no action or suit is instituted against the Owner of such Lot by the Declarant then any Owner of any other Lot constituting a portion of the Subdivision within ninety (90) days after the foundation of any building being constructed on any such Lot is completed, then, and in any such event, approval by the ASC will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with.

Section 5.03. Approval of Plans.

(a) Submission of Plans. No earth-moving, building, wall, driveway, swimming pool, tennis court, or other structure, site work or clearing preparatory to construction shall be begun, altered, added to, maintained or reconstructed on any Lot until the plans and specifications for such work have been reviewed and approved by the Architectural Standards Committee). Before commencing such review, a Lot Owner shall submit to the ASC three (3) completed sets of plans and specifications on 1/4 inch scale, including, but not limited to: foundation plan, floor plan or plans, the four directional elevations, a schedule of proposed exterior colors and material, shingle colors, grade and weight, landscaping plans, plan showing driveway, parking, and proposed commencement date of construction and expected completion of improvement. The ASC shall have the absolute and exclusive right to refuse to approve any such plans and specifications which are not suitable or desirable in the opinion of the ASC for any reason, including purely aesthetic reasons which, in the sole and uncontrolled discretion of the ASC, shall be deemed sufficient. If construction of any improvement required to be approved shall not have been begun before the expiration of six months following approval, said approval shall be void and of no effect. In such event, the plans of such improvement shall be resubmitted to the ASC for reconsideration and the ASC may, in its discretion either confirm its



earlier approval of plans or disapprove. All plans must be in compliance with those Guidelines for Building and Development administered by the ASC which as of the date of this Declaration are those guidelines set forth in Section 5.03(c) herein. Following approval of the plans, two sets will be returned, marked "approved by the ASC" allowing the applicant thereafter to apply for the necessary construction permits. The ASC will hold one set of approved plans in its permanent files. If the plans are not approved, all sets will be returned to the applicant with a letter indicating the reasons for non-approval. If approval with conditions is granted and construction then begins, the conditions shall be deemed accepted by the owner and the conditions imposed shall become fully a part of the approved plans.

The landscape plans shall show all aspects of planned site work, stabilization, lighting, decorative plannings, irrigation systems and any other proposed improvements and shall also specify any recreational amenities. The landscape plan shall identify any live oaks on the property and shall detail plans for the protection and maintenance of the live oaks. In no event, shall any live oak be cut or destroyed without the prior written approval of the ASC.

Specifications on building plans shall include building dimensions and square footage, detailed specifications of all materials used in construction and finishing and colors to be used on exterior surfaces, foundations, windows, doors and trim.

(c) Guidelines for Building and Development.

1. The Declarant has established architectural guidelines to provide guidance to owners regarding matters deemed to be of relevance or important to the ASC in consideration for design approval. The design guidelines shall not be the exclusive basis for decisions and compliance with the design guidelines shall not guarantee approval of an application. Each applicant acknowledges that composition of the ASC will change from time to time and that decisions regarding aesthetic matters and interpretation and application may reasonably vary from time to time. The approval of the ASC of any proposal or plans or specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ASC, shall not be deemed to constitute a waiver of any rights or approval or consent as to similar proposals, plans and specifications. All exterior sidings and fences must be painted or stained and maintained in accordance with those colors or stains approved by the ASC.

The design guidelines shall address the architectural elements desired for Duck Ridge Village such as the desirability of: wraparound porches with wide overhangs, multi-tier roofs with dormers, exterior wall covering, exterior trim, types of windows, the desirability of cables and hips with specified slopes on roofing, materials to be used in soffits and roof colors.

2. Dwelling Units must have an area of not less than 2,200 square feet, exclusive of porches, breezeways, steps and garages.

3. Entrance and yard lighting shall be small wattage, low level ground lighting to avoid direct glare on to adjacent properties. High intensity flood lighting

from poles or dwellings is not permitted unless specifically approved in writing by the ASC.

4. Maximum height shall be in accordance with the Zoning Ordinance of The Town of Duck.

5. Driveways must be designed in accordance with the requirements of The Town of Duck and approved by the ASC.

6. A landscaping plan must be submitted in accord with the requirements of Section 4.04 herein.

7. Set back restrictions are those set forth on the Subdivision Plat.

a. Foundation: The ground floor must be slab on grade.

8. Signs: Only the following signs are permitted:

(a) Permanent Owner Identification - 12" X 30" with Owner's name or adopted name with colors to be approved.

(b) Real Estate Sales or Rentals - One 2 square foot Realtor's "For Sale" sign and/or one 12" X 24" Realtors "For Rent" sign allowed for each property.

(c) Contractor Sign - shall not be greater than six square feet and shall be removed when a Certificate of Occupancy is issued.

(d) Marketing Signage - During the Period of Declarant Control, the Declarant shall have the right to locate signs and/or flags indicating the location of sales and rental centers, any recreational facilities and amenities and such other information as may be required on any lot which the Declarant locates or needs a marking medium.

9. Utility lines - All water, sewer, electrical and cable television lines are to be installed underground.

10. Mail boxes and newspaper receptacles will be of standardized design approved by the ASC.

11. Vents, Pipes, Air-Conditioning Equipment, Down Spouts and Lights - No vent or other pipes or appendages may extend from the front of any Dwelling Unit unless screened from public view by a screening material or shrubbery approved by the ASC. Exterior air-conditioning equipment and heating equipment must be screened from public view by a screening material or shrubbery approved by the ASC. Down spouts and gutters must be so constructed as to not promote the erosion of the soil on any lot. Exterior spotlighting shall be directed so as not to cast light directly on another Dwelling Unit.

12. Garbage - Except as required by any appropriate governmental authority, each Owner shall provide receptacles for garbage, and all garbage



receptacles, tools and equipment for use on the Lot of any Owner or otherwise shall be placed in a fenced area in accordance with reasonable standards established by the ASC to shield same from general visibility from roads and adjoining lots. No fuel tanks or similar storage receptacles, other than solar panels and related storage facilities, may be exposed to view and such fuel tanks or similar storage receptacles may be installed only within the Dwelling Unit, or any accessory building, or building, buried underground or a screening with the prior approval of ASC.

13. Sewage Disposal – Prior to the occupancy of any Dwelling Unit located in Duck Ridge Village, proper and suitable provisions shall be made by the Owner for the disposal of sewage by means of a septic tank or tanks constructed on the Lot, which will be constructed, maintained and used only in accordance with local and state laws and regulations. In the event that a community or municipal sewage system is constructed then each Owner will pay their pro rata share of the associated costs.

14. Tree Cutting – Trees measuring three (3) inches or more in diameter at a point two feet above the ground and any flowering trees or shrubs above five (5) feet in height may not be removed from Duck Ridge Village without written approval of the ASC unless located within five (5) feet of a Dwelling Unit, or site for such Dwelling Unit, septic tank, drainfield, swimming pool, driveway or walkway.

15. Vegetation – No existing vegetation or sand dunes shall be disturbed during construction without the express written consent of the ASC. The ASC shall require written proposals for the restabilization of any such disturbed area. Any vegetation disturbed during construction shall be repaired to the satisfaction of the ASC prior to Owner applying for an occupancy permit. However, the ASC may not approve the alteration of any vegetation, swale, or dune shown on the plans approved by the Department of Environment and Natural Resources, Division of Water Quality without submitting a revision to Duck Ridge Village permit.

(d) Variance. The ASC may from time to time grant the Owners of the property in Duck Ridge Village a waiver or variance of the provisions of this Declaration. The conditions under which such a waiver or variance may be granted shall be in the total discretion of the ASC. The expressed purpose of the powers as described in the paragraph is to enable the committee to alleviate hardships created by the terms of this Declaration under circumstances which are beyond control or fault of the parties and would create irreparable harm or unnecessary hardship without such action; or under conditions where title to the property in question is clouded, encumbered or detrimentally affected by the existence of conditions which cannot otherwise be corrected.

(e) Certificate of Completion. Prior to occupancy of any Dwelling Unit, the Owner must first notify the ASC, by filing a Certificate of Compliance that construction has been completed with the approved plans, in order that an inspection may be made by a representative of ASC to determine that all aspects of the plans have been completed. On inspection and finding that all aspects of the plans have been completed, the commission will issue to the owner a "Certificate of Completion" and the owner may then occupy the dwelling, subject to an occupancy permit being granted by The Town of Duck.



Section 5.04. **Approval Not a Guarantee.** No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as presenting or guaranteeing that any Dwelling Unit or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, nor the Architectural Standards Committee shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article V, nor any defects in construction undertaken pursuant to such plans and specifications.

Section 5.05. **Use of Lots and Dwellings Units.** No Lot (except Lot 1) shall be used except for residential purposes (with the exception of sales center, office, building or model home constructed or to be used by the Declarant). Further, no "Model Home" or "Open House" type of operation shall be allowed without the express written permission of the Declarant. No lot or dwelling unit shall be used for business, manufacturing or professional purposes except for those home occupations as may be approved by The Town of Duck. No noxious or offensive trade or activity shall be carried out upon any lot or within any dwelling unit, nor shall anything be done thereon which may be or become an annoyance or a nuisance to other Owners. Rentals of dwelling shall be allowed.

Section 5.06. **Exterior Appearance.** No fence, wall, hedge, or mass planting shall be permitted except upon approval by the ASC as to location, style, design and materials. Further, no foil or other reflective material shall be used on any windows for sunscreens, blinds, shades or other purposes nor shall any window-mounted heating or air-conditioning units be permitted.

Section 5.07. **Antennas.** Except for 'dish' antennas designed to receive direct broadcast satellite service, including direct-to-home satellite service, one meter (39") or less in diameter, antennas designed to receive video programming services via MMDS (wireless cable), no outside antennas or satellite dishes and no free standing transmission or receiving towers shall be erected on any Lot within Duck Ridge Village without the prior written permission of the ASC. Except as otherwise reasonably required in order to receive the intended signal, any satellite dish erected on any Lot shall be affixed to the Dwelling, shall be a color which blends with its surrounds, shall have a mast only as high as reasonably necessary to receive the intended signal and shall not be visible from that street that accesses the Lot.

Section 5.08. **Animals and Pets.** Animals, livestock or poultry of any kind shall not be raised, bred or kept on any Lot except dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that they are under the control of their owners at all times.

Section 5.09. **Prohibited Structures.** No structure of a temporary character, house trailer of any kind, tent, shack, garage, mobile home, barn or other outbuilding shall be used, placed or allowed on any Lot or building site of land at any time either temporarily or permanently, except such temporary structures as may be necessary for the storage of materials by or for the convenience of workmen and contractors during the erection of residences upon said Lots. No temporary structure of any kind, including those hereinabove set out shall be used on any Lot or site at any time as a



residence either temporary or permanently. "Modular Homes" or similar types of dwellings shall not be constructed or placed upon any Lot or building site.

Section 5.10. **Motor Vehicles, Trailers, Etc.** Each Owner shall provide for parking of automobiles off the streets and roads within the Duck Ridge Village prior to occupancy of any Dwelling Unit. There shall be no outside storage or parking upon any Lot, or within any portion of the Common Areas of any: mobile home, trailer, motor home, tractor, truck (other than pickup trucks), commercial vehicles of any type, camper, motorized camper or trailer, motorized bicycle, motorized go-car, or any other related forms of transportation devices. Notwithstanding of the restrictions herein, temporary parking (not longer than seven (7) consecutive days) is permitted. These restrictions shall not apply to properly licensed and maintained boats and trailers.

Section 5.11. **Recreational Amenities.** Uses associated with basketball goals and courts, hot tubs, volleyball, bocce ball and similar low impact noise producing activities are allowed but the following recreational activities are prohibited: skateboarding and skateboarding ramps and all terrain vehicles including dirt bikes.

ARTICLE VI

DUCK RIDGE VILLAGE HOMEOWNERS' ASSOCIATION

Section 6.01. **Membership.** Every person or entity who is a record owner of a fee simple interest in any Lot which is subject by this Declaration and any Supplementary Declaration to assessment by the Association, including the Declarant and any successor shall be a voting member of the Association. The foregoing is not intended to include persons or entities who sold an interest in a Lot merely as security for the performance of an obligation. Such Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 6.02. **Voting Rights.** The Association shall have two (2) classes of voting memberships:

Class A. — With the exception of Declarant (until expiration of the Class B membership as provided below) every person, group, corporation, partnership, trust or other legal entity, or any combination thereof, who is an owner of a lot in Duck Ridge Village, shall be a voting member of the Association; provided, however, any such person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. Ownership of a lot shall entitle each Owner holding the interest required for Class A Membership to cast one (1) vote, provided, however, that if more than one (1) person or entity are the owners of a lot, the vote for such lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association, but, in no event, shall more than one (1) vote be cast with respect to any lot

Class B — The Class B Declarant shall be entitled to three (3) votes for



each lot in Duck Ridge Village and three (3) votes for each lot that may be annexed to Pebble Beach Shores. The Class B Membership shall cease and become a nullity on the first to happen of the following events:

- (i) expiration of the Period of Declarant Control; or
- (ii) when, in its discretion, the Declarant shall relinquish its Class B Membership.

Upon surrender of the Class B Membership, the Declarant may thereafter remain a Class A Member of the Association as to each lot which the Declarant then holds which is required for Class A Membership.

Section 6.03. Declarant's Right to Representation on the Board of the Association. During any Period of Declarant Control, Declarant shall have the right to designate and select all of the persons who shall serve as members of the Board of the Association. Except as otherwise provided in the Bylaws with respect to the filling of vacancies, any members of the Board which Declarant is not entitled to designate or select shall be elected by the Members of the Association.

Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Board so removed for the remainder of the unexpired term of any member or members of the Board so removed.

Section 6.04. Meetings. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, a majority of the Board, or by Lot Owners having ten percent (10%) of the votes in the Association. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Secretary shall cause notice to be hand-delivered or sent prepaid by United States Mail to the last known mailing address of the Owner on the records of the Association. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a director or officer.

Section 6.05. Voting, Quorum and Notice Requirements. Except as may be otherwise specifically set forth in this Declaration, the Articles or the Bylaws, the vote of the majority of the aggregate votes entitled to be cast by all classes of the Members present, or represented by legitimate proxy, at a legally constituted (duly called) meeting of the Association at which a quorum is present, shall be the act of the Members with respect to the matter that is the subject of such vote. The number of votes required to constitute a quorum shall be as set forth herein or in the Bylaws. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein or in the Bylaws.

Section 6.06. Termination of Membership. A Person's membership in the Association shall terminate automatically whenever such Person ceases to be an



Owner, but such termination shall not release or relieve any such Person from any liability or obligation incurred under or in any way connected with the association of this Declaration during the period of such Person's ownership of a Lot or Dwelling Unit, or impair any rights or remedies which the Association or any other Member has with regard to such former member.

ARTICLE VII

COVENANT FOR PAYMENT OF ASSESSMENTS

Section 7.01. Creation of Lien and Personal Obligation for Assessments.

Each Owner, other than the Declarant, of any Lot or Dwelling Unit, by acceptance of a deed therefore, whether or not it shall be so referenced in any such deed or other conveyance, shall be deemed to and does hereby covenant and agree to all the covenants, conditions and restrictions of this Declaration and to pay to the Association the following:

- (a) regular annual assessments or charges as herein or in the Bylaws provided;
- (b) special assessments for capital improvements or maintenance; and
- (c) costs and expenses, including reasonable attorney's fees, incurred by the Association incidental to the enforcement of any Rules and Regulations, collection of assessments or collection of damages or charges arising under the Bylaws. The annual and special assessments and any liquidated damages or summary charges as herein or in the Bylaws provided, together with such interest thereon and costs of collection thereof as herein provided, including attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot or Dwelling Unit against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, including attorney's fees, shall also be the personal obligation of the person or persons jointly and severally, who is/are the Owner(s) of such Lot or Dwelling Unit at the time the assessment becomes due.

Section 7.02. Purpose of Assessments. The assessments levied by the Association shall be exclusively to promote the recreation, health, security, safety and welfare of the residents of Duck Ridge Village and, in particularly, for:

- (a) the improvement, maintenance, and replacement of the Common Areas including, without limitation, any dedicated amenities.
- (b) maintenance of exteriors of Dwelling Units and related improvements on Lots pursuant to Section 4.03 of the Declaration.
- (c) Establishment of capital replacement reserves, and
- (d) For the acquisition of services and facilities devoted to the foregoing purposes or for the use and enjoyment of Duck Ridge Village, the procurement and maintenance of insurance related to Duck Ridge Village, its facilities and use in accordance with the Bylaws, the employment of attorneys to represent the Association if necessary, and such other requirements as may be necessary to



perform all of the aforesaid functions and purposes.

Section 7.03. **Assessment of Uniform Rates for Lots and Dwelling Units.** There will be no difference between the amount assessed against Lots and Dwelling Units.

Section 7.04. **Maximum Annual Assessment and Annual Assessment.** The maximum annual assessment for the calendar year beginning January 2, 2004, and for successive calendar years thereafter shall be established by Board subject to this Article VIII. Within thirty (30) days after adoption of the yearly budget, the Board shall provide to all Owners a summary of the budget and a notice of the meeting to consider ratification of the budget. The Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. A quorum need not be present at such meeting, and the budget is ratified unless at that meeting the Owners entitled to exercise fifty-one percent (51%) of the votes in the Association reject the budget. In no event may the Board or membership of the Association decrease the amount of the annual assessment for any calendar year from the amount of the annual assessment for the previous calendar year.

Section 7.05. **Special Assessments for Capital Improvements.** In addition to the regular annual assessments authorized by Section 7.04 hereof, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any improvement located upon the Common Area including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose; provided, however, during the Period of Declarant Control, Declarant must also consent to such action. A special assessment shall be fixed at a uniform rate for all lots and may be collected on a monthly, quarterly or semi-annual basis, as determined by members approving of such assessments.

Section 7.06. **Date of Commencement of Annual Assessments; Due Dates.** The regular annual assessments provided for herein shall be paid either quarterly, semi-annually, or annually. Payment of such shall be due for each Lot and Dwelling Unit upon the receipt of title of the Lot or Dwelling Unit from Declarant and on each due date thereafter, or, if title is received from a third party, upon the next scheduled due date. The first regular annual assessment shall be pro-rated based on the number of days remaining in the fiscal year. The due date of any special assessment under this Declaration shall be determined by the Board in the resolution authorizing such assessment.

Section 7.07. **Emergency Assessments.** In addition to the annual assessments, special assessments, and individual assessments authorized herein, in the event of an "Emergency" (as hereinafter defined), the Board, on behalf of the Association, in the Board's sole discretion, may levy an emergency assessment for the purpose of taking preventative, protective, stabilizing, or remedial actions to protect the Common Area or any Improvements located thereon, and to further reconstruct, repair or replace any portion of the Property or Improvements following such Emergency. An "Emergency" for purposes of this Section 8.06



includes, but is not limited to, floods, hurricanes, tornadoes, fires, acts of God or other naturally occurring phenomena. An emergency assessment shall be due and payable as established by the Board.

Section 7.08. Notice and Quorum For Actions Authorized Under Section 7.05. Written notice of any meeting of the Association called for the purpose of taking any action required to be taken by the membership under the preceding Section 7.05 of this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members plus proxies entitled to cast forty percent (40%) of the combined total number of votes of all classes of membership shall constitute a quorum. If the required quorum is not present at the first such meeting, subsequent meeting(s) may be called subject to the same notice requirement, and the required quorum at the subsequent meeting(s) shall be one-half (1/2) of the required quorum at the immediately preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the immediately preceding meeting.

Section 7.09. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien, Remedies of Association. If the assessments are not paid on the date due (being the dates referred to in Section 7.06 of this Article), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot or Dwelling Unit. The personal obligation of the Owner to pay such assessment shall remain his personal obligation for the statutory period and shall be binding on any successor in interest.

If the assessment or assessments are not paid within thirty (30) days after the delinquency date, the assessment or assessments shall bear interest from the date of delinquency at the rate of interest set by the Board, not to exceed the maximum rate permitted by law, and the Board acting on behalf of the Association may authorize its officers to bring appropriate civil action against the Owner personally obligated to pay the same or to foreclose the lien against any such Lot or Dwelling Unit and there shall be added to the amount of such assessment, the costs of such action and reasonable attorney's fees as allowed by the Act or other cost incurred by the Association. In the event a judgment is obtained against any Owner for such assessments, such judgment shall include interest on the assessment at the maximum rate permitted by law and a reasonable attorney's fee as allowed by the Act together with the costs of the action.

Section 7.10. Subordination of the Lien to Mortgages or Deeds of Trust. The lien of the assessments provided for herein shall be absolutely subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon any Lot or Dwelling Unit, subject to assessment. The subordination shall not relieve any Lot or Dwelling Unit, from liability for any assessments now or hereafter due and payable, but the lien thereby created shall be secondary and subordinate to any first mortgage or deed of trust as if said lien were a second mortgage or deed of trust, irrespective of when such first mortgage or deed of trust was executed and recorded.



Section 7.11. **Declarant's Obligations for Assessments.** The Declarant's obligation for assessments on unsold Lots or Dwelling Units subject to this Declaration will be limited to the difference between the actual operating costs of the Association, excluding reserves on the Common Areas, and the assessments levied on Owners who have closed title on their Lots or Dwelling Units. In no event, however, will the Declarant be required to make a deficiency contribution in any amount greater than it would otherwise be liable for if it were paying assessments on unsold Lots or Dwelling Units. After the Declarant's Rights and Obligations Period, Declarant shall pay assessments as would any other Owner for each Lot or Dwelling Unit owned by the Declarant.

Section 7.12. **Certificate of Payment.** The Secretary of the Association shall furnish a certificate stating whether any assessments are owed by an Owner. Such certificate may be relied upon by a good faith purchaser or mortgagee as conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7.13. **Working Capital Fund.** At the time of closing of the initial sale of each Lot by Declarant to a third party purchaser, a sum equal to two months annual assessments for the Lot shall be collected from the purchase of such Lot and transferred to the Association to be held as a working capital. The purpose of said fund is to insure that the Association will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable.

ARTICLE VIII

INSURANCE REPAIR AND RESTORATION

Section 8.01. **Right to Purchase Insurance.** The Association shall purchase, carry and maintain in force insurance covering any part or all of the Common Area, Landscaped Rights-of-Way and any improvements thereon or appurtenant thereto and any other property of the Association, for the interest of the Association, the Board, its agents and employees. Declarant and its officers and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as the Board shall consider to be good, sound insurance coverage for similar properties. Such insurance may include, but need not be limited to:

- (a) comprehensive public liability and property damage (hazard) insurance on a broad form basis with respect to the Common Area and/or Landscaped Rights-of-Way with coverage of at least One Million and No/1 00 Dollars (\$1,000,000.00) for public liability and in an amount of at least eighty percent (80%) of replacement cost coverage for hazard insurance;
- (b) coverage for the personal liability (if any) of the Declarant (and its officers, agents, employees and servants), the Board (and the individual members thereof), the officers of the Association, the ASC and other committees appointed by the Board, the Owners and Members;



(c) Fidelity bond for all officers and employees of the Association and other Persons having control over the receipt of disbursement of Association funds; and

(d) Worker's compensation insurance to the extent necessary to comply with

Section 8.02. **Insurance Proceeds.** Subject to any limitations imposed by any applicable financing documents, the Association shall use the net proceeds of casualty insurance recovered to repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Association remaining after satisfactory completion of repair and replacement shall be retained by the Association as part of the general reserve fund for repair and replacement of the Common Area and/or Landscaped Rights-of-Way.

Section 8.03. **Insufficient Proceeds.** If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment in the manner provided for in this Declaration, to cover the deficiency.

Section 8.04. **Insurance on Dwelling Units.** Each Owner of any Dwelling Unit within Duck Ridge Village, by acceptance of a deed therefore, whether or not it shall be expressed in said deed or by exercise of any act of ownership, is deemed to covenant:

(a) To keep each Dwelling Unit insured against loss by fire or other casualty, with extended coverage insurance, in an amount equal to at least ninety percent (90%) of the replacement cost of such Dwelling;

(b) To name the Association as insured "as its interest may appear" so that the Association shall be entitled to receive notice of cancellation of such insurance policy;

(c) To build or restore such Dwelling Unit in the event of damage thereof and to apply the full amount, to the extent necessary, of any insurance proceeds to the restoration or repair of such Dwelling Unit; and

(d) To keep the Dwelling Unit in good repair as required by this Declaration or the Bylaws.

In the event of non-payment of any required premium then the Association is authorized, but not obligated or required, to pay such premium and the sum so paid shall become a lien upon the Dwelling Unit enforceable in the same manner and to the same extent as provided for enforcement of liens for assessments hereunder.

ARTICLE IX

GENERAL PROVISIONS

Section 9.01. **Duration.** This Declaration and the terms, covenants,



provisions set forth herein shall run with and bind the Property and shall inure to the benefit of every Owner of a Lot in the Property, including Declarant, and their respective heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded and including December 31, 2033. Beginning on and including January 1, 2034, the easements, covenants, conditions and restrictions herein shall be automatically extended for successive period(s) of ten (10) years each unless, at duly called annual or special meeting of the Association at which a quorum is present held prior to the expiration of the applicable time period, termination of this Declaration is approved by the affirmative vote of seventy-five percent (75%) or more of the votes entitled to be cast by the Members present or represented by proxy. A vote by the membership on termination of this Declaration may be held only upon presentation to the Association of a petition for termination signed by Members possessing no less than twenty-five percent (25%) of the total eligible vote of the membership of the Association, which petition, in the case of an annual meeting of the Association, shall be presented to the Association prior to the date that notice of the annual meeting is sent to the Members. The Association shall give written notice of any annual or special meeting, at which termination of this Declaration is to be considered and voted upon to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth that termination of this Declaration will be considered and voted upon at such meeting. If the membership votes to terminate this Declaration, such termination shall be effective upon the expiration of the then applicable time period for which the Declaration is in existence, or shall be effective on such date thereafter as may be specified in the resolution of termination passed by the membership as required herein (it being the intention of this Section, notwithstanding anything to the contrary appearing herein, that if the membership has voted to terminate this Declaration, the membership may set a date of termination that may result in this Declaration continuing to be in effect for a period of less than ten (10) years following the expiration of a preceding time period in which this Declaration was in effect). The quorum required at the annual or special meeting at which termination of this Declaration is to be considered by the membership pursuant to the petition filed with the Association shall be the presence of Members plus proxies entitled to cast sixty percent (60%) or more of the total vote of the membership. If such quorum is not present, subsequent meeting(s) may be called until a quorum is present, subject to the same notice requirements, and the required quorum at such subsequent meeting(s) shall be one-half (1/2) of the required quorum at the immediately preceding meeting.

If the Members vote to terminate this Declaration in accordance with the foregoing requirements, then the President and Secretary of the Association shall execute in recordable form a certificate which shall set forth at least the following information: the Resolution of Termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting, was given, the total number of votes required to constitute a quorum at such meeting; the total number of votes present at such, meeting; the total number of votes necessary to adopt the resolution terminating the Declaration; the total number of votes cast in favor of such resolution; and the total number of votes cast against the resolution. Such certificate shall be recorded



in the Dare County, North Carolina Registry no later than thirty (30) days following the date such resolution of termination is passed by the membership, and such certificate may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 9.02. **Amendment.** Subject to the limitations hereinafter contained, this Declaration or any Supplemental Declaration hereto may be amended or modified at any time prior to December 31, 2033 by an instrument signed by the Owners entitled to exercise not less than seventy five (75%) of the total votes in the Association as set forth in this Declaration, provided, however, that no such amendment shall be effective without the written consent of Declarant so long as there is Class B Membership, and in no event shall any amendment limit the rights of Declarant under this Declaration so long as there is a Class B Membership. With respect to any amendments affecting specific Limited Common Property, the foregoing percentages are required only of those Owners of Lots or Dwelling Units that are located in the chase or section of the Development to which such Limited Common Area relates.

In addition to the foregoing rights, and notwithstanding anything to the contrary that may appear herein. Declarant may (at Declarant's option) at any time and from time to time amend or modify this Declaration and any Supplemental Declaration without obtaining the consent or approval of the Members or any other person or entity if such amendment or modification is necessary for any one or more of the following purposes: to correct an obvious typographical error; to cause this Declaration or any such Supplemental Declaration to comply with the requirements of FHA (Federal Housing Administration), VA (Veterans Administration), Fannie Mae (Federal National Mortgage Administration), Office Of Interstate Land Sales Registration of the Department Of Housing And Urban Development (OILSR) or other similar agency; or as may be necessary to establish or maintain the tax exempt status of the Association under the laws of the United States or the State of North Carolina.

All amendments to this Declaration must be recorded in the Dare County, North Carolina Registry and shall not become effective until recorded. With respect to amendments that require approval of the Owners, all such amendments also shall be executed by the Association, following determination by the Board that the amendment has been duly approved by the required percentage of Owners (for the purpose of this determination, the Board may rely on its most current membership list and shall not be required to conduct any title examination of any Lot to determine ownership thereof). The Board shall make its determination (and cause the amendment s) to be recorded if the Board determines that the required number of Owners have executed the amendment(s) within thirty (30) days of receipt of the proposed amendment(s) purportedly signed by the required number of Owners. If the Board determines that the required number of Owners have executed the proposed amendment(s), the Board shall cause the amendment(s) to be recorded.



With respect to amendments by the Declarant which do not require the assent of the Owners, the Association also shall execute such amendments prior to the recordation thereof so that such amendments may be indexed in the Dare County Registry in the name of the Association as well as in the name of the Declarant.

Section 9.03. **Remedies.** Declarant, the Association, and every Owner shall have the right to enforce the terms, covenants, conditions, restrictions, easements, charges and liens for which provision is made in this Declaration, which enforcement shall be by any proceeding at law or in equity (or otherwise, as provided in this Declaration) against any Person violating or attempting to violate any such term, covenant, condition, restriction, easement, charge or lien either to restrain violation or to recover damages, and against the land, to enforce any lien created by these covenants; and failure by the Association, the Neighborhood Associations, , Declarant or any Owner to enforce any such term, covenant, condition, restriction, easement, charges or lien shall in no event be deemed a waiver of the right to do so thereafter or a waiver of any other or future violation of any of same.

Section 9.04. **Severability of Provisions.** If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 9.05. **Notice.** Except as otherwise provided herein, whenever written notice to an Owner (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner appearing on the records of the Association. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. It shall be the duty of each Owner to keep the Association informed of such Owner's current mailing address and telephone number. The Association may use the address of such Owner's Lot listed with the Dare County Supervisor.

Section 9.06. **Interpretation.** In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or Board, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive.

Section 9.07. **No Trespass.** Whenever the Declarant, the ASC, and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of Duck Ridge Village, the entering thereon and the taking of such action shall not be deemed to be trespass.



Section 9.08. **Successors of the Declarant.** Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant by instrument in writing and recorded in the Dare County Registry.

Section 9.09. **No Partition.** Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Areas or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any judicial partition unless the Property or such portion thereof have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Association from acquiring and disposing of tangible personal property nor from acquiring title to real property which may nor may not be subject to this Declaration.

Section 9.10. **Combination of Lots.** For so long as there is a Class B Membership, no Lot shall be subdivided without the written consent of Declarant. One or more Lots may be combined into a single Lot with the written consent of Declarant and, upon such combination and consent of Declarant, the resulting Lot shall be considered as one Lot for the purposes of this Declaration. Provided, the foregoing shall not prohibit or restrict the right (which is hereby reserved) of Declarant to subdivide, combine, resubdivide, recombine, or re-record maps relating to, any Lots subject to this Declaration.

Section 9.11. **Laws of North Carolina and the United States.** This Declaration shall be subject to and construed in accordance with the laws of the State of North Carolina and all applicable laws and regulations of the United States of America.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Protective Covenants under seal, the day and year below subscribed.

BD&A REALTY & CONSTRUCTION, INC.,
a North Carolina Corporation

By: _____

Eric Avery
Eric Avery, President

NORTH CAROLINA
DARE COUNTY

On this 21st day of February, 2003, before me personally appeared Eric Avery, to me known to be the President of BD&A REALTY & CONSTRUCTION, INC., a North Carolina Corporation, the corporation that executed the within and

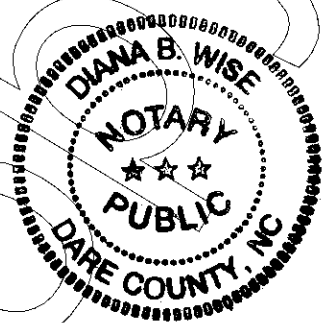


foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand the day and year first above written.

Diana B. Wise
Notary Public

My Commission Expires: MAY 17, 2007



State of North Carolina
County of Dare

The foregoing certificate of Diana B. Wise
A Notary Public of Dare Co., NC
This instrument and this certificate are duly registered at the Date and Time in the Book and Page shown on the first page hereof. is certified to be correct.

Barbara M. Gray, Register of Deeds

By: Andrew K. Tackett Deputy Register of Deeds



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Table 1 - Allowable Built Upon Area for the Lots of Duck Ridge Village

| Lot Number | Lot Area (sf) | 26.87% Lot Coverage (sf) |
|-------------------------|---------------|--------------------------|
| 1 | 15,099 | 4,058 |
| 2 | 17,498 | 4,703 |
| 3 | 16,014 | 4,304 |
| 4 | 16,012 | 4,304 |
| 5 | 16,010 | 4,303 |
| 6 | 16,009 | 4,303 |
| 7 | 16,018 | 4,305 |
| 8 | 16,017 | 4,305 |
| 9 | 16,014 | 4,304 |
| 10 | 16,018 | 4,305 |
| 11 | 16,016 | 4,305 |
| 12 | 16,013 | 4,304 |
| 13 | 16,000 | 4,300 |
| 14 | 16,000 | 4,300 |
| 15 | 16,000 | 4,300 |
| 16 | 16,005 | 4,302 |
| 17 | 15,921 | 4,279 |
| Totals For All Sections | 272,664 | 73,284 |

