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DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

~~CORNERSTONE PARK~~ SINGLE FAMILY ATTACHED RESIDENCES

*CSP Cottages*

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OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
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DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR THE  
CORNERSTONE PARK SINGLE FAMILY ATTACHED RESIDENCES

THIS DECLARATION is made on the date hereinafter set forth by **CENTEX HOMES**, a Nevada general partnership (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of the real property more particularly described on described on Exhibit "A" (the "Existing Property"); and

WHEREAS, Declarant holds the right to purchase all or a portion of the real property more particularly described on Exhibit "B".

WHEREAS, Declarant desires to provide for the maintenance and upkeep of the Association Property (hereinafter defined) and to enforce the covenants and restrictions applicable to Subdivision (hereinafter defined), and, to that end, desires to subject the Existing Property and any portion of the Property described on Exhibit "B" or other additional contiguous property which is hereafter made subject to this Declaration all of the property planned for the Subdivision 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 property and each owner thereof;

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Association Property, to administer and enforce covenants and restrictions exclusively applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated or is currently incorporating under North Carolina law as a non-profit corporation, the **CORNERSTONE PARK SINGLE FAMILY ATTACHED RESIDENCES ASSOCIATION, INC.**, for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Declarant hereby declares that the real property described in **Exhibit "A"** of this Declaration and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### DEFINITIONS

Section 1. "Act" means the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes), as may be amended or supplemented from time to time.

Section 2. "Assessments" means the assessments for which all Contributing Lot Owners are obligated to pay to the Association and include "Individual Lot Assessments", "Individual Expense Assessments" and "Special Assessments" (as such terms are defined in Article V hereof) and any and all other assessments which are levied by the Association in accordance with the Association Documents.

Section 3. "Association" shall mean **CORNERSTONE PARK SINGLE FAMILY ATTACHED RESIDENCES ASSOCIATION, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 4. "Association Documents" means in the aggregate, this Declaration, the Articles of Incorporation and the Bylaws of the Association, the rules and regulations of the Association, and all of the instruments and documents referred to or incorporated therein, including, but not limited to, amendments to any of the foregoing, as applicable.

Section 5. "Association Property" shall mean the real property, together with any improvements thereon, owned by the Association, whether in fee, by easement or otherwise, for the common use and enjoyment by the Owners of Lots within the Properties. Such Association Property shall include, but not be limited to, any open space, common area, and private streets, shown on a recorded subdivision map of the Properties and designated for ownership, use or maintenance by the Association. Association Property shall also include, but shall not be limited to, any sidewalks and parking spaces abutting or located within the private streets, any driveways or portions of any driveways located outside the boundaries of any Lot, and any water or sewer transmission line or drainage pipe serving more than one Lot and located outside any public street right-of-way or outside of any City sanitary sewer easement. The Association or its successors in interest shall maintain the Association Property unless dedicated to public use and accepted by governmental authority. The Association Property shall also include personal property and interests therein transferred to or acquired by the Association if so designated.

Section 6. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

Section 7. "City" shall mean the City of Raleigh, Wake County, North Carolina.

Section 8. "Community Association" means the Cornerstone Park Community Association, Inc., a North Carolina non-profit corporation organized to administer the Cornerstone Declaration and having among its members all owners of fee simple title to a lot in Cornerstone Park (as those terms are defined in the Cornerstone Declaration).

Section 9. "Community Association Property" means the real property, together with any improvements thereon, owned by the Community Association, whether in fee, by easement or otherwise, for the common use and enjoyment by the members of the Community Association, including as more particularly defined in the Cornerstone Declaration (and referred to therein as the "Common Elements or "Common Expense Properties"). The Community Association shall maintain the Community Association Property or its successors in interest as provided in the Cornerstone Declaration.

Section 10. "Contributing Lot" means any Lot which (a) has been issued a certificate of occupancy for a Dwelling constructed thereon by the appropriate governmental agency, or (b) is designated a Contributing Lot by the Declarant in the deed of conveyance or any other instrument recorded among the Public Records of the County, upon which an affirmative covenant to pay Assessments, as more particularly set out in Article V hereof, is imposed.

Section 11. "Contributing Lot Owner" means the Owner of a Contributing Lot.

Section 12. "Cornerstone Declarant" means the party or parties (if more than one) who holds the declarant rights and obligations under the Cornerstone Declaration, currently held by Highway 70, LLC, a Virginia limited liability company, and thereafter shall be transferred in accordance with Article XVII of the Cornerstone Declaration

Section 13. "Cornerstone Declaration" means the Declaration for Cornerstone Park recorded in the Public Records at Book 8765, Page 2456 through 2549, inclusive, and all amendments, supplements and modifications thereto, to which all of the real property in Cornerstone Park (defined below) is submitted.

Section 14. "Cornerstone Documents" means mean the Cornerstone Declaration, the Articles of Incorporation and Bylaws of the Community Association, any rules and regulations promulgated by the Community Association, and all of the documents and instruments referred to therein and any amendments to any of such documents.

Section 15. "Cornerstone Park" means the master planned residential mixed-use community being developed by Highway 70 and others in the City of Raleigh, Wake County, North Carolina, of which the Properties are a part.

Section 16. "County" shall mean Wake County, North Carolina.

Section 17. "Declarant" shall mean CENTEX HOMES, a Nevada general partnership. It shall also mean any person, firm or corporation to whom or which Declarant shall assign or delegate the rights and obligations of Declarant by an Assignment of Declarant's Rights recorded in the Wake County Register of Deeds.

Section 18. "Highway 70" means Highway 70, LLC, a Virginia limited liability company, who, together with Declarant and others, is developing the master planned residential and commercial development referred to as "Cornerstone Park" (as defined below).



Section 19. "Improvement" shall mean any building, fence, wall, patio area, driveway, walkway, antenna, satellite dish, sign, mailbox, pool, tennis court, deck, or other structure or improvement, including landscaping, which is constructed, made, installed, attached, placed or developed within or upon, or removed from, any portion of the Properties, or any change, alteration, addition or removal of any such structure or improvement other than normal maintenance and repair which does not materially alter or change the exterior appearance, condition and color of same.

Section 20. "Interest" means the lesser of (i) the maximum nonusurious interest rate allowed by law on the subject debt or obligation, or (ii) twelve percent (12%) per annum. If no rate is designated by law, then "Interest" shall mean twelve percent (12%) per annum.

Section 21. "Institutional Mortgagee" means any lending institution owning a first mortgage, which encumbers a Dwelling or Lot, including any of the following institutions:

- (i) Any federal or state savings and loan association or bank, or real estate investment trust, or mortgage banking company or any subsidiary thereof, or a national banking association chartered under the laws of the United States of America; or
- (ii) Any "secondary mortgage market institution", including the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institution as the Board shall hereafter approve in writing; or
- (iii) Any pension or profit-sharing funds qualified under the Internal Revenue Code; or
- (iv) Any and all investing or lending institutions, or the successors and assigns of such lenders ("Lenders"), which purchase mortgages on any portion of the Properties from any other Institutional Mortgagee; or
- (v) Such other institutional lenders as the Board shall hereafter approve in writing as an Institutional Mortgagee which have acquired a mortgage upon any portion of the Properties; or
- (vi) Declarant, if Declarant holds a mortgage on any portion of the Properties and the transferee of any mortgage encumbering the Properties which was originally held by Declarant; or
- (vii) Any life insurance company; or
- (viii) The Veterans Administration ("VA") or the Federal Housing Administration ("FHA") or the Department of Housing and Urban Development ("HUD").

Section 22. "Legal Fees" mean reasonable fees for attorney and paralegal services incurred in connection with: (i) negotiation and preparation for litigation, whether or not an action

is actually begun, through and including all trial and appellate levels and post-judgment proceedings; (ii) collection of past due Assessments including, but not limited to, preparation of notices and liens; and (iii) court costs through and including all trial and appellate levels and post-judgment proceedings.

Section 23. "Lot" shall mean any plot of land, with delineated boundary lines, shown on any recorded subdivision map of the Properties, with the exception of any Association Property owned in fee by the Association and any street rights-of-way shown on such recorded map. In the event that any Lot is increased or decreased in size by recombination or resubdivision through recordation of a new subdivision plat, any newly-platted lot shall thereafter constitute a Lot.

Section 24. "Member" shall mean every person who or entity which holds membership in the Association.

Section 25. "Operating Expenses" mean the expenses for which Owners are liable to the Association as described in this Declaration and the Association Documents and include, but are not limited to, the costs and expenses incurred by the Association in administering, operating, reconstructing, maintaining, financing, repairing, replacing or improving the Association Property, or any portion thereof and improvements thereon and all costs and expenses incurred by the Association in carrying out its powers and duties hereunder or under any other Association Documents, including, but not limited to, the cost of any reserves and any other expenses designated to be Operating Expenses by the Board.

Section 26. "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation. Any reference to an Owner in the masculine gender shall be deemed to include the feminine gender, and any reference to an Owner in the singular shall be deemed to include the plural, and vice versa.

Section 27. "Properties" shall mean the "Existing Property" described in Article II of this Declaration and any additional property annexed pursuant to said Article II.

Section 28. "Public Records" means the Wake County Register of Deeds.

Section 29. "Subdivision" means the single-family attached residential community being developed by Declarant on the Properties subject to this Declaration.

Section 30. "Unit" or "Dwelling" shall mean any building or portion thereof within the Properties which is designated and intended for use and occupancy as a residence by a single family, whether as Owners or tenants or lessees of the Owner thereof.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE CORNERSTONE PARK SINGLE FAMILY ATTACHED RESIDENCES ASSOCIATION, INC.

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, used and occupied subject to this Declaration, and which is within the jurisdiction of the Association, is described in Exhibit "A" attached hereto.

Section 2. Annexation by Declarant.

(a) Annexation Without Consent of the Members.

(1) Property described on Exhibit "B". Prior to the date that is seven (7) years following the date this Declaration is first recorded in the Public Records, Declarant shall have the right, but not the obligation, without the consent of the Members, to bring under the provisions of this Declaration and thereby add to the Subdivision, additional lands acquired by Declarant within the real property described on Exhibit "B".

(2) Other Contiguous Property. Prior to the date that is seven (7) years following the date this Declaration is first recorded in the Public Records, Declarant shall have the right, without the consent of the Members, to bring under the provisions of this Declaration and thereby add to the Subdivision, any real property owned or acquired by Declarant which is contiguous to the Properties or which is contiguous with a public or private street adjacent to the Properties (provided that the annexation of such contiguous real property is for the purposes of reflecting changes or modifications to the preliminary site plan for the Subdivision which have been approved by the City).

(3) The annexation of any such property shall be made by: (i) the recording by Declarant, Developer or the land owner of the property being annexed (if not Declarant or Developer) of a final subdivision plat showing such property to be annexed; and (ii) the recording by Declarant and the land owner of any portion of the property being annexed (if not Declarant) of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed. Provided, however, that if appropriate, the annexation of such property must be approved by the Federal Housing Administration and/or Veterans Administration, as provided in Section IV of Article XI

To the extent that any additional contiguous property is hereafter made subject to this Declaration by the recording of a supplementary declaration, reference herein to the Properties shall be deemed to include such additional property. Any property annexed pursuant to this subsection may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members of the Association. All Association Property located within any property annexed shall be conveyed to the Association in the same manner as set forth in Section 3 of Article IV.

(b) Annexation With Consent of the Members. Subsequent to the date that is seven (7) years following the date this Declaration is first recorded in the Public Records, Declarant may, with the consent of the Members as set forth in this subparagraph, annex additional property which is contiguous to the Properties or which is contiguous with a public or private street adjacent to the Properties, and, therefore, subject such additional property to this Declaration. Such annexation must be approved by the affirmative vote of not less than three-fourths (3/4) of each Class of the Lots of the Association cast, in person or by proxy, at a duly-called meeting of the Members at which a quorum is present, which meeting shall have been conducted pursuant to a Notice of Meeting which shall have specifically identified, as one of the purposes of the meeting, annexation of the additional property. Such annexation shall be made by recording in the Public Records, a Declaration Of Annexation executed by the Declarant and the Association extending the operation and effect of this Declaration to the property to be annexed, provided, however, that if appropriate, the annexation of any such property must be approved by the Federal Housing Administration and/or Veterans Administration. Such Declaration of Annexation shall contain a Certification signed by the President or Secretary of the Association, which documents the approval of the annexation action by the Members and otherwise complies with the provisions of the Association Documents and all applicable law.

To the extent that such additional contiguous property is hereafter made subject to this Declaration by the recording of a Declaration of Annexation, reference herein to the Properties shall be deemed to include such additional property. Any property annexed pursuant to this subsection may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members of the Association. All Association Property located within any property annexed shall be conveyed to the Association in the same manner as set forth in Section 4 of this Article II.

Section 3. Annexation by the Members. The Members may annex additional property and, therefore, subject such additional property to this Declaration; provided such annexation must be approved by the affirmative vote of not less than three-fourths (3/4) of each Class of Lots of the Association cast at a duly-called meeting of the Members, which meeting shall have been conducted pursuant to a Notice of Meeting which Notice shall have specifically identified, as one of the purposes of the meeting, annexation of the additional property. Such annexation shall be made by recording in the public Records of a Declaration Of Annexation executed by the Association extending the operation and effect of this Declaration to the property to be annexed, provided, however, that any property so annexed must be contiguous to, or separated by a public street right-of-way, from property already subject to this Declaration. Such Declaration of Annexation shall contain a Certification signed by the President or Secretary of the Association in form substantially similar to that set forth in Section 2.b. of this Article II.

To the extent that such additional contiguous property is hereafter made subject to this Declaration by the recording of a Declaration of Annexation, reference herein to the Properties shall be deemed to include such additional property. Any property annexed pursuant to this subsection may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this Section may increase the cumulative number

of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members of the Association. All Association Property located within any property annexed shall be conveyed to the Association in the same manner as set forth in Section 4 of this Article II.

Section 4. Conveyance of Association Property Within Newly Annexed Additional Lands. Following any annexation authorized by this Article, the applicable landowner of the annexed property (including Declarant, if applicable) shall convey to the Association all Association Property located in the newly annexed area free and clear of all encumbrances and liens except utility, drainage and greenway easements. All conveyances shall be made prior to the sale of the first lot within the newly annexed area.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Ownership of a Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves. In the event of disagreement, the decision of Members holding a majority of the interest in such Lot shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Lot but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been converted to Class A Lots as provided in subparagraphs (1) or (2) below. Declarant shall be entitled to three (3) votes for each Class B Lot owned by such party.

The Class B Lots shall cease to exist and shall be converted to Class A Lots upon the earlier of the following to occur:

(1) When the total number of votes appurtenant to the Class A Lots equals the total number of votes appurtenant to the Class B Lots; provided, however, that all Lots owned by the Declarant or the Developer shall revert to Class B Lots and thereby be reinstated with all rights, privileges and responsibilities of such Class if, after the conversion of Class B Lots to Class A Lots, additional Lots within the Properties are formed by the recording in the public Records of a new map of Lots as set forth in Article II hereof, thus making Declarant the Owner, by virtue of the newly-recorded Lots and of other Lots owned by Declarant of a sufficient number of Class B

Lots to cast a majority of votes (it being hereby stipulated that the conversion and reconversion shall occur automatically as often as the foregoing facts shall occur); or

(2) on December 31, 2009.

When the Class B Lots cease to exist and are converted to Class A Lots, Declarant shall have the same voting rights as other Owners of Class A Lots.

Section 3. Vacant/Leased Residences. If the Owner of a Lot ceases to occupy the dwelling constructed thereon as his own personal living quarters or if any residence within the Properties is leased for rental purposes to tenants, the vote as expressed by the Owners of such vacant and rental units shall not be entitled to any weight greater than forty-nine (49) percent on any matter pending before the Association.

## ARTICLE IV

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by Section 1 of this Article IV and by the Rules and Regulations adopted by the Members and/or the Board of Directors of the Association, every Owner shall have a right and easement of enjoyment in, use of and access to, from and over the Association Property, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) subject to the ordinances of the City, the right of the Association to charge reasonable admission and other fees for the use of any facilities hereafter situated or constructed on the Association Property and, subject to the provisions of subparagraph (b), below, to limit the use of such facilities to Owners who occupy a dwelling on the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV.

(b) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(c) the right of the Association to dedicate, sell or transfer all or any part of the Association Property to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless (i) the Members entitled to at least three-fourths (3/4) of the votes appurtenant to each Class of Lots agree to such dedication, sale or transfer and signify their agreement by a signed and recorded document, and (ii) the procedures, approvals, and agreements for such dedication or transfer satisfy all of the applicable provisions of the Act (if any), including the affirmative approval of any higher percentage of Members or of votes attributable to the Members (or appurtenant to each Class of Lots) than the percentage specified herein as may be prescribed by the Act; provided that this subsection shall not preclude the Board of Directors or Declarant, without the consent of the Members, from granting utility, drainage, and other easements upon, over, under and across the Association Property for any reasonable purpose, when, in the opinion of the Board or Declarant (as applicable), such easements are necessary for the convenient use, enjoyment or protection of the

Properties, or do not diminish, impair or prevent any Lot Owner's use and enjoyment of such Owner's Lot or the Association Property. Subject to the provisions of subparagraph (e) below, the Association Property shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the City or to another non-profit corporation organized for similar purposes following the approval of the City.

(d) the right of the Association, with (i) the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class of Lots, and (ii) satisfaction of and compliance with, all of the applicable provisions of the Act (if any), including the affirmative approval of any higher percentage of Members or of votes attributable to the Members (or appurtenant to each Class of Lots) than the percentage specified herein as may be prescribed by the Act, to mortgage, pledge, deed in trust or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Owners and Association as set forth herein.

(e) the right of the Association, with the consent of the City Planning Director, Members who hold the percentage of votes specifically prescribed by the Act (if applicable), and, if required, of the Federal Housing Administration and/or Veterans Administration, to exchange all or part of the Association Property for other property and consideration of like value and utility.

## Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Wake County, North Carolina.

(b) Tenants. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Wake County, North Carolina.

(c) Guests. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

Section 3. Conveyance of Title To The Association. Declarant covenants, for itself, its successors and assigns, that Declarant will convey title to the Association Property within each phase or section of the Subdivision to the Association prior to the conveyance of the first Lot within such phase or section to an Owner. Declarant reserves an easement over and across the Association Property to and including December 31, 2010, for the purpose of constructing such improvements on the Association Property as Declarant deems necessary or advisable. Highway 70 and its successors, shall have easement over and across the Association Property as provided in Section 2 of Article VII for the purposes of completing the development of Cornerstone Park, as is necessary and reasonable and required in connection with the applicable Cornerstone Park approvals. All conveyances by Declarant to the Association shall be free and clear of all encumbrances and liens,

except utility, greenway and drainage easements of record or shown on the recorded plats of the Subdivision, this Declaration and the Cornerstone Declaration and all applicable Association Documents and Cornerstone Documents. Any Improvements placed on the Association Property by Declarant subsequent to the conveyance of the Association Property to the Association shall become the property of the Association upon completion of such Improvements.

Section 4. Regulation and Maintenance of Association Property Easements. Declarant will, prior to the conveyance of the first Lot to an Owner, reserve on a recorded plat or grant to the Association an easement over and across that portion of any Lot on which a Association Property easement lies. Such Association Property easements may be reserved or granted for purposes of signage, installation and maintenance of walkways, installation and maintenance of water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, other public utility installations, and access to and preservation and maintenance of Association Property. It is the intent of the Declarant that, unless otherwise approved by the Declarant or the Association as provided in Article VIII of this Declaration, the easement area shall be maintained in the same state as when the Lot upon which such easement lies was conveyed to the Owner.

(a) Rights and Responsibilities of the Lot Owners. Each Owner of a Lot upon which an Association Property easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to an Association Property easement. Notwithstanding any other provision of this Declaration, no Owner or other person shall, without the prior written consent of the Association: (1) remove any trees or vegetation within the Association Property; (2) erect gates, fences, or other structures on the Association Property; (3) place any garbage receptacles on or in the Association Property; (4) fill or excavate the Association Property or any part thereof; or (5) plant vegetation or otherwise restrict or interfere with the use, maintenance, and preservation of the Association Property.

(b) Rights and Responsibilities of the Association. The Association shall have the right and obligation to ensure that the Association Property is preserved to the perpetual benefit of the Owners within the Subdivision and, to that end, shall: (i) maintain the Association Property in its natural or improved state, as appropriate, and keep it free of impediments to its free use by the Owners within the Subdivision; (ii) procure and maintain adequate liability insurance, in an amount not less than \$1,000,000.00, covering the Association and its Members against any loss or damage suffered by any person, including the Owner of the Lot upon which a Association Property easement lies, resulting from use of the Association Property; and (iii) pay all property taxes and other assessments levied against all Association Property owned in fee by the Association.

Section 5. Public Entry Roads. The roadways providing access to and from the Properties and Ebenezer Church Road (the "Public Entry Roads") are dedicated public streets and except as provided in this Section 5 of Article IV, shall be used by the public and maintained by the City. The Public Entry Roads are shown on a plat of Cornerstone Park recorded in Book of Maps 200, Page 2238 of the Wake County Registry as "Cornerstone Park Drive" and "Parkstone Drive". Portions of the Properties, including the side and rear portions of certain Lots are located in close proximity to the Public Entry Roads, some of which are separated only by the 15' "Street Yard" shown on the final subdivision plat(s) of the Properties. If permitted by the City and the Community Association, the Association shall have the right, but not the obligation, to provide additional



supplemental maintenance for the Public Entry Roads together with the City or other governmental agency (or if applicable, the Community Association), as the Board may determine in its sole discretion. Any supplemental maintenance provided by the Association for the Public Entry Roads (if applicable) shall be an Operating Expense of the Association funded by the regular annual Assessments payable by the Contributing Lot Owners.

## ARTICLE V

### COVENANT FOR ASSESSMENT

#### Section 1. Affirmative Covenant to Pay Assessments for Operating Expenses.

(a) In order to: (i) fulfill the terms, provisions, covenants and conditions contained in the Association Documents; and (ii) maintain, operate and preserve the Association Property for the use, safety, welfare and benefit of the Members and their family members, guests, invitees and lessees, there is hereby imposed upon each Contributing Lot and Contributing Lot Owner (with the exception of Declarant for so long as Declarant pays the Deficit during the Guarantee Period referred to in Section 3(d) of this Article V) the affirmative covenant and obligation to pay to the Association (in the manner herein set forth) all Assessments, including, but not limited to, the Individual Lot Assessments, Special Assessments and Individual Expense Assessments referred to in this Article V. Each Owner (except, if applicable as provided in Section 3(d) of Article V, Declarant) by acceptance of a deed or other instrument of conveyance conveying a Lot within the Properties from Declarant, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Association all Assessments for Operating Expenses in accordance with the provisions of the Association Documents.

(b) Any and all Assessments made by the Association in accordance with the provisions of the Association Documents with Interest thereon and costs of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Contributing Lot against which each such Assessment is made. Each Assessment against a Contributing Lot, together with Interest thereon, including, but not limited to, Legal Fees, shall be the personal obligation of the Contributing Lot Owner of such Contributing Lot. Said lien shall be effective only from and after the time of the recordation amongst the Public Records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. Notwithstanding anything to the contrary herein contained, where an Institutional Mortgagee of record obtains title to a Contributing Lot as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such acquirer of title, its successors or assigns, shall not be liable for the share of Assessments pertaining to such Contributing Lot or chargeable to the former Contributing Lot Owner thereof which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the Assessment against the Contributing Lot in question is secured by a claim of lien for Assessments that is recorded prior to the recordation of the mortgage which was foreclosed or with respect to which a deed in lieu of foreclosure was given.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for the payment of the Operating Expenses of the Association and to promote

the recreation, health, safety and welfare of the residents of the Properties and, in particular, for: (i) acquisition, improvement, and maintenance of properties, services, utilities and facilities related to the use and enjoyment of the Association Property; (ii) repair and reconstruction of Improvements on the Association Property, including private streets and abutting sidewalks, including but not limited to, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) payment of taxes and public assessments levied against the Association Property owned by the Association in fee; (iv) maintenance, replacement, repair and reconstruction of such portions of the Lots and the Improvements and landscaping installed thereon as the Association may deem proper, including the services described in Section 1 of Article IX; (v) procurement and maintenance of insurance in accordance with the Section 4(b) of Article IV and Section 9 of Article XI of this Declaration; (vi) employment of attorneys, accountants and other persons or firms to represent the Association when necessary; (vii) payment of principal and interest on funds borrowed for Association purposes; and (viii) such other needs as may arise.

Section 3. Determining Amount of Assessments.

(a) The total anticipated Operating Expenses for each calendar year shall be set forth in the budget ("Budget") prepared by the Board as required under the Association Documents. The total anticipated Operating Expenses (other than those Operating Expenses which are properly the subject of a Special Assessment) shall be apportioned equally among the Contributing Lots by dividing the total anticipated Operating Expenses as reflected by the Budget, other than those Operating Expenses which are properly the subject of a Special Assessment (adjusted as hereinafter set forth), by the total number of Contributing Lots (as evidenced by the issuance of a certificate of occupancy), with the quotient thus arrived at being the "Individual Lot Assessment". Notwithstanding anything in the Association Documents to the contrary, any assessment for legal expenses incurred by the Association to begin legal proceedings against Declarant shall be deemed an Operating Expense which is properly the subject of a Special Assessment and not the subject of a regular Individual Lot Assessment.

(b) Notwithstanding the foregoing, during the Guarantee Period referred to in Section 3(d) of this Article V, Contributing Lot Owners (with the exception of Declarant for so long as Declarant pays the Deficit during the Guarantee Period referred to in Section 3(d) of this Article V) shall pay Individual Lot Assessments in an amount which shall not exceed the Guaranteed Assessment Amount referred to in Section 3(d) of this Article V. Following the Guarantee Period, the amount of the Individual Lot Assessment may be increased above the Guaranteed Assessment Amount by the Board effective January 1 of each year without a vote of the membership, but subject to the limitation that the percentage of any such increase shall not exceed ten percent (10%) of the amount of the Individual Lot Assessment for the previous year unless such increase is approved as set forth in Section 3(c) below.

(c) Subsequent to the expiration of the Guarantee Period, the amount of the Individual Lot Assessment may be increased, without limitation, if such increase is approved by not less than two-thirds (2/3) of the votes cast by the Class B Members and not less than two-thirds (2/3) of the votes cast by the Class A Members, in person or by proxy, at a meeting duly called for this purpose.

(d) Guaranteed Assessment During Guarantee Period. Declarant covenants and agrees with the Association and the Contributing Lot Owners that for the period commencing with the date of recordation of this Declaration and ending upon the sooner to occur of the following: (i) the date upon which fifty eight (58) Lots have become Contributing Lots, or (ii) the date that is two (2) years after the date of first recordation of this Declaration (the "Guarantee Period"), that the amount of the Individual Lot Assessment will not exceed the amount of One Thousand Dollars (\$1,000.00) for any consecutive twelve (12) month period (the "Guaranteed Assessment Amount") and that Declarant will pay the difference, if any, between (a) the Operating Expenses (other than those Operating Expenses which are properly the subject of a Special Assessment) incurred by the Association during the Guarantee Period, and (b) the Guaranteed Assessment Amounts assessed as Individual Lot Assessments against the Contributing Lots and the "Working Capital Contributions" set forth in Section 10 of this Article V (the "Deficit"), which will be used to defray initial start up expenses. Thus, during the Guarantee Period, (i) Contributing Lot Owners shall not be obligated to pay Individual Lot Assessments in an amount greater than the Guaranteed Assessment Amount, and (ii) Declarant shall not be obligated to pay any Assessments with respect to any Lots owned by Declarant. The Guaranteed Assessment Amount shall be applicable only to the Individual Lot Assessments paid during the Guarantee Period, during which period Contributing Lot Owners shall also be obligated to pay any Special Assessments or Individual Expense Assessments, and their respective Working Capital Contribution. Declarant hereby reserves the right to extend the Guarantee Period to a date ending no later than the date referred to in Section 2(b) of Article III, at Declarant's sole election by providing written notice to the Association of such election at least thirty (30) days prior to the expiration of a Guarantee Period. After the Guarantee Period terminates, each Contributing Lot Owner (including if applicable, Declarant) shall be obligated to pay Assessments as set forth in Section 3(a) of this Article V.

Declarant's obligation to fund the Deficit during the Guarantee Period as set forth above, together with Interest thereon and costs of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Lot owned by Declarant. Said lien shall be effective only from and after the time of the recordation in the Public Records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, Declarant shall be entitled to a satisfaction of the statement of lien in recordable form.

Section 4. Assessment Payments. The Individual Lot Assessments and any Special Assessments approved in accordance with the Association Documents shall be payable in advance in monthly, quarterly, annual or semi-annual installments with the due dates being established by the Board. Following the expiration of the Guarantee Period, the Individual Lot Assessments, and the installments thereof, as well as all Assessments provided for herein and all installments thereof may be adjusted from time to time by the Board to reflect changes in the number and status of Contributing Lots (thus apportioning all such Assessments and installments thereof among all Contributing Lots in existence at the time such installment is due) or changes in the Budget or in the event that the Board determines that the Assessments or any installment thereof is either less than or more than the amount actually required. When a Contributing Lot not in existence when the Assessment was determined ("New Improved Lot") comes into existence during a period with respect to which an Assessment or installment thereof has already been assessed, the New Improved Lot shall be deemed assessed the amount of such Assessment or installment thereof which was assessed against Lots which qualified as Contributing Lots in existence at the time of such

Assessment, prorated from the date the New Improved Lot comes into existence through the end of the period in question. If the due date for such Assessment or installment thereof occurred on or prior to the date the New Improved Lot came into existence, said prorated amount thereof shall be immediately due and payable on the date the New Improved Lot comes into existence.

Section 5. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, "Special Assessments" for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of any improvement for which the Association is responsible, including, if appropriate, fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other purpose, provided that any such assessment is approved by not less than two-thirds (2/3) of the votes cast by the Class B Members and not less than two-thirds (2/3) of the votes cast by the Class A Members, in person or by proxy, at a meeting duly called for this purpose.

Section 6. Notice of Quorum for any Action Authorized Under Sections 3(c) and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 3(c) or 5 of this Article V shall be sent to all members not less than thirty (30) days nor more than sixty (60) days prior to the meeting. At such meeting, the presence of members or of proxies entitled to cast sixty percent (60%) of the votes appurtenant to each Class of Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Effect of Non-Payment of Assessments; Remedies of Association; Certificate. In the event any Contributing Lot Owner shall fail to pay any Assessment (or installment thereof) charged to such Contributing Lot Owner within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

- (a) To accelerate the entire amount of any Assessments for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.
- (b) To advance on behalf of the Contributing Lot Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Contributing Lot Owner(s) is liable to the Association and the amount or amounts of monies so advanced, together with Interest and all costs of collection thereof, including, but not limited to, Legal Fees, may thereupon be collected by the Association and such advance by the Association shall not waive the default.
- (c) To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.
- (d) To file an action at law to collect said Assessment plus Interest and Legal Fees, without waiving any lien rights or rights of foreclosure in the Association.

(e) To charge Interest on such Assessment from the date it becomes due, as well as a late charge of Twenty-Five Dollars (\$25.00) (or such other amount as the Board shall from time to time establish) by the Association to defray additional collection costs.

The Association shall, upon demand, and for such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 8. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of a Lot pursuant to such a foreclosure of a mortgage or deed of trust shall extinguish the lien of such assessments as to the payment thereof which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 9. Exempt Property. Operating Expenses shall be assessed only against Contributing Lots which are subject to Assessment under the provisions hereof, and all other portions of the Properties shall be exempt therefrom including, but not limited to, the Association Property, any and all Lots or other portions of the Property which may from time to time be withdrawn from the provisions of this Declaration by Declarant, any Lot which is not by definition a Contributing Lot, and during the Guarantee Period for so long as Declarant pays the Deficit as provided in Section 3(d) of this Article V, any Contributing Lots owned by Declarant or Developer. In addition, all property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the Assessments created herein.

Section 10. Working Capital Fund. At the time of closing of the initial sale of each Dwelling constructed on each Lot, a sum equal to one-sixth (1/6) of the amount of the Individual Lot Assessment for Contributing Lots in effect at the time of such sale shall be collected from the purchaser of such Dwelling and transferred to the Association as part of its working capital. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed by the Board of Directors to be necessary or desirable. Amounts paid to pursuant to this Section shall not be considered as an advance payment of any Individual Lot Assessment or other regular Assessment in effect at the time of the sale of the applicable Lot and Dwelling.

Section 11. Individual Expense Assessments. Individual Expense Assessments include any assessment levied against any Owner occasioned by such Owner's or any such Owner's family members, guests, invitees or lessees and their family members, guests and invitees use, maintenance, or treatment of the Association Property or Lots or such person's non-compliance with the provisions of the Association, including, but not limited to, non-compliance of Dwellings and any other Improvements or personal property contained therein with the standards set forth in this Declaration or as adopted from time to time by the Association, which causes the Association or Declarant to

incur additional costs and expenses which would not have been incurred if the Owner's or the Owner's family members, guests, invitees or lessees and their family members, guests and invitees had been in compliance with the foregoing ("Noncompliance"). The amount of the Individual Expense Assessment(s) shall be equal to any such additional costs incurred, plus the amount of any fine or penalty imposed upon the Owner in Noncompliance by the Association for the Noncompliance. The Individual Expense Assessment and any late charges relating thereto shall be assessed against the Owner(s) in Noncompliance and collected and enforced in the same manner as any other Assessments hereunder as provided herein. An Individual Expense Assessment, including those imposed pursuant to Section 3, Article IX, hereof, may be charged with the affirmative vote of two-thirds (2/3) of the Board of Directors and shall not require the assent of the Members.

Notwithstanding anything to the contrary contained herein, it is recognized and declared that Individual Expense Assessments shall be in addition to and not part of any other Assessment. Any Individual Expense Assessment assessed against an Owner shall be paid by such Owner in addition to the Individual Lot Assessment and any other Assessments payable by such Owner.

Section 12. Assessments under Cornerstone Declaration. The Cornerstone Declaration requires that all "Lot Owners" in Cornerstone Park (as the term "Owner" is defined therein), including the Owners in the Subdivision, will be assessed for the payment of assessments to the Community Association in order to fund the expenses incurred by the Community Association for maintaining certain common areas and amenities within Cornerstone Park (as more particularly defined and described in the Cornerstone Declaration) for the benefit of the residents of Cornerstone Park and enforcing and administering the terms and provisions of the Cornerstone Documents. The Community Association also has lien rights against each Lot, which the Community Association may foreclose in the event of the non-payment of any assessment due to the Community Association as provided in the Cornerstone Declaration.

The assessments and other charges payable to the Community Association are separate from and in addition to, the assessments and other charges, which are payable to the Association and provided for in this Declaration. Neither Declarant nor the Association makes any representation as to the amount of the assessment or other charges payable pursuant to the Cornerstone Documents or as to any other matter, which is addressed or controlled by the Cornerstone Documents. For a complete and accurate description of the rights and obligations of the Owners as set forth in the Cornerstone Documents (including but not limited to, the assessment obligations for the benefit of the Community Association) all Owners should refer to the Cornerstone Documents or contact a representative of the Community Association.

## ARTICLE VI

### RIGHTS OF INSTITUTIONAL MORTGAGEES

Section 1. Books and Records. Any Institutional Mortgagee, or its agent(s), shall have the right, during normal business hours, to examine copies of the Association Documents, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

Section 2. Notice to Institutional Mortgagees. Upon written request to the Association, the Institutional Mortgagee with respect to any Lot shall be entitled to timely written notice of:

- (a) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan;
- (b) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and/or
- (c) Any proposed action that requires the consent of a specified percentage of the Institutional Mortgagees with respect to the Lots.

Section 3. Approval of Institutional Mortgagees. Unless at least seventy-five percent (75%) of the Institutional Mortgagees with respect to the Lots located within the Properties have given their prior written approval, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause. Notwithstanding anything herein to the contrary, the Association Property owned by the Association, whether in fee, by easement, or otherwise, shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the City or to another non-profit corporation for the aforementioned purposes. Nothing herein shall be deemed to prohibit the Association, with the consent of the City Planning Director, from exchanging Association Property for other property as provided in Section 1(e) of Article IV of this Declaration, or to require the approval of such exchange by the holders of first deeds of trust on the Lots.

(b) Change the method of determining the obligations, Assessments, dues or other charges, which may be levied against a Lot;

(c) Fail to maintain hazard insurance on insurable improvements on the Association Property on a current replacement cost basis in an amount not less than the greater of (i) one hundred percent (100%) of the insurable value, (ii) eighty percent (80%) of the total replacement cost, or (iii) the minimum amount required by the Act or other applicable law (if any); or

(d) Use the proceeds of any hazard insurance policy covering losses to any part of the Association Property for other than the repair, replacement, or reconstruction of the damaged improvements subject to the provisions of Section 47F-113 of the Act.

Section 4. Payment of Taxes and Insurance Premiums. The Institutional Mortgagees with respect to the Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Association Property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The persons, firms or corporations making such payments shall be owed immediate reimbursement therefor by the Association.

## ARTICLE VII

### EASEMENTS

Section 1. Access and Utility Easements. Easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and other public utility installations are reserved as shown on the recorded plats of the Properties. The Association may reserve or grant easements over the Association Property as provided in Article IV, Section 1, of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of twenty-five (25) years from the date hereof, Declarant reserves an easement and right of ingress, egress and regress on, over and under the Properties to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. Declarant shall give reasonable notice of its intent to take such action to all affected Owners.

Section 2. Development Easement and Right of Entry. Declarant, and Declarant's respective employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over the Association Property and every Lot within the Properties to the extent reasonably necessary to install, construct, reconstruct, remove and maintain streets, utilities, signs, and other improvements in connection with the general plan of development for the Subdivision. In addition, during the period that Highway 70 or any of the "Major Builders" defined in the Cornerstone Declaration owns any portion of the property within Cornerstone Park, those parties and their respective employees, agents, contractors, subcontractors and invitees, shall have an access easement over the Association Property within the Properties to the extent reasonably necessary to install, construct, reconstruct, remove and maintain streets, utilities and other improvements in connection with the general plan of development for Cornerstone Park.

Section 3. Easements for Governmental Access. An easement is hereby established over the Association Property and every Lot within the Properties for the benefit of applicable governmental agencies for: installing, removing and reading water meters; maintaining and replacing water, sewer and drainage facilities; and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 4. Owners' Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any Dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably



necessary to perform repair, maintenance or reconstruction of such dwelling. Such work shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as nearly the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

Section 5. Association's Easement and Right of Entry. The Association, for itself and its employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over the each Lot to the extent reasonably necessary to perform the maintenance to be performed by the Association as provided in Article IX of this Declaration, or for the installation and maintenance of landscaping, a common cable television system, a common sprinkler system, entrance sign or features, or any other item for the common enjoyment and benefit of the Owners.

Section 6. Easement for Encroachment. If (i) any Improvements which are constructed upon the Association Property, or (ii) any Improvements constructed upon a Lot, encroach upon a Lot because of the placement, construction, reconstruction, repair, movement, settling or shifting of such Improvements, and such Improvements have been constructed, reconstructed or repaired in accordance with the provisions of Declaration, an easement for the encroachment and for its maintenance shall exist so long as the encroachment remains, provided, however, that in no event shall such an easement exist for willful encroachments. If any Lot Improvement encroaches upon the Association Property as a result of construction, reconstruction, repair, shifting, settlement or movement of the subject Lot Improvements, and such Improvements have been constructed, reconstructed or repaired in accordance with the provisions of Declaration, an easement for the encroachment and for its maintenance shall exist so long as the encroachment remains.

Section 7. Declarant's Inspections. Declarant, its employees, agents, contractors, subcontractors and invitees, shall have the right, but not the obligation, and a perpetual access easement over the Association Property and each Lot reasonably necessary to conduct inspections and tests from time to time of any improvements constructed by Declarant on the Property to determine whether maintenance, repairs or replacement of any such improvements are indicated. If Declarant conducts any such tests or inspections, it shall pay all costs thereof, restore the affected portion of the Property to its condition immediately prior to the inspections and tests, and shall indemnify the Association and Owner(s) of any affected Units from any damages resulting therefrom. The Association may have a representative accompany Declarant for any such inspections or tests, if it so elects.

Section 8. Easements in favor of Highway 70, the Cornerstone Declarant, and Community Association. The Cornerstone Declaration may establish certain easement rights in and to the Association Property and other portions of the Properties in favor of the Community Association, the Cornerstone Declarant and Highway 70. The easements established by the Cornerstone Declaration are generally for the purpose of enabling the Community Association and the cornerstone Declarant to perform their obligations and exercise their rights under the Cornerstone Declaration, and for enabling Highway 70 to develop and promote the community at Cornerstone Park. For a complete and accurate description of the easement rights of the Community Association, the Cornerstone Declarant and Highway 70, as set forth in the Cornerstone Declaration, all Owners should refer to the Cornerstone Documents.

## ARTICLE VIII

## ARCHITECTURAL CONTROL

Section 1. Establishment. "Committee" shall mean the architectural control committee, which shall be the governing body charged with using its best efforts to promote and ensure a high level of design, quality, harmony and conformity throughout the Properties consistent with this Declaration. Until the Termination of Declarant Control, referred to below, Declarant shall constitute the Committee, and may approve Plans and Submissions or take other actions on behalf of the Committee in Declarant's own name or in the name of the Committee. After the Termination of Declarant Control, the Committee shall be composed of at least three (3) individuals appointed by the Board of Directors, each of whom shall be an Owner. The Committee shall act by simple majority vote. In the event of death, resignation or other removal of any Board of Directors appointed member of the Committee, the Board of Directors shall appoint a successor member. No member of the Committee shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of services performed pursuant to this Declaration. Declarant shall cease to control and constitute the Committee on the earlier of: (a) the date on which Declarant records in the Public Records, a document declaring the termination of its control of the Committee, or (b) at such time as Declarant no longer owns a Lot within the Properties (which may be referred to in this Declaration as "Termination of Declarant Control").

Section 2. Purpose of the Committee. The Committee is established to provide a system of review for the construction or modification of all Improvements within the Properties. No Improvement shall be commenced, improved or altered, nor shall any grading, excavation or change of exterior color or other work which in any way alters the exterior appearance of an Improvement be done without the prior written approval of the Committee.

Section 3. Development Standards. The Committee is empowered to publish or modify from time to time, design and development standards for the Properties, including, but not limited to, standards for the following ("Standards"): (i) architectural design of Improvements, including, but not limited to, design standards for any Unit or other Improvement constructed upon a Lot; (ii) fences, walls and similar structures; (iii) exterior building materials and colors; (iv) exterior appurtenances relating to utility installation; (v) signs and graphics, mailboxes, satellite dishes and exterior lighting; (vi) decks, pools and pool decks, side yards and related height bulk and design criteria; (vii) pedestrian and bicycle ways, sidewalks and pathways; and (viii) all buildings, landscaping and Improvements on lands owned or controlled by the Association. After the Termination of Declarant Control, Standards promulgated by the Committee shall be subject to approval by the Board. After the Board of Directors' approval, a copy of the Standards will be made available to all Members.

Section 4. Requirement of Committee Approval. No Improvement of any kind shall be erected, placed or maintained, and no addition, alteration, modification or change to any Improvement shall be made without the prior written approval of the Committee. For purposes of this Declaration, Declarant Improvements means any Improvement erected, placed, or maintained with the approval of Declarant or Developer, including, without limitation, any building, wall, fence, swimming pool, or screened enclosure, constructed, installed or placed by or with the approval of Declarant or Developer prior to the Termination of Declarant Control (collectively, "Declarant Improvements"). Notwithstanding anything to the contrary contained above, Declarant

Improvements are not subject to the approval of the Committee and are deemed to conform to the plan of development for the Property.

Section 5. Obtaining Committee Approval. In order to obtain the approval of the Committee, a complete set of plans and specifications ("Plans") for proposed Improvements shall be submitted to the Committee for its review. The Committee shall have the right to charge a reasonable fee, not to exceed \$75.00, for reviewing the Plans and/or Submissions and processing each application for approval of proposed Improvements. The Plans shall include, as appropriate, the proposed location, grade, elevations, shape, dimensions, exterior color plans, approximate costs, and nature, type and color of materials to be used. The Committee may also require the submission of additional information and materials as may be reasonably necessary for the Committee to evaluate the proposed Improvement or alteration ("Submissions"). The Committee shall have the right to refuse to approve any proposed Plans, which, in its sole discretion, are not suitable or desirable. Any and all approvals or disapprovals of the Committee shall be in writing and shall be sent to each respective Owner submitting such application for approval. In the event the Committee fails to approve or to disapprove in writing any Plans and/or Submissions after: (i) submission to the Committee of the last item of the Plans and Submissions requested by the Committee, so that the Committee has a complete package of all Plans and Submissions requested by the Committee; and (ii) thirty (30) days have elapsed since submission and written request for approval or disapproval was delivered to the Committee by the Owner; then said Plans and Submissions shall be deemed to have been approved by the Committee provided, however, that no Improvement shall be erected or shall be allowed to remain which violates any conditions or restrictions contained in this Declaration, or which violates any applicable zoning or building ordinance or regulation. The approval by the Committee relates only to the aesthetics of the Improvements shown on the Plans and Submissions and not to their sufficiency or adequacy. Each Owner shall be responsible for obtaining all necessary technical data and to make application to and obtain the approval of the appropriate governmental agencies prior to commencement of any construction.

Section 6. Scope of Review. The Committee shall review and approve or disapprove all Plans and Submissions solely on the basis of aesthetic standards as to the aesthetic quality of materials and workmanship to be used, suitability and harmony of location, structure and external design in relation to surrounding topography and structures and the overall benefit or detriment which would result to the immediate vicinity and to the Properties as a whole and any other factors deemed relevant to the review by the Committee in its opinion, reasonably exercised. The Committee shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, color schemes, exterior finishes and materials and similar features, and shall not be responsible for reviewing, nor shall its approval of any Plans be deemed approval of, any design or plan from the standpoint of structural safety or conformance with building or other codes.

Section 7. Variance from Standards. The Committee may authorize, in a reasonable manner so as not to destroy the general scheme or plans of the development of the Subdivision variances from compliance with any Standards which it has promulgated pursuant to its authority when circumstances such as topography, natural obstructions, hardship, aesthetics or environmental considerations may require. If any such variances are granted, no violation of the restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose, except as to that particular property and particular

provision hereof or Standards promulgated hereby which are covered by the variance. Such variance shall be evidenced in writing.

Section 8. Enforcement. There is specifically reserved unto the Committee the right of entry and inspection upon any Lot or other portion of the Properties for the purpose of determination by the Committee whether there exists any Improvement which violates the terms of any approval by the Committee or the terms of this Declaration. Except in emergencies, any exercise of the right of entry and inspection by the Committee hereunder should be made only upon reasonable notice given to the Owner of record at least twenty-four (24) hours in advance of such entry. The Association, acting pursuant to the direction of the Committee, is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any Improvement, or to remove any unapproved Improvements, the prevailing party in such litigation shall be entitled to recover all attorneys fees and court costs incurred in connection therewith. The Association shall indemnify and hold harmless any member of the Committee from all costs, expenses and liabilities, including attorney's fees incurred by virtue of any member's service as a member of the Committee, provided such member acted in good faith and without malice.

Section 9. Subcommittees and Delegation of Authority. The Committee may establish subcommittees for the purpose of acting on behalf of the Committee with respect to similar circumstances, situations, or types of Improvements, such as a subcommittee which would deal with modifications of existing Improvements or additional new Improvements ancillary to an existing Unit, in contrast to the construction of initial Improvements upon a previously unimproved Lot. All rights and powers of the Committee may be delegated to such subcommittee with regard to the subject matter of the subcommittee. The rights and powers of the Committee may be assigned to a management company, an architect, design professional or other entity, or any portion of such rights and powers applicable to a particular subcommittee or area of similar circumstance may be so assigned.

Section 10. Architectural Approval pursuant to the Cornerstone Documents. In addition to the approval of the Committee in accordance with this Declaration, the Cornerstone Documents provide that no construction of any Improvement that adjoins, abuts, is or would be visible from, the Public Entry Roads, shall be commenced or maintained anywhere in Cornerstone Park without the prior written approval of the Architectural Review Committee established pursuant to the Cornerstone Documents (or other entity which may be authorized and empowered for such purposes from time to time pursuant to the Cornerstone Documents). The procedures and requirements for obtaining the approval of the Cornerstone Park Architectural Review Committee (or other applicable entity, if any) are set forth in the Cornerstone Documents and are separate from and in addition to, the procedures and requirements set forth in this Article VIII. No Improvement shall be permitted on the Lots which violates any of the requirements of the Cornerstone Documents. Notwithstanding the requirement for the Committee's approval of all proposed Improvements pursuant to this Article VIII, the Committee shall have no obligation to verify whether or not the Plans and Submissions for such Improvements comply with the Cornerstone Documents or any other requirements of any applicable governmental authority or agency with respect to the proposed Improvements. The Committee's approval of Plans and Submissions for any proposed Improvements shall not be construed or interpreted as an indication of the acceptability to the Cornerstone Park Architectural

Review Committee of the proposed Improvements or the compliance thereof with the Cornerstone Documents.

## ARTICLE IX

### MAINTENANCE OF LOTS AND UNITS

Section 1. Association's Responsibility. The Association shall be responsible for the maintenance of the Association Property and the improvements and facilities located thereon. In addition, the Association shall be responsible for maintaining the grass, plants, shrubs, trees, and landscaping (hereinafter the "Yard Improvements") on the Lots originally installed by the Declarant or the Association. The Association shall also maintain any Yard Improvements installed by an Owner with prior approval by affirmative vote of a majority of the Members of each Class, and prior written consent of the Association (but only to the extent that such consent specifically provides that the Association will maintain such added landscaping), provided, however, that: (i) the Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree for any reason; and (ii) the Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of any Owner or any utility company or governmental authority. If approved by a majority vote of the Board, the Association shall be responsible for the installation, maintenance and operation of a common irrigation sprinkler system for the Lots, and the cost and expense thereof (including the water to provide irrigation, if not separately metered to each Unit) shall be an Operating Expense. The Board shall set up a reserve fund for the purpose of reserving the necessary funds to install, maintain, repair, replace and operate such common irrigation system, and contributions to the reserve shall be an Operating Expense. Following the initial installation of such system and the depletion of the reserve account, the reoccurring costs to operate, maintain, repair and replace (including water consumption, if applicable) shall be a regular Operating Expense. The funds placed in such reserve account shall not be used for any other purpose except as specifically provided in this Section 1 of Article IX for the installation, maintenance and operation of a common irrigation system, unless another use is specifically approved by the Members in the same manner required in Section 5 of Article V for the approval of a Special Assessment.

Except as specifically provided for in this Article IX, the Association shall have no responsibility to maintain or repair any Unit or any portion thereof or for insuring any Unit or other improvements on any Lot, and shall not be liable for any damage to any Unit, except such damage caused by the Association, its duly authorized agents or employees.

The Association shall have the right, but not the obligation, by the affirmative vote of a majority of the Members of each Class, to accept certain items, areas or improvements on a Lot for maintenance by the Association, including, but not limited to, Yard Improvements installed by an Owner. Such acceptance shall be in writing and may be subject to such terms and conditions, including, but not limited to, a special assessment or increased annual assessment for that Lot, as the Association might establish in such written acceptance.

Section 2. Owner's Responsibility; Remedy for Owner's Failure to Maintain. Any maintenance on a Lot that is not the responsibility of the Association, whether by the terms of this Declaration or by written acceptance of same, shall be the responsibility of the Owner of such Lot.

Such maintenance by an Owner shall include, but not be limited to, the repair, maintenance and replacement of the driveway upon the Lot, Yard Improvements which are specifically excluded by the provisions of Section 1 of this Article IX, replacement, maintenance and repair (including painting) of the exterior walls, windows, roofs, and other exterior portions of the Unit or other building Improvements or structures located on such Lot. Each Owner shall keep his Lot and Unit in an orderly condition and shall keep the improvements thereon in a suitable state of repair. If an Owner does not perform exterior maintenance of his Lot and Unit, the Association shall have the right (but not the obligation), through its agents and employees, by the affirmative vote of not less than two-thirds (2/3) of the Board of Directors, to enter upon such Lot and to repair, maintain and restore the Lot or exterior of the Unit erected thereon, and the cost of such exterior maintenance, plus a surcharge of 15% for administration, shall be assessed as an Individual Expense Assessment in accordance with Section 11 of Article V and Section 3 of this Article. Prior to such entry, the Association shall give written notice to the Owner stating: (i) the specific item(s) needing maintenance; (ii) the corrective action to be taken; (iii) a time, not less than 60 calendar days from the date of the notice, in which the Owner is to perform the necessary maintenance; and (iv) a statement that, if the Owner fails to perform the maintenance within such time period, the Association will exercise its right to perform the maintenance and that the Owner will be assessed with the costs thereof as provided in this Article IX.

Each Owner shall maintain a Hazard Insurance Policy, with full replacement coverage, to protect against casualty damage to their Lot and Unit. Upon request, the Owner shall provide a copy of such Hazard Insurance Policy to the Association.

Section 3. Assessment of Cost. In the event that the Association performs maintenance on any Lot as provided in Section 2 of this Article IX, the cost of any such maintenance, replacement or repairs shall be charged as an Individual Expense Assessment (referred to in Section 11 of Article V) against the Lot upon which such maintenance is done and shall be added to and become part of the Assessments to which such Lot is subject under Article V hereof and, except as otherwise specifically provided in this Section 3 of Article IX and in Section 11 of Article V, enforceable under the terms thereof.

An Individual Expense Assessment charged under this Section 3 of Article IX shall be enforceable pursuant to the terms of Article V hereof, except that (i) the Individual Expense Assessment may be charged by affirmative vote of two-thirds (2/3) of the Board of Directors; (ii) no vote of the Members shall be required to charge such an Individual Expense Assessment; and (iii) an Individual Expense Assessment charged pursuant to this Article IX shall be due and paid on or before a date determined by affirmative vote of two-thirds (2/3) of the Board of Directors, which date shall not be less than six (6) months nor more than twelve (12) months from the date that the Association gives the Owner a written statement itemizing the sum due under the Individual Expense Assessment and stating the due date for payment of such Individual Expense Assessment.

Section 4. Access at Reasonable Hours. As provided in Section 4 of Article VII of this Declaration, the Association, through its duly authorized agents or employees, shall have the right, after reasonable oral or written notice to the Owner, to enter upon any Lot at reasonable hours on any day.

Section 5. Party Walls. Each wall which is built as a part of the original construction of a Unit and placed on the dividing line between the Lots and all reconstruction or extensions of such walls shall constitute party walls. To the extent not inconsistent with the provisions of this Section 5, the general rules of law regarding party walls, lateral support, in-below ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply.

The following provisions shall apply to all party walls constructed in the Subdivision: (i) 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; (ii) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it. If other Owners make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; subject, however, to the right of any Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions; (iii) The Owner may construct or reconstruct a party wall subject to and within the limitations of architectural control and other limitations of this Declaration with the right to go upon the adjoining Lot to the extent reasonably necessary to perform the construction. The construction shall be done expeditiously. Upon completion of the construction, the Owner shall restore, as is reasonably practicable, the adjoining Lot to as near the same condition which prevailed on or before the commencement of the construction; (iv) The right of any Owner to contribution from any other Owner under this Section 5 shall be appurtenant to the land and shall pass to the Owner's successors in title; and (v) If any Owner desires to sell his Unit, he may, in order to assure a prospective purchaser that no adjoining Owner(s) has a right of contribution as provided in this Article, request that the adjoining Owner(s) provide a certification that no right of contribution exists. It shall be the duty of each adjoining Owner to make a certification as to whether there is any pending claim of contribution immediately upon request and without charge.

Section 6. Requirements in Cornerstone Declaration and Rights of Community Association. The Cornerstone Declaration contains provisions regarding the general standards to which various portions of the Properties are to be maintained, including the Association Property, the Lots and the Dwellings thereon and any Community Association Property that may be required to be maintained by the Association (if any). Each Owner shall maintain such Owner's Lot and Dwelling in accordance with the requirements of the Cornerstone Declaration, except for any portions thereof to be maintained by the Association as specifically provided for in this Declaration. Pursuant to the Cornerstone Declaration, if an Owner or the Association, as applicable, fails to comply with the general maintenance requirements set forth therein, the Community Association may, after notice and the expiration of a specified time period, perform the obligations of such Owner (or if applicable, the Association). In such event, the Cornerstone Declaration entitles the Community Association to reimbursement by the responsible party for the costs incurred by the Community Association in performing the obligations of the responsible party. The Community Association also has lien rights against each portion of the Properties, which they may foreclose in the event of the non-payment of any such amounts due to the Community Association as provided in the Cornerstone Declaration. For a complete and accurate description of the rights of the Community Association and the obligations of the Association and the Owners regarding maintenance of the Properties as set forth in the Cornerstone Declaration, all Owners should refer to the Cornerstone Documents.

ARTICLE X  
USE RESTRICTIONS

Section 1. Prohibited Uses. No Lot or dwelling constructed thereon shall be used for any purpose, which is not permissible under applicable governmental residential zoning regulations.

Section 2. Prohibited Activities; Businesses. No noxious or offensive trade or activity shall be carried on or in any Lot or Unit, nor shall anything be done thereon or therein which may be or become an annoyance or nuisance to the neighborhood. No business trade or activity may be conducted on any Lot unless permitted by the Board of Adjustments of the City.

Section 3. Temporary Structures. No residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, basement, shack, tent, garage, barn, or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently.

Section 4. Signs. Except as otherwise required by the City, no sign of any kind shall be displayed to the public view on any Lot except signs used by Declarant or Developer to advertise Lots and/or Dwellings for sale during the construction and sales period, one sign of not more than six (6) square feet advertising the property for sale or rent, and signs of not more than six (6) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election.

Section 5. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any Unit, except that dogs, cats and other household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes, and further provided that they are not kept or maintained in such manner so that they become an annoyance or nuisance to any Owner or occupant of any other Unit in the Subdivision. As provided in Section 11 of this Article X, the Board of Directors of the Association shall have the right and authority to adopt rules and regulations which further limit or prohibit the types of animals or household pets which may be kept or maintained on a Lot or in a Unit and which limit or prohibit such animals upon Association Property.

Section 6. Antennas; Satellite Dishes. Except as stated below, no radio or television transmission or reception towers, antennas or satellite reception dishes or discs shall be erected on a Lot unless approved as provided in Article VIII of this Declaration. Notwithstanding the above, a satellite dish or disc may be located on a Lot, provided that (i) the disc or dish is not more than two feet in diameter; (ii) the disc or dish is located on the side of the Lot facing away from the street and within the building setback lines applicable to that Lot; and (iii) the disc or dish is located or screened in such a way that it cannot be seen from any street within the Subdivision.

Section 7. Clotheslines. No clothesline may be erected or maintained on any Lot.



**Section 8. Garbage; Unsightly Storage.** All trash and rubbish shall be kept in garbage cans stored in the garage or otherwise within the Unit. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar unsightly items shall be allowed to remain on any Lot; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for collection by governmental or other similar garbage and trash removal units. In the event of curbside trash and/or garbage pickup, trash and/or garbage cans may be moved to the street on the night before the scheduled pickup, but all garbage cans must be returned to approved enclosure the night of the scheduled pickup.

**Section 9. Lease of Dwelling.** The Owner of a Unit may lease or sublet the premises. However, any lease or sublease must be for at least six (6) months, in writing and contain the following provision:

"Tenant shall obey, adhere to and be bound by all provisions of the Declaration Of Covenants, Conditions And Restrictions For Cornerstone Park Single Family Attached Residences Association, Inc., recorded in the Office of the Wake County Register of Deeds. Tenant acknowledges that he/she/they has/have received of a copy of such Declaration and is familiar with the provisions of same."

If an Owner fails to include said provision in any lease or sublease, it shall be conclusively deemed to be included and part of said lease or sublease. Owner shall furnish the Association a copy of any leases or subleases of his/her unit.

**Section 10. Parking.** The Declarant shall provide at least the minimum number of parking spaces required by the City for the Subdivision. The Owner of each Lot shall be responsible for the maintenance of any parking space(s) located on their Lot. The Owner of each Lot shall provide the Association with the make, model, color and license plate number of each vehicle owned or normally driven by the Owner and his family, any person regularly residing with the Owner, and/or any lessee or sublessee of such Owner. The Association shall be responsible for the maintenance of any parking spaces located within the Association Property for the Subdivision. Except for any parking space(s) located on or within Association Property that are specifically assigned to an Owner by the Association, any parking space(s) located within the Association Property for the Subdivision shall be used for visitor parking, only.

No Owner or his family, lessee or sublessee or guest of an Owner shall: (i) park any vehicle on a street within or adjoining the Subdivision except in a designated paved parking space; (ii) park or keep on any Lot or street within or adjoining the Subdivision any abandoned, partly dismantled or inoperative vehicle; or (iii) park or keep on any Lot or any street within or adjoining the Subdivision any boat or boat trailer, motor home, camper, bus, truck in excess of one ton weight, commercial vehicle, truck or van, or anything else other than normally intended to be a private passenger vehicle within the Subdivision.

The Board of Directors shall have the right and authority to make, implement and enforce such additional parking rules and regulations as it might determine from time to time necessary or appropriate, and shall have the right and authority to enforce same, including, but not limited to, the right to levy fines for violations thereof. Furthermore, the Association shall have the right and authority to have towed any vehicle parked or maintained in violation of these or subsequently-

adopted parking rules and regulations, the cost of which towing and storage shall be the responsibility of the Owner of the Lot to which such vehicle is registered.

Section 11. Adoption of Rules. The Board of Directors shall have the authority to adopt additional rules and regulations governing the use of the Association Property and the Lots within the Subdivision and shall furnish a written copy of said rules and regulations to the Owner(s) of each Lot at least fifteen (15) days before such rules and regulations become effective. Any violation of such rules shall be punishable by fine and/or suspension of voting rights as provided in this Declaration.

Section 12. Tree Protection Areas. Portions of the Association Property may be designated as "tree preservation areas" or "tree protection areas" as shown on the recorded subdivision plats or as otherwise designated by the City. If applicable, trees in these areas are not to be removed by any Owner or any other party. The Raleigh City Code imposes significant consequences for any person or entity undertaking any unlawful removal of trees or unlawful disturbance of trees (or areas proximate to such trees) within those portions of the Properties designated as tree preservation or protection areas.

Section 13. Storage Facilities; Playground Equipment. No storage or accessory buildings detached from the original Unit shall be permitted or installed on any Lot in the Subdivision. No outdoor playground equipment or playsets shall be permitted or installed on any Lot.

Section 14. Fences; Walls. No fence or wall shall be erected on any Lot. Nothing in this Section shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot or Lots, nor shall anything in this Section apply to any fence installed by the Declarant at any entrance to or along any street within the Subdivision.

Section 15. Certain Rights of Declarant. Except for the requirements related to tree preservation referred to in Section 12 of this Article X, the provisions, restrictions, terms and conditions of this Article X shall not apply to Declarant as an Owner.

## ARTICLE XI

### GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by 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 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. In the event that any of the provisions of this Declaration now or hereafter conflict with the provisions of any applicable law or requirement, including (but not limited to) the Act, the provisions of the applicable law shall control unless the law permits the Declaration to override the applicable law, in which event the Declaration shall control. Invalidation

of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 3.     Term. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of the Owners as set forth below.

Section 4.     Amendments.

(a) During the period of the existence of any Class B Lots, Declarant may amend this Declaration without the approval of any Member provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot or of the Association Property as set forth in this Declaration and the amendment does not adversely affect the title to any Lot, and during any such period this Declaration may not be amended without the written joinder of Declarant.

(b) Should the Veterans' Administration, the Federal Housing Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Declaration or make such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Declaration to be recorded to reflect such changes provided that such changes are not inconsistent with the provisions of the applicable laws of the State of North Carolina or any other applicable governing authority.

(c) Any other amendments of this Declaration shall require (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the votes attributable to each class of Members of the Association as such classes are set forth in the Bylaws and this Declaration; or (ii) if a two-class voting structure is not in effect, the vote or written consent of both sixty-seven percent (67%) of the votes attributable to the Association and the vote or written consent of sixty-seven percent (67%) of the votes attributable to the Association and residing in Members other than Declarant; provided, however, that the percentage of the attributable votes (of each class of Members, of the Association, and of Members other than Declarant) necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

(d) Notwithstanding anything to the contrary contained in this Declaration, any amendment which establishes, governs, provides for or regulates any one of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Association Property; (iv) insurance or fidelity bonds; (v) right to use of the Association Property; (vi) responsibility for maintenance and repair of the Subdivision; (vii) expansion or contraction of the Subdivision or the addition, annexation or withdrawal of property to or from the Subdivision (other than as specifically permitted hereby); (viii) the boundaries of any Lot; (ix) interests in the Association Property; (x) leasing of ownership interests; (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (xii) any provisions which are for the express benefit of any lending institution owning a first mortgage covering a Dwelling or Lot; or (xiii) any other

"material amendment" or "extraordinary action" (as those terms are defined by the applicable VA and FHA guidelines in effect at the time of such amendment or action), shall require (y) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the votes attributable to each class of Members, or (z) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total votes attributable to the Association, and the written consent of sixty-seven percent (67%) of the Institutional Mortgagees with respect to the Dwellings or Lots (based on one vote for each first mortgage owned). Any Institutional Mortgagee who does not respond within thirty (30) days request by the Association for consent to an amendment of this Declaration shall be deemed to have approved such request.

(e) Any instrument amending this Declaration must be recorded in the Public Records and in the case of an amendment made by the Owners, such amendment shall contain a certification by the President and Secretary of the Association that the amendment has been correctly adopted in accordance with the provisions of this Declaration. Any such amendment shall be effective upon the date of recordation.

(f) Notwithstanding any other provision hereof to the contrary, the Declarant may, without the joinder or consent of any Owner, Member, Institutional Mortgagee, or any other party, (i) amend this Declaration at any time that Declarant owns all Lots within the Subdivision, or (ii) amend this Declaration at any time to comply with the specific requirements of the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any other governmental agency or quasi-governmental agency which insures, guaranties, or purchases Mortgages.

(g) In the event that Declarant has arranged for and provided purchasers of Lots with FHA-insured or VA-guaranteed mortgage loans, then, as long as any Class B Lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration ("FHA") or the Veterans Administration ("VA"): annexation of additional property, mortgaging of Association Property, dedication, exchange or otherwise deeding of Association Property to persons other than the Association, and amendment of this Declaration.

Section 5. Non-Liability of Governmental Authorities. Neither the City nor any other governmental authority shall be responsible for failing to provide any emergency or regular fire, police or other public service to the Properties, any Lot, or any Owner or occupant when such failure is due to the lack of access to the Properties or any Lot therein due to inadequate design or construction of such access, blocking of access routes, or any other factor within the control of the Declarant, the Association, an Owner, or an occupant of any Lot.

In no case shall the City or the State of North Carolina be responsible for maintaining any private street located on the Properties. Such responsibility shall rest with the Association in that such private streets may not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

Section 6. Rights of Governmental Authorities. Any governmental authority or agency, including, but not limited to the City and the County, their agents, and employees, shall have the right of immediate access to the Properties at all times if necessary for the preservation of public health, safety and welfare. Should the Association or the Board of Directors fail to maintain the

Association Property in accordance with the specifications set forth in the applicable governmental approvals for the Subdivision for an unreasonable time, not to exceed ninety (90) days after written request to do so, the City, the County and any other applicable governmental authority, by and through the affirmative action of a majority of the governing body, shall have the same right (but not the obligation), power and authority as is herein given to the Association and the Board of Directors to enforce this Declaration and levy assessments necessary to maintain the Association Property, it being understood that in such event the applicable governing body may elect to exercise the rights and powers of the Association or the Board of Directors, to the extent necessary to take any action required and levy any assessment that the Association might have taken, either in the name of the Association or otherwise, to cover the cost of maintenance of any of the Association Property. The rules granted herein shall be supplemental to any governmental authority the City and the County may have, and application of this provision shall not diminish, limit, or restrict the right of the City, the County, or any other governmental authority to apply any other legal rights it may have.

Section 7. Subdivision of Lots. During the period commencing with the date of recording of this Declaration and continuing until such time as all Class B Lots have been converted to Class A Lots, for voting purposes, pursuant to Article III, Section 2, above, no Lot within the Subdivision may be subdivided or recombined, by sale or otherwise, so as to reduce the total lot area shown on the recorded plats of the Subdivision, except by and with the consent of the Declarant, and if required, by the City.

Section 8. Declarant's Right To Change Development. Declarant shall have the right, without consent or approval of the Owners, to create dwelling units, change Unit types and reallocate Units within the Properties, add Association Property, add improvements in the Association Property, and withdraw real property from the Subdivision, provided that if required, any such actions are approved by the City and by FHA or VA and are subject such terms and conditions (if any) as the City may impose. The foregoing rights of Declarant include the right to develop the Properties for the construction of any type of residential units desired by Declarant and permitted by the City for development within a development approved for single family attached residential dwelling units, provided that any such development or use is consistent with the approved development plan for the Subdivision and with the approved master development plan for Cornerstone Park on file with the City Planning Department or with changes to such plan(s) which are approved by the City.

Section 9. Insurance. The Association shall procure and maintain adequate liability insurance covering the Association, in an amount not less than \$1,000,000.00. The Association shall also procure and maintain adequate hazard insurance on real and personal property owned by the Association or for which the Association is otherwise responsible and shall procure and maintain officers' and directors' liability insurance. The premiums for such insurance shall be an Operating Expense paid from the annual Individual Lot Assessments provided in Article V of this Declaration. The insurance maintained by the Association and the application, allocation or distribution of the proceeds thereof shall be subject to Section 47F-113 of the Act and any other applicable provisions of the Act or other applicable law.

Section 10. Fines. The Board of Directors shall have the right and authority to levy fines or penalties against Owners for the violation of any provision of this Declaration and/or the rules and regulations hereafter promulgated by the Board pursuant thereto. Any monetary fine or penalty

levied pursuant to this Section 10 may be assessed against an Owner as an Individual Expense Assessment in accordance with the provisions of Section 11 of Article V, and the Association shall follow any procedures or requirements on the levying of fines and penalties which are mandated by the Act and not otherwise addressed in this Declaration (if any), however the levying of the fine or penalty shall not require the assent of any Members of the Association (unless otherwise required by the Act).

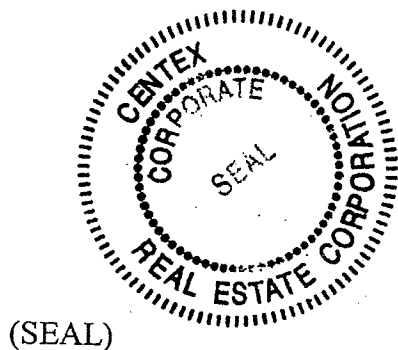
[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed under seal by Declarant's duly authorized officers, as of the day and year shown in the notary acknowledgments set forth below.

**DECLARANT:**

CENTEX HOMES, a Nevada general partnership

By: Centex Real Estate Corporation, a Nevada corporation  
Its: Managing General Partner

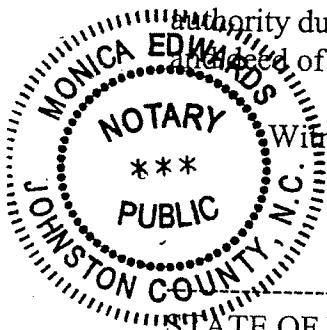


By: E. Scott Batchelor  
Division President  
Attest: Michael S. Reynolds  
Assistant Secretary

Date: 11/26/01

STATE OF NORTH CAROLINA - WAKE COUNTY

I, Monica Edwards, a Notary Public for Wake County, North Carolina, certify that E. Scott Batchelor appeared before me this day and, being by me duly sworn, says and deposes that he is a Division President of CENTEX REAL ESTATE CORPORATION, a Nevada corporation, the Managing General Partner of CENTEX HOMES, a Nevada general partnership, that the seal affixed to the foregoing instrument in writing is the corporate seal of the said corporation, that the said writing was signed and sealed by him and attested by Michael S. Reynolds, Assistant Secretary, on behalf of said corporation by its authority duly given. And the said Division President acknowledged the said writing to be the act and deed of said corporation and said partnership.



Witness my hand and official stamp and seal, this the 26 day of November, 2001.

Monica Edwards  
Notary Public

My Commission Expires 4-18-2006

STATE OF NORTH CAROLINA -- COUNTY OF WAKE:

The foregoing certificate of \_\_\_\_\_, Notary Public, is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

LAURA M. RIDDICK, Register of Deeds

By: \_\_\_\_\_  
Deputy/Asst. Register of Deeds

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**EXHIBIT "A"**

**EXISTING PROPERTY**

**CORNERSTONE PARK SINGLE FAMILY ATTACHED RESIDENCES**

LYING and being in the City of Raleigh, Wake County, North Carolina, and being more particularly described as follows:

BEING all of the real property shown on that certain plat entitled "RECOMBINATION AND SUBDIVISION PLAT, TRACTS 6 & 9 - OWNER: CENTEX HOMES", recorded in Book of Maps 2001, Page 1439, in the Wake County Register of Deeds Office, which includes Lots 1 through 37, inclusive, Lots 40 through 79, inclusive, the 3.98 acre "Open Space Area", and the 2.31 acre private street rights-of-way designated as "Chimneycap Drive", "Rubblestone Path", "Slabstone Court", "Pillar Gate Lane", "Header Stone Drive", and "Flying Buttress Lane"; all in the development referred to in this Declaration as the Cornerstone Park Single Family Attached Residences, as shown on the aforementioned recorded plat, to which plat reference is hereby made for a more particular description of same.



**EXHIBIT "B"**

LYING and being in the City of Raleigh Wake County, North Carolina, and being more particularly described as follows:

Lot 7, containing 10.896 acres, more or less, as shown on a plat entitled "Cornerstone Park, Lots 1 through 14 – Owner: Highway Seventy, LLC" dated December 14, 2000, recorded in Book of Maps 2000, Page 2238, in the Wake County Register of Deeds Office, to which plat reference is hereby made for a more particular description of same.