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DAVIDSON CO, NC FEE \$78.00

PRESENTED & RECORDED:

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MICHAEL HORNE

REGISTER OF DEEDS

BY: KELLY DAVIS

DEPUTY

**BK: DE 2430**

**PG: 263-290**

**DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR ROSEWOOD**

THIS DECLARATION is made on the date hereinafter set forth by 653 HARTMAN ROAD, LLC, a North Carolina limited liability company (herein Declarant).

**WITNESSETH:**

WHEREAS, Declarant, is the developer of the Property and current Owner of certain Property in DAVIDSON County, North Carolina, all of which is more particularly described in Exhibit A, (attached hereto) and incorporated herein by reference;

WHEREAS, it is the intent of the Declarant to cause the above-described property and the Common Property associated therewith, as may be evidenced on recorded plats subsequent to the filing of this Declaration, to be subjected to this Declaration of Covenants, Conditions and Restrictions; and the property shall be known as ROSEWOOD and each Lot Owner in ROSEWOOD shall automatically be a Member of Rosewood HOA, Inc.;

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit A, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the ROSEWOOD planned community; and which Declaration and its provisions shall run with such real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**DEFINITIONS**

SECTION 1. ASSOCIATION. "Association" shall mean and refer to ROSEWOOD HOA, Inc., its successors, and assigns.

SECTION 2. "COMMON AREA" OR "COMMON ELEMENTS". Declarant reserves the right to create "Common Area" or "Common Elements" which shall mean all real property owned by the Association (whether owned in fee or by way of license or easement) or leased by the Association, other than a Lot, which will be conveyed to the Association by the Declarant. The Common Area

to be owned by the Association will be that which is deeded to the Association by the Declarant. Future phase plats, if any, may have additional designated Common Area or Elements for each phase brought under the control of the Association as it is deeded. Declarant reserves and retains the right to adjust the location of the "COMMON AREA".

Declarant reserves the right, in its sole discretion, to convey or cause to be conveyed to the Association from time to time and without the consent of the Association or its Members, additional property and may include any portion of the Properties, including any Additional Property annexed by Declarant pursuant to Article X, Section 4 hereof. The Association shall accept any such conveyance of property and thereafter such property shall be held and maintained by the Association as Common Area. Declarant does not contemplate the construction of any recreational improvements or amenities, such as a swimming pool, tennis courts, club house, etc. within the Common Area of this Association. The Association shall maintain the Common Area and be required to promptly repair any portion of the Common Area for which the Association is required to maintain casualty insurance which is damaged or destroyed.

The Association also may acquire additional Common Area with the consent of the Members of the Association entitled to cast at least two-thirds (2/3) of the votes of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during any Period of Declarant Control, Declarant must also consent to such action. For such a conveyance to be effective, the deed or instrument conveying to the Association additional Common Area must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite owner approval has been obtained and is evidenced by written acknowledgments signed by the owners approving the amendment and made a part of the minute book of the Association; and (3) be properly recorded in the Register of Deeds Office where the land lays.

SECTION 3. DECLARANT. "Declarant" shall mean and refer to 653 HARTMAN ROAD, LLC, its successors and assigns, pursuant to an express assignment or conveyance of any special Declarant rights hereunder to such successor or assign, all of which rights, including Declarant's voting, architectural review, easement and development rights, shall be assignable and may be apportioned on a Lot-by-Lot basis.

SECTION 4. "FHA". FHA shall mean and refer to the Federal Housing Administration of the Department of Housing and Urban Development.

SECTION 5. LOT. "Lot" shall mean and refer to any separately numbered plot of land shown upon any now or subsequently recorded subdivision plat of the Property intended for residential purposes and shall include any improvements constructed thereon and "Lots" shall refer to all such lots collectively. Declarant hereby reserves the right to reconfigure, from time to time and without consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant or its affiliates and to thereby create additional Lots, eliminate existing Lots and Common Area or create additional Common Area; provided, however, in no event shall the Properties contain a greater number of Lots than the number from time to time permitted by the appropriate governmental authority(ies). If Declarant elects to exercise its right to revise the boundaries of one or more Lots or add or eliminate a lot(s), Declarant shall record a revised plat, each Lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a Lot as defined in this Declaration and each newly configured lot shown on the revised plat shall be a Lot as defined in this Declaration.

SECTION 6. PLAN. "Plan" shall mean and refer to the plan(s) for the Properties and the Additional Property now or thereafter approved by the governmental authorities having jurisdiction, as such plan(s) may be from time to time amended and approved. Conceptual plans that have been made, approved, and filed shall not be binding upon the Declarant until such time as the same is subjected to this Declaration and then only to the extent herein stated.

SECTION 7. MEMBER. "Member" shall mean and refer to every person or entity that holds Membership with voting rights in the Association.

SECTION 8. OWNER. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 9. PERIOD OF DECLARANT CONTROL. "Period of Declarant Control" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Officer of the Register of Deeds in which the land lays and continuing until the earlier of: (i) ten (10) years from the date this Declaration is so recorded; (ii) such time as Declarant, together with all affiliated entities, shall cease to own at least one of the lots shown on the Plan which are intended for residential purposes in all phases. Such period of time shall be reinstated upon annexation of additional lots and shall continue until the earlier of: (i) ten (10) years from the date this Declaration is recorded aforesaid or (ii) such time as Declarant, together with all affiliated entities shall cease to own at least one lot shown on the Plan which are intended for residential purposes.

SECTION 10. PROPERTIES or PROPERTY. "Properties" or "Property" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 11. VA. "VA" shall mean or refer to the Department of Veteran Affairs.

SECTION 12. BOARD, EXECUTIVE BOARD, OR BOARD OF DIRECTORS. Board, Executive Board, or Board of Directors shall mean those persons elected or appointed to the Board of Directors of the Association.

SECTION 13. ASSOCIATION AND DECLARATION. Association shall mean and refer to Rosewood HOA, Inc. and the Declaration shall mean the Declaration of Covenants, Conditions, Reservations for ROSEWOOD recorded in the DAVIDSON County Registry as above referenced.

SECTION 14. ARCHITECTURAL REVIEW COMMITTEE ("ARC"). A committee appointed by Declarant or its successors and assigns until final development and sale of the Property, as it may be expanded, and thereafter by the Board of Directors, for the purpose of reviewing, approving, suggesting changes to, and rejecting plans and specifications for external improvements, deletions and additions to any residence, improvements on any Lot within the jurisdiction of the Annexation, in order to control external design, appearance, construction and location of dwellings, and other improvements to be constructed, erected, placed, installed, remodeled or rebuilt upon said lots, including landscaping and the subsequent repair and maintenance thereof following conveyance of the Lot by Declarant. The Board of Directors may delegate day to day enforcement, in part or in full, of the Rules and Regulations of the Association with final appeal to the Board of Directors of Association, (herein Board or Board of Directors), to this committee or to another committee.

## ARTICLE II

### PROPERTY RIGHTS

SECTION 1. In relation to Common Area designated on the plan or future common area that created or annexed, every Owner shall have a right and easement of enjoyment in and to the Common Area that shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the easements herein reserved by Declarant or reserved in a deed of conveyance or created in favor of the Association including, without limitation the easements set forth in Article VIII hereof and subject to easements granted by the Declarant which may include general easements and exclusive right easements and the right of the Declarant to relocate, adjust, include and exclude common area, recorded plats for Lot(s) owned by it as stated in Article I, Section 5 above;

(b) the right of the Association to permit the use of and to charge reasonable admission and other fees for any use of any recreational facility situated upon the Common Area, if any;

(c) the right of the Association to suspend the voting rights of the Owner(s) of any Lot for any period during which any assessment against such Lot remains unpaid and for any period during which such Lot or any Owner or occupant thereof is in violation of the terms of this Declaration or the published Rules and Regulations of the Association for a period not to exceed sixty (60) days after any such violation;

(d) the right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act and with the consent of the Members entitled to cast at least eighty percent (80%) of the votes of the Association, to dedicate or transfer fee title to all or any part of the Common Area for such purposes and subject to such conditions as may be agreed to by the Members consenting to such dedication to transfer; provided, however, for so long as Declarant or any affiliated entity shall own any portion of the Properties or shall have the right to annex additional properties pursuant to Article X, Section 4 hereof, Declarant must also consent to such action and further provided that no such dedication or transfer shall interfere with or obstruct utility services to, or ingress, egress and regress to or from, the Lots or any remaining Common Area or cause any Lot or any remaining Common Area to fail to comply with applicable laws, regulations, or ordinances;

(e) the right of the Association to dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Area for such purposes and subject to such conditions as may be agreed to by the Association's Board; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded;

(f) the right of the Association to impose rules and regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area, and specifically including not to the exclusion of other matters, the right to make permanent and/or temporary assignments of parking spaces and to establish rules and regulations concerning parking and vehicular traffic flow on and along the streets and roadways, whether public or private, within or abutting the Properties, which rules and

regulations may restrict or prohibit on-street parking and may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a lot to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Association's Executive Board and including the right to promulgate rules concerning pet ownership which rules may restrict number, type and size of domestic pets;

(g) the right of the Association to borrow money for the purpose of improving the Common Area and facilities thereon and, with the assent of the Members entitled to cast at least eighty percent (80%) of the votes of the Association, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred (any such mortgage shall be effective if it is executed on behalf of the Association by its duly authorized officers and recites that the requisite consent of the Members has been obtained and documented in the Minute Book of the Association); provided, however, for so long as Declarant or any affiliated entity, shall own any portion of the Properties or shall have the right to annex additional properties pursuant to Article X, Section 4 hereof, Declarant must also consent to such action and, further provided that no mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created shall interfere with or obstruct utility service to, or ingress, egress and regress to or from the Lots or any remaining Common Area or cause any lot or any remaining Common Area to fail to comply with applicable laws, regulations or ordinances;

(h) subject to prior written consent of FHA or VA, in the event FHA or VA insured loans have been obtained, secured by Lots, the right of the Association to convey to Declarant portions of the Common Area for the purpose of eliminating unintentional conveyances of Common Area or unintentional encroachments of dwellings of other improvements onto portions of the Common Areas or for the purpose of enhancing the utility of the Common Areas to be retained by the Association; provided, however, no such conveyance shall interfere with or obstruct utility service to, or ingress, egress or regress to or from, the Lots or any remaining Common Area or cause any lot or any remaining Common Area to fail to comply with applicable laws, regulations, or ordinances; Declarant has herein and may reserve in the deed of conveyance of common area the right to file corrective plats to reconfigure Lots and Common Area.

SECTION 2. DELEGATION OF USE. Any owner may delegate, in accordance with the Rules and Regulations of the Association and in compliance with this declaration, his rights of enjoyments of the Common Area and facilities to the members of his family, his tenants or contract purchasers subject to the Rules and Regulations adopted from time to time by the Association.

SECTION 3. LEASES AND LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation, Rules and Regulations and By-Laws of the Association and the Master Association and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. All leases of Lots shall be in writing and shall have a term of at least two (2) months. Other than the foregoing, there is not restriction on the right of any Owner to lease his Lot. Enforcement shall be against the Lot Owner and such Owner shall be responsible for the compliance by the tenant or eviction due to violation of the terms of the lease.

SECTION 4. RULES & REGULATIONS. The Board of the Association may establish reasonable rules and regulations concerning the use of the Common Area and improvements located thereon.

Such rules and regulations may provide for and may establish rules and regulations concerning parking and vehicular traffic flow on and along the streets and roadways, whether public or private, within or abutting the Properties, which rules and regulations may restrict or prohibit on-street parking and may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a Lot to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Association's Executive Board and including the right to promulgate rules concerning pet ownership which rules may restrict number, type and size of domestic pets. The Association may impose reasonable monetary fines and other sanctions and may be collected pursuant to the provisions of Article IV, Section 9, hereof. The Rules and Regulations and the amendments thereto shall be made available during reasonable business hours for examination by a member and a copy may be obtained for a reasonable cost. All Rules and Regulations shall be binding upon the Owner, their families, tenants, guests, invitees and agents until and unless such regulation, rule or requirement shall be specifically overruled, canceled, or modified by the Board of the Association or by the Members of the Association entitled to cast as least two-thirds (2/3) of the votes of the Association, who are voting in person or by proxy, at a meeting duly called for such purpose; provided, however, during any Period of Declarant Control, Declarant must also consent to such action. The Rules and Regulations are not to be deemed unenforceable due to the same not being adopted or in force at the time of the purchase of a Lot or the same subsequently being changed or removed from time to time to meet problems and events as they may occur.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

SECTION 1. MEMBERSHIP. Every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot subject to this Declaration shall be a voting Member of the Association. The foregoing is not intended to include persons or entities that hold an interest in Lot merely as security for the performance of an obligation. Such Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment by the Association.

SECTION 2. VOTING. The Association shall have three classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person or entities holds an interest in any Lot, all such persons or entities shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more or less than one vote be cast with respect to any Lot. Members may vote by proxy the form of which the Association may provide.

Class B. Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when 100 percent (100%) of the total number of Lots subjected to this Declaration are sold to Owners other than the Declarant or assignee of Declarant's rights have so sold such percentage, or on or before ten (10) years from the date of recording this Declaration, whichever comes first. The Declarant shall have the right to appoint and reappoint a majority of the members of the Board of Directors of the Association until its Class B membership terminates.

Class C. The Class C Member shall be an Owner that has purchased a vacant Lot from Declarant or its successor. If the Owner proceeds within two (2) years of such purchase to begin construction of a dwelling upon such Lot and after construction of the dwelling it remains unoccupied and for sale, the Class C membership shall be extended for up to an additional year. The Class C Member shall be entitled to one (1) vote for each Lot so owned and shall be assessed twenty-five percent (25%) of the assessment amount levied on the Class A Members for each Lot so owned. The Class C membership shall cease and be converted to Class A membership if construction of a dwelling has not been begun within two years after the date of purchase of the Lot and will terminate if construction has been started but has not been completed within three years from the date of purchase of the Lot, whichever shall come first and will be permanently converted if the dwelling is occupied as a residence at any time and once occupied such Lot cannot revert to the Class C membership. The period for construction cannot be reinstated or extended by sale by the first Class C Member to another that would otherwise qualify as a Class C Member. The Class C membership for a Lot shall cease in any event three (3) years after the date of the sale of the vacant Lot to a Member and be converted to a Class A membership.

SECTION 3. DECLARANT RIGHT TO REPRESENTATION ON THE BOARD OF THE ASSOCIATION.

During any Period of Declarant Control, Declarant shall have the right to designate and select all of the members of the Board of the Association and those named in the Articles of Incorporation are appointed to serve until their successors are appointed or elected. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board of the Association, Declarant will advise the Association of these appointments at the annual or special meetings of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board and to replace such person or persons with another person or persons to act and serve in the place of any member or members of the Board so removed for the remainder of the unexpired term of any member or members of the Board so removed. Any Board member designated and selected by Declarant need not be a resident of the Properties. Except as otherwise provided in the By-Laws with respect to the filing of vacancies, any members of the Board which Declarant is not entitled to designate or select shall be elected by the Members of the Association.

**ARTICLE IV**

**COVENANT FOR MAINTENANCE AND ASSESSMENTS**

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for owners of lots 1,2,3,4,7, 8 and 10 through 42 within the Properties, hereby covenants, and each Owner for Lot 1,2,3,4,7,8 and 10 through 42, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay:(a) to the Association: (i) annual and other assessments and charges provided for herein, together with interest and late fees, costs and reasonable attorney's fees; (ii) special assessments for capital improvements; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of ad valorem taxes levied against the Common Area; and (ii) a pro rata share of assessments for public improvements to or for the benefit of the Common Area if the Association shall default in the payment of either or both for a period of six (6) months. All assessments and charges provided herein, together with interest, any late fees, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made when a claim of lien is filed of record in the Office of the Clerk of Superior Court of the county in which the land lays. Each

such assessment, together with interest, any late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner, including his or its successors, heirs, executor, devisees and/or personal representative, of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments unless a lien therefor has been filed, shall not pass to his successors in title when conveyed by deed unless expressly assumed by them. Owners of lots 5,6,9 as well as other future lots identified by the Declarant shall not be obligated to pay typical annual assessments or charges.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessment levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to the purpose and related to the use and enjoyment of the Common Area or the Lots, including but not limited to the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, of the Common Area and the payment of any taxes assessed against the Common Area; the maintenance of open spaces, water distribution and sewer outfall located in the common area and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in dedicated right of ways within the Properties), the procurement and maintenance of liability insurance; payment of a pro rata share of the maintenance of retention or detention ponds, or other bodies of water located within the Common Area or on land of another used by this Association by agreement, if any; the maintenance of entranceways, landscaping and lighting of Common Area, road medians and islands and entranceways; the cost of operating, maintaining and repairing any street lights including decorative lighting and poles, erected by the Association or the Declarant, which are not maintained by a governmental authority, in the rights-of-way of streets (whether public or private) or in any other easement provided therefor within the Properties; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving of private streets or drives for which the Association is responsible, if any, repair and replacement of private sewer collector outfall main lines excluding the connection lines running from a dwelling to these mains, if any; and any other expense for which the Association is responsible; obtaining and maintaining such liability and casualty insurance the Association deems necessary or desirable and such other needs as may rise from time to time and any expense that a majority of the Members of the Association may subsequently designate as common expense.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area and those other portions of the Properties that the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to any expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the



Association As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived from shall be held for the benefit of the members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his Membership interest therein, except as an appurtenance to his Lot. When any Owner shall cease to be a Member of the Association by reason of his own divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

SECTION 3. ADOPTION OF BUDGET AND FIXING OF ANNUAL ASSESSMENTS; MAXIMUM ANNUAL ASSESSMENT.

The Board of Directors shall have the right to increase the amount of the annual assessment at any time provided such increase shall not be in excess of ten percent (10%) per year, upon a majority vote of the members of the Board. If the Board so elects, it shall notify all Members of the Association by hand-delivery of U.S. Mail of the new assessment amount. If no increase is made, then no action is required. If a budget, in excess of the cap, is proposed or it is deemed necessary due to a shortage of funds due to increased expense in excess of that anticipated, then the following shall apply:

(a) At least thirty (30) days in advance of the assessment meeting, the Board shall establish and fix the amount of the proposed assessment. Within fifteen (15) days of the adoption of the proposed budget, the Board shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget. The Board shall set a date for a meeting to be held not less than 15 nor more than 60 days after mailing of the summary and notice. The budget is ratified unless at that meeting the Owners of a majority of the Lots present reject the proposed budget. In the event the proposed budget is rejected, the periodic budget existing as it may have been increased by the Board, shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

(b) Until December 31 of the year of the conveyance of the first Lot to an Owner- Occupant, the maximum annual assessment shall be Three Hundred Twenty-Five Dollars (\$325.00) per lot.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the Members entitled to cast at least eight percent (80"/o) of the votes of the Association or are voting, in person or by proxy, at a meeting duly called for this purpose; provided, however, during the Period of Declarant Control, Declarant must also consent to such action. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, or annual basis. In the occasion that owners of lots 5,6,9 and/or other future lot identified by the Declarant which do not pay yearly assessments want to enjoy the usage of the capital improvements, those owners will be responsible to

pay a portion of the assessment equal to other owners.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3(a) and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast twenty percent (20%) of all the votes of the Association shall constitute the quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the date of the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis; provided, however, that so long as the Lot shall qualify for Class Band Class C membership the assessment for each such Lot shall be an amount equal to twenty-five percent (25%) of the regular assessment for Class A Member.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments and special assessments for capital improvements for herein shall commence as to each lot upon the conveyance of the Lot by Declarant or its successors. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates shall be established by the Executive Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 8. DUE DATE OF ASSESSMENTS. The assessments authorized above shall be due in advance unless the due date is otherwise stated or approved by the Association.

SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate of eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time within thirty (30) days after the due date. After notice and an opportunity to be heard, the Association may suspend privileges or services provided by the Association (except the rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer, which suspension may continue without further hearing until the delinquency is cured. If assessments are being collected monthly or quarterly, the Board may accelerate the balance of the yearly assessment due. The Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of a mortgage or deed of trust on real estate under power of sale, and interest, late fees, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of the assessment. The Attorney employed by the Association to bring such action shall have the power of sale to effectuate the foreclosure. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Area or abandonment of his Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments unless otherwise provided for herein.

SECTION 10. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing and assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

SECTION 11. SUBORDINATION OF THE LIEN FOR ASSESSMENTS TO THE LIEN OF FIRST MORTGAGES. When the holder of a first mortgage or first deed of trust of record, or other purchaser of a lot obtains title to the lot as a result of a first mortgage or first deed of trust or deed in lieu of foreclosure, such purchaser and their heirs, successors, and assigns, shall not be liable for the assessments against such Lot which become due prior to the acquisition of title to such Lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all Owners including such purchaser, their heirs, successors, and assigns. Such sale or transfer of any Lot which is subject to any such mortgage or deed of trust, pursuant to a foreclosure thereof of any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer; provided, however, no such sale or transfer shall relieve such Lot or the Owner thereof from liability for any assessment thereafter becoming due or from the lien thereof or for which a prior lien was filed of record.

SECTION 12. EXEMPT PROPERTY. Lots 5,6, 9 along with future lots identified by the Declarant shall be exempt for annual assessments but will be subject to special assessments for capital improvements and or assessments required for maintenance and repairs that immediately impact those lots.

## ARTICLE V

### ARCHITECTURAL CONTROL

SECTION 1. IMPROVEMENTS. No improvements, additions, alteration, repair, reconstruction, change in paint color, excavation, change in grade, planting, landscaping, exterior decoration (including, without limitation, yard ornaments, figurines, statues, bird baths, houses and feeders, flags and similar items) or other work which in any way alters the exterior appearance of any Lot or the improvements located thereon from their natural or improved state existing on the date such lot was first conveyed in fee by the Declarant to an Owner other than Declarant shall be commenced, erected or maintained upon any Lot and no building, fence, wall, residence, or other structure shall be placed, commenced, erected, maintained, improved, altered reconstructed or removed, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Executive Board of the Association or by an architectural committee composed of three (3) or more representatives appointed by the Board

(the "Architectural Review Committee" or "ARC"). Temporary seasonal exterior decorations shall not require the prior approval of the Board or the Architectural Review Committee, but if any such decorations are determined, in the sole discretion of the Executive Board or the Architectural Review Committee, to be distasteful or otherwise disruptive of the aesthetics or visual harmony of the community, the Board or the Architectural Review Committee may require that such decorations promptly and permanently be removed. In the event that an Owner neglects or fails to remove any such decorations at the request of the Board or the Architectural Review Committee, the Association may provide such removal. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times for such purpose and the cost of such removal shall be added to and become part of the assessment to which such Lot is subject. Notwithstanding the foregoing, nothing herein contained shall prevent or interfere with the right of Declarant to improve and develop the Properties, including the Lots, as Declarant chooses, so long as said development follows the general plan of development of the Properties previously approved by the appropriate governmental authority(ies) having jurisdiction or as the same may be amended. Accordingly, Declarant need not seek or obtain the approval of the Architectural Review Committee for improvement erected on the Properties by or at the direction of Declarant until the final improvement of the last Lot with a dwelling. Declarant shall have the right to appoint the members of the Architectural Review Committee until all the Lots it owns in the development have been built upon. In addition, for so long as Declarant or any affiliated entity owns any Lot or has the right to annex any Additional Property pursuant to Section 4(b), Article XI hereof, Declarant or its affiliate may approve any plans and specifications rejected by the Executive Board or the Architectural Review Committee for the construction or alteration of improvements on any Lot provided the construction or alteration approved by Declarant or its affiliate comply with the general scheme of development approved by the appropriate governmental authority(ies) having jurisdiction as the same may be amended from time to time. Such approval by Declarant or its affiliate shall operate and have the same effect as approval by the Board or the Architectural Review Committee.

## SECTION 2. PRODECURES.

(a) Any person desiring to make any improvement, addition, alternation, restoration or change described in Section 1 above shall submit the plans and specifications therefore, showing the nature, kind, shape, height, materials and location of the same, to the Board of the Association or the Architectural Review Committee which shall evaluate such plans and specifications in light of the purposes of this Article.

(b) The Architectural Review Committee shall meet at least bi-monthly when there are submittals and reply with its decision. If the ARC does not respond within 30 days of the delivery of the request (a written receipt to be obtained from the committee member or a return receipt if forwarded by certified or registered mail) then such time shall be extended an additional 30 days following the receipt of the last additional information requested by the Committee.

(c) Upon approval of the Architectural Review Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specification, as approved, shall be deposited for permanent records with the Architectural Review Committee and a copy of such plans and specification bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specification shall not be

deemed a waiver of the Architectural Review Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included herein if such plans, specifications, features or elements subsequently submitted for use in connection with any other lot. Approval of such plans and specifications relating to any Lot, however, shall be in final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. As a condition to the granting of approval of any request made under this Article, the Association may require that the Owner(s) requesting such change be liable for any cost of maintaining, repairing and insuring such alteration shall be part of the annual assessment or charge set forth herein, and subject to the lien rights described herein.

(d) Neither Declarant, nor any other member of the Association's Board or Architectural Review Committee, shall be responsible or liable in any way for any defects in any plans or specification approved by them, nor any structural defects in any work done according to such plans and specifications. Further, neither Declarant, nor any member of the Association's Board or Architectural Committee, shall be liable in damages to anyone for any reason of mistake in judgment, negligence, misfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications or the exercise of any other power or right provided for in this Declaration. Every person who submits plans or specifications for approval agrees, by submission of such plans and specifications, and every owner of any lot agrees, that he or she will not bring any action or suit against Declarant, or any member of the Association's Board or Architectural Review Committee, to recover damages.

## ARTICLE VI

### MAINTENANCE

SECTION 1. MAINTENANCE TO BE PERFORMED BY THE ASSOCIATION. The Association shall repair, maintain and replace the improvements upon the Common Area, and shall mow, seed and fertilize all grassed areas, mulch, remove dead or diseased trees or shrubs if such trees or shrubs existed at the time Declarant initially conveyed the Common Area or the Lot on which the tree or shrub is located, replace dead or diseased trees or shrubs planted by the Declarant or the Association and prune all trees or shrubs planted by the Declarant or the Association. Routine watering of grass and landscape items on or adjacent to a lot shall be the obligation of the Owner(s). In the event that the need for any maintenance, repair or replacement required hereunder to be performed by the Association is caused through the willful or negligent act of the Owner, his family, guests or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending strike, civil commotion, aircraft, vehicles or smoke, as the foregoing are defined and explained in the North Carolina Standard Fire and Extended Coverage insurance policies, the cost of such maintenance, replacement or repairs shall be added to and become part of the assessment to which such Lot is subject. An Owner shall advise the Association in writing of any repairs and replacements needed that are the obligation of the Association. The Association shall perform the same within a reasonable time but not be liable or responsible for any resulting damage to the dwelling or the contents thereof if it performs within a reasonable time and manner under the circumstances. The Owner should take emergency action to protect his property that is not performed by the Association.

SECTION 2. MAINTENANCE TO BE PERFORMED BY THE OWNERS. Each Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all interior and exterior improvements located upon his lot including, not to the exclusion of other items, landscaping, including the routine watering of same, driveway and sidewalk servicing a Lot, air conditioning and heating equipment, all utility lines, fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Lot out to the mains and sewer outfalls. Owner shall do all necessary maintenance, repair and replacement located within the enclosure of a privacy fence or wall, routine watering of landscaping on the Lot and common area adjacent thereto associated with the Lot; and all other exterior maintenance, repair and replacement not specifically set forth for the Association to perform. In the event that the Owner neglects or fails to maintain his or her Lot and/or the exterior of his or her dwelling in a manner consistent with other Lots and dwellings within the Properties, the Association may provide such exterior maintenance and all cost incurred by the Association in providing such exterior maintenance shall be immediately due and be added to the annual assessment for such Lot and subject to the lien rights described in Article IV; provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform on behalf of the Owner and the Owner shall have twenty (20) days from the date of the mailing of said notice within which to perform such exterior maintenance himself or herself or a longer period of time if such item cannot be done within twenty days, provided the performance thereof is being diligently pursued. The determination as to whether an Owner has neglected or failed to maintain his or her Lot and/or dwelling in a manner consistent with other Lots and dwellings within the Properties shall be made by the Board of the Association, in its sole discretion after giving the Owner an opportunity for hearing. The costs incurred by the Association in rendering such services, plus a charge of twenty percent (20%) of such costs, shall be added to and become a part of the assessments to which such Lot is subject.

SECTION 3. EASEMENT TO PERFORM MAINTENANCE. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot and to the interior of the dwelling at all reasonable times to perform maintenance and replacement as provided in this Article.

## ARTICLE VII

### RESTRICTIONS

SECTION 1. LAND USE. No Lot shall be used except for single-family residential purposes; provided, however, Declarant, any affiliated entity or assignee of such right, may use any Lot owned or leased as a temporary sales office and/or model for the purpose of carrying on business related to the development, improvement and sale of the Properties or the Additional Properties.

SECTION 2. DWELLING SPECIFICATIONS. No dwelling or other improvements shall be altered or reconstructed on any lot, that would result in the dwelling being of a different exterior design and/or containing less square footage space than as originally constructed unless and until the plan is approved by the Architectural Review Committee. No residence of a temporary character shall be erected or allowed.

SECTION 3. NUISANCE. No noxious or offensive activity shall be conducted upon any Lot or Common Area nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No Lot or other area within Properties shall be used as a dumping ground for rubbish or as a site for the accumulation or unsightly materials of any kind, including,

without limitation, broken or rusty equipment and discarded appliances and furniture. Each Owner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. No noxious, offensive, or illegal activity shall be carried on upon any Lot. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever; nor shall any substance, thing or material be kept upon any Lot which will emit foul or noxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed, covered structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for pickup by garbage and trash removal service units. In the event any Owner of any Lot fails or refuses to keep such property free from any of the foregoing unsightly items, weeds or underbrush, the Association may, at its option, ten (10) days after posting a notice thereon or mailing a notice to said Owner at his property address requesting Owner to comply with the requirements of this Section, enter and remove all such unsightly items and growth at said Owner's expense, and Owner shall be personally liable to the Association for the costs of removal, and the costs, until paid, shall be a permanent charge and lien upon such Lot enforceable to the same extent and collectible as provided for in Article IV, entitled "Covenants for Maintenance Assessments". By acquiring property subject to these restrictions, each and every Owner agrees to pay such costs promptly upon demand by the Association, its agents, assigns, or representatives. No such entry as provided in this Section shall be deemed a trespass. The provisions of this Section shall not apply to Lots upon which houses are under construction.

SECTION 4. ANIMALS. No livestock of any kind shall be kept or maintained on the Common Area or on any Lot or in any dwelling except that dogs, cats or 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 kept and maintained in compliance with all laws and ordinances of the State of North Carolina, the county and/or city where the land lays relating thereto; and (ii) such rules and regulations pertaining thereto as the Board may adopt from time to time. In addition, pets shall be on a leash held by the owner or caretaker when outside of the dwelling. The owner shall clean up all pet droppings immediately. Pets roaming without the owner or other caretaker being present and caring for, is deemed a nuisance as well as continued barking or other animal noises. No swine or other livestock shall be kept on the premises. Household pets may be kept for non-commercial purposes on the Property if they are properly confined and do not constitute a nuisance. The walking of any pets on streets or Lots belonging to others for the purposes of allowing pets to relieve themselves of bodily wastes is prohibited, and each pet owner is responsible for retrieving any excrement deposited by his or her pet in the event of unintentional depositing of such waste. Owners shall be permitted to keep bees, and no more than six (6) chickens, on their respective lot(s), provided that said bees and chickens are housed within an enclosed structure within the owner's lot. All structures provided for in this section must be approved in writing by the ARC and must be kept in good repair.

SECTION 5. OUTSIDE ANTENNAS. No outside antennas or disks for reception or transmission of signals and no free-standing transmission or receiving towers or satellite dishes or disks shall be erected on the Common Area or on any Lot dwelling within the Properties without the prior written permission being granted by the Board of the Association or the Architectural Review Committee. Any approval will require the device to be attached at the rear of the dwelling. No T.V. or Video Satellite dish or receiver larger than one (1) meter in diameter or C.B. and radio antennas may be placed or installed on any Lot. Any satellite dish or receiver of one (1) meter in diameter or less is permissible so long as attached to the dwelling and not on the front facade

of the dwelling. The ARC may add such conditions as it deems necessary or desirable to the continued use and placement of the device.

**SECTION 6. PARKING.** No boats, trailers, recreational vehicles, campers or other similar equipment or vehicles, excluding specifically operative automobiles, non-commercial trucks and passenger vehicle vans and mini-vans, shall be parked or stored within the Common Area, or on any Lot unless completely enclosed within a garage. No recreational vehicles, campers or other like equipment or vehicles shall be located or installed on any Lot or the Common Area to be used as a residence. Commercial vehicles shall not be parked or stored on any Lot or the Common Area within the Properties; provided, however, the foregoing shall not be construed to prevent the temporary, non-recurrent parking of such vehicle on a Lot for a period not to exceed 24 hours or during any period the Lot is being serviced by such vehicle and excluding vehicles parked during the period of construction of dwellings and common improvements. No boats, trailers, motor homes, recreational vehicles, or trucks shall be parked within the right-of-way of any public or private street in or adjacent to this development.

**SECTION 7. SUBDIVISION OF LOTS.** No Lot shall be subdivided into a Lot smaller than or different from the Lot shown on the recorded plat and no street shall be laid out across or through any Lot, except with the written consent of ARC provided Declarant reserves the right to subdivide Lots, replat the same and use any lot or part thereof for street or access purposes for any Lot(s) owned by Declarant or lots or land that is not a part of the development, until full development and sale of all the Lots improved with structures. Two Lot owners may subdivide a Lot between them, but only one residence shall be built on the combined original Lot and the subdivided portion of any Lot.

(a) Each dwelling shall be built or erected to contain at least 1,800 (one thousand and eight hundred) square feet of heated and finished floor space. The floor space herein referred to shall be exclusive of garages, porches, breezeways, terraces, and basement areas. Said measurements are to be measured from the outside wall lines.

(b) Garages may be attached to, detached from, or built within a residence. Each Owner must also provide on the Lot at least two additional parking spaces (which may be on the driveway), not necessarily covered, for off-street parking.

(c) No building or part of a building other than steps, open porches, overhanging eaves, or cornices shall extend nearer to the front property line than twenty-five (25) feet. In the case of a corner Lot, no building may be placed within twenty-five (25) feet of the side street property line. Other setback requirements will conform with Section 10 of this article.

(d) No building may be moved from another location and placed on any Lot, it being specifically required that any dwelling-house built on any Lot shall be of new construction and constructed on the premises. Mobile homes, manufactured homes, modular homes, and kit-houses are specifically prohibited.

(e) All driveways shall be paved either with concrete at a width of ten (10) or more feet.

(f) All fencing on a Lot shall meet the following requirements:

- i. Any fencing whatsoever must be approved in advance by the Architectural Control Committee prior to it being placed on a lot.
- ii. All proposed fencing must be submitted for approval as to height, material



and, location, by the Declarant, its successors, and assigns, so long as Declarant owns a Lot subject to these Restrictions.

- iii. Fences must comply with applicable local ordinances.
- iv. Fencing shall be restricted to the yards beside and to the rear of the dwelling and shall not be nearer the front property line than the front corners of the dwelling.
- v. Barbed wire and metal fabric fences are prohibited.
- vi. The "smooth" side of the fencing material shall be facing the outside of the Lot upon which the fence is located.

(g) No drainage ditches or swales constructed within the rights-of-way of streets bordering any Lot may be filled or altered in such a manner that impedes the flow of water within the right of way and/or which impedes the flow of water to a catch basin, drainage easement or stream and/or which results in water flowing from any Lot onto the adjacent street pavement.

(h) The Declarant reserves and retains an easement extending five (5) feet to each side of all property lines shown on the recorded plat for the installation of utility lines, sewer lines, drainage lines and ditches for the benefit of the Lots or any land adjacent thereto owned by the Declarant. The right to use such easements(s) may be granted by the Declarant to utility companies for a specific use without the Declarant's disposing of its right to use or to grant additional parties an easement for one or more reserved uses. The Declarant reserves the right to dispose of or to release the easement(s) if not theretofore specifically granted, by the execution of a written release to be recorded in the Office of the Register of Deeds of Davidson County, North Carolina.

(i) No business, profession, professional clinic or other trade or business activity shall be carried on upon any Lot or in any building erected thereon except a Lot Owner may use up to 2 rooms within their home for working remotely provided there is nothing visible from outside the residence to indicate a room is being used as an office, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

(j) No abandoned or unlicensed vehicles shall be parked on any Lot unless kept in an enclosed garage, and no tractor-trailers shall be parked on any Lot except for the temporary loading and unloading of household goods.

(k) All types of firearms and pyrotechnics including but not limited to shotguns, rifles, and pistols, are prohibited from being discharged or carried on any Lot; provided, however, that firearms may be kept inside any Living Unit for protection purposes only. Hunting of any type, or discharge of any firearms, including pellet guns or B-B guns is prohibited on any Lot. The discharging of firearms of any type on any Lot or part thereof is prohibited.

(l) No solar panels may be placed or installed on any Lot unless they are screened such that they are not visible from any street or adjoining Lot.

(m) No recreational vehicle, motor home, boat, trailer, truck (larger than a standard pickup truck), camper, bus, motorcycle or scooter shall be parked on any subdivision street or on any Lot unless any such vehicle is parked in the rear of the house located on said Lot and not visible from the street. It is the intention of this restriction to prevent the parking of any vehicles in the parking area of the Lot other than the Owner's or the Owner's invitees'

passenger automobiles and pickup trucks. No vehicle which contains any commercial printing or signs on the vehicle may be parked on a Lot unless it is either parked within a closed garage or is temporarily parked on the Lot by an invitee of the Owner.

(n) No automobile, pickup or other vehicle used for regular family transportation shall be parked on any subdivision street except for guests and for temporary periods of time. All motorized vehicles operating on any Lot or street of ROSEWOOD must have proper mufflers so as to eliminate noise which might be offensive to others. Minibikes and similar two, three, or four-wheeled vehicles are prohibited from being used or operated on or within any Lot or street of ROSEWOOD.

(o) No property in the subdivision shall be used for the sale of any items, including automobiles, nor shall junk automobiles or other junk, trash or storage items be allowed to accumulate on any Lot of the subdivision.

(p) Incinerators for garbage, trash or other refuse shall not be used or permitted to be erected or placed on any Lot. Any and all equipment, coolers, woodpiles, garbage cans, refuse or storage piles placed on a Lot (whether temporary or permanent) shall be screened to conceal same from the view of neighboring lots, roads, streets, or between streets and roads.

(q) No leaves, trash, garbage, or other similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of the Lot, except as is temporary and incidental to the bona fide improvement of any portion of the Lot. The controlled use of small firepits is allowed but may not be used to burn leaves or trash.

(r) No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot except for the purpose of construction on such Lot and shall not be stored on such Lot for longer than the length of time reasonably necessary for completion of the improvement in which same is to be used.

(s) No exposed above-ground tanks will be permitted for storage of fuel or water or any other substance.

(t) Except with the prior written approval and permission of the Declarant, no water well shall be sunk or drilled on any Lot.

(u) No outside toilet facility or septic tanks may be constructed or maintained on any Lot, except during construction of improvements on any Lot.

(v) Lots owners will be provided with access to a designated Mail Kiosk for purposes of the delivery of mail. These kiosks shall be installed by the HOA on Common Area.

(w) No vent or other pipes or appendages may extend from the front of any residence, unless screened from public view by screening material or shrubbery.

(x) Any exterior air-conditioning or heating equipment must be screened from public view by a screening material or shrubbery approved by the Declarant. No air conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative

cooler shall be installed on the front wall or window of a residence.

(y) Downspouts and gutters must be so constructed so as not to promote the erosion of the soil of any Lot.

(z) Any tennis courts, swimming pools, or other outdoor recreational facilities located on any Lot must be screened from public view by a screening material approved by the Declarant; moreover, any outdoor lighting must be shielded so as to cast no direct light upon adjacent Lots.

(aa) Any solicitation from people or children that are not residents of ROSEWOOD is strictly prohibited. It is important for any lot owner to convey this message if he/she comes in contact with an outside solicitor.

(bb) Hobbies and Activities. The pursuit of hobbies or other inherently dangerous or unsightly activities including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions; the discharging of firearms of any type, fireworks or pyrotechnic devices of any type or size; and such other activities shall not be pursued or undertaken on any part of any Lot or the Common Areas without the consent of the Board of Directors of the Association.

(cc) All telephone lines and power lines (both main lines and service lines) shall be installed underground.

(dd) No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot within the Properties. No clothes lines shall be permitted.

(ee) Gardens. Gardens shall be confined to rear yards only and shall not be visible from the street, except that flower gardens may be permitted in the front yards.

(ff) Out Buildings. Any out-building which an Owner wants to construct on a Lot must be approved in writing by the Architectural Review Committee. The request must be made in compliance with Article V of said document.

SECTION 8. SIGNS. No sign shall be placed or allowed to remain on any Lot except for ONE (1) "For Sale" sign, or one other temporary sign to advertise a temporary activity on the Lot and such other temporary sign shall not be permitted to remain on any Lot for more than Forty-Eight (48) consecutive hours. No sign deemed by the Association, the Architectural Review Committee or Declarant to be a nuisance or a detriment to the Properties shall be permitted to be erected or to remain on any Lot. Notwithstanding the foregoing, for so long as the Declarant or any affiliated entity owns any lot Declarant and any affiliate shall have the right to erect and maintain signs within the Common Area or on any Lot owned or leased by Declarant or any affiliate for the purpose of advertising and promoting the sale of such lots and the development. No sign of any kind whatsoever shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon outside the residence, except for the Declarant's signs, and the initial builder's sign of no more than 9 square feet of surface space and realtor's standard "for sale" signs (no subcontractor's signs shall be allowed) and thereafter, customary "for sale" signs.

SECTION 9. MOBILE HOMES, MANUFACTURED HOME, ETC. No mobile home, manufactured home, modular home, trailer, or other like structure shall be located or installed on any Lot. Notwithstanding the foregoing, Declarant, builders, or contractors may maintain any temporary improvements (such as a sales office and/or construction trailer) on any Lot or the common areas, with permission of the Declarant, during the construction and development period.

SECTION 10. SETBACKS. Dwelling buildings shall comply with the zoning standards and code requirements of the governmental authorities having jurisdiction and any board of adjustment.

## ARTICLE VIII

### EASEMENTS

SECTION 1. UTILITIES. Easements for installation and maintenance of utilities (including cable television and data service) and drainage facilities are reserved as indicated on recorded plats and as have been granted by the Declarant of record, some of which may be exclusive for a period of time and cover wiring and outlets installed within the walls of the dwelling. The Lot is conveyed subject to such easements. Within these easements, no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of the appropriate governmental entity (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over all reading of water meters, and the maintenance and replacement of water, sewer, gas, cable and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Area such additional easements as are necessary or desirable for the providing of service or utilities to the Common Area or Lots which are not in conflict with those previously granted. The Declarant has reserved the right to grant easements over the common in the furtherance of the development of townhomes and other uses for land adjacent or a part of the properties even though all such land may not be subjected to this declaration.

SECTION 2. SIGNS. The Association shall maintain all subdivision signs and landscaping and lighting surrounding same now or hereafter erected within the Common Area. The costs of all such maintenance, repair and replacement of such signs, landscaping and lighting, including decorative lighting fixtures, if any, shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. Further, for so long as Declarant or any affiliated entity owns any townhome Lot shown on the Plan, Declarant or any affiliated entity shall have (i) the right to erect within the Common Area additional subdivision signs and landscaping and lighting surrounding the same to be maintained by the Association as herein provided and (ii) the right to erect within the Common Area signs advertising the sale and promotion of Lots or any portion of the Additional Property.

SECTION 3. EASEMENT RESERVED BY DECLARANT. Declarant hereby reserves such easements on, across and over the Common Area as shall be reasonably necessary for (i) the exercise by Declarant or any affiliated entity of any right herein reserved, including, without limitation, Declarant's right, should Declarant elect, to annex the Additional Property, as hereinafter defined and (ii) the development by Declarant or any affiliate, their respective

successors and assigns, of the Additional Property, should Declarant elect not to annex Additional Property, including without limitation easements for ingress, egress and regress over private roads and streets now or hereafter erected on the Properties and easements for the use of all utility lines, fixtures and/or their connections located within the Common Area for the purpose of providing water, light, power, telephone, sewage and sanitary service to the Additional Properties.

**SECTION 4. ENCROACHMENTS.** In the event that any improvements on a Lot shall encroach upon any Common Area or upon any other Lot as a result of the initial improvements constructed by Declarant or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Area or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Area shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Area into any such Lot for so long as such encroachment shall naturally exist and to replace the same if necessary in the event of destruction, and the obligation to maintain and repair the encroaching elements shall be that of the Owner and Association respectively.

**SECTION 5. EASEMENT TO ASSOCIATION.** Easements are granted and reserved by the Association to go up on a Lot to perform any maintenance, repair, replacement, investigation to determine course of action, to have access in the event of any emergency, which allows forced entry if required, and to do and perform any obligation.

## ARTICLE IX

### RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

**SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS.** "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

**SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS.** So long as any Institutional Lender shall hold any first lien upon any Lot, such Institutional Lender shall have the following rights provided such lender has requested, in writing to the Association, the information and has furnished a current address to the Association.

- (a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement if requested in writing.
- (b) To receive notice of any condemnation of casualty loss affecting the Common Area or any portion thereof.
- (c) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

## ARTICLE X

### GENERAL PROVISIONS

**SECTION 1. ENFORCEMENT.** The Owner(s) of each Lot shall be governed by and shall comply with the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto, as any of the same are not constituted or as they may be amended from time to time. A default by any Owner shall entitle the Association or the Owner(s) of any of the other Lots to the following relief:

(a) The Association, or any Owner, if the Association is not pursuing, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. The Association shall have the right to request that law enforcement, health, public safety, and animal control officers come on the Properties to facilitate the enforcement of the laws, codes, and ordinances of any governmental authority.

(b) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to assess reasonable fines against an Owner for violations of this Declaration, the Bylaws of the Association or the Association's published rules and regulations by such Owner, or such Owner's family, guests, invitees and lessees in an amount not to exceed \$150.00 for each violation, and collected as set forth in Article IV of the Declaration and if not paid within thirty

(30) days after notice and demand therefore, the Association shall be entitled to the remedies set forth in the Declaration for the enforcement and collection of delinquent assessments.

(c) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to suspend privileges or services provided by the Association (except rights of access to Lots) for reasonable periods for violations of this Declaration or the Bylaws, Articles or rules and regulations of the Association. If it is decided that a suspension of privileges or services provided by the Association should be imposed, the suspension may be continued without further hearing until the violation is cured.

(d) If an Owner is legally responsible for damage inflicted on any Common Area, the Association may direct such Owner to repair such damage, or the Association may itself cause the repairs to be made and recover damages from the responsible Owner. If damage is inflicted on any Lot by an agent of the Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Owner for the cost of repairing such damages. When any such claim for damages against an Owner or the Association is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statute 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Board of the Association to determine in an Owner is responsible for damages to any Common Area or the Association is responsible for any damages to any Lot. If the Board

fails to appoint an adjudicatory panel to hear such matters, such hearings shall be held before the Board. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard, and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statute 7A-210. When such claim exceeds the jurisdictional amount established for small claims by North Carolina General Statute 7A-210, liability of any Owner charged, or the Association shall be determined as otherwise provided by law. Liabilities of Owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under Section 47F-3-116 of the Planned Community Act. Liabilities of the Association determined by adjudicatory hearing or as otherwise provided by law may be offset by the Owner against sums owing to the Association and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

(e) In any proceeding arising because of an illegal default by Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court.

(f) The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Owner to enforce such right, provision, covenant or condition in the future.

(g) All rights, remedies and privileges granted to the Association or the Owners, pursuant to any items, provisions, covenants or conditions of the Declaration or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

(h) The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or other above-mentioned document shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition on the future.

SECTION 2. SEVERABILITY AND NOTICE. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner of record at the time of such mailing.

SECTION 3. AMENDMENT.

(a) The covenants and restrictions of this Declaration shall run and bind the land for a term or twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated as hereinafter provided. This Declaration may be amended with the consent of the Owners

entitled to cast at least sixty-seven percent (67%) of the votes of the Association and may be terminated with the consent of the Owners entitled to cast at least eighty percent (80%) of the votes of the Association; provided, however, so long as Declarant or affiliated entity owns any Lot or may annex Additional Property pursuant to the provisions hereinafter set forth, this Declaration may not be amended or terminated without Declarant's consent; no amendment purporting to revoke or curtail any right herein conferred to Declarant shall be effective unless executed by Declarant; and no amendment relating to the participation in the maintenance or ownership of any permanent detention or retention pond, if any, shall be effective unless reviewed and approved by the governmental office having jurisdiction for watershed protection. Any amendment must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the amendment on behalf of the Association that the requisite Owner approval has been obtained and is evidenced by written acknowledgement(s) signed by the Owners approving the amendment and made a part of the Minute Book of the Association; and (3) be properly recorded in the Office of the Register of Deeds where the land lays. For the purpose of this section, additions to existing property by Declarant pursuant to Section 4 of this Article shall not constitute an "amendment." In the event this Declaration is terminated in accordance with the provisions hereinabove provided, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay a pro rata share of the cost of the maintenance of all permanent retention or detention ponds on the property or on property of the Association is authorized to use for such purpose by agreement, if any. The Declarant reserves the right without the other joinder of the Association or its Members to amend this Declaration and any other Association document in order to comply with any requirements of the FHA to meet guaranty standards or requirements, to further the development of the land owned by Declarant and to make additions, deletions, corrections and clarifications of the content of the documents as Declarant deems necessary or desirable.

(b) So long as Declarant or affiliated entity owns any Lot or may annex Additional Property pursuant to the provisions hereinafter set forth, the Declarant has the right to revise or amend these documents without the approval of the Owners. Any restriction, covenant or condition hereinafter set forth may be removed, modified or changed by securing the written consent of Declarant, which written consent shall be duly executed, acknowledged and recorded in the Office of the Register of Deeds of Forsyth County, North Carolina, and which written consent may be given or withheld within the uncontrolled and sole discretion of the Declarant, and its heirs and assigns. The Declarant may convey its rights to remove, modify or change any restriction, condition or covenant of this instrument to any person, firm or corporation by instrument in writing duly recorded in the Office of the Register of Deeds of Forsyth County, North Carolina.

#### SECTION 4. ANNEXATION.

(a) Except as provided in Subsection (b) of this Section 4, Article XI, additional residential property and Common Area may be annexed to the Properties only with the consent of the Members entitled to cast two-thirds (2/3) of the votes of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during any Period of Declarant Control, Declarant must also consent to such action.

(b) Additional land located adjacent to the Properties (collectively, the "Additional Property")



may be annexed by the Declarant without the consent of Members of the Association within seven (7) years of the date this instrument is recorded, provided that, in the event FHA or VA insured loans have been obtained to purchase Lots, FHA or VA may determine that the annexation is in accord with the general plan from time to time approved by them. For the purpose of determining whether property is adjacent to the Properties, the rights-of-way of public roads and utilities, as well as rivers and streams, shall be deemed not to separate otherwise adjacent property. Declarant shall have no obligation of any kind to annex Additional Property, and should Declarant elect to annex all or any portion of the Additional Property, Declarant shall have no obligation of any kind to annex the Additional Property in any particular sequential order. Should Declarant elect to annex all or any portion of the Additional Property and accordingly to subject such property to the terms and conditions of this Declaration, with regard to all or any part of the Additional Property annexed by Declarant, to make such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration the design, size or appearance of which may be different as may be necessary or convenient, in the sole judgment of the Declarant, to and reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration, but such additions and/or modifications shall have no effect upon the properties previously subjected to this Declaration. With regard to any portion of the Additional Property not annexed, if any, by Declarant, Declarant makes no representations with regard to the use of such property or the exterior appearance, design, size or intended purpose of improvements now or hereafter erected on such property.

SECTION 5. (A) FHA/VA APPROVAL. During the Period of Declarant Control, the following actions will require the prior approval of the Federal Housing Administration of the Department of Veteran Affairs provided that FHA or VA loans have been obtained to purchase a Lot(s) and remain outstanding; annexation of additional properties, dedication of Common Area and amendment of this Declaration of Covenant, Conditions and Restrictions of the Articles of Incorporation or the Bylaws for the Association.

(B) GOVERNMENT REGULATIONS. No covenant or restriction contained herein shall be construed to be contrary to or in conflict with any applicable and valid law, ordinance, or regulation of any properly constituted governmental body having jurisdiction over any Lot. Any variance between the provisions of this Declaration and any such applicable, valid law, ordinance, or regulation, (including any amendment thereof) shall be construed so that the latter shall take precedence.

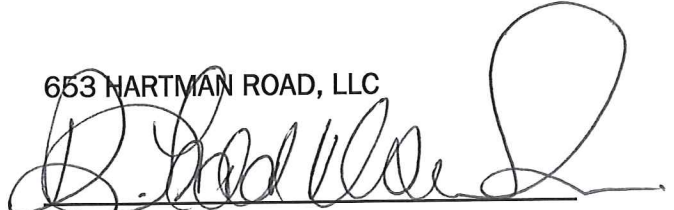
SECTION 6. NO LIABILITY. Neither Declarant, nor any employee, agent, successor or assign of them, shall be liable for any claim or damage whatsoever arising out of any action(s) performed pursuant to or in accordance with any authority granted or neglected to them by this Declaration.

SECTION 7. AMPLIFICATION. The Provision of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association; but no such amplification shall alter or amend any of the rights or obligations of the Owners or Declarant set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything contained in the Articles of Incorporation or Bylaws of the Association. The Declaration is not intended to conflict with the North Carolina Planned Community Act, and should a conflict appear, the Act shall control and matters that are covered by the Act are not covered herein shall likewise apply.

In Testimony Whereof, the duly authorized Manager of 653 HARTMAN ROAD, LLC has executed this instrument for and on behalf of the limited liability company this 18<sup>th</sup> day of September, 2020.

653 HARTMAN ROAD, LLC

BY:

A handwritten signature in black ink, appearing to read "K. Todd Isenhour", written over a horizontal line. The signature is stylized and cursive.

K. Todd Isenhour, Manager

STATE OF North Carolina

COUNTY OF Forsyth

I, a Notary Public of the county and state aforesaid, certify that K. Todd Isenhour, who being by me duly sworn, says that he is the manager of 653 HARTMAN ROAD, LLC, a North Carolina limited liability company, and that the foregoing instrument was duly executed by him for and on behalf of said limited liability company.

WITNESS my hand on official stamp or seal, this 18<sup>th</sup> day of September, 2020.

Corinna H. Carlton  
Notary Public

(SEAL)

Corinna H. Carlton  
Printed Name

My commission expires: 06-27-2022

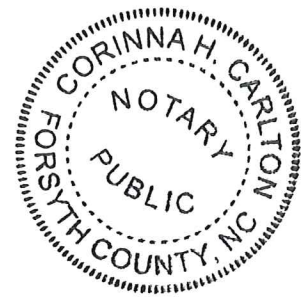


EXHIBIT A (continued)

Tract 1:

Being all that property as shown on the Plat Map entitled "ROSEWOOD; Phase 1, Lots 5,6, & 9 as recorded in the Plat Book 75 Page 13 of the Davidson County Registry.

Tract 2:

Being all that property as shown on the Plat Map entitled "ROSEWOOD; Phase 2, Lots 1-4, 7-8, 10-30 as recorded in the Plat Book 76 Page 29 of the Davidson County Registry.

Including any & all future Tracts/Phases