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Register of Deeds
BOOK 1088 PAGE 253

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NORTH CAROLINA

ROWAN COUNTY

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ARCHER RIDGE SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this ____ day of February, 2007 by **TOPAZ DEVELOPMENT, INC.**, a North Carolina corporation with its principal office and place of business in Mecklenburg County, North Carolina (the "Declarant").

STATEMENT OF PURPOSE:

Declarant is the owner of certain real property located in Rowan and Cabarrus Counties in the State of North Carolina, which is known as ARCHER RIDGE SUBDIVISION, and which is more particularly described on a map thereof recorded in Map Book 9995, at Page 5988, in the Rowan County Public Registry and in Map Book ____, at Pages ____, in the Cabarrus County Public Registry.

Declarant desires to create thereon an exclusive residential community of single-family residences.

Declarant desires to insure the attractiveness of said subdivision and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within said subdivision. To this end the Declarant desires to subject the real property described herein to the covenants, conditions, restrictions, easements, charges and liens herein set forth, each and all of which is and are for the benefit of said property and each owner thereof.

NOW, THEREFORE, Declarant by this Declaration of Covenants, Conditions and Restrictions, does hereby declare that all of the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

SECTION 1: The "Act" is the North Carolina Planned Community Act, as set forth in Chapter 47F of the North Carolina General Statutes, as the same may be amended from time to time.

SECTION 2: The "Association" shall mean the Archer Ridge Owners Association, Inc., a North Carolina non-profit corporation organized pursuant to the requirements of the Act, the Articles of Incorporation and initial Bylaws of which are attached hereto as Exhibit A.

SECTION 3: "Common Areas" shall mean all entrance signage, roadways, curbs and sidewalks, and other areas denominated as common areas upon the Map.

SECTION 4: "Declarant" shall mean and refer to Topaz Development, Inc, a North Carolina corporation, which is a declarant as defined under N.C. Gen. Stat. §47F-1-103(9).

SECTION 5: "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Archer Ridge Subdivision, as the same may be amended and supplemented from time to time.

SECTION 6: "Development" shall mean and refer to ARCHER RIDGE SUBDIVISION, a single-family residential planned community (as defined in the Act) proposed to be developed by the Declarant on the Property owned by the Declarant.

SECTION 7: "Lot" shall mean and refer to any plot of land, with delineated boundary lines, appearing on the Map with the exception of the public roads, streets and Common Areas.

SECTION 8: "Map" shall mean and refer to the map or plat of the Development as recorded in the Rowan County Public Registry at Map Book 9995, page 5988 and in the Cabarrus County Public Registry at Map Book ____, pages ____, and any amendments, supplements or revisions thereto, as well as the map(s) or plat(s) of any additional real property which may be platted, planned and developed as an additional phase or phases of the Development.

SECTION 9: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including the Declarant if it owns any Lots, and including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 10: "Property" or "Properties" shall mean and refer to the Property described in Article II, Section 1 hereof.

SECTION 11: "accessory building" means every detached garage, storage or utility building, and any other accessory structure customarily incidental to carrying on gardening, property maintenance, boating and swimming activities, and similarly used structures or other similar building constructed on a Lot or incidental thereto which is not a dwelling.

SECTION 12: "building" means accessory buildings and dwellings.

SECTION 13: "dwelling" means a building constructed for single-family residential use but excluding detached guest or servants' quarters.

SECTION 14: "improvements" or "structures" mean all buildings, walls, fences, decks, patios, planters, terraces, swimming pools, tennis courts or anything else constructed or placed on or affixed to a Lot.

SECTION 15: All initially-capitalized terms used in this Declaration, but not defined or modified herein, shall have the meanings ascribed thereto in the Act. Except as same may be lawfully and expressly modified herein, the rights and obligations of the Association, the Declarant and the Owners, and the governance and operation of the Development shall be as set forth in the Act.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF THE DECLARANT

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Declarant is all that certain parcel described and shown on the map recorded in Map Book 9995, page 5988, in the Rowan County Public Registry and in Map Book _____, pages _____, in the Cabarrus County Public Registry as same may be amended, revised or supplemented from time to time. In addition thereto, the Declarant expressly reserves the right (but does not assume the obligation) by recordation of a Supplemental Declaration or Declarations to impose the restrictions, covenants, easements and conditions provided in this Declaration upon any additional real property which may be owned by Declarant and which is adjacent to the Development, and to develop said adjacent property(ies) as an additional Phase or Phases of the Development and to connect and extend all roadways, sidewalks, easements, and utilities of the Development into all such new or additional Phases, to require owners of Lots in those additional Phases to be members of the Association, and to allow owners of Lots in those additional Phases full access to and use of all Common Areas found in the initial Phase of the Development, and *vice versa*.

ARTICLE III
BUILDING GUIDELINES

The placement and construction of improvements on the Lots shall be subject to the following general requirements:

(a) Every dwelling constructed on a Lot shall be for single-family residential purposes only, shall contain not more than one single family dwelling house, not to exceed Two (2) stories above ground, and shall contain the minimum number of square feet of fully enclosed and heated floor space as follows:

1,800 square feet for one story dwellings;

2,000 square feet for dwellings exceeding one story, or split level dwellings, with a minimum on the first floor of such dwellings of not less than 1000 square feet.

For purposes hereof, the "fully enclosed and heated floor space" of a dwelling shall exclude decks, patios, terraces, walkout basements, attached garages and carports, accessory buildings, unheated storage areas, and screened porches. If a dwelling incorporates a basement, such basement shall not be considered the "first level" or "first story" of such dwelling for purposes of this subsection.

(b) All buildings shall be constructed within the following minimum building set back lines as outlined below:

--30 feet from the margin of the front road right-of-way;

--10 feet from the rear boundary of any Lot;

--25 feet from the margin of any side road right-of-way;

--10 feet from any side or other interior Lot line.

(c) (i) Each Lot shall be required to have its own sewage disposal system, which said system shall be installed and operated subject to the approval of the appropriate local governmental authorities. No Owner shall be permitted to locate a septic system for any Lot in a manner or location that would adversely affect the ability of any adjoining Lot to have placed upon said adjoining Lot its own septic system.

(ii) Each Lot shall have its own private well to obtain residential water service, which said well shall be installed and operated subject to the approval of the appropriate local governmental authorities. No Owner shall be permitted to locate a well for any Lot in a manner or location that would adversely affect the ability of any adjoining Lot to have placed upon said adjoining Lot its own well.

(iii) All Lots shall receive electric power service from the public or quasi-public regulated electric power utility company which provides residential electric power service to residential dwellings generally in the vicinity where the Development is located. No Lot shall receive or generate electric power from any "on-site" source such as, but not limited to, generators, solar panels, or wind or water driven apparatuses, except as may be necessary during emergency temporary outages of commercially provided electric power due to natural disasters, such temporary power sources not to be visible on any Lot or in the Development except when being utilized on such an emergency temporary basis.

(d) All structures constructed or placed on any Lot shall be built of substantially new materials of high quality, and no used structures shall be relocated or placed on any such Lot. The exterior surfaces of all buildings shall be comprised of not more than any three (3) of the following: brick, wood, cedar shakes, hardy board, stucco or stone. Furthermore, no structures upon any Lot shall have an exterior surface composed of asbestos siding, perma-stone, exposed concrete block, cinder block, aluminum siding, vinyl siding, imitation brick, stoneroll siding, or other similar material. Provided, however, nothing herein shall be deemed to prohibit the use of high quality vinyl materials for soffits, exterior trim work and window cladding on buildings.

(e) All structures on the Lots must be completed within twelve (12) months after commencement of construction thereon. Provided, however, Declarant may waive this requirement

if construction delays have been caused by strikes, war, fire, Acts of God or other such events which render the completion of construction within such time impossible.

(f) All structures upon any Lot in the Subdivision shall be "stick-built" on site. No log homes, shell homes, "kit" homes, mobile, modular, pre-fabricated or manufactured homes of any kind, or any homes having the same general appearance, shall be permitted on any Lot. No home, dwelling or structure which has or had a certificate of title or certificate of origin from the North Carolina Division of Motor Vehicles or the division or department of motor vehicles of any other state, country or province shall be permitted upon any Lot.

(g) Driveways upon each Lot shall (i) be constructed entirely of concrete or pavement, (ii) be a minimum of ten (10) feet in width, (iii) extend at least to the front building line of the residence, and (iv) have NCDOT-approved culverts installed at the Owner's expense prior to the commencement of any other construction on the Lot.

(h) All roofs (except for dormers on such roofs) on all structures erected on all Lots shall be not less than a 7/12 pitch, as that term is commonly understood in the home construction industry, and shall have an overhang from the side of such structures of not less than twelve (12) inches.

(i) Each Lot shall have one private garage designed for not less than two automobiles, which garage may be either attached to or detached from the dwelling situated upon said Lot. Additionally, each Lot may, upon the prior written approval of the Declarant or the Association, as applicable, contain one detached accessory building incident to the residential use of the Lot. All detached garages and accessory buildings shall be constructed in a good and workmanlike manner that is aesthetically consistent with the dwelling constructed upon said Lot, shall be constructed of the same, or substantially the same, materials as said dwelling, and shall comply fully with the requirements of the building and zoning codes in effect at the time of construction in the County where the Lot is located. No detached garage or accessory building shall be constructed upon any Lot prior to the completion of the dwelling situated thereon.

(j) All electrical, telephone and cable television lines shall be placed underground.

(k) All lawn areas of each Lot must be fully landscaped with grass and a minimum of twelve (12) shrubs within two months after completion of the dwelling upon each Lot. In relation to the construction of the dwelling upon each Lot, no tree with a diameter of four (4) inches or greater shall be removed from any Lot except those the removal of which are necessary for the construction of improvements upon said Lot or the conduct of development activities by the Declarant. At least five (5) days prior to commencement of construction of improvements upon a Lot, the contractor and Lot Owner shall designate to the Association all trees which are proposed to be removed in connection with construction activities on the subject Lot, whereupon the Association shall have five (5) days thereafter within which to approve, deny or modify said tree removal designation. The Association's failure to respond within said five (5) day period shall be deemed to be the Association's approval of the Lot Owner's and contractor's tree designation as

originally submitted. If a contractor or Lot Owner shall remove trees other than those set forth in the tree designation (as same may have been modified by the Association as provided herein), then the Association shall be entitled to levy a monetary penalty against said Lot Owner in an amount determined by the Association which shall constitute a lien (enforceable as for an assessment provided in Article IV hereof and under the Act) upon said Lot until paid, in order to effect the replacement of the trees so removed.

ARTICLE IV OWNERS' ASSOCIATION

SECTION 1: MEMBERSHIP IN ASSOCIATION MANDATORY. By accepting delivery of and recording a deed to a Lot in the Development, all Owners, and their successors in interest, or assigns, are obligated to join and pay membership dues and assessments for that association or non-profit corporation to be known as the ARCHER RIDGE OWNERS ASSOCIATION, INC. (the "Association"), which has been created in accordance with the Act, prior to the Declarant's conveyance of any Lot in the Development. A copy of the Articles of Incorporation and initial Bylaws for the Association are attached hereto as Exhibit A.

SECTION 2: DECLARANT'S CONTROL PERIOD. During the Declarant Control Period, Declarant, or persons appointed by the Declarant, shall have the exclusive right to appoint and remove the officers and members of the Board of Directors of the Association. During the Declarant Control Period, there need only be one member of the Association's Board of Directors, which said director may be, but need not be, an employee or representative of the Declarant. The "Declarant Control Period" shall commence as of the date of recordation of the Declaration and shall continue thereafter until the earlier of: (a) such date as fee simple title to all of the Lots in the Development has been conveyed to a person or entity other than Declarant, or any entity controlled by Declarant; or (b) such date as Declarant voluntarily relinquishes to the Association all of Declarant's rights, duties and responsibilities. The Association shall accept the governance of the Association upon relinquishment thereof by Declarant and shall accept from Declarant delivery of any deed or other instrument of conveyance of title to the Common Areas of the Development.

SECTION 3: TERMINATION OF DECLARANT'S CONTROL PERIOD. Upon the termination of the Declarant's Control Period, the Owners shall elect a Board of Directors consisting of at least three (3) members, at least a majority of whom shall be Owners. The Board of Directors shall then elect the Officers. The members of the Board of Directors and the officers shall take office upon election, and shall thereupon assume all of the responsibility of operating the Association in accordance with the Declaration and the Act.

SECTION 4: MEMBERSHIP RUNS WITH LOT OWNERSHIP. Membership in the Association is appurtenant to, a requirement of, and not severable from, ownership of a Lot in the

Development. Every Owner of a Lot shall be a member of the Association. No Lot may be conveyed independent of the obligation to be a member of the Association.

SECTION 5: ONE CLASS OF MEMBERS. The Association shall have one class of members who shall be all Owners. Each member shall be entitled to one vote for each Lot owned. Provided, however, that when more than one person holds an interest in any Lot, all such persons shall be members and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote or fraction of a vote be cast with respect to any Lot.

SECTION 6: GOOD STANDING. As long as each member is an Owner, each will perform all acts necessary to remain in good and current standing as a member of the Association.

SECTION 7: RULES. Each Lot shall be owned subject to the rules and regulations of the Association.

SECTION 8: POWERS OF ASSOCIATION/ASSESSMENTS. In addition to, and not in limitation of, all powers and duties of the Association as may be provided for elsewhere in this Declaration, or for associations generally under the Act, the Association shall be empowered to enforce the terms and provisions of the Declaration and such rules and regulations as the Association may promulgate; repair and maintain the roads, easements, signage and Common Areas of the Development; and, as provided for in this Declaration, levy and collect monetary assessments from Owners, at such intervals and in such amounts as the Association shall from time to time determine, in order to maintain and repair the Common Areas of the Development and for other uses necessary or incidental to the enforcement of the provisions of this Declaration and maintaining the attractiveness and safety of the Development. Provided, however, Declarant shall not be required to pay dues, assessments, or any other monetary sum to the Association regarding any Lot owned either by the Declarant or by any entity controlled by Declarant, and no Lot owned by Declarant or by any entity controlled by Declarant shall be subject to any lien for the enforcement or collection of any monetary sum due to the Association for any purpose.

SECTION 9: LIEN OF ASSESSMENTS/USE OF ASSESSMENTS. (a) Except as specifically provided to the contrary in Section 8 of this Declaration as regards Lots owned by the Declarant, the Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association annual assessments or charges and special assessments for capital improvements, established and collected as hereinafter provided. All assessments or charges, whether general or special, levied by the Association, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot or Lots against which each such assessment a charge is made. Each such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment falls due. The personal obligation for



delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, but shall remain a lien upon the Lot until paid.

- (b) The annual assessments levied by the Association shall be used as follows:
- (1) to maintain, repair and improve the roads and Common Areas in order that such roads and Common Areas shall be and at all times remain in compliance with all applicable Federal, State and local laws, rules and regulations governing the use and maintenance of same;
 - (2) to keep the roads and Common Areas in a safe, attractive, healthful state of maintenance and repair and to keep same from becoming a nuisance, and from falling into a state of waste, ruin and disrepair;
 - (3) to keep the roads and Common Areas clean and free from debris and discharges of waste and hazardous materials and to maintain any amenities located thereon in a clean and orderly condition, and to maintain the landscaping thereon in accordance with the highest standards for private parks including any necessary removal and replacement of landscaping;
 - (4) to pay all *ad valorem* taxes, if any, levied against the roads and Common Areas and any properties owned by the Association;
 - (5) to pay the premiums on all hazard insurance carried by the Association on the roads and Common Areas and all public liability insurance carried by the Association pursuant to the Act and the Bylaws;
 - (6) to provide such security services as may be deemed reasonably necessary for the protection of the roads and Common Areas from theft, vandalism, fire and damage from animals;
 - (7) to pay all legal, accounting, and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;
 - (8) to erect and maintain such signage as may be approved by the Association; and
 - (9) to maintain a contingency reserve equal to 10% of the sum of the amounts described in subsections (b)(1) through (b)(8) of this ARTICLE IV, Section 9, and as permitted under the Act, in order to fund unanticipated expenses of the Association.

(c) All assessments for each Lot shall be in such amounts, and be payable in such intervals, as the Board of Directors of the Association shall determine from time to time. Except as specifically provided to the contrary in Section 8 of this Declaration as regards Lots owned by the Declarant, both annual and special assessments must be fixed at a uniform rate for all Lots. The initial annual assessment is set and declared to be TWO HUNDRED FIFTY DOLLARS (\$250.00) per year per Lot, and shall be payable as directed by the Association. In addition to the initial annual assessment, the initial purchasers of each Lot from Declarant shall be required to pay to the Association at the closing of said Lot Owner's purchase from Declarant of a Lot in the Development a one-time special assessment in the sum of ONE HUNDRED FIFTY DOLLARS (\$150.00) to be used by the Association to establish an initial capital reserve to fund the operations of the Association.

(d) In addition to the annual assessments authorized above, the Association, upon approval by the Board of Directors, may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the roads and common areas, including fixtures and personal property related thereto.

(e) In addition to, and not in limitation of, any other special assessments for which Lots and Lot Owners may be liable, the Owner of each Lot shall be obligated to pay for the repair of all damage to the roadways and road rights of way in the Development occasioned by the Owner's activities in the Development related to construction of buildings and other improvements upon the Owner's Lot(s), and Declarant is specifically authorized to cause the Association to levy and collect special assessment(s) at any time and from time to time prior to the conclusion of the Declarant Control Period in such amounts and against such Lots and Owners as Declarant may determine in its sole discretion shall be necessary or desirable to effect reasonable remediation and repair of such damage and to pay such assessment(s) as and when collected over to the Declarant or otherwise as Declarant may direct.

(f) The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the approval and determination of the amount thereof by the Association. The first annual assessment shall be adjusted according to the number of days remaining in the calendar year. The due dates for said annual assessments shall be established by the Board of Directors of the Association.

(g) Any assessment not paid within thirty days (30) days after the due date shall bear interest from the due date at the rate of nine percent (9%) *per annum*. In addition to such interest charge, the delinquent Owner shall also pay such late charges as may be established by the Board of Directors of the Association. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot, or both; and interest, late payment charges, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using a Common Area or abandoning his Lot.

(h) The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust on a Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors of the Association may in its sole discretion, determine such unpaid assessments to be an annual or a special assessment, as applicable, collectable pro rata from all Owners including the foreclosure sale purchaser. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided. Mortgagees are not required to collect assessments. Failure of the Owner to pay assessments does not constitute a default under a HUD/VA insured mortgage.

SECTION 10: COMPLIANCE. In the event that the Owner of any Lot fails to comply with any of the restrictions set forth in this Article or the rules and regulations subsequently promulgated, the Association shall have the right, but not the obligation, to enter any Lot and undertake any necessary action in order to cure such Owner's default. All expenses and costs incurred by the Association in curing such default shall be charged to the defaulting Owner and shall be payable by such Owner to the Association immediately upon demand. Furthermore, said default shall constitute a personal obligation of the Owner of the Lot, and also a continuing lien upon the Lot.

SECTION 11: RULES OF ASSOCIATION. The Association shall be permitted and empowered to adopt such rules and regulations for itself as the Board of Directors of the Association shall determine will assist it in carrying forth the obligations and duties of the Association as set forth herein, in the Act and/or in the Articles of Incorporation and Bylaws of the Association (and in any amendments hereto).

SECTION 12: TITLE TO COMMON AREAS. Not later than the termination of the Declarant Control Period, the Declarant shall convey title to the Common Areas of the Development to the Association.

SECTION 13: APPLICATION OF THE ACT. In addition to any and all rights, powers, authority, responsibilities and obligations as may be set forth specifically in the Declaration, the Association shall have all rights, powers, authority, responsibility and obligations provided for owners' associations under the Act. In the event that this Declaration differs from the terms of the Act with respect to a matter for which the Act allows for such variance from its terms, then the terms and conditions of this Declaration shall, in such an event, control. Provided, however, to the extent that any term of this Declaration is in contravention of the Act with regard to a matter or matters for which the Act does not authorize such contravention, then the Act shall control, and this Declaration shall be deemed automatically amended to comply with, and shall be construed as fully as possible to be in conformity with, the requirements of the Act.

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ARTICLE V
ARCHITECTURAL REVIEW

No dwelling, building, structure, fence, sidewalk, walk, driveway, plantings, landscaping or any other improvements of any kind shall be erected, placed or altered upon any Lot until the proposed building plans, specifications, exterior color or finish, plat plans (showing the proposed location of all such dwellings, buildings, structures, fences, sidewalks, walks, driveways, plantings, landscaping or improvements), and construction schedule shall have been approved by the Declarant (while Declarant still owns any interest in any Lot in the Development), or, after Declarant no longer own any interest in any Lot in the Development, by the Board of Directors of the Association, or such committee as the Association shall appoint for such purpose. Approval or disapproval of any of the foregoing items and things shall be in the sole and absolute discretion of the Declarant (or the Association or a committee thereof as the case may be), and may be for any reason, including purely aesthetic grounds. No alterations may be made to any of the foregoing items following approval by Declarant (or the Association or a committee thereof as the case may be) without the express prior written consent of Declarant or the Association. No alterations to the exterior appearance of any building or structure shall be made without the express, prior written approval of Declarant (or the Association or a committee thereof as the case may be). In order that structures will be located with due regard to the topography of each Lot, Declarant further reserves for itself and the Association the right to control absolutely, and solely to decide, the precise site and location of all structures upon the Lots in the Development. Provided, however, the Declarant (or the Association or a committee thereof as the case may be) shall give the Owner reasonable opportunity to recommend a specific site. Any changes in the approved plans and/or any improvements added later shall be subject to the same conditions. The Declarant (or the Association or a committee thereof as the case may be) shall consider such plans and specifications with regard to the type, quality and use of exterior material, exterior design, location of any improvements upon the building plat, and proposed finished grades.

One true and complete copy of all such proposed building plans, specifications, exterior color or finish, plat plans, and construction schedule shall be furnished to Declarant (or the Association or a committee thereof as the case may be) for Declarant's, the Association's or any such committee's review prior to the commencement of construction or installation of any dwelling, building, structure, fence, sidewalk, walk, driveway, septic system, or other improvements of any kind upon any Lot in the Development. Declarant (or the Association or a committee thereof as the case may be) shall be entitled to retain any such copy for its records. Declarant (or the Association or a committee thereof as the case may be) shall have Thirty (30) days following their presentation to either approve or disapprove such proposed building plans, specifications, exterior color or finish, plat plans, and construction schedule. If Declarant (or the Association or a committee thereof as the case may be) has not communicated to the Owner, either verbally or in writing, its approval or disapproval within said Thirty (30) day period, such proposed building plans, specifications, exterior color or finish, plat plans, and construction schedule shall be deemed approved.

ARTICLE VI
USE RESTRICTIONS

SECTION 1: LAND USE. All Lots shall be used for single-family residential purposes only and for no other purpose. Only one family may occupy a Lot as a principal residence at any one time. No structure, except as provided in this Declaration, shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family dwelling, with attached garage, one accessory building, one detached private garage, and a private swimming pool. No accessory building, pool or detached garage shall be constructed prior to the completion of the dwelling upon any Lot, and said accessory building and detached garage shall be constructed, roofed, and sided in a manner and of materials which are the same as or substantially resemble the dwelling constructed upon said Lot. A guest suite or a like facility without a kitchen may be included as part of the main dwelling, but such suite may not be rented or leased except as part of the entire premises including the main dwelling.

SECTION 2: NUISANCE. No illegal, noxious or offensive activity shall be conducted upon any Lot or in any dwelling nor shall anything be done thereon or therein which may be or may become an annoyance or nuisance to the neighborhood.

SECTION 3: ANIMALS. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other common household pets may be kept or maintained provided they are not kept or maintained for commercial purposes. All household pets must be restrained within the boundaries of the Owner's Lot or on a leash and in control of the Owner.

SECTION 4: TEMPORARY STRUCTURES. No structure of a temporary nature shall be erected or allowed to remain on any Lot.

SECTION 5: SIGNS. No signs or other advertising devices shall be displayed upon any Lot, without the prior written permission of the Declarant. The Declarant, however, may post temporary "For Sale" signs on the Properties until such time as all Lots owned by Declarant have been sold. Any Owner may place one (1) temporary "For Sale" sign on his Lot for sale of same.

SECTION 6: FUEL TANKS AND GARBAGE CONTAINERS. All fuel storage tanks larger than a grill-sized propane tank shall be buried below the surface of the Lot. All outdoor receptacles for ashes, trash, rubbish or garbage shall be maintained in a reasonably clean and sanitary manner and shall either be installed in the ground or screened or placed so as not to be visible from any street, Common Area, or any other Lot. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, scrap, or other refuse of any kind whatsoever. No garbage or trash incinerators shall be permitted upon any Lot, and no garbage, trash or refuse shall be burned upon any Lot. In the event that Declarant or the Association shall deem it appropriate for

uniformity and/or quality of service, every Lot Owner in the Development shall be required to utilize a common sanitation service provider for the collection, removal and disposal of household garbage and refuse and pay the cost therefore directly to the provider of said service.

SECTION 7: MAINTENANCE. All Lot Owners shall keep their Lots, whether occupied or unoccupied, in a neat and attractive condition free of all dead, diseased, decaying or fallen trees, as well as, all tall grass, weeds, trash, rubbish, and debris. All improvements erected on Lots shall be maintained in a clean, neat, and orderly condition and in a good state of maintenance and repair.

SECTION 8: VEHICLES AND PARKING. Prior to occupancy of any Lot, the driveway shall have been completed and paved and shall have sufficient surface area to accommodate at least two vehicles. Overnight on-street parking is prohibited. No wrecked or junked motor vehicles, or motor vehicles without a valid, current registration and tag shall be placed upon or stored upon any Lot; and no commercial vehicles (other than pickup trucks and passenger vans) shall be parked overnight in the Development. All boat, recreational vehicle and trailer storage areas and facilities must be screened and hidden from view from the street and shall be located closer to the street than a line demarcated by the rear-most wall of the dwelling.

SECTION 9: ANTENNAS AND SATELLITE DISHES. External radio or television aerial or antenna, satellite dishes or any other external electronic equipment or devices for the private residential use of the Owner may be installed or maintained on any exterior of any structure, provided that such items are screened from view from the street, the Common Areas, and any adjoining Lot. No satellite dish shall exceed twenty-four (24) inches in diameter. No freestanding radio, cellular or digital communications, or television towers or antennae for private, public or commercial use shall be permitted upon any Lot, and no citizens band or "ham" radio towers or antennae shall be permitted upon any Lot.

SECTION 10: FENCES AND HEDGES. All fencing shall be located in the rear yard, shall not exceed six (6) feet in height, and shall be composed of brick, stone, wrought iron, vinyl, or wood and no portion thereof shall be chain links. Provided, however, nothing shall prevent the placement of a wire mesh backing upon a wooden split rail fence for purposes of containing permitted household pets.

SECTION 11: CLOTHESLINES. No clothes line or drying yard shall be located upon any Lot so as to be visible from the street or from any adjoining Lot.

SECTION 12: SWIMMING POOLS. No above-ground pools (other than moveable toddler pools) shall be permitted upon any Lot. No in-ground swimming pool shall be constructed upon any Lot without the express prior written consent and approval of the Association. Any such pool which is approved for construction shall be screened from view from the street and shall be surrounded by fencing not less than four (4) feet high. The Association's approval of construction of a pool upon any Lot is not, and shall not be deemed under any circumstance to be, an examination or inspection of such pool or appurtenant equipment regarding the safety, quality or

proper installation thereof, and each Lot Owner shall be responsible for the security and supervision of said Lot Owner's swimming pool in order that said pool shall not become a hazard or nuisance to the Development and other Lot Owners and their guests.

SECTION 13: RECONSTRUCTION. Any building on any Lot which is destroyed in whole or in part by fire, windstorm, flood or other Act of God must be rebuilt, or all debris from such building removed and the Lot restored to the condition it was in prior to commencement of construction of such building with reasonable promptness; provided, however, that any such reconstruction must be commenced within six (6) months from the date of such destruction or if no reconstruction is to occur, then all such debris must be removed and the Lot restored to its prior condition within six (6) months of such destruction.

SECTION 14: SUBDIVISION. No Lot shall be subdivided by sale or otherwise, or its boundary lines changed so as to make the area of any Lot in the Development less than 40,000 square feet. However, Declarant hereby expressly reserves to Declarant the right to replat any two (2) or more of the Lots shown on any Map of the Development. Nothing contained in these Restrictions shall prohibit the combination of any two or more contiguous Lots into one building Lot, and in any such event, the easements and setback requirements set forth elsewhere herein shall be deemed to apply to the exterior boundary of such combined Lot.

SECTION 15: HAZARDOUS ACTIVITIES. Nothing shall be done or kept on any Lot that will increase the rate of insurance on any other Lot. No Owner shall permit anything to be done or kept on his Lot which would result in the cancellation of insurance on any part of the Development or which would be in violation of any law.

SECTION 16: MAIL AND NEWSPAPER RECEPTACLES. Declarant or the Association shall determine the location, color, size, design, lettering and all other particulars of all mail or paper delivery boxes and the standards and brackets and name designs for such boxes in order that the Development be strictly uniform with respect thereto.

SECTION 17: COMPLIANCE. In the event that the Owner of any Lot fails to comply with any of the restrictions set forth in this Article or the rules and regulations subsequently promulgated, the Declarant and the Association shall have the right, but not the obligation, to enter any Lot and undertake any necessary action in order to cure such Owner's default. All expenses and costs incurred by the Declarant or the Association in curing such default shall be charged to the defaulting Owner and shall be payable by such Owner to the Declarant or the Association immediately upon demand. Furthermore, said default shall constitute a personal obligation of the Owner of the Lot, and also a continuing lien upon the Lot.

ARTICLE VII
EASEMENTS RESERVED BY DECLARANT

Declarant, for itself and its assigns, reserves easements, ten (10) feet in width, along all front, side, and rear Lot lines, and across and along all Common Areas, for the installation and maintenance of telephone and electric power lines, natural gas lines, cable television lines, water and sewer lines, drainage ditches and for other utility installations over the Lots and Common Areas. Each Owner, by acceptance of a deed to a Lot, acknowledges such reservations and rights of Declarant to transfer or license such easements to such utility companies or other individuals or entities as Declarant may choose. The easements reserved herein include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any similar action reasonably necessary to provide utility installation, operation, maintenance and repair and to maintain the overall appearance of the Development.

Within any such easements, no structure, planting or other material shall be placed or permitted to remain which would prevent the installation, maintenance, repair and operation of utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. Neither Declarant nor any utility company, municipal authority or other authorized transferee or licensee using such easements established herein or on the plat of the Property in the performance of necessary modification, repair or maintenance shall be liable for any damage done by them or their assigns, agents, employees, contractors or servants to shrubbery, trees, flowers, fences, and other structures or improvements, or to the property of the Owner that were placed within the parameters of any such easement after the installation or placement therein of utilities.

Declarant shall have the right to unilaterally, without the consent of the Owners or the Association, amend or remove, in whole or in part, the easements described herein and/or those which may appear on any Map of the Development.

ARTICLE VIII
GENERAL PROVISIONS

SECTION 1: ENFORCEMENT. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by said Declarant, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event of a dispute or violation of the restrictions resulting in litigation, the party successful in said litigation shall also be entitled to an award including costs and reasonable attorney's fees from the opposing party to the fullest extent permitted by the Act.

SECTION 2: SEVERABILITY. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 3: AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the land for TWENTY-FIVE (25) years, after which time they shall be automatically extended for successive periods of TEN (10) years each, and, except as set forth hereinbelow in this Article VIII, Section 3 of the Declaration, shall only be modified, amended, changed or eliminated in accordance with N.C. Gen. Stat. §47F-2-117. So long as Declarant owns any Lot in the Development, the joinder of the Declarant also shall be required to effect any modification, amendment, change or elimination of any portion of the Declaration. Declarant further hereby reserves the unilateral authority and right at any time, without joinder or consent of the Association, any Owner, or any other persons or corporations who may have previously purchased a Lot or Lots in the Development, to change, alter, amend or eliminate the requirements within the Declaration and/or any Map regarding the building setback requirements, easements, and dwelling square footage for the Lots in the Development.

SECTION 4: SUPPLEMENTAL DECLARATIONS AND MAPS. The Declarant reserves the unilateral right, without the further joinder or consent of the Association or of any Lot Owner, to prepare, execute and record supplements to this Declaration and additional Maps whereby other property of the Declarant is brought within the ambit of this Declaration and made a part of the Development as contemplated by Article II of this Declaration.

IN WITNESS WHEREOF, Declarant has hereunto set its hand and seal, the day and year first above written.

DECLARANT:

TOPAZ DEVELOPMENT, INC., a North
Carolina corporation

By: _____

Vice President

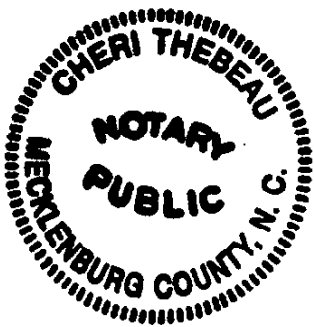
NORTH CAROLINA

COUNTY OF Mecklenburg

I, Cheri Thebeau, a Notary Public for the aforesaid county and state, do certify that Carla Rizzo vice personally appeared before me this day and acknowledged that he/she is the President of **TOPAZ DEVELOPMENT, INC.**, and that by authority duly given and as the act of the corporation the foregoing instrument was signed by him/her as President on behalf of the company.

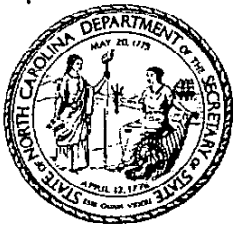
WITNESS my hand and official seal this the 26th day of Feb., 2007.

(NOTARIAL STAMP OR SEAL)



Cheri Thebeau
NOTARY PUBLIC
My commission expires: 1-17-12

Exhibit A



NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

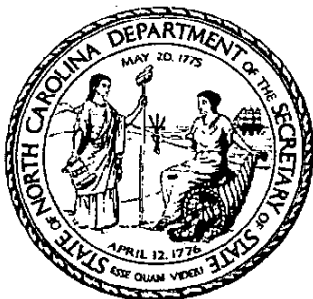
I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

ARCHER RIDGE OWNERS ASSOCIATION, INC.

the original of which was filed in this office on the 8th day of February, 2007.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 8th day of February, 2007

Elaine F. Marshall

Secretary of State

Document Id: C20070390036

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Date Filed: 2/8/2007 4:49:00 PM

Elaine F. Marshall

North Carolina Secretary of State

C200703900367

ARTICLES OF INCORPORATION

FOR

**ARCHER RIDGE
OWNERS ASSOCIATION, INC.**

Pursuant to Chapters 47F and 55A of the North Carolina General Statutes, the undersigned corporation does hereby submit these Articles of Incorporation for the purpose of forming a non-profit corporation.

1. The name of the Corporation is **ARCHER RIDGE OWNERS ASSOCIATION, INC.**

2. The Corporation is an owners' association formed pursuant to, and with all the powers and duties set forth in, Article 3 of the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes.

3. The street address and mailing address of the initial registered office of the corporation is **19117 Callaway Hills, Davidson, NC 28036**, which is located in **Mecklenburg County**.

4. The name of the initial registered agent is **Carla C. Rizzo**.

5. The name and address of the incorporator is **TOPAZ DEVELOPMENT, INC.**, a North Carolina corporation, **19117 Callaway Hills, Davidson, NC 28036**.

6. The corporation will have members.

7. The street address and mailing address of the principal office of the corporation, and the county where such principal office is located are as follows:

19117 Callaway Hills
Davidson, NC 28036
Mecklenburg County

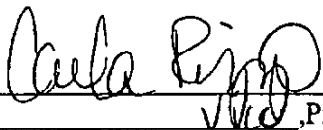
8. In the event of dissolution of the corporation, all liabilities and obligations of the corporation shall be paid and discharged, or adequate provision made therefor, and the remaining assets of the corporation shall be allocated and distributed to the individual members of the corporation in a *pro rata* amount based upon their respective contributions or payments into the corporation in a manner not inconsistent with the pertinent provisions of Article 14 of Chapter 55A and Article 3 of Chapter 47F of the North Carolina General Statutes.

9. These articles will be effective upon filing.

This the 7th day of February, 2007.

**ARCHER RIDGE OWNERS ASSOCIATION,
INC.**

By: Topaz Development, Inc., a North Carolina
corporation, Incorporator

By: , President

BYLAWS

OF

ARCHER RIDGE OWNERS' ASSOCIATION, INC.

a North Carolina non-profit corporation
organized under the laws of the
State of North Carolina

22

TABLE OF CONTENTS

ARTICLES AND SECTIONS

	<u>Page</u>
ARTICLE I - Identity	1
ARTICLE II - Qualifications and Responsibilities of Members	
Section 2.1 Members	1
Section 2.2 More Than One Owner	1
Section 2.3 Registration	1
Section 2.4 Prohibition of Assignment	2
ARTICLE III - Members' Meetings and Voting	
Section 3.1 Place	1
Section 3.2 Annual Meeting	1
Section 3.3 Special Meetings	1
Section 3.4 Notices	2
Section 3.5 Quorum; Adjournment if no Quorum	2
Section 3.6 Votes; Association Shall Not Vote	2
Section 3.7 Manner of Casting Votes	2
Section 3.8 Required Votes	2
Section 3.9 Action by Members Without Meeting	2
Section 3.10 Prohibition of Cumulative Voting	2
ARTICLE IV - Directors	
Section 4.1 Number and Qualifications of Directors	2
Section 4.2 Election of Directors	2
Section 4.3 Term	2
Section 4.4 Removal	3
Section 4.5 Vacancies	3
Section 4.6 Regular Meetings	3
Section 4.7 Special Meetings	3
Section 4.8 Quorum; Adjournment if no Quorum	3
Section 4.9 Manner of Acting	3
Section 4.10 Board Action Without Meeting	3
Section 4.11 Compensation of Directors Restricted	3
Section 4.12 Powers and Duties of Board	3
ARTICLE V - Officers	
Section 5.1 Designation of Officers.....	4
Section 5.2 Election of Officers	4
Section 5.3 Terms	4
Section 5.4 Removal	4
Section 5.5 Vacancy	4
Section 5.6 Powers and Duties of Officers	4
Section 5.7 Execution of Agreements, etc.....	5
Section 5.8 Compensation of Officers Restricted.....	5
ARTICLE VI - Indemnification of Directors and Officers	5

23

ARTICLE VII - Fiscal Management

Section 7.1	Depository	5
Section 7.2	Fidelity Bonds	5
Section 7.3	Payment Vouchers	5
Section 7.4	Annual Audit	6
Section 7.5	Fiscal Year	6

ARTICLE VIII - Assessments

Section 8.1	Obligation of Members to pay Assessments; Amount of Levy	6
Section 8.2	Allocation of Common Surplus	6
Section 8.3	Preparation of Budget and Levying of Assessment	6

ARTICLES AND SECTIONS

Section 8.4	Lien for Assessments	6
Section 8.5	Payment of Assessments	6
Section 8.6	Funds and Reserves	6
Section 8.7	Special Assessments	7
Section 8.8	Failure to Prepare Budget and Levy Annual Assessment; Deficiencies in Procedure	7
Section 8.9	Assessment Roll; Certificate	7
Section 8.10	Default and Enforcement	7
Section 8.11	Interest on Delinquent Assessments	8
Section 8.12	Common Expenses	8

ARTICLE IX - Compliance, Enforcement, Fines and Penalties

Section 9.1	Default and Remedies	8
Section 9.2	Notice of Default and Failure to Cure	8
Section 9.3	Remedy of Abatement in Addition to Other Remedies	9
Section 9.4	Injunction	9
Section 9.5	Recovery of Attorneys' Fees and Costs	9
Section 9.6	Nonwaiver of Covenants	9
Section 9.7	Assessment Liens	9

ARTICLE X - General Provisions

Section 10.1	Rules and Regulations	9
Section 10.2	Parliamentary Authority	9
Section 10.3	Compliance with the Act; Conflict; Severability	9

ARTICLE XI - Amendment	10
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BYLAWS

OF

ARCHER RIDGE OWNERS' ASSOCIATION, INC.,
a North Carolina Nonprofit Corporation
organized under the laws of the
State of North Carolina

ARTICLE I.

Identity

These are the Bylaws of Archer Ridge Owners' Association, Inc., a North Carolina nonprofit corporation (the "Association"), the Articles of Incorporation (the "Articles") of which have been filed in the Office of the North Carolina Secretary of State.

For purposes of these Bylaws, terms specifically defined in the Declaration of Covenants, Conditions and Restrictions for Creeks Edge Subdivision (the "Declaration") or in the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes (the "Act") shall have the same meaning herein.

ARTICLE II.

Qualifications and Responsibilities of Members

2.1. **Members.** Each Lot Owner shall be a member of the Association and shall remain a member until he ceases to be a Lot Owner.

2.2. **More Than One Owner.** When there is more than one Lot Owner of a Lot, all such persons shall be members of the Association, but in no event shall a Lot have more than one vote in the Association's affairs.

2.3. **Registration.** It shall be the duty of each Lot Owner to register his name and the number of his Lot with the Secretary of the Association. If a Lot Owner does not so register, the Association shall be under no obligation to recognize his membership.

2.4. **Prohibition of Assignment.** The interest of a member in the Association assets cannot be transferred or encumbered except as an appurtenance to his Lot.

ARTICLE III.

Members' Meetings and Voting

3.1. **Place.** Meetings of the members shall be held at the registered office of the Association or such other place as may be designated from time to time by the Board.

3.2. **Annual Meeting.** The members shall meet at least once each year as specified in the notice of such meeting given pursuant to Section 3.4. At each annual meeting, the members shall elect members of the Board ("Directors") and may transact any other business properly coming before them.

3.3. **Special Meetings.** Special meetings of the members may be called at any time by the President or by the Board and shall be called and held within thirty (30) days after written request therefor signed by members of the Association entitled to cast at least twenty percent (20%) of the total votes in the Association is delivered to any officer or Director of the Association. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

3.4. **Notices.** Notice of all meetings of the members stating the time and place and accompanied by a complete agenda thereof shall be given by the President or Secretary to each member. Such notice shall be in writing and shall be hand delivered or sent by United States mail to the members at the addresses of their respective Lots and to other addresses as any member may have designated to the President or Secretary at least twenty-one (21) days in advance of any annual or regularly scheduled meeting and at least seven (7) days in advance of any other meeting.

3.5. **Quorum; Adjournment if No Quorum.** A quorum shall consist of members present, in person or by proxy, entitled to cast at least ten percent (10%) of the total votes in the Association. If a quorum is not present, the meeting shall be adjourned from time to time until a quorum is present.

3.6. **Votes; Association Shall Not Vote.** Each Lot shall have one vote. The vote allocated to a Lot may be cast by the Lot Owner of that Lot. When there is more than one Lot Owner of a Lot, the vote for that Lot shall be cast as they shall determine. The vote allocated to a Lot shall not be split but shall be voted as a single whole. When there is more than one Lot Owner of a Lot and said Lot Owners cannot agree on how the vote for that Lot shall be cast, the dispute shall be resolved by arbitration in accordance with Section 13.6 of the Declaration. The Association shall not be entitled to cast the vote allocated to any Lot owned by it. In the event the Declarant develops additional phases of the Development, then it shall be entitled to one vote per additional Lot built in each additional phase; the said vote shall be automatically authorized and awarded without action by the Board upon the Declarant recording a lawfully approved plat delineating the Lots contained within each such additional phase of the Development.

3.7. **Manner of Casting Votes.** Votes may be cast in person or by proxy. A proxy must be in writing, be signed by all Lot Owners of the Lot the votes of which are subject to the proxy, be given only to another member or to a Security Holder in that Lot, and be filed with the Secretary before the meeting. A proxy shall be valid until revoked in writing by all Lot Owners of such Lot.

3.8. **Required Votes.** All questions shall be decided by a majority of the votes cast on the question unless the provisions of the Act, other applicable law, the Declaration or these Bylaws require a greater vote.

3.9. **Action by Members Without Meeting.** Any action that may be taken at a meeting of the members may be taken without a meeting if such action is authorized in a writing setting forth the action taken and is signed by all members or if such action is taken in any other manner permitted by law.

3.10. **Prohibition of Cumulative Voting.** There shall be no cumulative voting.

ARTICLE IV.

Directors

4.1. **Number and Qualifications of Directors.** Except during the Declarant Control Period as provided hereinbelow, the Board shall consist of three (3), five (5) or seven (7) natural persons as determined at any annual meeting by the members. Each Director shall be a Lot Owner or the individual nominee of a Lot Owner which is other than an individual. The initial Board of Directors who shall serve from the date upon which the Declaration is recorded in the Office of the Register of Deeds in the County(ies) where the Development is located, until the termination of any applicable Declarant Control Period provided by the Declaration and the qualification and election of their successors are as follows: **Carla C. Rizzo and James Rizzo.**

4.2. **Election of Directors.** At the first annual meeting of the members and at each subsequent annual meeting, the members shall elect the Directors by a majority of the votes cast in the election.

4.3. **Term.** The terms of the Directors shall be staggered so that at least one (1) but not more than three (3) Directors are elected at any one meeting and so that no Director's term is less than one (1) year nor more than three (3) years. The Directors shall establish rules to implement the provisions of this section. Once elected, an Director shall hold office until his successor has been duly elected and has qualified.

4.4. **Removal.** Any Director may be removed with or without cause by a vote of the members entitled to cast at least sixty percent (60%) of the total votes in the Association, and a successor may then be elected by the members to serve for the balance of the removed Director's term.

4.5. **Vacancies.** Any vacancy in the Board arising by death or resignation of an Director shall be filled by act of the remaining Directors, whether or not constituting a quorum, and any Director so elected shall serve for the unexpired term of his predecessor in office.

4.6. **Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone, or telegraph, at least seventy-two (72) hours prior to the meeting.

4.7. **Special Meeting.** Special meetings of the Board may be called by the President and shall be called by the President or the Secretary and held within ten (10) days after written request therefor signed by two (2) Directors is delivered to any other Director or the President or the Secretary. Not less than seventy-two (72) hours' notice of such special meeting shall be given personally or by mail, telephone or telegraph to each Director; provided that in case the President or any Director determines that an emergency exists, a special meeting may be called by giving such notice as is possible under the circumstances. All notices of a special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

4.8. **Quorum; Adjournment if No Quorum.** A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board. If a quorum is not present, the meeting shall be adjourned from time to time until a quorum is present. The signing by a Director of the minutes of a meeting shall constitute the presence of such Director at that meeting for the purpose of determining a quorum.

4.9. **Manner of Acting.** Each Director shall be entitled to one (1) vote. The act of a majority of the Directors present at a meeting shall constitute the act of the Board unless the act of a greater number is required by the provisions of the Act, other applicable law, the Declaration or these Bylaws.

4.10. **Board Action Without Meeting.** Any action that may be taken at a meeting of the Board may be taken without a meeting if such action is authorized in a writing setting forth the action taken that is signed by all Directors.

4.11. **Compensation of Directors Restricted.** Directors shall receive no compensation for their services but may be paid for out-of-pocket expenses incurred in the performance of their duties as Directors.

4.12. **Powers and Duties of Board.** All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law, applicable statutes, the Act, the Declaration, the Articles, and these Bylaws, as any thereof may from time to time be amended. Such powers and duties shall be exercised in accordance with the provisions of applicable law, the Declaration, the Articles, and these Bylaws, and shall include, but not be limited to, the following:

- (a) Adopt and amend bylaws and rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Lot Owners;
- (c) Hire and discharge managing agents and other employees, agents, and independent contractors to perform any such duties and responsibilities as the Board may reasonably determine;
- (d) Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the Development;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of Common Areas;
- (g) Cause additional improvements to be made as a part of the Common Areas;

- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that Common Areas may be conveyed or subjected to a security interest only pursuant to G.S. 47F-3-112;
- (i) Grant easements, leases, licenses, and concessions through or over the Common Areas;
- (j) Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Areas other than the limited Common Areas and for services provided to Lot Owners;
- (k) Impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association (except rights of access to lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer;
- (l) After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to lots) for reasonable periods for violations of the Declaration, Bylaws, and rules and regulations of the Association;
- (m) Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the Declaration or statements of unpaid assessments;
- (n) Provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees, and agents and provide the insurance coverages, if any, mandated by N.C. Gen. Stat. §47F-3-113;
- (o) Assign its right to future income, including the right to receive common expense assessments;
- (p) Exercise all other powers that may be exercised in this State by legal entities of the same type as the Association;
- (q) Exercise any other powers necessary and proper for the governance and operation of the Association; and
- (r) Exercise all other powers, rights and obligations afforded to Associations by the Act.

ARTICLE V. *Officers*

5.1. **Designation of Officers.** The officers of this Association shall be a President, a Vice President, a Secretary and a Treasurer. Each officer shall be a Lot Owner or the individual nominee of a Lot Owner that is other than a individual. A person may hold one or more of such offices at one time, except that the President shall not at the same time hold another office in the Association. The Board may elect an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary.

5.2. **Election of Officers.** Officers of the Association shall be elected by the Board. Election shall be held annually at the first meeting of the Board held after the annual meeting of the members, except that the first Board shall elect officers as soon as practicable after filing of the Declaration.

5.3. **Term.** Each officer shall serve until his successor has been duly elected and has qualified.

5.4. **Removal.** Any officer may be removed, with or without cause and without notice, by the Board.

5.5. **Vacancy.** Any vacancy in an office shall be filled by the Board, and an officer elected to fill a vacancy shall serve for the unexpired term of his predecessor in office.

5.6. Powers and Duties of Officers.

(a) **President.** The President shall be the chief executive officer of the Association; shall have all of the powers and duties incident to the office of a president of a corporation including, but not limited to, the duty to preside at all meetings of the Board, and of the members, and the general supervision of officers in the management of the business and affairs of the Association; and shall see that all actions and resolutions of the Board are carried into effect. The President, together with the Secretary, and with approval by the Board, may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

(b) **Vice President.** The Vice-President shall perform such duties of the President as shall be assigned to him by the President and, in the absence of the President, shall perform the duties and functions of the President.

(c) **Secretary.** The Secretary shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the Directors and members; shall keep the records of the association, except those kept by the Treasurer; shall perform all other duties incident to the office of a secretary of a corporation; and shall perform such other duties required by the Board or the President. The Secretary, together with the President, and with approval by the Board, may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

(d) **Treasurer.** The Treasurer shall have custody of all intangible property of the Association, including funds, securities, and evidences of indebtedness; shall keep the books of the Association in accordance with good accounting practices and principles, and upon request, shall submit them, together with all vouchers, receipts, records and other papers to the Board for examination and approval; shall deposit all monies and other valuable effects in depositories designated by the Board; shall disburse funds of the Association as directed by the Board; and shall perform all other duties incident to the office of a treasurer of a corporation.

5.7. **Execution of Agreements, etc.** All agreements, deeds, mortgages, or other instruments shall be executed by any two (2) officers or by such other person or persons as may be designated by the Board.

5.8. **Compensation of Officers Restricted.** No officer shall be compensation for his services in such capacity, but may be reimbursed for out-of-pocket expenses incurred in performing his duties.

ARTICLE VI.

Indemnification of Directors and Officers

The Association shall indemnify and hold harmless its officers and Board members for such expenses and liabilities against all contractual liabilities to others where the contract is made in good faith and not contrary to the provisions of the Act, the Declaration and these Bylaws.

ARTICLE VII.

Fiscal Management

7.1. **Depository.** The Board shall designate a depository for the funds of the Association and may change such depository. Withdrawal of funds from such depository shall be only by checks signed by any two (2) officers of the Association or any other two (2) Directors authorized by the Board.

7.2. **Fidelity Bonds.** Fidelity bonds shall be maintained by the Association in an amount determined by the Board covering each director and officer of the Association, any employee or agent of the Association, and any other person handling or responsible for handling funds of the Association.

7.3. **Payment Vouchers.** Payment vouchers shall be approved by the Board provided that the Board may delegate such authority to any officer or managing agent of the Association.

7.4. **Annual Audit.** An audit of the accounts of the Association shall be made annually by a certified public accountant and a copy of the report shall be furnished to each member not later than April 1 of the year following the year for which the report is made.

7.5. **Fiscal Year.** The fiscal year of the Association shall be the calendar year provided that the Board, from time to time, by resolution may change the fiscal year to some other designated period.

ARTICLE VIII. Assessments

8.1. **Obligation of Members to Pay Assessments; Amount of Levy.** Each Lot Owner shall be personally and severally liable for the Common Expenses that are levied against his Lot while a Lot Owner.

8.2. **Allocation of Common Surplus.** Any common surplus, including funds in reserve accounts, may be allocated to each Lot in accordance with its percentage of Common Expenses and, if allocated, may be paid to the Lot Owner or credited against that Lot's share of Common Expenses subsequently assessed.

8.3. **Preparation of Budget and Levying of Assessment.** For each fiscal year, the Board shall prepare and adopt a budget including therein estimates of the amount necessary to pay the Common Expenses together with amounts considered necessary by the Board for reserves. After preparation and adoption of each such budget, the Board shall provide each member with a copy and shall give each member notice of the assessment made against that member's Lot based upon such budget and may also state the interest to be charged on delinquent payments thereof. The assessment shall be deemed levied upon the giving of such notice.

8.4. **Lien for Assessments.** Every assessment levied against a Lot remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Lot when filed of record in the Office of the Clerk of Superior Court of Iredell County in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes. The lien under this section is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the lien in the Office of the Clerk of Superior Court of Iredell County, and (ii) liens for real estate taxes and other governmental assessments or charges against the Lot.

8.5. **Payment of Assessments.** Assessments shall be payable when notice thereof is given but shall not be delinquent if paid at the times and in the amounts specified by the Board in the notice of assessment. Except for special assessments, one-twelfth (1/12) of the assessment shall be paid on or before the first day of each month of the fiscal year of the Association. Payments shall be made to the Association or as the Board may from time to time otherwise direct.

8.6. **Funds and Reserves.** All sums collected by the Association from assessments shall be accounted for as follows:

(a) **Reserve Fund for Repairs and Replacements.** To this fund shall be credited all sums collected for the purpose of effecting repairs and replacements of Common Areas of the Development.

(b) **General Operating Reserve Fund.** To this fund shall be credited all sums collected to provide a reserve for purposes of providing a measure of financial stability during period of special stress and may be used to meet deficiencies from time to time as a result of delinquent payments of assessments and other contingencies.

(c) **Maintenance Fund.** To this fund shall be credited collections of assessments for all Common Expenses for the current year as well as common profits and surplus from the previous year and not to be credited to either of the above reserve funds.

(d) **Working Capital Fund.** All funds, if any, received by the Association for the initial working capital fund of the Association to defray unforeseen expenses and/or the cost of additional equipment or services deemed necessary or desirable by the Board shall be maintained in and segregated in this fund for the use and benefit of the Association.

The reserve fund for repairs and replacements shall be established by the Board beginning with the first assessment and shall be funded thereafter by regular installments rather than by extraordinary special assessments. The reserve funds described above shall be maintained only in such amounts as deemed necessary or desirable by the Board, subject, however, to the preceding sentence. To the extent maintained, funds therein shall be held in such accounts and with such depositories as the Board, in its discretion, selects.

8.7. **Special Assessments.** In addition to the assessments levied pursuant to Section 8.3., the Board, in its discretion, may levy special assessments at such other and additional times as in its judgment are required for:

- (a) Maintenance, repair, restoration and reconstruction of the Common Areas.
- (b) Alterations, improvements, and additions to the Common Areas;
- (c) Payment of costs and expenses incurred in curing defaults pursuant to Sections 9.1 and 9.3. hereof.

Special assessments made pursuant to this Section shall be a Common Expense, shall be deemed levied upon notice thereof being given to the members subject to such special assessment, and shall be payable as determined by the Board and as set out in such notice.

8.8. **Failure to Prepare Budget and Levy Annual Assessment; Deficiencies in Procedure.** The failure of the Board or delay of the Board in preparing any budget and to levy or in levying assessments shall not constitute a waiver or release of the members' obligation to pay assessments whenever the same shall be determined and levied by the Board. Until a new assessment is levied by the Board pursuant to Section 8.3., each member shall continue to pay the assessment then previously levied pursuant to Section 8.3. in the same amount and at the same periodic times as levied or as the Board may otherwise advise in writing. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of members to pay such assessment.

8.9. **Assessment Roll; Certificates.** All assessments shall be set forth upon a roll of the Lots which shall be available in the office of the Association for inspection at all reasonable times by members and Security Holders and their duly authorized representatives. Such Roll shall include for each Lot the name and address of the members, all assessments levied, and the amount of all assessments unpaid. The Association, upon written request, shall furnish to a Lot Owner or his authorized agent a recordable certificate setting forth the amount of unpaid assessments currently levied against the Lot. The certificate shall be furnished within ten (10) business days after the receipt of the request and shall be binding upon the Association and all Lot Owners. For such certificate, a reasonable fee may be charged by the Board.

8.10. **Default and Enforcement.** If any assessment or installment thereof remains delinquent for thirty (30) days, then that assessment and all other assessments then a lien against that Lot may be declared by the Board to be immediately due and payable in full, with interest, without further notice, and may be foreclosed by the Association in the manner provided by N. C. Gen. Stat. § 47F-3-116. All fees, late charges, attorneys' fees, fines or interest levied or collected by the Association in connection with any unpaid assessments shall have the same priority as the assessment to which they relate.

If any action is taken by the Association to foreclose a lien on a Lot because of unpaid assessments, the Lot Owner shall be required to pay a reasonable rent for the use of the Lot during the period of redemption from such foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same.

In addition to the foregoing and without waiving its lien, the Association may sue to obtain a money judgment for the amount of any delinquent assessment or installment thereof together with interest and the members so sued and liable for such assessment shall pay all costs of collection including reasonable attorneys' fees, with interest thereon at the same rate as charged on the assessments being collected from the dates incurred until paid.

8.11. **Interest on Delinquent Assessments.** Assessments, or installments thereof, paid before they become delinquent shall not bear interest, but all delinquent sums shall bear interest at the rate set forth in the notice levying the assessment not exceeding the rate of interest allowed by the Act from the date delinquent until paid. If no interest rate is set forth in such notice, such interest rate shall be the prime rate of Citizens South Bank (or of any entity which into which Citizens South Bank shall be

merged or consolidated or which shall purchase all or substantially all of the assets of Citizens South Bank) plus three percent (3%) or the maximum allowed by the Act, whichever is greater. All payments upon account shall be applied first to interest and then to the assessment, or installment thereof, longest delinquent on which such interest accrues.

8.12. **Common Expenses.** Common Expenses shall mean and include all sums declared Common Expenses by the Act or by any specific provision of these Bylaws or the Declaration and shall include, without limitation, the following: real estate taxes and other governmental assessments or charges against the Property until the Lots are separately assessed; premiums for any and all insurance maintained by the Association, including any deductible or coinsurance amount not covered by insurance; utility charges not charged directly to Lot Owners; legal and accounting fees; costs and expenses incurred in connection with any litigation or administrative proceeding pursuant to Section 4.12(d) hereof; deficits remaining from any prior assessment period; the cost, including fees and interests, incurred in connection with any borrowing done by the Association; the cost of all fidelity bonds; costs imposed upon the Association or any part of the Common Areas by or incurred by the Association as a result of the performance, enforcement or amendment of any agreement or easement to which the Association is a party or to which the Common Areas or any part of either thereof is or may be subject; amounts determined necessary for reserve funds; and indemnity payments made by the Association pursuant to Article VI hereof.

ARTICLE IX.

Compliance, Enforcement, Fines and Penalties

9.1. **Default and Remedies.** A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Act, the Declaration, these Bylaws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Lot Owner or Occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, an injunction, or any combination thereof, and which relief may be sought by the Association, an aggrieved Lot Owner, or by any person or class of persons adversely affected. Also, if any member fails to perform any obligation under the Act, the Declaration, these Bylaws, the Articles or such rules and regulations, then the Association may, but is not obligated to, perform the same for the member's account and for such purpose may enter upon his Lot, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a special assessment against the Lot owned by such defaulting member. The Association also shall be entitled to suspend the right of a defaulting Lot owner to vote as a member of the Association until the default is cured.

9.2. **Notice of Default and Failure to Cure.** In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member, a written notice specifying the nature of the default, the cure therefor, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default specified, or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting member, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, a copy of its determination. If the defaulting member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting member a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

9.3. **Remedy of Abatement in Addition to Other Remedies.** In the event a member fails to effect the cure specified by the Board within the time period set out in (i) or (ii) of Section 9.2 hereof, whichever is applicable, where the default is a structure, thing, or condition existing in or on the premises of the member's Lot in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefor as provided in Section 9.1

hereof), the structure, thing, or condition constituting the default, and the Board, the Association and their agents, employees, and representatives shall not thereby be deemed guilty of any manner of trespass.

9.4. **Injunction.** Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 9.2 hereof, if such default or failure creates an emergency or a situation dangerous to persons or property.

9.5. **Recovery of Attorneys' Fees and Costs.** In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court, with interest thereon at the highest rate allowed by law at the time the costs are incurred, from the dates such costs are incurred until paid, as authorized by the Declaration and by N.C. Gen. Stat. §47F-3-120.

9.6. **Nonwaiver of Covenants.** The failure of the Association or of any member thereof to enforce any term, provision, right covenant, or condition that may be granted by the Declaration, these Bylaws, the Articles, the rules and regulations, or the Act, as any of the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.

9.7. **Assessment Liens.** Assessments liens shall be enforced pursuant to Article VIII hereof and not pursuant to this Article IX.

ARTICLE X. *General Provisions*

10.1. **Rules and Regulations.**

(a) ***By the Board.*** The Board, including the first board, may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation and use of the Common Areas so as to promote the common use and enjoyment thereof by Lot Owners and Occupants and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Lots to provide for the common good and enjoyment of all Lot Owners and Occupants, including, without limitation, the right to adopt such rules and regulations with reference to tenants and leases. In no event shall any rules or regulations be inconsistent or materially more restrictive than the provisions contained in the Declaration and these Bylaws with respect to leases or tenants.

(b) ***By the Association.*** Any such rule or regulation adopted by the Board may be amended, modified, or revoked, and new and additional rules and regulations may be adopted by members at an annual or special meeting of the members. Any such act of the members shall control over any contrary rule or regulation then or thereafter adopted by the Board.

(c) ***Copies Furnished.*** Copies of all such rules and regulations and any amendments thereto shall be furnished to all members, and a copy shall be posted or otherwise made available to members at the office of the Association. However, failure to furnish or post or make available such rules or regulations shall not affect in any way their validity or enforceability.

10.2 **Parliamentary Authority.** Robert's Rules of Order, Newly Revised, shall govern the conduct of Association proceedings when not in conflict with the Declaration, these Bylaws, the Articles, the Act, or any statutes of the State of North Carolina applicable thereto. The chairman of the meeting shall have the authority to appoint a parliamentarian.

10.3. **Compliance with the Act; Conflict; Severability.** These Bylaws are established in compliance with the Act, as amended. Should any of the terms, conditions, provisions, paragraphs, or clauses of these Bylaws conflict with any of the provisions of said Act, the provisions of said Act shall control unless the Act permits these Bylaws to override the Act, in which event these Bylaws shall control. In the case of any conflict between the provisions of these Bylaws and the Declaration, the Declaration shall control. If any term, provision, limitation, paragraph, or clause of these Bylaws, or the application thereof to any person or circumstance, is judicially held to be invalid, such determination shall not affect the enforceability, validity, or effect of the remainder of these Bylaws, or the application thereof to any other person or circumstance.

ARTICLE XI.
Amendment

These Bylaws may be amended by a vote of Lot Owners owning a majority of the undivided interest in the common areas and facilities cast in person or by proxy at a meeting duly held in accordance with the provisions of these Bylaws. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

Notwithstanding the above, no amendment to these Bylaws shall be effective to impair the rights or priorities of a mortgagee or other security holder or the right and privileges reserved by the Declarant without the Declarant's written consent or without the affected mortgagee's or security holder's written consent.