

FILED Jan 15, 2010  
AT 10:49:15 am  
BOOK 01497  
START PAGE 0023  
END PAGE 0024  
INSTRUMENT # 00416  
EXCISE TAX (None)

BOOK 1497 PAGE 0023

**WOODS AT WILKINSON CREEK: AMENDMENT**

AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for the Woods at Wilkinson Creek

The Declaration of Covenants, Conditions and Restrictions for the Woods at Wilkinson Creek (hereinafter the "Declaration") of record in Book 1350, Page 593, Chatham County Registry, are hereby amended which amendment provides:

- A. That a Special Assessment for Capital Improvements pursuant to Article IV, Section 4 cannot be levied until 1) at least thirteen (13) of the twenty-five (25) lots that are bound by the Declaration have been fully improved with single family houses, sold and conveyed to and occupied by the owners thereof, and 2) Declarant's Class B Membership Interest shall have been converted to Class A Membership interest pursuant to Article III, Section 2;
- B. Lots owned by Declarant shall be subject to Special Assessments to the same extent as are lots not owned by Declarant; and
- C. Article IV, Section 3 shall be amended to state that the annual assessment shall not be greater than \$250.00 through year 2011, and may begin to increased by not more than 10% per year beginning January 1, 2012

This Amendment is effective this 14<sup>th</sup> day of January 2010.

Agreed to by Declarant, the Woods at Wilkinson Creek LLC by its members

Returns to: WILKINSON CREEK, LLC  
50 CHATHAM FOREST DRIVE  
PITTSBORO, NC 27312

RV DW

Randolph S. Voller Date 1/14/2010  
Randolph S. Voller/member-manager

Daniel G. Walsh Date 1/15/2010  
Daniel G. Walsh/member-manager

Chatham County, North Carolina

I, Alice F. Lloyd, a Notary Public for  
Chatham County, North Carolina, certify that Randolph S.  
Voller personally appeared before me this day and acknowledged the execution of the  
foregoing instrument.

Witness my hand and official stamp or seal, this the 14<sup>th</sup> day of January, 2010



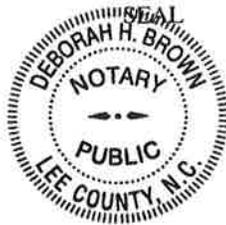
Alice F. Lloyd  
Notary Public

My commission expires: 1-3-2013

I, Deborah H. Brown, a Notary Public for

Lee County, North Carolina, certify that Daniel G. Walsh  
personally appeared before me this day and acknowledged the execution of foregoing the  
instrument.

Witness my hand and official stamp or seal, this the 15 day of January, 2010



Deborah H. Brown  
Notary Public

My commission expires: Oct 4, 2014

FILED  
CHATHAM COUNTY  
REBA G. THOMAS  
REGISTER OF DEEDS

Reviewed by: Kathie Russell, Attorney at Law

Return to: Russell & Pressley P.C.  
727 West Hargett Street  
Raleigh, NC 27603

FILED Jul 26, 2007  
AT 11:08:40 am  
BOOK 01350  
START PAGE 0593  
END PAGE 0613  
INSTRUMENT # 09928

NORTH CAROLINA

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR THE WOODS AT WILKINSON CREEK**

THIS DECLARATION is made and executed this the 25<sup>th</sup> day of July, 2007, by Wilkinson Creek, LLC. ("Declarant"). Whose address is 224 East Street, Pittsboro, NC 27312 and 111 Mountain Heather Lane, Chapel Hill, NC 27517.

**WITNESSETH:**

WHEREAS, Declarant is the owner of approximately 47 acres, more or less, located in Baldwin Township, Chatham County, North Carolina as described in Deed Book 1290 Page 0781, and shown on the plat and survey of North Arrow Surveying and Mapping PLLC, as recorded in Plat Slide 2007, Pages 222 and 223, Chatham County Registry, to which plat reference is hereby made for a more particular description of same, the ("Properties").

AND WHERAS, Declarant will convey lots from the Properties subject to the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant declares the Properties and any property now owned or hereinafter acquired by the Declarant or the Declarant's successors and/or assigns, added thereto by "Phases" as described in properly recorded Amendments to this Declaration signed by the Declarant and/or by the Declarant's successors and/or assigns, shall be held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, and restrictions. The purpose of these covenants, conditions, and restrictions for The Woods at Wilkinson Creek is to protect the value, desirability, and attractiveness of the Properties. This Declaration of covenants, conditions, and restrictions for The Woods at Wilkinson Creek shall be appurtenant to and run with the land and shall be binding on all parties having any right, title, or interest in the Properties

or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1: "Association" shall mean and refer to THE WOODS AT WILKINSON CREEK HOMEOWNERS ASSOCIATION, INC., an incorporated association, (composed of Members as hereinafter defined), its successors and assigns. The Members shall have the right to incorporate the Association at any future date if they so desire.

Section 2: "Properties" shall mean and refer to that certain real property containing approximately 47 acres, more or less, located in Baldwin Township, Chatham County, North Carolina as described in Deed Book 1290 Page 0781, and shown on the plat and survey of North Arrow Surveying and Mapping PLLC, as recorded in Plat Slide 2007, Pages 222 and 223, Chatham County Registry, to which plat reference is hereby made for a more particular description of same, the ("Properties").

Section 3: "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of all the Lot Owners in the Properties. Common Area shall include any open space, any recreation areas, all cemeteries, on the Properties and the dedicated public right-of-ways as shown on the recorded plats (or future plats and phases) of The Woods at Wilkinson Creek to which plat(s) reference is hereby made for a more particular description of the same.

Section 4: "Institutional Mortgage" shall mean a bank, bank holding company, trust company, a subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company, an agency of the United States Government, Federal National Mortgage Association, or Declarant, which holds a first mortgage of public record on a lot, and the holder of any mortgage of public record given or assumed by the Declarant or any owner of a Lot, whether a first mortgage or otherwise, and their successors and assigns.

Section 5: "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision or Phase plat of the Properties with the exception of the common area.

Section 6: "Phase" shall mean and refer to any additional areas, if any, adjacent to and added to the project by the Declarant and made subject to these covenants or similar covenants, conditions and restrictions. New phases shall be subjected to these covenants by amendment to this Declaration executed by Declarant, its successors and/or assigns.

Section 7: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties with the exception of the Common Area. "Owner" shall not include those who have an interest in the Lot merely as security for performance of an obligation.

Section 8: "Declarant" shall refer to the undersigned, its affiliates, its successors, and assigns. Declarant's rights, expressly transferred herein, may be conveyed to the Association.

Section 9: "Declaration" shall mean and refer to this instrument as executed, made applicable to the "Properties" and recorded in the Office of the Register of Deeds of Chatham County, North Carolina, as the same may be amended from time to time.

Section 10: "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

## ARTICLE II PROPERTY RIGHTS

Section 1: Owner's Easements of Enjoyment: Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject however, to the easement rights reserved by the Declarant as hereinafter set forth in this Declaration, which easements shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) The right of the Association to charge reasonable admission and other fees for the use of any recreation area situated upon the Common Area.
- b) The right of the Association to suspend the voting rights and the right to the use of the recreational facilities by an Owner for any period during which any assessment against his lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- c) The right of the Association to borrow money for the purpose of improving the Common Area and its facilities and as security for such to impose upon the Common Area a mortgage, all in accordance with the Association's Articles of Incorporation and Bylaws;
- d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by a two-thirds (2/3) majority of each class of members has been recorded.

**Section 2: Delegation of Use:** Any Owner, provided that such Owner is current in the payment of his homeowner's dues as required hereinafter and is not in violation of any other covenants as are set forth herein, may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Lot.

**Section 3: Conveyance of Common Area:** Declarant shall, prior to the conveyance of the last Lot in each Phase, convey fee simple title to the Common Area for that Phase, if any, to the Association, subject to Declarant's reserved easement rights as set forth herein, but free and clear of all encumbrances except for street rights of way, sidewalks, parking areas, and utility easements. Subject to Declarant's reserved easement rights, the Association, from and after the sale and conveyance of the Common Area to the Association, shall be solely responsible for maintaining and insuring the Common Area located in each Phase.

**ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS**

Section 1: Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessments. The Declarant and its successors or assigns may designate two (2) officers or employees to represent the Declarant and its successors as Members in the Association.

Section 2: The Association shall have two classes of voting members:

Class A: Class A members shall all be owners, excepting Declarant, each of whom shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members; subject, however, to the provision that only one vote may be cast per Lot.

Class B: The Class B member shall be the Declarant who shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or
- b) On December 31, 2015.

Section 3: Except as hereinafter specifically stated, all matters to be decided by the Association must be approved by two-thirds (2/3) of the votes by Members entitled to vote at a duly called meeting of the Members of the Association.

Section 4: At the first meeting of the Association, the Members shall create a Board of Directors to handle the affairs of the Association and shall elect three Owners to serve as Directors for a two year term after which time new Directors shall be elected at a duly called meeting of the Members of the Association. The three Owners receiving the highest number of votes shall be elected as Directors. Each Owner shall have three votes, which may be voted cumulatively. In the event that a Director is unable to serve his entire term for any reason whatsoever, then the remaining Directors shall appoint another Owner to serve the rest of that Director's term. The Directors shall (by majority

rule) handle the affairs of the Association as hereinafter defined by a vote of two-thirds (2/3) of the Members at a duly called meeting of the Association.

**ARTICLE IV  
COVENANT FOR MAINTENANCE  
ASSESSMENTS**

Section 1: Creation of the Lien and Personal Obligation of Assessments: Each Owner of a Lot, by acceptance of a deed, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees for collection, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Declarant shall not be liable for any annual assessments or special assessments for any lots owned by Declarant.

Section 2: Purpose of Assessments: The assessments levied by the Association shall be used solely to promote the recreation, health, safety and welfare of the residents in the Properties. Without limiting the foregoing, assessments shall be used for payment of operation, maintenance and management of Common Areas (including entry features to The Woods at Wilkinson Creek Subdivision) and improvements thereon, property taxes, assessments and insurance for coverage of the Common Area, legal and accounting fees, management fees, normal repairs and replacements, charges for utilities for Common Area, cleaning services, expenses and liabilities incurred by the Association, in the enforcement of its rights and duties, the creation of reasonable reserves and all other expenses deemed by the Board to necessary and proper for management, maintenance, repair, operation and enforcement.

Section 3: Maximum Annual Assessment: Until January 1, 2009 the maximum annual assessment shall not exceed Two Hundred and Fifty, No/100 Dollars

(\$250.00) per Lot, payable each year at the discretion of the Board of Directors and due in full on January 1<sup>st</sup> of each calendar year.

- (a) From and after January 1, 2009 the maximum annual assessment may be increased each year not more than 10% above the prior year's assessment or in an amount equal to the percentage increase in the consumer price index, whichever is greater, without a vote of the membership. The maximum annual assessment may be increased by more than this amount only by a vote of two-thirds (2/3) of the members who are voting in person or by proxy at a meeting duly called for this purpose.
- (b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4: Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related to the Common Area provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5: Assessment for Utilities: In addition to the annual assessments authorized above the Declarant and/or assigns reserves the right to subject the real property to a contract with Progress Energy Carolinas for the installation of street lighting, which requires a continuing monthly payment to Progress Energy Carolinas by each residential customer.

Section 6: Assessments for Storm Water Controls: Any engineered storm water controls which are not the responsibility of NCDOT or Chatham County shall be operated and maintained by the Association and utilizing generally recognized Best Management Practices (BMPS).

Section 7: Emergency Assessments: The Association may levy an emergency assessment when, in the sole determination of the Board, there is potential danger to persons or property. Such emergency Assessments may be utilized to pay for preventive, protective, or remedial construction, reconstruction, improvements, repairs, clean-up or replacements. Events justifying Emergency

Assessments include but are not limited to, hurricanes, tornados, floods, and fires. Emergency Assessments shall be collectible in such manner as the Board shall determine.

Section 8: Notice and Quorum for Any Action Authorized Under Sections 3 and 4: Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Owners not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast two-thirds (2/3) of all votes shall constitute a 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 quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 9: Uniform rate of Assessment: Both annual and special assessment must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. The exception shall be any Contractor(s) who own Lot(s) in The Woods at Wilkinson Creek Subdivision for the express purpose of building home(s) to be sold to third parties. Said Contractors will be identified to the Association by the Declarant and its successors or assigns. Said Contractors(s) shall not be liable to pay any annual Assessments, Special Assessments, or Emergency Assessments to the Association; Contractor(s) will, upon closing of each Lot with the Declarant and its successors or assign, pay to the Association a one-time fee of Five Hundred Dollars (\$500.00).

Section 10: Date of Commencement of Annual Assessments and Due Dates: The annual assessments provided for herein shall commence as to all Lots on the first day of the first month following a duly called meeting of the Association wherein the members have elected to commence on the collection of such assessment. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance.

Section 11: Effect of Nonpayment of Assessments and Remedies: Any assessment not paid within ten (10) days after the due date shall become delinquent and shall be subject to a late fee of Twenty-Five Dollars (\$25.00) and shall bear interest from the due date at the rate of eighteen (18) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the Assessment, together with interest, late fees, and the costs of collection thereof including attorneys' fees. The Assessment shall be the continuing personal obligation of the Lot Owner. Any successor in title to the Lot Owner shall be held to constructive notice of the records of the Association to determine the delinquency in the payment of the Assessments by an Owner. The Association may file claims of lien in the public records of Chatham County and sue for a judgment on the lien and execute the judgment against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot. The Association may waive any late fees at its sole discretion.

Section 12: Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any Institutional Mortgagee. Sale or transfer of any Lot shall not relieve liability for any Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu hereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer except that such an extinguished lien may be reallocated and assessed to all of the Lots as a common expense. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due.

#### ARTICLE V ARCHITECTURAL CONTROL

No building, outbuilding, fence, wall, porch, patio or other structure, landscaping, or tree removal shall be commenced, erected, or maintained upon any of the Lots, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, schedule of exterior color, finish, roofing, changes in topography and/or elevation, landscaping, tree disturbance or removal and locations of the same shall have been submitted to and approved in writing by the Declarant, or successors and assigns, as to harmony of external design and

location in relation to surrounding structures, topography, and appearance. Declarant, or his successor and assigns, shall have the sole and absolute right to disapprove any plans or specifications so submitted and Declarant's decision shall be final and not subject to review or appeal. The Declarant, or his successor and assigns shall have the right to inspect all construction and/or land disturbance to ensure that such work is performed in accordance with the approved plans and specifications and Declarant shall have the right to bring action to enjoin any activity taken in violation of this provision.

As of December 31, 2015, Declarant's responsibility pursuant to this Article shall pass to and become the responsibility of the Board of Directors of the Association or and Architectural Review Committee established by the Board, said committee to consist of no less than three (3) representatives appointed by the Board. The Declarant, in his sole discretion, shall have the right to convey its (and/or a portion of its) responsibility by written letter to the Association prior to December 31, 2015.

#### **ARTICLE VI EASEMENTS**

Section 1: All of the property, including Lots and Common Area, shall be subject to any such easements for water lines, sanitary sewer lines, storm drainage facilities, gas lines, cable TV, telephone and electric power lines and other public utilities as shall be or shall have been granted by the Declarant or by their predecessors in title. Each Lot Owner shall have an easement in common with every other Lot Owner and with Declarant for access to, in over and through the Common Area for the use and enjoyment thereof. Prior to the conveyance of the Common Area to Association by the Declarant, the Declarant shall have the exclusive right, power and authority (without the necessity of the joinder of any Owner) to grant and establish upon, over and across the Common Area such other easements as the Declarant deems appropriate and/or necessary for the development of the Properties. After the conveyance of the Common Area, the Association's Board of Directors shall have the power and authority to grant and establish upon, over, under and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2: An easement over, through and to the Common Areas in each Phase is hereby reserved, conveyed and established in favor of the Declarant and its duly authorized agents and assigns, during and for the purposes of construction activity, storage of construction materials, the necessary disturbance of land for construction on any Lot and installation of driveways, sidewalks, underground drainage, and utilities. Said easement shall continue and exist so long as Declarant and its duly authorized agents and assigns are actually engaged in Construction within any Phase of the properties. No Lot Owner shall interfere or hamper Declarant, its agents or assigns, in connection with such construction.

#### ARTICLE VII USE RESTRICTIONS

Section 1: Rules and Regulations: The Board of Directors of the Association shall have the power to formulate, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space of each Lot and the Common Area.

Section 2: Use of Property: No Lot shall be used except for single family residential purposes in accordance with the applicable Zoning Ordinances of Chatham County and any other rules and regulations of Chatham County and in accordance with the restrictions hereinafter set forth. The exception shall be a Lot being used for real estate sales in The Woods at Wilkinson Creek as a "Model Home". Also, single family residential purposes may include "light-housekeeping" apartments containing no more than one bedroom.

- a) There shall be no further subdivision of any Lot shown on any recorded plat of The Woods at Wilkinson Creek Subdivision except if said subdivision is done by Declarant and/or successors and assigns.
- b) No building shall be located on any Lot nearer to the property lines as required by the Chatham County Zoning Ordinances. Abutting chimneys and overhanging eaves, gutters or roof lines are exempt herefrom. Areas on the Lot located within the front and interior building setback areas must remain in a natural or landscaped state. No buildings or other structures of any kind, other than the crossing of an entrance driveway shall be allowed in these areas. Relief from any violation of the setback violations may be granted by the Declarant at its sole discretion provided compliance with the zoning ordinances of the Chatham County are

- maintained and provided that such relief or waiver called a "Variance" is in writing and recorded in the Chatham County Registry.
- c) All dwellings shall be constructed on the Lot by a building contractor licensed in the State of North Carolina. Aforesaid Contractors must have the appropriate license, current general liability insurance and worker's compensation insurance. No dwelling shall be erected or allowed to remain on any Lot unless such dwelling shall contain at least two thousand (2,000) square feet of heated, finished living area, in the case of a one-story residence or two thousand, four hundred (2,400) square feet of heated, finished living area in the case one and one-half story or two-story dwelling. No dwelling shall exceed three stories in height. No garage constructed along with a dwelling on any Lot shall exceed the size of a three (3) car garage. Carports shall not be permitted on any Lot and all garages shall be completely enclosed.
  - d) No commercial, inoperative, abandoned, unlicensed motor vehicles or recreational vehicles, boats, or sailing vessels, farm or construction machinery and any trailers or carriers, or like equipment or mobile or stationary trailers of any kind shall be kept or permitted to remain on any Lot, without the prior written approval of the Declarant end even with such approval, such vehicles must be stored in an enclosure away from view. Under no circumstances shall any such vehicle be parked on the streets of The Woods at Wilkinson Creek Subdivision.
  - e) Swing sets. Play houses and play areas shall be unobtrusively located on the Lot.
  - f) At no time shall any Lot or parcel be stripped of its topsoil and trees, or allowed to be eroded by being excavated or neglected.
  - g) Each Owner shall maintain and preserve his or her lot in a clean, orderly and attractive condition. Maintenance and preservation of the Lot shall include, for example, the trimming of shrubs, the mowing of grass, landscaping, and the removal of trash, leaves, debris and fallen trees or limbs.
  - h) No mobile home or trailer shall be allowed on any Lot unless said trailer is being used in the construction process as a jobsite trailer by the Declarant and its successors or assigns or by a licensed building contractor during the construction process. No outbuilding shall be places on a lot unless approved by Declarant, who may reject an outbuilding without cause. No dwelling shall be moved from any other location onto a Lot.
  - i) The driveway for each Lot shall be constructed of concrete, and must be completed prior to the occupancy of any dwelling constructed on that

Lot. Driveway construction of any material other than concrete must be an approved and recorded variance as stipulated in these covenants or the Lot Owner must immediately change the driveway's construction to concrete. Each driveway must be of sufficient size to permit the off-street parking of at least two (2) automobiles. Driveways shall provide continuity of landscape, ditches, and any drainage swale and shall blend into the street. Lot Owner must use the design and location of driveways as provided by the Declarant.

- j) No lumber, brick, stone, excavated earth, cement, or other materials used for building purposes shall be stored upon any Lot longer than a reasonable time for the completion of construction in which they are used. None of these materials may be stored, or heavy equipment or vehicles parked, within the drip line of any significant tree or adjacent to the Lot during or after construction.
- k) When the construction of any dwelling has commenced, work thereon must be prosecuted diligently and must be completed within a reasonable timeframe not exceeding twelve (12) months from the date of commencement of construction; provided, however the Declarant may modify such requirements in its sole discretion. Construction commencing shall be defined as either the calendar day on which the Owner receives building permits to begin construction or when the Owner begins clearing the building envelope, whichever comes first.
- l) Each Owner shall be responsible for the costs and expenses for any road, utilities, or other infrastructure improvements necessitated by damage done as a result of the construction of improvements upon the Owner's Lot.
- m) All utility or cable lines from the public road and within the lots shall be properly installed underground. Where practical these lines should be placed in a common trench along the boarder of the driveway leading from the street to the Lot. No exposed or exterior radio or television transmission or receiving antennas shall be erected, placed, or maintained on any part of the Properties which shall exceed the height of the trees on the Lot or that can be seen from the roadway or adjoining Lot(s).
- n) No street shall be laid out or opened across or through any Lot. No fences or walls shall be erected or allowed to remain on the front portion of any Lot (the portion of the Lot located between the dwelling and the street that the dwelling faces). No fences or walls shall be erected or allowed to remain on the remainder of the Lot without the prior written consent of the Declarant. Any such approved fence must be constructed of approved materials, limited in height and length and be approved in all respects by

Declarant, subject to the community architectural control guidelines. Notwithstanding the foregoing, fencing may be placed in Common Areas by Declarant sole at Declarant's option.

- o) No noxious or offensive activity shall be conducted upon any Lot of Common Area, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance, (unnecessary or excessive or offensive noise, disturbance, light or odor which destroys the peace, quiet and/or comfort of other Owners) to neighborhood or to the occupants of any adjoining Lots. No industrial, business, or other commercial activity whatsoever is permitted on a Lot, including but not limited to a boarding house, fraternity or sorority house, business or manufacturing or antique gift, or any kind of shop. The exception shall be the aforesaid "Model Home." No animals other than a limited number of dogs and/or cats kept as household pets shall be kept or allowed to remain on any Lot, for any purpose. All pets must be restrained at all times. No dogs and/or cats may be kept, bred and/or maintained on the Lots for commercial purposes. No owner shall commit or permit any nuisance or any illegal activity on or about the Property or Common Area.
- p) No structure of a temporary character, such as but not limited to trailers, tents, shacks, garages, travel trailers, or recreational vehicles, barns or other outbuildings shall be used or permitted to remain on any lot or the Common Area at any time as a residence, either temporarily or permanently, or for any other purpose of whatsoever nature or kind.
- q) Clothes lines shall be unobtrusively located in the backyard of any Lot and satellite or other receiving devices exceeding a dish diameter of thirty-six (36) inches shall not be allowed or maintained on any Lot or in the Common Area.
- r) In the event that individual mailboxes shall be of a standard size and design; and the design, size and location of such mailboxes must be approved in writing by the Declarant prior to installation of such mailbox on any Lot.
- s) Solar panels and/or collectors constructed on any lot shall be built according to the community Architectural Control Guidelines, and their design and location shall be submitted to the Declarant and/or assigns for written approval.
- t) All outdoor lighting fixtures which are freestanding and thus not affixed to the house or other approved structures shall be of the type and design as approve in writing pursuant to the Architectural Review Process. Furthermore, each Lot shall have at least one of these lighting fixtures

placed adjacent to the driveway entrance in a location designated by the Declarant or the Declarant's agents and/or representatives. Each owner shall be responsible for the cost and expense of procuring and installing said lighting fixture. Declarant may waive the requirement of a fixture at the driveway entrance to a Lot at its sole discretion.

- u) Owners of each Lot shall be responsible for providing adequate garbage disposal for their property. Garbage shall not be permitted to remain uncollected on any lot for more than two successive weeks. Trash, garbage, or other refuse shall be kept in sanitary containers and out of view from the public streets in The Woods at Wilkinson Creek Subdivision. No lot shall be used or maintained as a dumping ground for trash, refuse or garbage or other waste or hazardous waste. Relief from any requirement or violation may be granted by the Declarant at its sole discretion
- v) No firearms of any kind shall be discharged on the Properties. No Hunting, trapping, or other taking of wild game shall be allowed.
- w) No trail bikes, go carts or similar motorized vehicles shall be operated on the Properties.
- x) Outdoor fires including fires to dispose of waste are prohibited. Fire pits are allowed if approved in writing by the Declarant and/or assigns.
- y) While attractive landscaping is encouraged, no owner may plant, cultivate, grow or otherwise have a garden for the production of fruits, vegetables or any other food item, unless decorative in nature, in the front yard of any Lot. Other suitable locations on the Lot may be allowed by the Declarant at its sole discretion.

Section 3: Sign: No signs of any kind except those advertising an individual lot "For Sale" or "For Rent" and those signs used by the Declarant in the advertising of the Properties shall be displayed for public view in and about the premises. Contractors are allowed one sign announcing the contractors' services on the Lot during construction. Political signs may be allowed fewer than forty-five (45) days before a primary and/or general public election, provided that they otherwise conform to appropriate municipal and/or Chatham County ordinances.

Section 4: Items to be Approved by Association: Without the prior written approval of the Association as to location, style, type, size and composition, no antennae, aerials, pole towers, solar collectors or similar structures, no fuel tanks or any similar type of storage receptacle, no mailboxes or newspaper containers, and no temporary structures such as sheds, mobile homes or trailers or tents may be placed upon any Lot or the Common Area. Declarant may place

one or more construction trailers on any Lot or the Common Area during construction provided the same are removed within a reasonable period of time after construction in that area has been completed. No travel trailers or recreational vehicles shall at any time be used as a residence either temporarily or permanently on any Lot.

Section 5: Utility Easements: Easements for installation and maintenance of utilities and for drainage are hereby reserved over and across the side ten (10) feet and the rear ten (10) feet of each Lot. Utility and drainage easements can be increased to a width deemed necessary by Chatham County. If said easement is increased beyond the aforesaid ten foot width and/or location and said easement materially damages the value of the Lot than the Owner can seek reimbursement with support of the Association for said damages from the Chatham County.

### ARTICLE VIII INSURANCE

Section 1: Ownership of Policies: All insurance policies insuring the Common Area and providing for liability thereon shall be purchased by the Association for the benefit of the Association and its mortgagees as their interests may appear.

Section 2: Coverage: All buildings and all improvements located within the Common Area and facilities shall be insured under a master policy of fire and extended casualty insurance in an amount equal to the maximum insurable replacement value (100% of current replacement costs) as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage and liability insurance coverage in an amount deemed proper by the Association, but not less than One Million Dollars (\$1,000,000) per occurrence.

Section 3: Premiums: Premiums for insurance policies purchased by the Board of Directors shall be paid by the Board of Directors out of the Association's funds as a common expense from the Assessments provided for herein.

Section 4: Proceeds: All insurance policies purchased by the Board of Directors shall be for the benefit of the Association and the Lot Owners and shall provide that all proceeds thereof shall be payable to the Board of Directors as insurance trustees under this Declaration. The sole duty of the Board of Directors as insurance trustees shall be to receive such proceeds and to hold the same in trust

for the purposes elsewhere stated herein or stated in the Association's By-Laws.

Section 5: Distribution of Proceeds: Proceeds of insurance policies received by the Board of Directors as insurance trustees shall be held and paid to defray any and all costs of reconstruction, repair or liability insurance considerations. Any proceeds remaining after defraying such costs shall be distributed in equal shares to members of the Association in good standing.

#### ARTICLE IX GENERAL PROVISIONS

Section 1: Enforcement: The Association, Board of Directors, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of any future right to do so.

Section 2: Reserved Right of Declarant: Declarant reserves the right to do all things reasonably necessary or proper to merge the Owners of any Lots in subsequent Phases with the Association. Any such merger, when and as it occurs, shall be subject to Declarant and/or successors and assigns herein retaining control of development and construction in all Phases of the Properties, including those Phases so merged, until such time as Class B membership in the Properties shall no longer exist as set forth in Article III herein. At all times the Board of Directors of the Association shall have the same reserved right but the failure to accomplish such a merger shall not impose any liability upon either Declarant or the Board of Directors.

Section 3: Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision herein contained which provisions shall remain in full force and effect.

Section 4: Amendment: The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time by an instrument signed by not less than two-thirds (2/3) of members entitled to vote at a duly called meeting of members of the Association and signed by a proper officer of the Association. Any amendment must be duly executed and recorded in the office of the Chatham County Register of Deeds.

**Section 5: Mortgagee's Rights:** An Institutional Mortgagee, or the insurer or guarantor of an Institutional Mortgagee, shall be entitled, upon written request, to receive copies of this Declaration, the By-Laws, Rules and Regulations, if any, and Articles of Incorporation of the Association, entitled to inspect the books and records of the Association during normal business hours or under other reasonable circumstances; entitled to receive at no additional cost the annual audited financial statement within ninety (90) days following the end of the fiscal year; entitled to receive written notices of meetings of the Association and to designate a representative to attend all such meetings; entitled to receive timely notice of any substantial damage to or destruction of any part of the Common Area and facilities; entitled to receive notice if any part of the Common Area and facilities are subject to a condemnation or eminent domain proceeding or are otherwise sought to be acquired by a condemning authority; entitled to receive notice of any sixty (60) day delinquency in the payment of assessments or charges of any Owner of any Lot upon which that mortgagee, insurer or guarantor holds a mortgage; entitled to receive notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association for the Common Area; and entitled to receive notice of any proposed action which requires the consent of a specified percentage of mortgage holders.

**Section 6: Reserved Rights of Lot Owners:** No Lot Owner shall be subject to a restraint imposed by the Association upon his right to sell, transfer, or otherwise convey his Lot. Under no circumstances shall the Association have a right of first refusal upon the sale and conveyance of any Lot. No Lot Owner shall be subject to any restraint imposed by the Association upon his right to mortgage his Lot with whomever or whatever institution and upon those terms and conditions the Lot Owner is willing to accept.

**Section 7: Contracts:** Any contract, lease or agreement entered into by the Association on its own behalf must be terminable by either party without cause upon not more than ninety (90) days notice to the other party. If so terminated, no termination fee shall be required to be paid to or by either party.

**Section 8: FHA/VA/FNMA Approval:** As long as there is a Class B member, the following actions may require the prior approval of the Federal Housing Administration, the Veterans' Administration or the Federal National Mortgage Association: Annexation of additional properties to The Woods at Wilkinson

Creek Subdivision (which shall not be applicable to the phasing of the project as set forth herein), dedication of Common Area or encumbering the Common Area in any phase with a lien.

Section 9: Applicability of Declaration, By-Laws, Rules and Regulation: All Lot owners, tenants and occupants of Lots shall be subject to and shall comply with the provisions of the Declaration of Covenants, Conditions, and Restrictions for The Woods at Wilkinson Creek Declarations, the published By-Laws for The Woods at Wilkinson Creek Homeowners Association, Inc., and the Community Architectural Control Guidelines, as the same may be amended from time to time. All provisions shall be deemed covenants running with and appurtenant to the land.

Section 10: Notice: Any notice required or permitted to be given by this Declaration shall be given or made in writing by personal delivery or by certified mail addressed to the Declarant at:

Wilkinson Creek LLC  
224 East Street  
Pittsboro NC 27312

and:

111 Mountain Heather Lane  
Chapel Hill, NC 27517

To the Owner at:

The last known address of the owner as it appears on the records of the Association at the time of such delivery of mailing

or to the Association at:

Wilkinson Creek LLC  
224 East Street  
Pittsboro NC 27312

and:

111 Mountain Heather Lane  
Chapel Hill, NC 27517

Until the Association is incorporated and then to the Registered Agent of the Incorporated Association as listed with the North Carolina Secretary of State's office.

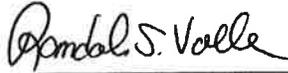
Any notice given in accordance with this section shall be deemed effective. Each party may give notice to each of the other parties of an address change, which thereafter, until changed again by like notice, shall be the address of such party for all purposes of this Declaration.

Section 11: Provisions on Plats: Any addition to this Declaration, and any subsequent Declarations and Amendments, the Property shall be subject to the additional covenants, restrictions, reservations and other terms and provisions set forth in the plats of portions of the Properties, which are recorded in the Public Records of Chatham County.

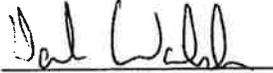
Section 12: Captions: The Captions used hereon are used solely as a matter of convenience and shall not be relied upon or used in construing the text of this Declaration or any amendment hereto.

IN WITNESS WHEREOF, Declarant has hereunto set his hand and seal, and caused this Declaration to be executed on the day and year first above written.

WILKINSON CREEK LLC  
a North Carolina Limited Liability Company

 (Seal)

By: Randolph S. Voller  
Managing Member

 (Seal)

By: Daniel Walsh  
Managing Member

NORTH CAROLINA

COUNTY OF CHATHAM

I Patricia Delaney Eckel, a Notary Public in Durham County, North Carolina, do hereby certify that Daniel Walsh and Randolph S. Voller, Managing Members of Wilkinson Creek LLC., a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing document as Managing Members of the limited liability company.

Witness my hand and notarized seal, this 25<sup>th</sup> day of July, 2007.



Patricia Delaney Eckel  
Notary Public

My commission expires: 9/20/2011