

# Weldon Downs Townhome Association, Inc. Architectural/Property Use Guidelines

[www.allenton.com](http://www.allenton.com)

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## FOREWORD

Provisions for the “Rules and Regulations” and the authority for enforcement are contained in the Declaration of Restrictions and Covenants and Bylaws for the Weldon Downs Townhomes Association, Inc. and the North Carolina Planned Community Act. Each Property Owner, by acceptance of a deed to property within Weldon Downs, is obligated to comply with the Rules and Regulations.

The Guidelines help us maintain an attractive and respected neighborhood. This in turn enhances both the pleasure and satisfaction of living here and the market value of our properties when the time comes to sell. The goal of this booklet is to set forth in a simplified manner the restrictions, conditions and covenants on all units located within Weldon Downs.

These Guidelines are in effect at all times and must be adhered to by residents, visitors, family, guests and tenants. It is the responsibility of Property Owners to properly inform their families, guests, visitors and tenants of the Guidelines and information contained herein. Ignorance of the information is not an acceptable reason for non-compliance. It is hoped that everyone will recognize the good intentions in adopting property use guidelines and comply without having to invoke due process.

## PART 1 - ARCHITECTURAL RULES

In order to ensure the continued value, desirability and attractiveness of our neighborhood, the following architectural guidelines have been established. They contain most of the basic restrictions and rules that apply to the building or altering of any property within Weldon Downs, and are intended for the good of all residents. These rules interpret, clarify and implement the provisions of the Declaration by setting forth the standards and procedures for the review and approval of proposed improvements or alterations, and guidelines for architectural design, placement of improvements, color schemes, exterior finishes and materials. It is hoped that these Guidelines will assist you in planning any proposed project.

### **Section I: Administrative Oversight**

The Architectural and Landscape committees are now combined into a single committee to be known as the ACLD -- the Architectural Control & Landscape Design Committee. This is current best practice for HOAs in this area. The ACLD provides administrative oversight of architectural and landscape change applications. The applications included in this document retain the old title of the ARC but will remain the appropriate forms to use.

These rules and use guidelines are implemented by the Board of Directors, as provided for in the Declaration. The rules contained herein may be amended, adopted or repealed, as appropriate, after review, guidance and approval of the Board. Per Weldon Downs covenants, the ACLD may, or may not be, the same membership as the Board of Directors. Except as otherwise provided in the architectural rules, no improvement will be commenced or made to any property until the plans and specification showing the nature, color, kind, shape, height, materials and location have been submitted to the ACLD and approved in writing by the Association's Board of Directors.

The ACLD shall consist of three or more persons appointed by the Board of Directors. The ACLD is responsible for the initial review of proposed architectural or site changes and will make recommendations to the Board of Directors with respect to the approval of change requests proposed by homeowners.

### **Section II: Scope of Architectural Control**

Essentially, all changes, permanent or temporary, to the exterior appearance of a building or property are subject to review by the ACLD and approval of the Board. The review process is not limited to major additions or alterations, such as adding a room, deck, or porch. It includes changes in color, materials, or exterior area, including common areas. Approval is also required when an existing structure is to be removed.

If there is any doubt as to whether or not a proposed exterior change is exempt from design review, and approval, homeowners should first seek clarification from the ACLD or the Board before proceeding with the improvement.

### **Section III: Application Review Procedures**

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

An architectural application for the approval of plans and specifications for any proposed improvements must be submitted, along with a complete set of scaled plans and specifications for the improvements, by mail, personal, or electronic delivery to Weldon Downs Homeowners Association, c/o Allenton Management, Arnold Spell, PO Box 3250, Durham, NC 27715. [arnolds@allenton.com](mailto:arnolds@allenton.com).

A copy of the application form is included in this handbook and additional copies are available from the Property Manager and on the website at [www.weldondownshoa.com](http://www.weldondownshoa.com). Incomplete applications will be returned to the applicant with a statement of deficiencies which must be remedied in order to be considered for review. Supporting documentation must be included, which show a description of the proposed improvement(s), a property and foundation survey or similar site plan showing the location of all existing structures, size and height of proposed structure, and modifications as they will appear after all back filling and landscaping are completed. Drawings should also include a description of colors, construction materials, lighting schemes and other details affecting the exterior appearance of any proposed improvement.

Every application is evaluated on a case-by-case basis. In some cases, improvement projects greatly affect the surrounding neighbors. Although final approval rests with the ACLD, the Committee reserves the right to notify your immediate neighbors of your proposed plans. Notifying your neighbors is always encouraged.

The ACLD is required to approve or disapprove any proposed improvement within thirty (30) days after the receipt of a properly completed application. Homeowners who have submitted architectural review applications will be given written notice of the decision of the ACLD.

Note that it is the sole responsibility of Property Owners to ensure compliance with all relevant Durham City-County building codes and regulations. All required City-County permits **MUST BE SUBMITTED PRIOR** to commencing improvements/construction. Should the applicant wish to alter his/her approved plan, he/she must make written application to the ACLD. The Board will respond in writing within ten business days receiving the request

After receiving approval, work must be completed within ninety (90) of the date the approval was received, or within a scheduled approved by the Board. If the work is not completed within 90 days, and an extension has not been approved by the Board, then the approval is revoked, and the homeowner must resubmit for approval. All work sites should be maintained daily to ensure that there is a minimum of unsightly debris left at the site overnight. It is important in consideration to the residents who live in close proximity to be shielded from unnecessarily untidy workmanship.

**Appeal Procedures.** In the event a homeowner is not satisfied with the decision reached by the ACLD or the Board, the homeowner may appeal decisions to the Board of Directors. A homeowner may appeal a decision by submitting a written request to the Board within fifteen (15) days of receiving notice. This request should include any new or additional information which might clarify the proposed improvement or demonstrate its acceptability. The Board may, at its discretion, conduct an informal hearing related to the appeal. The Board will respond in writing to an appeal within fourteen (14) days from the date of receipt of an appeal.

If a Property Owner commences construction or makes an improvement without obtaining required written approval, the Owner may be subject to remedies as specified in the Rules Enforcement Policy and Schedule of Fines.

#### **Section IV: Architectural Design Guidelines**

Improvements requiring a contractor's license will be constructed by a contractor licensed in the State of North Carolina. All exterior improvements permitted to be placed or constructed on a lot must be in compliance with the Durham City-County Ordinances, and conform to applicable building codes.

No Owner will do any work, construct any improvement, or place any landscaping which alters or interferes with the drainage for the Owner's or any adjacent property or Common Area. All construction activity will be limited to between the hours of 7:00 am and 8:00 pm Monday through Saturday. No work will be permitted on Sundays or Holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day). If an emergency arises, early evening or Sunday, construction may be permitted.

**Additions:** Major additions include improvements such as rooms, porches, sunrooms, patio extensions that are permanent installations attached to the house. The following standards apply:

1. The design of major additions must be the same or compatible in design, scale, materials, and color with the house. This includes but is not limited to roof pitch, roofing, siding, and brick. Windows and doors must match those used in the existing house and should be located to relate well with existing windows and doors.
2. A Durham City-County building permit is required and the same set back distance from property lines apply as required for the house.
3. The location of the addition must not unnecessarily restrict the view or the amount of sunlight and natural ventilation on adjacent properties.
4. If changes in grade or other conditions that will affect drainage are anticipated, they must be indicated in the application. Generally, approval will be denied if adjoining properties are adversely affected by changes in drainage.

**Awnings:** May not be installed.

**Clotheslines:** Clotheslines or similar apparatus for the exterior drying of clothes or bedding are prohibited.

**Doghouses & Pet Structures:** Are not allowed.

**Driveways & Parking:** Driveway extensions, modifications or additions may not be installed. Owners with a two-car driveway are **strongly** encouraged to park their vehicles in their garage or driveway. If unable to park vehicles in their garage, they should park extra vehicles in their

driveway, and avoid street parking unless it is not possible. Owners of units without a driveway are allowed to park one vehicle directly adjacent to their garage door, at an angle such as not to obstruct the passage of other cars in the alleyway. All persons parking a vehicle on the street should be mindful of placing the vehicle so that it is not directly behind the driveway of another unit. Due to limited space for vehicles, and the narrowness of Cofield Circle, all drivers are urged to exercise utmost caution and speed control to maximum safety of residents, pets and pedestrians. Vehicles may not be permanently parked on the street, nor stored in the street for non-residents at any time. Street parking is intended to be used for guest parking only, on a time-limited basis.

No recreational vehicle, trailer, boat or commercial vehicle shall be regularly parked or stored in any driveway, or on Cofield Circle.

**Exterior Surfaces:** All alterations require prior approval. Exterior materials and colors have been selected and approved to present a consistent architectural theme.

**Fences:** All fences must be approved and must be designed to conform to the design of the existing railings or brick wall (i.e. black wrought iron, designed to match the existing railings, or matching brick). All fences must be maintained in a good sound structural manner, and must match existing railings. Maintenance will be the responsibility and expense of the individual property owner.

**Flags & Flagpoles:** Permanent installation of flag poles is not allowed. Approval is not necessary to display a flag. Homeowners are permitted to display one flag. The flag may not exceed twenty-four (24) square feet in size and must be mounted properly on the house on a removable staff attached to the front of the house or a pillar at an incline. Any displays of the United States flag or other political jurisdictions must be in accordance with Federal and City-County flag law and etiquette.

**Landscaping:** All major landscaping modifications require prior approved. Landscaping or other alterations may not change, disturb, affect, or alter the drainage for the homeowner's or any adjacent property. Care should be exercised in the planting and maintenance of trees and shrubs to prevent obstruction of sight lines. Application and review are not required for the planting of annuals and perennials in existing beds directly attached to the townhome. See PART 2: Common Areas for more information regarding landscaping guidelines.

Any proposed improvement which is of such a scale or type as to be potentially inconsistent with the scale and design features of the house, adjacent properties and the surrounding area is not approved.

#### POLICY REGARDING GUIDELINES FOR REVIEW AND APPROVAL OF HOMEOWNER LANDSCAPING IN COMMON AREA FOR WELDON DOWNS

For a Weldon Downs homeowner to request approval for landscaping any common area within the community, the following guidelines and steps must be followed:

1. The common area that the homeowner is requesting to landscape must be an area that is adjacent to his/her property.
2. The landscaping plan must be consistent with, and not in conflict with the City approved Master Plan for landscaping for the community.
3. The landscaping plan must be submitted to the Architectural Control & Landscape Design Committee for determination that the proposed landscaping plan is consistent with the current overall landscaping plan for the community, and that the plan compliments the plant materials that are currently in use within the community. The ACLD may provide comment and suggested revisions to the homeowner.
4. The homeowner must agree to maintain the landscaped area, and to assure that this ongoing maintenance responsibility passes to any subsequent owners; this landscaping maintenance responsibility must be disclosed to any prospective buyer on the required seller disclosure forms prior to sale; alternatively, the homeowner will return the area to its prior state at the homeowners sole expense.
5. In the event that a subsequent owner does not maintain the added landscaping, the HOA reserves the right to remove the additional plantings, and return the improved area to its pre-amended state (i.e., covered with pine straw).
6. If the ACLD determines that the plan passes no. 1-5 above, the landscaping plan will be presented to all homeowners for their review and consideration. This can be accomplished by email communications to all homeowners, with a maximum 7-day response time.
7. The plan must be approved by a simple majority (minimum of twenty) of homeowners in Weldon Downs. If a homeowner does not vote within a defined time when solicited, it will be considered to be an affirmative vote. Hardscape requires a two-thirds majority; plantings require a simple majority.
8. Upon approval, the requester should draft a landscaping agreement with the ACLD outlining the plan, approval and conditions for ongoing maintenance which will be signed by the homeowner, the Board President or the chairperson of the ACLD, and maintained in the HOA records by the Property Manager.
9. Since this a common area that prior to new landscaping was covered with pine straw and/or mulch by Weldon Downs, the WD HOA will continue to provide/maintain the pine straw and mulching services in improved area to provide continuity from property to property.

**Lighting:** All exterior lighting modifications require prior approval. Low voltage lights installed within eighteen (18) inches of the ground in flower beds immediately surrounding the townhome do not require architectural approval. Seasonal holiday decorations are exempt from these requirements and must be removed no later than thirty (30) days after the date of the holiday.

Exterior lighting, such as flood lighting, motion sensors, and entrance lighting, will not be directed outside of the owner's property. No colored lights are permitted, except holiday displays. Proposed additional lighting will not be approved if it will result in an adverse visual impact to adjoining neighbors due to location, wattage or other features.

**Patios:** All patios require prior approval

**Recreational & Play Equipment:** Must be kept in the owner's garage when not in active use. Playing in the street is not encouraged, due to obvious safety concerns. Under no circumstances will any equipment be utilized between the hours of 10:00pm and 7:00am.

**Satellite Dishes & Antennae:** Satellite dishes and antennae are not permitted to be attached to any building. Ground mounted dish devices should be located in the back yard, and shielded to the extent possible by landscaping. Antennae are not permitted.

**Storage Sheds & Other Outbuildings:** Storage sheds and outbuildings are not permitted. See also **PART 2, Parking and Vehicle Restrictions**, number 2.

**Walkways:** Approval is required for a change to an existing walkway or the construction of a new walkway.

## PART 2 - PROPERTY USE GUIDELINES AND RESTRICTIONS

**Residential Use:** All properties within Weldon Downs are to be used for single family residential purposes only. In no event will a residence be occupied by more individuals than permitted by applicable zoning laws or governmental regulations. Home businesses will be permitted as long as such they do not require outdoor storage of equipment, inventory, vehicles, or employ anyone other than the owner, or attract more than one delivery truck per day. A home business cannot create any visual or audible presence to the neighborhood. In keeping with section **5.4.4 Home Occupations | Durham Unified Development Ordinance**, some of the relevant sections are excerpted below:

1. No display of goods, products or services shall be visible off site (no signs).
2. No garage, tag, estate, yard or any other such kind of sale to the public will be allowed within Weldon Downs.
3. No goods, products or commodities bought or secured for the express purpose of resale shall be sold at retail or wholesale on the premises.
4. Traffic and parking associated with the use shall not be detrimental to the neighborhood or create congestion on the street where the home occupation is located.
5. Vehicles used primarily as passenger vehicles shall be permitted in connection with the home occupation.
6. No equipment or process shall be used in connection with the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable off-site.
7. No hazardous materials can be manufactured, stored, processed or disposed of on the premises.
8. The home occupation shall be clearly incidental to the primary use as a residence. The total square footage devoted to the home occupation shall not exceed 30% of the floor area of the livable portion of the dwelling.
9. Tutoring or instructional services shall have no more than five students at one time.

The Durham Unified Development Ordinance is current through legislation effective: Durham County: February 1, 2020 City of Durham: February 1, 2020



**Common Areas:** All common areas are for the use and enjoyment of all residents of Weldon Downs. They are pre-populated with trees, per requirements of all original site plans and development permits. Any changes, amendments, improvements and alternate use plans must be requested in writing to the ACLD and/or Board for consideration. Before any change to an existing common area can be approved, it must be approved by a majority (two-thirds for hardscape, simple majority for plantings) of the property owners. All other rear common areas will be maintained by the HOA in a semi-natural state (trees, pine straw ground cover) unless changes are subsequently approved by the Board. Alterations to the areas directly behind a perimeter unit that have been approved by the Board/ACLD are subject to maintenance by the owner (see Policy Regarding Guidelines for Common Area/Landscape.) Front common areas will generally conform to original site plan designs, with oversight for maintenance and improvement by the ACLD.

**Garbage and Other Materials:** No rubbish, trash, garbage, refuse, tree limbs, clippings, trimmings or other waste material (“Trash”) will be kept or permitted on the lot except in a sanitary covered container kept in a location which is not visible from the street or adjacent properties. Garbage cans and recycle bins should be placed outside no sooner than Thursday evening (for Friday collection) and returned to the garage as soon as possible after collection.

Owners are responsible for any garbage that blows out of the recycle bins prior to pick up, and should clean up all debris promptly.

**Household Pets:** A reasonable number of household pets (such as dogs and cats) may be kept within an Owner’s property so long as the same are not kept, bred or maintained for commercial purposes. No animals, livestock or poultry of any kind shall be kept, bred or raised within any property. **Pet Owners will be responsible for the prompt removal and proper disposal of pet wastes. Dog owners should be considerate of their neighbors, and not walk their dogs in the yards of other homeowners.**

Each person bringing or keeping a pet on the properties will be solely responsible for the conduct of his/her pets. The Association, its Board, officers, employees and agents will have no liability to any Owners, their family members, guests, visitors and tenants for any damage or injury to persons or property caused by any pet.

**Nuisances and Noise Control:** All homeowners have the right to peaceful enjoyment of their respective properties. No noxious or offensive activities will be carried out or conducted on properties which are or could become an unreasonable annoyance or nuisance to neighboring property owners. Please be considerate of those living in close proximity to you and keep the noise volume as low as possible.

**Parking and Vehicle Restrictions:** The following parking and vehicle restrictions will apply within the properties:

1. No recreational camping vehicles, motor homes, boats, trailers or inoperative or unlicensed vehicles may be kept on properties unless kept inside the garage.
2. No PODS or other external storage units are allowed, with the exception of a POD for a maximum of 72 hours, including delivery, loading and removal, during active move-outs by residents. Prior notice and approval by the management company and ACLD committee are required. If external storage is required due to an emergency, such as flood or fire, that render the townhome uninhabitable, such storage must be located offsite.
3. No tractor trailers, buses, or other commercial type vehicles (as defined in NC Vehicle and Traffic Law) may be parked or stored on driveways or in the street, with the exception for private or commercial moving vans or other vehicles when actually engaged in loading or unloading the personal property of an Owner.
4. No tarps or other coverings may be used on any vehicle parked on properties.

The Association will have the authority to tow or restrain by use of devices such as the “Denver Boot”, at the Owner’s expense, any vehicle parked or stored in violation of this Paragraph. The Board shall post such notices or signs within the Common Area as may be required by law to effectuate this towing provision.

**Signs:** No sign, poster, billboard, banner, or advertising device of any kind, including commercial and similar signs will be erected or maintained on any property or on any portion of a structure visible from the exterior, except:

- One professional ‘For Sale’ or “For Rent” sign of not more than five square feet in area;
- Two security signs, each not exceeding a total of sixty-four (64) square inches in area.
- The Association retains the right to erect street signage and other identifying signs on the Common Area.

**Storage:** Storage of personal property within any property will be entirely within enclosed storage areas, such as the crawl space or garage.

## PART 3 - GENERAL INFORMATION

### **Management Company:**

Arnold Spell  
Allenton Management PO Box 3250  
Durham, NC 27715-3250

919-490-9050

arnolds@allenton.com

**Addressing Complaints:** Issues and complaints should be addressed to the management company, and forwarded by the property manager to the board, for resolution, as appropriate.

**Board of Directors:** Directors are elected each January at the annual meeting, to serve a three-year term. Please refer to [weldondownshoa.com](http://weldondownshoa.com) or contact the management company for a current list of directors. There are five members of the Board of Directors, in addition to heads of the ACLD and social committees. The Board meets bi-monthly on the third Tuesday, at 5:45 PM. Notices are emailed to all residents approximately two weeks before the board meeting. In addition, the schedule is published on the association website.

**Annual Meeting Notice:** Under current NC Real Estate Law, it is permissible to conduct annual meeting notices, and other relevant notices, by electronic delivery (email or text) rather than U.S. Postal Service, within two weeks prior notice to all owners.

**Weldon Downs Website:** [www.weldondownshoa.com](http://www.weldondownshoa.com) Since the website contains proprietary information, such as the neighborhood directory, it is restricted to residents of Weldon Downs only. Others who seek permission to use the website are denied access.

**Copies of Documents:** Property owners should have received copies of the Declaration and Bylaws of the Weldon Downs Townhome Association, Inc. and the Covenants, no later than the time of closing on their townhome. Additional copies can be downloaded from the website. In addition, hardcopy versions of these documents in their original form are on file with the Clerk of Courts for Durham County, North Carolina.

**Revisions of Rules & Regulations:** These Rules and Use Guidelines will be reviewed from time to time by the Board and republished if any changes are deemed necessary. Any such change to these Rules and Regulations will become effective upon being communicated to all owners by electronic means. The Rules and Regulations should not lessen the minimum standards required by the Declaration. In the event of any conflict between the Rules and Regulations and the Declaration of Restrictions and Covenants of the Weldon Downs Townhome Association, the provisions of the Declaration will control and prevail.

**Service/Repair Requests:** All requests for service or repair issues should be forwarded to the management company.

**Documents Included:**

- Rental Addendum
- Architectural Review Application
- Policy Regarding Guidelines for Review and Approval of Homeowner Landscaping in Common Areas of Weldon Downs
- Declaration of Covenants
- Bylaws
- Amendments to the Bylaws 2018
- Rules Enforcement Policy

**Weldon Downs Townhome Association, Inc.**  
**Property Rental Guidelines – Addendum to the Rules & Use Guidelines**  
**October 2013**

Weldon Downs is a community of private townhomes, intended to be owner-occupied. While renting for any reason is not encouraged, the Board recognizes that personal circumstances may change, and owners may find it necessary to rent their units for a finite period of time. Before making the decision to rent, and before executing a rental agreement between owner and tenant, owners need to be aware of the following stipulations that have been adopted and approved by the Weldon Downs Townhome Association (the “Association”). A copy of the executed lease agreement must be submitted in writing to the Board of Directors of the Association prior to occupancy by the tenant.

The owner is responsible for supplying the tenant with a copy of each of the governing documents, including the Use Guidelines Book, prior to signing the lease. The property owner is ultimately responsible for the conduct of his/her tenant(s).

The minimum duration of the lease is one (1) year.

The lease agreement **must include specific wording** to address:

- Advise that the tenant is subject to the rules and regulations established by the Association Restrictive Covenants. Tenants are expected to abide by the same rules that would apply to the owners. The Association has the right to enforce the Restrictive Covenants and Bylaws against both Owner and Tenant.
- Requirement that any renter of a unit shall be required to obtain an HO4 Renter’s Policy with a minimum Three Hundred Thousand Dollars (\$300,000.00) liability coverage limit (see Restrictive Covenants, Article V – Insurance and Casualty Losses)
- It is the responsibility of the tenant to maintain the grounds, common areas, as well as private property, in keeping the Association’s policies. Owner and tenant will be jointly liable for any damage to property and common areas owned by the Association.
- No more than two unrelated persons shall occupy a rental unit.
- The owner is responsible for all dues and assessments, regardless of the arrangement the owner and tenant may make between themselves for payment of these monies.
- Subletting the property is strictly prohibited.
- Satellite dishes may not be installed in any outside location.
- If acceptable to the owner to allow pets, no more than two pets are allowed in any unit.
- There may not be any exotic pets kept on any premises. Owner and tenant will be jointly liable for the behavior of any pets living in the unit, and for any damage to any person or to the grounds, common areas or private property within the community. Tenants must be advised that they are expected to monitor their pets and clean up after them outside.
- The tenant must complete an information/contact sheet and advise the Association within ten (10) days of any changes.
- No more than two vehicles will reside permanently within Weldon Downs, and will kept garaged appropriately, not in the street.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

**Weldon Downs Townhome Association, Inc.**  
**ARCHITECTURAL REVIEW COMMITTEE**  
**APPLICATION FOR ALTERATIONS AND ADDITIONS**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT: HOME \_\_\_\_\_ WORK: \_\_\_\_\_ EMAIL: \_\_\_\_\_

REQUEST FOR APPROVAL (Please provide a detailed description of the nature of the request. On the back of this form, please include measurements, location of your house and requested improvement shown. Also include the survey and building permit. Send completed form to Arnold Spell, Allenton Management, PO Box 3250, Durham, NC 27715-3250 by mail or scanned email to [arnolds@allenton.com](mailto:arnolds@allenton.com))

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ESTIMATED STARTING DATE: \_\_\_\_\_ ESTIMATE COMPLETION DATE (Within 90 days): \_\_\_\_\_

I have read a copy of the Weldon Downs Covenants covering permissible exterior alterations. Permission is granted to members of the ARC to inspect my property, if needed. Homeowner(s) will be notified of response no later than 30 days after application date.

OWNER(S)' SIGNATURE: \_\_\_\_\_ Date \_\_\_\_\_

In some cases, improvement projects greatly affect the surrounding neighbors. Although final approval rests with the Architectural Review Committee, the Board reserves the right to notify your immediate neighbors of your proposed plans. Please list the names of all neighbors whose properties border yours, including property owners on both sides, to the rear, and across the street, from your property. Next to their names, indicate by "Yes" or "No", whether you have spoken to them regarding your plans.

NAMES:	YES	NO
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

***Do not write below this line. Board use only***

Date Received by Allenton \_\_\_\_\_ Easements \_\_\_\_\_ Within Guidelines \_\_\_\_\_

Date Received by ARC \_\_\_\_\_ Date ARC received \_\_\_\_\_ Approved \_\_\_\_\_

Approved with conditions \_\_\_\_\_

Disapproved (reason) \_\_\_\_\_

Approved by \_\_\_\_\_

POLICY REGARDING GUIDELINES FOR REVIEW AND APPROVAL OF HOMEOWNER  
LANDSCAPING IN COMMON AREA FOR WELDON DOWNS

For a Weldon Downs homeowner to request approval for landscaping any common area within the community, the following guidelines and steps must be followed:

1. The common area that the homeowner is requesting to landscape must be an area that is adjacent to his/her property.
2. The landscaping plan must be consistent with, and not in conflict with the City approved Master Plan for landscaping for the community.
3. The landscaping plan must be submitted to the Architectural Review Committee for determination that the proposed landscaping plan is consistent with the current overall landscaping plan for the community, and that the plan compliments the plant materials that are currently in use within the community. The ARC may provide comment and suggested revisions to the homeowner.
4. The homeowner must agree to maintain the landscaped area, and to assure that this ongoing maintenance responsibility passes to any subsequent owners; this landscaping maintenance responsibility must be disclosed to any prospective buyer on the required seller disclosure forms prior to sale; alternatively, the homeowner will return the area to its prior state at the homeowners sole expense.
5. In the event that a subsequent owner does not maintain the added landscaping, the HOA reserves the right to remove the additional plantings and return the improved area to its pre-amended state (i.e., covered with pine straw).
6. The landscaping plan must be communicated to both adjacent neighbors for their comments. Unanimous approval by adjacent homeowners is not required, as precedent is already established for approval of other plans in the common areas.
7. If the ARC determines that the plan passes no. 1-5 above, the landscaping plan will be presented to all homeowners for their review and consideration. This can be accomplished by email communications to all homeowners, with a maximum 14-day response time.
8. The plan must be approved by a majority (minimum of twenty) of homeowners in Weldon Downs.
9. Upon approval, the ARC will draft a landscaping agreement with the homeowner outlining the plan, approval and conditions for ongoing maintenance which will be signed by the homeowner, the Board President and maintained in the HOA records by the Property Manager.
10. Since this a common area that prior to new landscaping was covered with pine straw and/or mulch by Weldon Downs, the WD HOA will continue to provide/maintain the pine straw and mulching services in improved area to provide continuity from property to property.

## **Weldon Downs Townhome Association Lease Addendum for Rental of Property**

Owner and Tenant/Resident(s) agree as follows:

1. To complete an information/contact sheet and advise the Association within ten (10) days of any changes.
2. To abide by all rules, regulations, bylaws, covenants, restrictions, policies and procedures of the Association, and to abide by any and all governmental and/or zoning ordinances affecting the townhome.
3. To assume responsibility to maintain the grounds, common areas, as well as private property, in keeping with the Association's Bylaws, Covenants and Property Use Guidelines Book.
4. To assume liability for any damage to property and common areas owned by the Association.
5. Not to sublet, and not to occupy by more than two unrelated persons.
6. Acknowledge receipt of the Bylaws, Covenants and Property Use Guidelines documents, and agree to abide by them.

### **Owner Information:**

Print Name(s): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### **Tenant/Resident:**

Print Name(s): \_\_\_\_\_

Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_

## **Weldon Downs Townhome Association Rental Information Form**

**Owner's Name:** \_\_\_\_\_

**Owner's Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip code:** \_\_\_\_\_

**Phone:** (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

**Email:** \_\_\_\_\_

**Tenant's Name:** \_\_\_\_\_

**Phone:** (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

Name of other occupant(s): \_\_\_\_\_

Emergency Contact (Name and Phone): \_\_\_\_\_

Vehicle #1: (Make, model, color): \_\_\_\_\_ License Plate: \_\_\_\_\_

Vehicle #2: (Make, model, color): \_\_\_\_\_ License Plate: \_\_\_\_\_

\_\_\_\_\_  
**Property Manager** (if applicable): \_\_\_\_\_

Phone: (Office) \_\_\_\_\_ (Cell) \_\_\_\_\_ (Fax) \_\_\_\_\_



WELDON DOWNS TOWNHOME ASSOCIATION, INC.



FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2008 JUN 27 01:11:43 PM  
BK:5998 PG:877-907 FEE:\$101.00

INSTRUMENT # 2008026837

Prepared by:and return to: Homa J. Freeman, Jr., Attorney At Law  
PO Box 52396, Durham, NC 27717-2396

**DECLARATION**

**OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**WELDON DOWNS**

**THIS DECLARATION**, made and entered into this the 23 day of June, 2008, by **HOPE VALLEY TOWNHOMES, LLC**, a North Carolina corporation whose address is 3104 Surrey Road, Durham, North Carolina 27707, hereinafter referred to as "Declarant".

**WITNESSETH:**

**WHEREAS**, Declarant is the Owner of certain property in the City of Durham, County of Durham, State of North Carolina, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

**WHEREAS**, Declarant is developing a certain residential subdivision to be known as "Weldon Downs Townhomes" (hereinafter "Properties") which will comprise of residential townhome lots (hereinafter "Lots") when fully developed; that the real property upon which Weldon Downs Townhomes is to be located is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

**WHEREAS**, Declarant now desires to develop the Properties in accordance with the Declaration of Covenants, Conditions and Restrictions hereinafter set forth; and

**WHEREAS**, Declarant intends to construct townhome residential homes on each Lot and to convey each Lot subject to the Covenants, Conditions and Restrictions contained in this Declaration.

**NOW, THEREFORE**, Declarant hereby declares that all of the property in the development known as WELDON DOWNS TOWNHOMES shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions.

**PREAMBLE**

The purpose of this instrument is to protect the value, desirability and attractiveness of the aforesaid real property; to insure the best use and the most appropriate development and improvements of each Lot located therein; to protect the owner of each Lot against such improper use of surrounding Lots as will depreciate the value of said owner's property; to preserve as far as practicable, the natural beauty

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of said property; to guard against the erection of poorly designed or proportioned structures and/or structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; and to enhance, as far as is practical, the value of investments made by owners of Lots herein. To that end, Declarant herein creates a Homeowners' Association and vests it with certain powers and authority consistent with the intentions expressed in this Preamble. Lastly, said restrictions, covenants and conditions shall be appurtenant to and run with the land and shall be binding on all parties having any right, title or interest in the described real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE 1**

**DEFINITIONS**

**Section 1. "Association"** shall mean and refer to Weldon Downs Townhome Association, Inc., its successors and assigns.

**Section 2. "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any of the Lots which is a part of the "Properties", including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 3. "Properties"** shall mean and refer to that certain real property to be known as Weldon Downs Townhomes as more particularly described on attached Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 4. "Open Space" and "Stormwater Easements"** shall mean and refer to all real property (including the improvements now or hereafter constructed, excluding Lots) owned in fee simple by the Association or for which the Association shall have been granted by Declarant easement rights of the common use and enjoyment of all the Owners of Lots in Weldon Downs Townhomes.

**Section 5. "Wet Detention Pond"** shall mean and refer to the permanent detention basin (hereinafter referred to as "Wet Detention Pond") constructed on Declarant's property described in Exhibit "A". That on the 26<sup>th</sup> day of April, 2007, Declarant entered into a Stormwater Facility Operation and Maintenance Agreement City Version 082203 with the City of Durham, which said Agreement contains the terms, provisions, ordinances, and regulations governing the operation and management of the Wet Detention Pond constructed on Declarant's property. That a complete copy of the Stormwater Facility Operation and Maintenance Agreement City Version 082203 shall be made a permanent part of the Association's records.

**Section 6. "Lot"** shall mean and refer to any plot of land shown upon any recorded subdivision map of the "Properties" excluding the aforesaid Open Space and Stormwater Easement lands.

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**Section 7. "Declarant"** shall mean and refer to HopeValley Townhomes, LLC, its successors and assigns. In the event Hope Valley Townhomes, LLC, for any reason, should cease to exist, then Declarant shall mean any entity which purchases or otherwise acquires Hope Valley Townhomes, LLC's remaining interests in and to the development known as Weldon Downs Townhomes.

**Section 8. "Declarant Control"** shall mean and refer to that period of time during which Declarant is entitled to three (3) votes for each Unit. The period of Declarant Control shall begin as of the date hereof and shall continue until the happening of any of the following events, whichever occurs earlier:

- (a) Thirty (30) days after the last Unit has been conveyed to Unit purchasers; or
- (b) December 31, 2011; or
- (c) When, in its discretion, the Declarant so determines.

**Section 9. "Member"** shall mean and refer to any person or entity entitled to Membership in the Association as provided for herein. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to an assessment by the Association. The owner of a Lot shall become a member of the Association merely by virtue of being an Owner of a Lot. In the event of multiple ownership of any given Lot, each Owner shall be a member of the Association but only one (1) vote total shall be accorded to each Lot.

**Section 10. "Unit"** shall mean and refer to any Lot together with the dwelling constructed or to be constructed on the Lot and all other improvements constructed thereon., Each Unit is intended for use as a single-family residence and no portion of the Unit may be subdivided or partitioned or held in separate ownership from any other part of the Unit (this provision shall not prevent Units from being held in undivided interests). A Unit shall be deemed created when a certificate of occupancy for such dwelling is issued by the governmental authorities having jurisdiction thereof.

**ARTICLE II**

**PROPERTY RIGHTS**

**Section 1. Owner's Easements of Enjoyment.** Each Owner of a Lot in Weldon Downs Townhomes shall have a right and easement of enjoyment in common with every other Lot Owner in Weldon Downs Townhomes in and to the Open Space Areas and Stormwater Easements lands, subject to the following provisions:

- (a) The right of the Association to suspend the voting rights and right of access to and through the Open Spaces 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;

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(b) The right of the Association to dedicate or transfer all or any part of the aforesaid Open Space areas, or the Stormwater Easements 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 two-thirds (2/3) of each class of members in the Association has been recorded.

(c) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Open Space areas, and/or any or all of the Stormwater Easements in aid thereof to mortgage said property, and the rights of such mortgagees in such properties shall be subordinate to the rights of the homeowners hereunder. This right shall be deemed a "material change" within the context of Article Eleven, Section 3(b) hereof.

**Section 2. Delegation of Use.** Subject to this Declaration and Bylaws, a Lot Owner may delegate his right of enjoyment to the Open Space areas and facilities, and/or the Stormwater Easement area to his heirs and assigns, members of his family, invitees, agents, licensees, guests, tenants, or contract purchasers who reside on the property.

**Section 3. Conveyance of Open Space, and Stormwater Easements.** Declarant shall prior to the conveyance of the last lot in Weldon Downs, convey fee simple title to the Open Space Areas and the Stormwater Easements to the Homeowners' Association, subject to Declarant's reserved easement rights during construction as set forth herein but free and clear of all encumbrances except for street and road rights of way, sidewalks, parking areas and utility easements. The Homeowners' Association shall be bound by the terms and conditions of that certain Stormwater Facility Operation and Maintenance Permit Agreement City Version 082203 set forth in Exhibit "B" attached hereto. Subject to Declarant's reserved easement rights, the Association, from and after the sale and conveyance of three-quarters of the Lots in Weldon Downs, shall be solely responsible for maintaining and insuring those areas. So long as Declarant remains the record owner of an Lot within the Properties, Declarant expressly reserves the right to alter and restructure existing Lot lines provided Declarant shall not increase or decrease the number of existing buildable lots.

**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 assessment.

**Section 2.** The Association shall have two (2) classes of voting membership.

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**Class A.** Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members; the vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership at the end of the period of Declarant Control.

**ARTICLE IV**

**COVENANT FOR ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, 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: (1) an Annual Assessment, and (2) a Special Assessment for capital improvements, such assessments to be established and collected as hereinafter provided. The Annual Assessment, and as applicable, the Special Assessment, 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, 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. For each Lot owned by Declarant, whether vacant or in any stage of construction, but not yet conveyed, Declarant shall pay to the Association one-third (1/3) of the Annual Assessment on a monthly basis. Declarant shall not be liable for any Special Assessment.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Project and, in particular, for (i) the improvement and maintenance, including the exterior and structural maintenance of the Units, and (ii) services and facilities devoted to this purpose or for the use and enjoyment of the Common Area, including, but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area, the payment of public assessments levied against the Common Area, the procurement and maintenance of insurance in accordance with Article V of this Declaration, the employment of attorneys to represent the Association when necessary, reasonable reserves for all of the above and such other needs as may arise.

**Section 3. Computation of Assessment.** It shall be the duty of the Board, at least thirty

(30) days prior to the meeting at which the budget shall be presented to the Members, to prepare a budget covering the estimated costs of operating the Association during the coming year, including projected costs for all of the matters set forth in Section 2 above. The budget and assessments shall become effective unless disapproved at the meeting by a vote of the Members representing at least a majority of the votes of each class of Members. Assessments per Unit for the initial year of operation of the Association shall not exceed Two Hundred Dollars (\$200.00) per month. Thereafter, for the lesser of two (2) years or the period during which the Class B membership exists, assessments per Unit shall not increase by more than ten percent (10%) per year over the previous year's assessments. During the period when assessments are subject to the maximums provided herein, Declarant shall pay actual costs of operation of the Association in excess of the assessments provided for herein.

**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 in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon Open Space or the Lots, including fixtures and personal property related thereto; provided, however, any Special Assessment must have the assent of two-thirds (2/3) of the votes of all the Lot Owners who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Special Assessments for Damages.** In addition to the annual and special assessments described in Sections 3 and 4, in the event that the need for maintenance, repair or replacement of any Common Area or the exterior or structure of any Unit (or any other maintenance matters which are the responsibility of the Association) is caused through the willful or negligent act of an Owner, his family, guests, or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles and smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage insurance policies, and the costs of such maintenance, replacement or repairs is not covered by insurance maintained by the Association, then the Association may levy a special assessment against such Owner and his Unit for the purpose of defraying in whole or in part, the cost of any maintenance, repair or replacement. In addition, the Association may levy against an Owner and his Unit the amount of any increase in insurance premiums for insurance maintained by the Association, if such increase is attributable to the willful or negligent acts of such Owner, his family, guests or invitees. Any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 6. Notice and Quorum for Any Action Authorized Under Sections 4 and 5.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3, 4 or Section 5 shall be sent to all Lot Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Lot Owners or of proxies entitled to cast thirty percent (30%) of all votes of each class of membership 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 required quorum at the

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preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Uniform Rate of Assessment.** Both Annual and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis or annual basis as determined by the Board of Directors of the Association.

**Section 8. Date of Commencement of Annual Assessment; Due Dates.** The Annual Assessments provided for herein shall commence as to any given Lot on the day of closing and conveyance of said Lot to a third party purchaser for residential occupancy pursuant to a duly issued Certificate of Occupancy. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of Annual Assessment against each Lot at least thirty (30) days in advance of the 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 Lot is binding upon the Association as of the date of its issuance.

**Section 9. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum, plus a one-time late payment penalty of Twenty-Five and No/100 Dollars (\$25.00). The Association may bring an action at law against the Owner personally obligated to pay the same or foreclosure the lien against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Open Space and Recreation Area or abandonment of his Lot.

**Section 10. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. 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 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 or from the lien thereof.

**Section 11. Exempt Property.** All Common Area and all property dedicated to, and accepted by, a local public authority shall be exempt from assessments.

**ARTICLE V**

**INSURANCE AND CASUALTY LOSSES**

**Section 1. Insurance.** The Board, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements on the Units and Common Area. The Board, at its election, may insure the structure of each Unit from sheetrock and sub-flooring out, including plumbing and electrical. All such insurance shall be in such form as the Board deems appropriate. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of such improvements in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Area and insuring the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million Dollar (\$1,000,000.00) single person limit as respects bodily injury and property damage.

Premiums for all insurance required to be maintained by the Association shall be common expenses of the Association and shall be included in the annual assessment. Policies may contain reasonable deductibles, and, in the case of property insurance, the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the loss in the absence of insurance, and, in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board shall be written in the name of the Association or Trustee for the respective benefitted parties. Such insurance shall be governed by the provisions hereinafter set forth:

- a. All policies shall be written with a company licensed to do business in North Carolina which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.
- b. All policies on the Common Area shall be for the benefit of the Association. All policies on the Lots shall be for the benefit of the Owner and the Association.
- c. Exclusive authority to adjust losses under policies in force on the Property obtained by the Association shall be vested in the Board; provided, however, no mortgagee having an interest in such losses may be prohibited from participating



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in the settlement negotiations, if any, related thereto.

- d. All property insurance policies shall have a guaranteed replacement cost provision.
- e. The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
  - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, and the Owners, as to their actions taken in representing the Association or the Project;
  - (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
  - (iii) that no policy may be cancelled, invalidated or suspended on account of any one or more individual Owners;
  - (iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or mortgagee; and
  - (v) that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification or nonrenewal.
  - (vi) Directors and Officers liability insurance.

In addition, to the other insurance required by this Section, the Board may obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, management, agents and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors's best business judgment but may not be less than twelve (12) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification or non-renewal.

**Section 2. Individual Insurance.**

Each Owner shall be responsible for obtaining an HO6 insurance policy, insuring his/her contents, improvements and betterments within the Unit and liability insurance for matters occurring within the Units, the Association having no responsibility for obtaining such insurance. Any renter of a Unit shall be required to obtain an HO4 Renter's Policy with a minimum Three Hundred Thousand Dollars (\$300,000.00) liability coverage limit.

**Section 3. Disbursement of Proceeds.** Proceeds of insurance shall be disbursed as follows: If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

**Section 4. Damage and Destruction.**

- (a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of any Owner of the Association, the Board, or its duly authorized agent, as appropriate, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed properties. Repair or reconstruction, as stated in this paragraph, means repairing or restoring the Property to substantially the same condition in which they existed prior to the fire or other casualty. Any repair or reconstruction carried out or ordered by an Owner shall be of a quality at least equal to the quality of the original materials and standards of construction for the Property.
- (b) Any damage or destruction of the Common Area or the Units shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of each class of Members shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the

Association within said period, then the period shall be extended until such information shall be made available. No mortgagee shall have the right to participate in the determination of whether the damage or destruction shall be repaired or reconstructed.

- (c) If such repair or reconstruction is to be carried out on the Units using proceeds from insurance policies obtained by one or more Owners, then the Association shall have the authority, in its sole discretion, to either approve the contractor(s) hired by said Owners(s) to complete such repair or reconstruction or contract directly with one or more contractors to carry out such repair or reconstruction and use the insurance proceeds from any applicable insurance policies to pay said contractors.
- (d) In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Property shall be restored to its natural state and maintained by the Association in a neat and attractive condition.

#### ARTICLE VI

#### ARCHITECTURAL CONTROL

Declarant intends to create in Weldon Downs Townhomes a community which is both functional and aesthetically pleasing. To facilitate achieving this goal, Declarant will review all plans, specifications and site location drawings for all improvements to be constructed or located on any Lot in Weldon Downs Townhomes and landscaping of the Lot prior to any construction commencing thereon. Further, after initial construction is completed, Declarant will review any and all plans designed to alter, modify, add to or subtract from what was initially constructed. To that end, no building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot in Weldon Downs Townhomes or on the Open Space, 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, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by Declarant, or in the absence of Declarant owning at least one (1) Lot in Weldon Downs Townhomes, the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Declarant, or, as the case may be, the Board of Directors, or, as the case may be, a committee designated by the Board of Directors, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. All such requests shall be mailed to the Declarant, or

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to the Board of Directors, or to the Architectural Control Committee, as the case may be, at the last known address of the party to whom the request is being sent.

As to all construction within Weldon Downs, the approval process will remain the sole responsibility of Declarant so long as Declarant owns one (1) or more Lots in Weldon Downs Townhomes, or until such time as Declarant, in writing, transfers this responsibility to the Board of Directors of the Association or any Architectural Control Committee established by the Board.

Architectural Guidelines may be established by Declarant and/or the Board in order to carry out the intent of this Article.

**ARTICLE VII**

**RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

**Section 1. Common Area.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereto (including, without limitation, furnishings and equipment related thereto and common landscaped areas) and shall keep it in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

**Section 2. Exterior and Structural Maintenance.** In addition to maintenance upon the Common Area, the Association shall provide exterior and structural maintenance for each Unit which is subject to assessment hereunder, as follows: paint, repair, replacement and care of structural walls, foundations, utility lines (unless such lines are solely interior lines and such utilities are separately metered), party walls, roofs, gutters, downspouts, exterior building surfaces, trees shrubs, walks, and other exterior improvements. Such exterior and structural maintenance shall not include glass surfaces and screens nor plumbing and utility lines serving only one Unit. Further, each Owner is responsible for the maintenance of the heating and air conditioning unit(s), dryer vents, locks and chimneys within his/her Unit. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Unit at all reasonable times to perform maintenance as provided in this Article.

**Section 3.** In the event that the need for any such maintenance or repair as set out herein is caused through the willful or negligent act of the Owner, his family, guests or invitees or is caused by fire, lightning, windstorms, hail, explosion, riot, riot attending a strike, civil commotion, aircrafts, vehicles or smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage insurance policies, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject.

**ARTICLE VIII**

**PARTY WALLS**

**Section 1. General Rules of Law to Apply.** Each wall which is built as a part of the original construction of the Units and placed on the dividing line between the Units shall constitute a party wall. The Association shall maintain and repair party walls, except that the Unit Owners shall be responsible for painting and/or wallpapering and decorating the surface of the party wall which is part of their Unit. To the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**ARTICLE IX**

**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 Open Space and Units.

**Section 2. Use of Property.** No portion of the Property (except for temporary office of the Declarant and/or a model home used by Declarant for sales purposes) shall be used except for residential purposes and related incidental purposes. No portion of the Property may be utilized for a licensed or unlicensed day care operation nor related facility. Specifically, no Lot may be stripped of its topsoil and trees or permitted to go to waste by being excavated, neglected or having trash or refuse thrown, dropped or dumped on it.

**Section 3. Quiet Enjoyment.** No obnoxious or offensive activity shall be carried out upon the Property, nor shall anything be done thereon which may be or may become a nuisance or annoyance to the neighborhood. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, that this shall not be construed to prohibit temporary deposits of trash, rubbish, and other such items for pickup by governmental or other similar garbage/trash removal services.

**Section 4. Signs.** No signs of any kind except those advertising an individual lot "For Sale" or "For Rent" and except for those signs used by the Declarant in the advertising of the Property or erected by Declarant identifying portions of the Property such as "sight easement" or "common area" shall be displayed for public view in and about the premises.

**Section 5. Items to be Approved by Association.** Without the prior approval of the Board of Directors 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 temporary structures such as sheds, mobile homes, trailers or tents may be placed on any Lot or the Open Space. Declarant, its successors or assigns, may place one or more construction trailers upon any Lot or the Open Space 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 be at any time used as a residence either temporarily or permanently.

**Section 6.** Violation of any of these provisions shall subject the violating Lot owner to legal action, in law or in equity, filed against him by either the Board of Directors of the Association or any Lot owner in Weldon Downs. Such legal action, if successful, shall provide for the payment of reasonable attorney's fees in addition to remedies in law or in equity.

## ARTICLE X

### EASEMENTS

**Section 1.** All of the Properties, including Lots and Open Spaces, shall be subject to 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 its predecessors in title. Declarant, while it retains fee simple title to at least one (1) Lot in Weldon Downs Townhomes, or the Association's Board of Directors shall have the power and authority to grant and establish upon, over, under and across the Open Space as conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property as well as its proper maintenance or operation.

**Section 2. Encroachments.** Each Lot, Unit and the Common Area shall be burdened with an easement for the encroachment of footings, eaves, overhangs, walls, stone veneer and similar encroachments of integral parts of the Units or structures constructed on the Lots or the Common Area.

**Section 3. Unintentional Encroachments.** In the event that any structure erected principally on any Lot shall encroach upon any common Area or upon any other Lot for any reason not caused by the purposeful or negligent act of the Owner or agents of such Unit, than an easement appurtenant to such Lot shall exist for the continuance of such encroachment shall naturally exist; and, in the event that any portion of the Common Area shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Area into any such Lot for so long as such encroachment shall naturally exist.

**ARTICLE XI**

**EASEMENTS FOR CONSTRUCTION PURPOSES**

The Declarant, or its duly authorized agents, shall have full rights of ingress and egress to and through, over and about the Open Space and Stormwater Easements during such period of time as the Declarant is engaged in any construction or improvement work on or within the Property described herein or any additional property which may, subject to the provisions of this Declaration, be annexed to the Property. Declarant shall further have an easement for the purposes of storage of materials, vehicles, tools, equipment and so forth which are being utilized in such development or construction. No Lot Owner, his guest, licensees, clients, or invitees shall in any way interfere or hamper Declarant, its employees, successors, agents or assigns in its construction work.

**ARTICLE XII**

**GENERAL PROVISIONS**

**Section 1. Enforcement.** 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 the Association or by 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.

**Section 2. Severability.** Invalidation of one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect. In the event of any contradiction, real or apparent, between the Articles of Incorporation and the Bylaws, the Bylaws shall control and in the event of any contradiction real or apparent, between the Bylaws and this Declaration, then the terms and conditions of this Declaration shall control.

**Section 3. Amendment.** Prior to the sale of the first Unit, Declarant may amend this Declaration. During the period of Declarant control after the sale of the first Unit, the Declarant may amend this Declaration so long as it still owns part of the Property and so long as the amendment has no adverse effect upon any right of any Owner; thereafter and otherwise, this thereof, of Members representing seventy-five percent (75%) of each class of Members and of the total votes of the Association, including seventy-five percent (75%) of Members other than the Declarant. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be recorded in the public records of Durham County, North Carolina.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right of privilege.

Any amendment to this Declaration must be in compliance with existing Federal National Mortgage Association Guidelines.

**Section 4. Term.** 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 each, unless an instrument in writing, signed by a majority of the then Owners and each member of the Board has been recorded within the year preceding the beginning of such successive period of ten (10) years, agreeing to change said covenants, and restrictions, in whole or in part, or to terminate the same.

**Section 5. Mortgagee's Rights.** A first mortgagee, or the insurer or guarantor of a first mortgage shall be entitled, upon written request, to receive copies of this Declaration, the Bylaws, Rules and Regulations, and Articles of Incorporation of Weldon Downs Townhome Association, Inc.; 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 Open Space, and Stormwater Easements and facilities; entitled to receive notice if any part of the Open Space and Stormwater Easements and facilities are subjected 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) days 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; and entitled to receive notice of any proposed action which requires the consent of a specified percentage of mortgage holders.

**Section 6. Working Capital or Additional Reserve Account.** Upon the sale and conveyance of a Lot, the third party purchaser thereof shall transfer to the Association a sum of money equal to two (2) monthly assessments to create or be added to the Association's working capital or reserve account. Such funds shall not be deemed an advanced payment of the regular Annual Assessment.

**Section 7. 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. 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. Each Lot Owner is entitled to likewise inspect the books and records and other related documents of the Association during normal business hours or under other reasonable circumstances.



**Section 8. Annexation.**

Additional residential property, Open Space and Recreation Areas may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

**ARTICLE XIII**

**DECLARANT'S RIGHTS**

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records of Durham County, North Carolina.

Notwithstanding any provisions contained in the Declaration to the contrary, during the period of Declarant control, the Declarant shall have the right to grant to public agencies, authorities or utility service providers easement necessary or desirable for service to the Project or any portion thereof.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant and any builder approved by Declarant to maintain and to carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of such Unit, including, any builder approved by Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Units owned by the Declarant and the Common Area owned by the Association as models and sales offices.

So long as Declarant continues to have rights under this section, no person or entity shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without Declarant's review and written consent thereto, and any portion of the Property without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

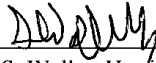
This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the end of the period of Declarant control.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

this instrument to be signed in its name, its corporate seal to be affixed hereto and attested by its Secretary, all by authority of its Board of Directors duly given this the 23 day of June, 2008.

HOPE VALLEY TOWNHOMES, LLC

By   
S. Walker Harris, Member/Manager

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

NORTH CAROLINA

DURHAM COUNTY

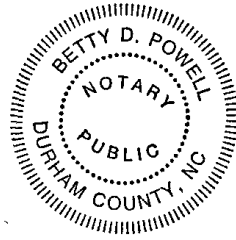
I, a Notary Public of the County and State aforesaid, certify that S. WALKER HARRIS, Member/Manager of HOPE VALLEY TOWNHOMES, LLC personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this, the 23 day of June, 2008.

Betty D. Powell  
Notary Public

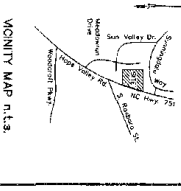
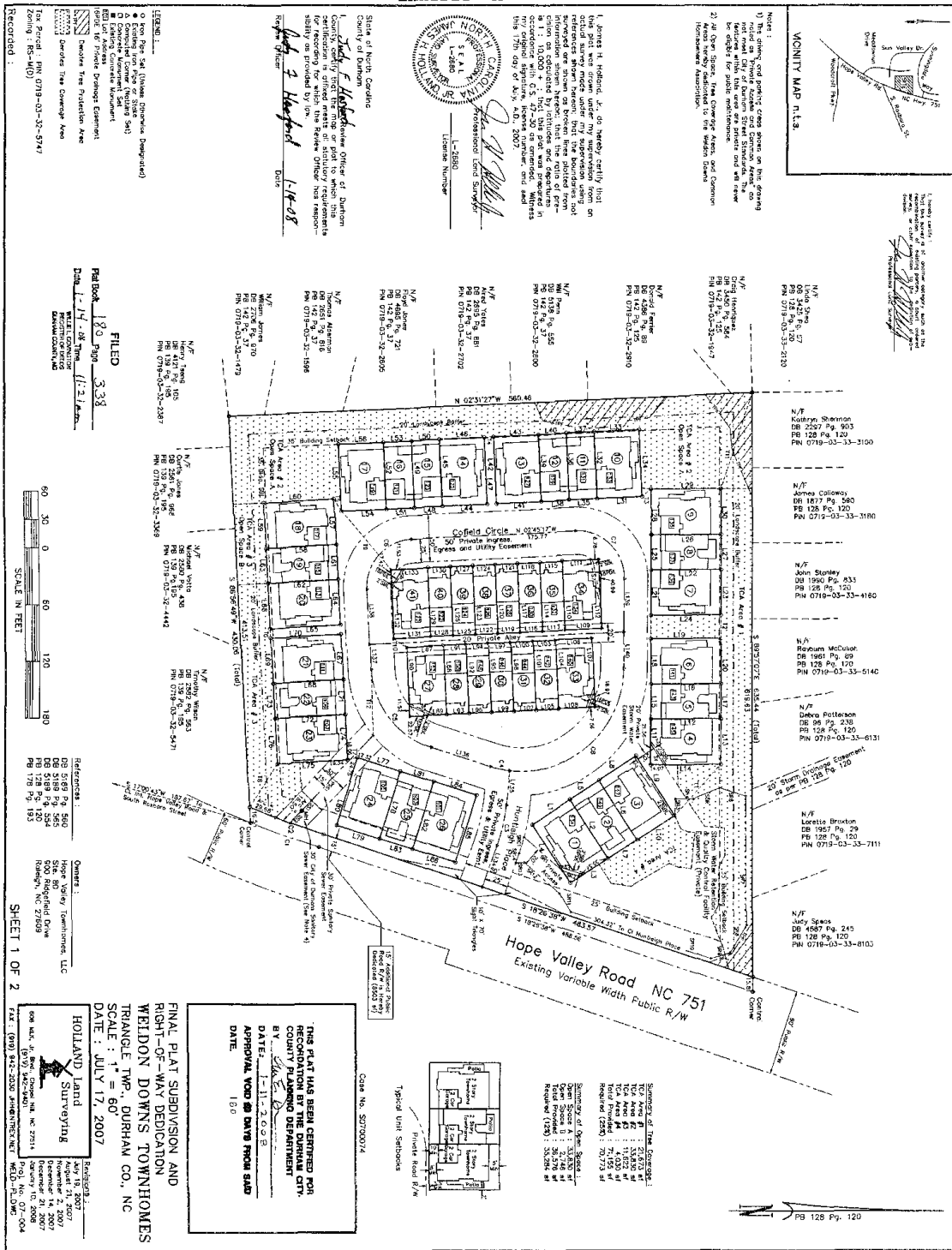
My commission expires:

7-23-2011



WELDON DOWNS TOWNHOME ASSOCIATION, INC.

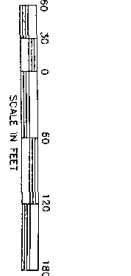
EXHIBIT "A"



Professional Land Surveyor  
 License Number: L-2880  
 Date: 1-14-08

State of North Carolina  
 County of Durham  
 I, **John F. Henderson**, Register of Deeds, do hereby certify that the foregoing plat was duly recorded in the public records of this county for recording for which the Register's Office has possession as provided by law.

FILED  
 120 Units  
 11/2/08  
 3:38



References:  
 DB 5189 Pg. 565  
 DB 5189 Pg. 565  
 DB 5189 Pg. 565  
 Pg. 178 Pg. 183

FINAL PLAT SUBDIVISION AND  
 RIGHT-OF-WAY DEDICATION  
 WELDON DOWNS TOWNHOMES  
 TRIANGLE TWP., DURHAM CO., NC  
 SCALE: 1" = 60'  
 DATE: JULY 17, 2007

THIS PLAT HAS BEEN CERTIFIED FOR  
 RECORDATION BY THE COUNTY CLERK  
 BY **John F. Henderson**  
 DATE: 1-14-08  
 APPROVAL FOR DWB FROM SLD  
 DATE: 1/10

HOLLAND Land Surveying  
 1000 N. 1st Street  
 Raleigh, NC 27601  
 (919) 842-2000



WELDON DOWNS TOWNHOME ASSOCIATION, INC.

EXHIBIT "B"



FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
2007 JUN 05 04:46:54 PM  
BK:5632 PG:597-605 FEE:\$35.00

INSTRUMENT # 2007025196

*Prepared by City of Durham Department of Public Works, 101 City Hall Plaza, Durham, NC 27701  
Return to Department of Public Works - Storm Water Services Division, 101 City Hall Plaza, 3<sup>rd</sup> Floor,  
Durham, NC 27701*

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

STORMWATER FACILITY AGREEMENT  
AND COVENANT VERSION 082203

**THIS AGREEMENT**, made and entered into this 26<sup>th</sup> day of April, 2007, by and between **Hope Valley Townhomes, LLC** ("Permittee") and the City of Durham, a North Carolina municipal corporation ("City").

I. Background

a. This Agreement concerns the perpetual maintenance of a stormwater facility ("the Facility") on property owned by the Permittee, and related requirements regarding the Facility. The City has adopted, and from time to time will adopt, stormwater management regulations applicable to certain real property in which Permittee holds an interest. That property is generally located **northwest of the intersection of Hope Valley Road and South Roxboro Street, and is commonly known as Hope Valley Meadows** and is described in the deeds recorded with the Durham County Register of Deeds at the following book and page numbers: **Deed Book 5189, Page 560/565**. This development hereafter is referred to as "the Property". Within the Property may be a particular tract or group of tracts owned by the Permittee upon which the Facility is located. That property is found at **Plat Book 48, Page 116** and is referred to in this Agreement as "the Site". Within the Site is the Facility which is a **Wet Pond (Water Quality Facility #1) designed to have a water quality surface area of 12,707 square feet. It is located on the northeast side of the Property. The Site and the Property may be the same (see definition of Site in c. below).**

b. The City's ordinances require that stormwater facilities be created and maintained on some properties. The ordinances further require that, before an occupancy permit may be issued for any structure constructed within a property which includes a stormwater facility, the owner must enter into an Agreement with the City to provide for the operation and maintenance of the Facility. This Agreement is intended to comply with that requirement.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

c. Definitions. The terms defined above are supplemented by the following terms, which, as used in this Agreement, are defined as follows:

"Director of Public Works" means the City's Director of Public Works or his or her designee.

"City Manager" means the Durham City Manager or an Assistant City Manager.

"Facility" means the privately-owned stormwater control facility that is the subject of this Agreement, and that satisfies the requirements of the City's ordinances and regulations for such facilities.

"Permittee" means the party executing this Agreement with the City and successor owners of the Site.

"Person" includes natural persons, business trusts, joint ventures, governments, governmental subdivisions, governmental agencies, firms, corporations, associations, partnerships, and other legal entities.

"Property" means the larger development that, when developed, requires a stormwater Facility to serve it.

"Site" means the one or more lots or tracts within the Property, one of which contains the stormwater Facility. In a residential development, such lots will be those that are intended to be owned by all residents, through a homeowners' association. In nonresidential developments and apartments, the Site will generally be the same as the Property.

"Transfer" includes sell, convey, assign or alienate all or a portion of an interest in the Site or Property. Transfers do not include acquisitions of mortgages or similar encumbrances.

2. Fees: Title Opinion: Construction Inspections and Maintenance.

The Permittee shall cause the following to be done:

a. At the time of delivering this Agreement executed by the Permittee to the City, pay the stormwater permit fee in the amount determined by the Director of Public Works:

b. Provide to the City an opinion of title of the Property or the Site, as directed by the City, by an attorney licensed to practice law in North Carolina and update that opinion to the time of recording this Agreement. The opinion(s) shall show that the party or parties executing this Agreement have title, in fee, to the Property, or to the Site. The Director of Public Works shall indicate whether the opinion shall pertain to the Property or the Site, if such are different. The opinion shall indicate no liens or encumbrances that the Director of Public Works deems to interfere with the City's having adequate security in accordance with Section 6.

c. Construct the Facility in accordance with the plans approved by the Director of Public Works before applying for a certificate of compliance for any structure on the Property, it being agreed that no building on the Property is eligible for a certificate of compliance until the Facility has been so constructed;

d. Inspect the Facility, perform routine maintenance on the Facility, and make all necessary repairs to the Facility, all as directed by the Director of Public Works. This shall include the following work:

i. Grass and Vegetative Cover.

A. Design, install and maintain landscaping around the Facility so that it will not reduce the capacity or hinder the operation and maintenance of the Facility.

B. Maintain the vegetative cover of the Facility to prevent erosion.

C. Except as provided in 2 (d) (i) (D) below, mow the area as needed to prevent the grass and other plants (other than maintained shrubs and trees) from exceeding a height of fifteen (15) inches.

D. Keep open channels free of undesirable growth and maintained to the design cross-section and area as shown on the Plans, and keep the height of the vegetation on the slopes and bottom from exceeding eight (8) inches.

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- E. Replace landscape materials that fail to live and prosper, as required by the Director of Public Works.
- ii. Embankments, Slopes, and Dams. Inspect and repair embankments, slopes, and dams for damage from erosion, sloughing, animal burrows, and woody vegetation.
- iii. Removal and Disposal of Trash, Debris, and Sediment.
  - A. Keep the Facility's outlet structure cleared of all blockages.
  - B. Clean the channels and pipes as necessary to provide for the free conveyance of stormwater as designed.
  - C. Remove debris and sediment as needed to maintain the primary outlet capacity and Facility storage volume when the depth of the Facility has been reduced by more than one (1) foot from the design depth, or when the Facility's storage volume has been reduced by twenty percent (20%) from the design volume.
  - D. Remove all sediment from sediment forebays, traps, and basins.
- iv. Insects, Odors, and Algae.
  - A. Maintain the Facility in a manner to control odors and algae to the extent that the Director of Public Works determines to be necessary.
  - B. Apply, when and as directed by the Director of Public Works, a larvicide approved by the Durham County Health Department for insect control, and take other measures to control insects as directed by the Director of Public Works.
- v. Fencing. Nothing in this Agreement is intended to prevent the Permittee from placing fencing and other security measures near or around the Facility, provided that the Permittee shall first submit information on the proposed construction to the Director of Public Works and obtain her consent. The Director of Public Works shall grant permission if she finds that the fencing and other measures will not interfere with the Facility. Nothing in this Agreement is intended to affect the Permittee's obligation, if any, to exercise care with respect to persons who may enter the Site.
  - e. Cause the Facility to be inspected, by a registered professional engineer or a registered landscape architect, on an annual basis beginning one year after the facility is accepted by the Director of Public Works and, after each inspection, without specific request by the City, provide the Director of Public Works with two copies of such report. The Facility is accepted upon the Director of Public Works acceptance of the as-built plans of the Facility.
  - f. If the Director of Public Works reasonably determines that the Facility is in need of maintenance or repair or other work, she shall so notify the Permittee, who shall promptly take necessary actions to maintain or repair the Facility, including doing any work specified by the Director of Public Works.
- 3. Transfer of the Property. If the Permittee proposes to Transfer any interest in the Site, the Permittee shall, prior to transfer:
  - a. Notify the intended Transferee that it is required to execute an Agreement, in a form approved by the Director of Public Works, and deliver the appropriately executed Agreement to the City, along with title opinions regarding the ownership by the Transferee; and
  - b. If the intended Transferee is an owners' association, unit owner's association, or homeowners'



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association, provide the Director of Public Works a copy of the recorded association's declaration. In addition, Permittee must ensure that the declaration provides:

- i. That the Facility is a part of the common elements and shall be subject to the Agreement;
- ii. That the requirements of this Agreement shall receive the highest priority for expenditures by the association except for City and County assessments, ad valorem property taxes, and insurance, and any other expenditures which are required by law to have a higher priority;
- iii. That a separate fund shall be maintained by the association for the reconstruction and repair of the Facility, separate from the fund(s) for routine maintenance of the Facility and from all other funds;
- iv. That the reconstruction and repair fund shall contain at all times the dollar amount reasonably determined from time to time by the Director of Public Works to be adequate to pay for the probable reconstruction and repair cost for a three-year period; that the fund shall be listed as a separate line in the association's budget; and it shall be kept in an account insured by the FDIC or by another entity acceptable to the Director of Public Works;
- v. Upon the vote of 2/3 of the members of the association, special assessments shall be charged to each member of the association, to pay for the obligations under this Agreement;
- vi. That, to the extent permitted by law, the association shall not enter into voluntary dissolution unless the Facility is transferred to a Person who has executed an Agreement.

If the Permittee Transfers, or permits the Transfer of, an interest without complying with this Section 3, that failure to comply shall not invalidate the Transfer, but Transferee shall remain obligated under this Agreement. In addition, the City may in its discretion require the surety referred to in Section 4 to pay the City some or all of the Face Amount (defined in Section 4).

4. Bond/Security. In order to secure the Permittee's obligations under this Agreement, the Permittee shall immediately deliver to the City one or more bonds, sureties, or similar instruments which are acceptable to the City in substance, form, and guarantor, in the amount of **sixteen thousand, six hundred and eighty-four dollars (\$16,684.00)** ("the Face Amount"), which is twenty (20) times the average annual maintenance cost estimated by the Director of Public Works. The bond or other instrument shall remain in effect permanently unless the City of Durham (by its City Manager) and the Permittee execute an Agreement, under the official seal of the City of Durham, stating that "the Permittee's obligation under Section 4 of the Stormwater Facility Agreement and Covenant made on [date] between the City of Durham and [name of Permittee] to provide a bond or other instrument has been changed as follows [stating the new requirement or that it has been eliminated]." If the Director of Public Works notifies the Permittee that an instrument, surety, or other guarantor is unacceptable to the Director of Public Works, the Permittee shall, within thirty (30) days substitute an acceptable instrument, surety, or other guarantor or pay the City the Face Amount.

5. Right of Entry on Site. The Permittee hereby grants to the City the right of ingress, egress, and regress over and across the Property and the Site for the purpose of inspecting the Facility and for the purpose of correcting, repairing, replacing, and maintaining the Facility and exercising the other rights of the City that are provided for by this Agreement.

6. Remedies for Violations; Lien on Property; Future Obligations Secured.

a. If the Permittee fails to perform its obligations under this Agreement, the City may send notice to the Permittee to demand that it so perform. If the Permittee fails to comply with such demand within thirty (30) days

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from the date of mailing thereof, the City may enter the Property and the Site and perform some or all of the work that the Permittee was required to do in carrying out its obligations under this Agreement, and the City may do any of such work as the Director of Public Works deems appropriate to place the Facility in proper working condition. The Permittee shall pay the City for the cost incurred by the City to do that work, including reasonable amounts, calculated under procedures established by the Director of Public Works, for the City's overhead and use of City employees, equipment, and property. Interest shall accrue on those monetary obligations of the Permittee at the rate of one and one-half percent (1 - ½%) per month until paid. Without limiting other remedies available to the City, including recourse to the bond or other instrument referred to in Section 4, it is agreed that those monetary obligations shall be a lien on the Site and may be collected as unpaid taxes in accordance with N.C.G.S. 160A-193. If the City collects on the bond, letter of credit, or other instrument furnished pursuant to this Agreement the proceeds shall be applied to the amounts due under this paragraph and the Permittee shall replace the bond/security to the full face amount in Section 4.

b. This Agreement may be enforced by any remedy available in law or in equity, including but not limited to injunctive relief. The remedies provided by this Section 6 are cumulative, and are in addition to any other remedies available to the City.

c. The Permittee shall pay an attorney's fee of fifteen percent (15%) of the outstanding balance of the amount owed to the City under Section 6(a) of this Agreement if the balance is collected by or through an attorney at law. The liability of a surety or other Person guaranteeing the Permittee's obligations under this Agreement shall include said attorney's fees.

d. The City may withhold any or all permits or other approvals necessary to complete the development of the Property if the Permittee has failed to perform its obligations under this Agreement.

7. Release of Lien by Certificate

a. Duty to Furnish a Certificate -- On the request of any of the Persons prescribed in subdivision (a) (i) below, and upon the condition prescribed by subsection (a) (ii) below, the Director of Public Works shall furnish a written certificate stating the amount of any monetary liabilities owed by the Permittee to the City pursuant to this Agreement (together with any interest and costs accrued thereon) that are a lien on the Property or the Site.

- i. Who May Make Request -- Any of the following Persons shall be entitled to request the certificate:
- A. An owner of the Property;
  - B. An occupant of the Property;
  - C. A Person having a lien on the Property;
  - D. A Person having a legal interest or estate in the Property;
  - E. A Person having a contract to purchase or lease the Property or a Person having contracted to make a loan secured by the Property;
  - F. The authorized agent or attorney of any Person described in subdivisions (a) (i) (A) through (E) above.

ii. Duty of Person Making Request -- The Director of Public Works shall not be required to furnish a certificate unless the Person making the request specifies the name of the Permittee, specifies the Book and Page in the office of Register of Deeds where this Agreement or a memorandum thereof is recorded, and provides a copy of the first page of this Agreement.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

b. Reliance on the Certificate -- When a certificate has been issued as provided in Section 7(a) above, all monetary liabilities owed pursuant to this Agreement that have accrued against the Site or the Property for the period covered by the certificate shall cease to be a lien against the Property, except to the extent of monetary liabilities stated to be due in the certificate, as to all Persons obtaining such a certificate and their successors in interest who rely on the certificate:

- i. By paying the amount of monetary liabilities stated therein to be a lien on the Property;
- ii. By purchasing or leasing the Property; or
- iii. By lending money secured by the Property.

c. Without limiting the effect of this Section 7, it is agreed that no oral statement made by any City employee as to the amount of monetary liabilities that are a lien on the Property pursuant to this Agreement shall bind the City.

8. Warranty. The Permittee covenants with the City, that Permittee is seized of the Property and the Site in fee simple, has the right to convey the same in fee simple, that title is free and clear of all encumbrances, and that Permittee will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions stated in the attorney's opinion of title provided in accordance with Section 2 (b) above.

9. Notice. When a notice is required or permitted by this agreement, it shall be given in writing to the City delivered to the Director of Public Works, 101 City Hall Plaza, Durham, NC 27701, or upon the Permittee, at **Hope Valley Townhomes, LLC, 3104 Surrey Road, Durham, NC 27707; Attention: Walker Harris (919-933-3990)**. If mailed, the notice shall be by certified mail, return receipt requested. These addresses may be changed by sending a notice of the new address attached to a copy of this agreement.

10. No Waiver of Breach. If the City waives any breach of any obligation or covenant in this Agreement, that waiver shall not constitute a waiver of any other or future breach of the same or any other obligation or covenant. The City's failure to exercise any right under this Agreement shall not constitute a waiver of that right.

11a. Agreement Binding until City Waives Agreement. This Agreement and all the covenants in it shall bind Permittee until the City releases Permittee in writing, signed by the Director of Public Works, from the obligations of this Agreement. The City shall release Permittee from the obligations of this Agreement when a responsible and financially capable successor has signed an Agreement with the City. The responsibility and financial capacity of any successor shall be determined solely by the City in its reasonable discretion.

11b. Covenants Herein to Run with the Land. The obligations of this Agreement run with the Property and with the Site and shall bind all owners of any interest in the Property and the Site. However, where the City has, by written release described in 11a above, accepted an owner of the Site as being responsible and financially capable, and such successor owner owns the Site, but not the Property, then this Agreement shall thereafter run solely with the Site and not with the Property. By way of example and not limitation, all owners of any interest in the Site shall be jointly and severally liable to fulfill the Permittee's obligations under this Agreement as if each of them were the Permittee. Unless the context otherwise requires, the term "Permittee" in this Agreement includes all such owners.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

12. Benefit of this Agreement.

a. The approval by the City or any employee of the City of any plans or of any work referred to in this Agreement shall not create any liability in the City or its officers, officials, or employees for the plans or the work; but nothing herein is intended to release any other Person for any liability for those plans or work.

b. The performance by the City or any employee of the City of any work referred to in this Agreement shall not create any liability in the City or its officers, officials, or employees for the work; but nothing herein is intended to release any other Person for any liability for that work.

c. Except to the extent otherwise explicitly provided in this Agreement, this Agreement is not intended to be for the benefit of any Person other than the parties hereto and their heirs, successors, and assigns.

13. Interpretation of this Agreement. Unless the context requires otherwise, the singular includes the plural, the plural includes the singular, and the neuter includes the masculine and feminine. The captions and titles are for convenience only, and are not to be used to interpret the Agreement. The words "include" and "including" mean, respectively, "include but not limited to", and "including but not limited to".

14. Nondiscrimination Policy. The City of Durham opposes discrimination on the basis of race and sex and urges all of its contractors to provide a fair opportunity for minorities and women to participate in their work force and as subcontractors and vendors under City contracts.

15. Severability. Invalidation of any term or provision in this Agreement by a court of competent jurisdiction shall not invalidate the remaining terms and provisions.

IN WITNESS WHEREOF, the parties hereto have respectively set their hands and seals, or if corporate, have executed this under seal by their proper officers, the date first above written.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

Hope Valley Townhomes, LLC

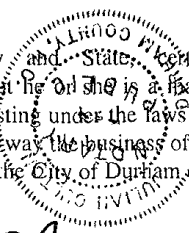
Manager: S. Walker Harris Jr

Printed Name: S. Walker Harris Jr

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

I, Julian Culton, a notary public for said County and State, certify that Walker Harris personally appeared before me this day, (1) stated that he or she is a manager of **Hope Valley Townhomes, LLC**, a limited liability company organized and existing under the laws of North Carolina, (2) acknowledged that the foregoing instrument carries on in the usual way the business of the LLC and (3) acknowledged execution of the foregoing contract/deed under seal with the City of Durham on behalf of said company.

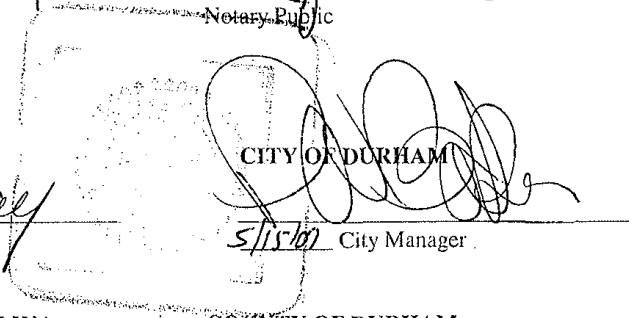


This the 1st day of May, 2007 Julian Culton  
Notary Public

My commission expires:  
11-18-07

ATTEST:

By: D. Ann Gray  
City Clerk  
[Affix Municipal Seal]



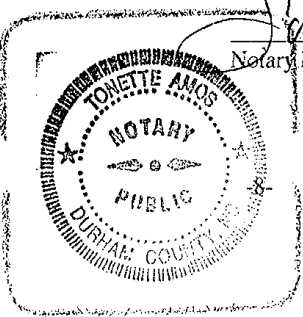
STATE OF NORTH CAROLINA

COUNTY OF DURHAM

I, Tonette Amos, a notary public in and for the County of Durham, North Carolina certify that D. Ann Gray personally appeared before me this day and acknowledged that he/she is City Clerk of the **CITY OF DURHAM**, a municipal corporation, and that by authority duly given and as the act of the City, the foregoing contract was signed in its name by its      City Manager, sealed with its corporate seal, and attested by himself/herself as its said City Clerk or Deputy City Clerk.

Witness my hand and notarial seal, the 16th day of May, 2007  
Tonette Amos  
Notary Public

My commission expires:  
07-17-07





WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
DURHAM, NC 27701

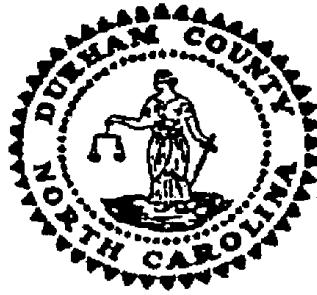
**PLEASE RETAIN YELLOW TRAILER PAGE**

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and/or cancellation.

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Filed For Registration: 06/05/2007 04:46:54 PM  
Book: RE 5632 Page: 597-605  
Document No.: 2007025196  
AGMT 9 PGS \$35.00  
Recorder: JENNIFER H SMITH



2007025196



WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
DURHAM, NC 27701

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Filed For Registration: 06/27/2008 01:11:43 PM  
Book: RE 5998 Page: 877-907  
Document No.: 2008026837  
DECL 31 PGS \$101.00  
Recorder: DEBORAH A MORRIS



2008026837

**BYLAWS OF WELDON DOWNS TOWNHOME ASSOCIATION, INC.**

BYLAWS

OF

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

ARTICLE I

**NAME AND LOCATION.** The name of the corporation is WELDON DOWNS TOWNHOME ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 3104 Surrey Road, Durham, North Carolina 27707, but meetings of members and directors may be held at such places within the State of North Carolina, County of Durham, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to the Weldon Downs Townhome Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to the real property described on page 1 of the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners together with all sewer and water lines serving the Properties and located on the Common Area outside of dedicated public easements of City rights-of-way.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "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, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Hope Valley Townhomes, LLC, its successors and assigns.



WELDON DOWNS TOWNHOME ASSOCIATION, INC.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Durham County Register of Deeds.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III

Section 1. Annual Meetings. The first annual meeting of the members shall be held within eighteen months after the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held in the same month of each year thereafter on the day and at the hour specified in the notice to members of the meeting.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than 30 days nor more than 60 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast or of proxies entitled to cast, one-third (1/3) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

ARTICLE IV

BOARD OF DIRECTORS: SECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of not less than three (3) nor more than seven (7) directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect one director for a term of one year, one director for a term of two years, and one director for a term of three years, and at each annual meeting thereafter the members shall elect directors for a term of three years to fill the expired terms.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt, publish, and amend rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guest thereon, and to establish fines or penalties for the infraction thereof;

(b) suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may be suspended after notice and hearing, for a period not to exceed 60 days from infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;

(f) contract for the provision of a central television antenna or, in the absence of the availability thereof, to supply cablevision for the convenience of the members, the cost of either of which may be included in annual or special assessments, and regulate or prohibit the erection of television antennas or dish on individual lots; and

(g) procure and maintain hazard insurance on the townhome dwellings situated on the lots in amounts equal to one hundred percent (100%) of the replacement costs of all such improvements.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause the Common Area to be maintained, including the maintenance, repair and reconstruction of any water impoundment areas and private streets situated on the common Area;

(g) pay all ad valorem taxes and public assessments relating to the Common Area and storm water impoundment area;

(h) pay the premium for all hazard insurance procured pursuant to Article VII, Section 1(g) hereof;

(i) upon written request from the holder, insurer or guarantor of any first mortgage or deed of trust on any lot(s), issue timely written notice of:

(1) any condemnation or casualty that affects either a material portion of the project or the lot securing its mortgage or deed of trust;

(2) any 30-day delinquency in the payment of assessments or charges owed by the owner of any lot on which it holds the mortgage or deed of trust;

(3) a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(4) any proposed action that requires the consent of specified percentage of mortgage holders.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president, secretary and treasurer, who shall at all times be members of the Board of Directors, and such other officers as the Board of Directors, and such other officers as the Board may from time to time by resolution create.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the office he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Secretary

(b) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

Treasurer

(c) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX

COMMITTEES

The Association may appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee as provided in these Bylaws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost. The Declaration shall also be recorded in the public records of Durham County.

ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

herein by nonuse of the Common Area or abandonment of his Lot.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Weldon Downs Townhome Association, Inc..

ARTICLE XIII

Notwithstanding any terms of the Bylaws to the contrary, the provisions of this Article shall control the engineered Stormwater Management Facility (the "Facility") constructed in connection with the Weldon Downs Development as shown on plat recorded in Plat Book \_\_\_ at Page \_\_\_ of the Durham County Registry.

The Facility and any appurtenances and access easements thereto shall be deemed a part of the common area and shall be properly maintained and operated in conformity with the law and the provisions of that certain Stormwater Facility and Maintenance Permit Agreement dated \_\_\_\_\_, \_\_\_\_\_ for the construction, operation, repair and maintenance of the Facility. The Facility shall be maintained out of the common expenses of the Association, and shall receive the highest priority for expenditures by the Association, except for federal, state and local taxes and insurance. A separate fund shall be created out of common expenses for the routine maintenance of the Facility, which said fund shall become a part of the annual budget. In the event the separate fund is not adequate for the reconstruction, repair and/or maintenance of the Facility, a special assessment shall be levied by the Association to cover the necessary costs. The members of the Association shall have the affirmative obligation to take the measures necessary to levy the special assessment in an amount necessary to provide for the necessary costs. The Association shall not enter into a voluntary dissolution without having transferred the Facility to a person, corporation or entity acceptable to, and approved by, the City of Durham".

ARTICLE XIV

AMENDMENTS

Section 1. These Bylaws may be amended, at a regular or special meeting of the Board of Directors, by a vote of a majority of a quorum of the Directors present in person or by proxy, subject to the provisions of Section 2, provided that such amendment has no adverse effect on the right of any Member. Otherwise, the Bylaws may be amended, at a regular or special meeting of the Members, only by a vote of a majority of a quorum of Members present in person or by proxy.



## AMENDMENT TO THE BYLAWS 2018

Book8409 - Page759 Page 1 of 3

For Registration Sharon A. Davis  
Register of Deeds  
Durham County, NC  
Electronically Recorded  
2018 Apr 26 12:49 PM NC Rev Stamp: \$ 0.00  
Book: 8409 Page: 759 Fee: \$ 26.00  
Instrument Number: 2018013667  
AMD

Prepared by and return to:  
Michael R. Ganley, Attorney, Bagwell Holt Smith P.A.  
111 Cloister Court, Ste. 200, Chapel Hill, NC 27514

### AMENDMENT TO BYLAWS FOR WELDON DOWNS TOWNHOME ASSOCIATION, INC.

This Amendment to Bylaws for Village at Weldon Downs Townhome Association, Inc. (this "Amendment"), is made this 25 day of April, 2018, by **Weldon Downs Townhome Association, Inc.**, a North Carolina non-profit corporation, hereinafter referred to as the "Association". The Association states and declares as follows:

- A. Article XIV, Section 1 of the Bylaws for the Association provides, in pertinent part, that the Bylaws may be amended, at a regular or special meeting of the Board of Directors, by a vote of a majority of a quorum of the Directors present in person or by proxy.
- B. A majority of the Board of Directors have voted in favor of amending the Bylaws.
- C. Article XIV, Section 3 of the Bylaws state that such amendment must be recorded in the public records of Durham County, North Carolina.
- D. The Association now desires to amend the Bylaws.

THEREFORE, the Association hereby amends the Bylaws as follows:

1. ARTICLE I of the Bylaws is deleted in its entirety and replaced with the following:  

NAME AND LOCATION. The name of the corporation is WELDON DOWNS TOWNHOME ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at c/o Allenton Management, 3500 Westgate Dr., Suite 800, Durham, NC 27707, or as subsequently determined by the Board of Directors.
2. ARTICLE VII, SECTION 1(c) of the Bylaws is deleted in its entirety and replaced with the following:  

(c) exercise for the Association all powers, duties and authority vested in or delegated

Submitted electronically by "Bagwell Holt Smith P.A."  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Durham County Register of Deeds.

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration, however, any expenditure greater than \$10,000.00 must be approved by a unanimous vote of the Board of Directors;

3. ARTICLE VII, SECTION 1(e) of the Bylaws is deleted in its entirety and replaced with the following:

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties, however, if the Board employs a property manager, the Board may include in the contract with the property manager that all the day-to-day affairs of the Association, including financial responsibilities, be carried out by the property manager, including the duties of the President and Treasurer to sign checks. In the event that the property manager is delegated the duty to sign checks, the property manager shall obtain a fiduciary bond. Notwithstanding the foregoing, any check drafted to pay for capital repairs or improvements must be signed by the Treasurer or President, and cannot be delegated to the property manager;

4. The following is added as an additional ARTICLE VII, SECTION 1(h) of the Bylaws:

(e) administer a reserve account for capital improvements and unanticipated expenses. Any transfer from the reserve account to the operating account must be approved by a majority of the Board of Directors.

5. ARTICLE VIII, SECTION 8(a) of the Bylaws is deleted in its entirety and replaced with the following:

(a) The president will preside over meetings of the Board of Directors, and the annual membership meeting. The President will see that all orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, and shall co-sign any expenditure of \$10,000 or more, if that expenditure has unanimous approval of the Board of Directors.

6. ARTICLE VIII, SECTION 8(c) of the Bylaws is deleted in its entirety and replaced with the following:

(c) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, however, notwithstanding the foregoing, a resolution shall not be required for disbursements made in the ordinary course of business pursuant to the budget adopted by the Board. This duty may be delegated to the property manager. The Treasurer shall keep, or cause to be kept, proper books of accounts. The Treasurer shall prepare, or direct the management company to prepare, an annual income and expense statement and balance sheet to be available to the membership within seventy-five (75) days of the end of the fiscal year. The Treasurer shall co-sign any expenditure of \$10,000 or more, if that expenditure has unanimous approval of

WELDON DOWNS TOWNHOME ASSOCIATION, INC.

the Board of Directors.

7. ARTICLE X, SECTION 3 of the Bylaws is deleted in its entirety.

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed, as of the date first stated above.

**WELDON DOWNS TOWNHOME ASSOCIATION, INC.,**  
a North Carolina non-profit corporation

By: Laurel K. Mathes  
Name: Laurel K. Mathes  
Its: President

NORTH CAROLINA  
COUNTY OF Orange

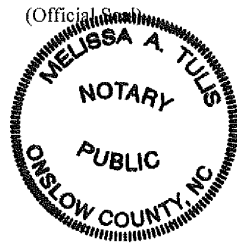
Melissa A. Twis, a Notary Public, do hereby certify that Laurel K. Mathes, personally came before me and acknowledged that s/he is president of Weldon Downs Townhome Association, Inc., a North Carolina non-profit corporation, and that s/he, as president, being authorized to do so executed the foregoing on behalf of the non-profit corporation.

Melissa A. Twis  
Official Signature of Notary Public

Date: 4/25/18

Melissa A. Twis  
Notary's Printed or Typed Name, Notary Public

My commission expires: 9-27-21



## **WELDON DOWNS TOWNHOME ASSOCIATION, INC RULES ENFORCEMENT POLICY**

RESOLUTION APRIL 2013

WHEREAS, the Declaration of Restrictions and Covenants (“Declaration”) charges the Weldon Downs Townhome Association, Inc., (“Association”) with protecting community harmony by providing mechanisms to address conditions that disrupt that harmony; and

WHEREAS, the Declaration charges all unit owners and residents with compliance with the Declaration, Bylaws, Rules and Regulations (“Governing Documents”) of the Association as amended; and

WHEREAS, the Declaration sets forth reservations, conditions and restrictions upon all lots within the Weldon Downs community; and establishes that the Board of Directors of the Association (“Board”) is responsible for the architectural control of the Weldon Downs community; and

WHEREAS, the Bylaws grants the Board with the authority to exercise all powers, duties and authority vested in the Association; and

WHEREAS, Section 47F-3-102.1 of the North Carolina Planned Community Act (“Act”) authorizes the Board to adopt and amend rules and regulations necessary for the governance and operation of the Association; and

WHEREAS, Section 47F-3-102.12 of the Act authorizes the Association to impose fines for violations of the declaration, bylaws and rules and regulations of the Association; and

WHEREAS, the Board of Directors intends to protect community harmony by enforcing the Governing Documents by establishing procedures which ensure due process and consistency; and

NOW AND THEREFORE, LET IT BE RESOLVED, by the Board of Directors that the following policies and procedures for rules enforcement will be followed.

### **RULES ENFORCEMENT POLICY**

The Weldon Downs Board of Directors will adhere to the following due process procedures before imposing any fines or taking any action affecting one or more specific property owners.

#### **Definitions:**

1. “Association” refers to the Weldon Downs Townhome Association, Inc.
2. “ARC” refers to the Association’s Architectural Review Committee.
3. “Governing Documents” refers to the Articles of Incorporation, Declaration of Restrictions and Covenants for Weldon Downs Townhome Association and By-laws of the Weldon Downs Townhome Association.

4. “Rules and Regulations” refers to conditions, restrictions and reservations stipulated in the Governing Documents and Architectural Review Standards and Board Policies, as may be adopted and/or amended from time to time by the Board.

Scope:

1. This Rules Enforcement Policy applies to all Rules and Regulations of the Association, except for nonpayment of annual and/or special assessments.

2. Assessment obligations will be enforced in accordance with procedures stipulated in the Governing Documents and the North Carolina Planned Community Act, as amended.

I. Complaints:

If the Association receives a complaint regarding a violation of the Rules and Regulations, or the Board of Directors becomes aware of a violation through any means, the Board liaison to the ARC or other person so designated by the Board will record the date, time, and method by which the complaint was received (i.e. telephone, electronic mail, in person), the name of the complainant, or how and when the Board otherwise became aware of the violation.

If it appears that the Rules and Regulations may have been violated, the Board may proceed as stated below.

II. Informal Notice:

1. The Association’s first notice will be an informal contact with the property owner by a Board member or designated representative either in person or by telephone. This informal contact will include notification of the alleged violation and the applicable rule or provision of the Governing Documents. If an informal contact cannot be made with reasonable effort within two (2) days, formal notification procedures will begin.

2. The informal notice of the violation will be regarded as a warning, unless otherwise stipulated in the Associations’ Rules.

3. If, after a date usually not less than five (5) days from the date of the informal notice the violation is not cleared or is repeated, formal notification procedures will then be instituted.

III. Formal Notice:

1. The Association’s first formal notice will be issued in writing and delivered by hand or by certified United States mail to the property owner at the address which the owner has provided to the Association. The Association will deem notification effective if any member fails or refuses to sign for any certified mailing from the Association.

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2. The letter will specify the alleged violation, the action required to remedy the violation and a date usually not less than fifteen (15) days after the date of the formal notice by which the alleged violation must be remedied. Provided, however, when the violation may constitute a health, safety or fire hazard, notice may be made to remedy the violation with twenty-four (24) hours.
3. The letter will state the lot owner may request, in writing, a hearing before the Board by or before the remedy deadline stated in the letter to avoid the imposition of fines. The hearing procedures set forth in Section IV of the policy will be followed.
4. The letter may be combined with the notice of hearing referenced in Section IV of the policy if the violation is of a serious nature or an emergency or if previous notices of violation have been sent to the owner.
5. If a hearing is not requested and the lot owner does not remedy the violation, the owner will be deemed to have waived the opportunity for a hearing and fines may be assessed. The Board may issue a second and final formal notice that will demand the lot owner comply immediately to correct the alleged violation or will be assessed fines, and the commencement of legal action against the lot owner to enjoin the violation(s) or to recover monetary damages or both.

IV. Hearing Procedures:

1. A lot owner may request a hearing before the Board in writing by or before the remedy deadline. The Board of Directors will set the time, date, and place of the hearing at its discretion.
2. The Association will deliver a written notice of the time, date, and place of the hearing to the lot owner by hand or by United States mail, return receipt requested, at least fifteen (15) days in advance of the hearing date.
3. The Hearing Notice will specify that:
  - A. the lot owner and resident, if applicable, will be given an opportunity to be heard;
  - B. the alleged violation, citing the provision of the Governing Documents or rules which allegedly have been violated;
  - C. the possible fines that may be assessed;
  - D. the Association may take legal action against the lot owner to enjoin the violation(s) or to recover monetary damages or both.

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4. The hearing will be conducted in private unless the lot owner requests that the hearing be open to owners and residents and further provided that the Board may impose a reasonable limit on the number or such persons who can be accommodated in the hearing room.

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5. At the hearing, the lot owner will be provided with a reasonable amount of time to present any and all defenses to the rules violation. After hearing all evidence and testimony, the Board will discuss the issues in Executive Session. Upon conclusion of the Executive Session, the board will reconvene in Open Session and vote on the matter. The Board will provide the lot owner with a notice of the hearing result, either by hand or certified United States mail, return receipt requested within four (4) business days of the hearing.

6. In the event that the lot owner does not appear at the hearing and fails to request in advance the rescheduling of the hearing, the Board will conduct the hearing despite his/her absence. The Board, within its discretion, may grant a continuance to a different time or date, in which case no further notice will be required.

7. The Board will keep a record of the hearing either by minutes taken during the hearing by the secretary of the Board of Directors. Such record will be kept in accordance with generally accepted business practices.

V. Other Remedies:

1. If the lot owner does not remedy the violation after the second and final formal notice, the Board of Directors reserves the right to turn the matter over to an attorney for appropriate legal action.
2. The Board reserves the right to assign all of its powers and responsibilities herein to a special committee of its choice. Lot owners may appeal the decision of a committee to the Board by delivering written notice of appeal to the Board within fifteen (15) days after the date of the decision. The Board may affirm, vacate or modify the prior decision.

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