

Prepared by and return to: Charles G. Beemer, 1170 South Main Street, Waynesville, N.C., 28786.

NORTH CAROLINA

DECLARATION OF COVENANTS. CONDITIONS
AND RESTRICTIONS FOR PINE SHADOWS

HAYWOOD COUNTY

THIS DECLARATION, made and entered into this the 23rd day of October, 2006, by HIGHLAND HOMES, LLC., a North Carolina Limited Liability Company, party of the first part, hereby referred to as Declarant, whose address is 1170 South Main Street, Waynesville, N.C., 28786.

WITNESSETH:

WHEREAS, Declarant is the owner of that real property located in the Town of Waynesville, Haywood County, North Carolina, more particularly described as:

Being all of 5.703 acres of land lying on the east side of Old Asheville Highway and the south side of Woods Edge Road in the Town of Waynesville, all as shown on plat recorded in Plat Cabinet C, Slot 4455, Haywood County Registry, to which plat reference is hereby made for a more particular description of same. As hereinafter stated, Declarant will create a minimum of thirteen (13) townhouse Lots in Pine Shadows on this land. The plat recorded in Plat Cabinet C, Slot 4657, Haywood County Registry, to which plat reference is hereby made, depicts the creation of Lots 12 and 13 from said acreage. As hereinafter set forth, Declarant, in Declarant's sole discretion, may elect to create more than thirteen (13) townhouse in the Pine Shadows subdivision and once created, such additional Lots will be subject to this Declaration and in no event will there be less than thirteen (13) townhouse Lots in Pine Shadows. In addition, Declarant, as hereinafter set forth, may elect, in Declarant's sole discretion, to create from two (2) to four (4) single family detached dwelling Lots subdivided from this acreage. Should Declarant so elect, such single family detached dwelling will not be part of the Pine Shadows townhouse development and will not be subject to this Declaration.

AND WHEREAS, Declarant intends to construct a townhouse residential living unit on each of a minimum of thirteen (13) townhouse Lots subdivided from said acreage with

the centerline of the party wall of each townhouse home, where applicable, being the property line for said Lot and to convey no less than thirteen (13) townhouse Lots from said property subject to the Covenants, Conditions and Restrictions contained in this Declaration.

NOW, THEREFORE, Declarant declares that all the property in the townhouse development known as PINE SHADOWS shall be held, sold, and conveyed subject to the following 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 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 Lot therein. 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 ONE: Definitions.

Section 1: "Properties" shall mean and refer to that certain real property known collectively as PINE SHADOWS as shown on plat recorded in Plat Cabinet C, Slot 4455, Haywood County Registry, and as shown on all future and subsequently recorded plats of PINE SHADOWS, subdividing said Properties, brought within the jurisdiction of the "Association" subject to this Declaration. The plat recorded in Plat Cabinet C, Slot 4657, Haywood County Registry, is just such a "future and subsequently recorded plat of PINE

SHADOWS.” As such, Lots 12 and 13 as shown on that plat are subject to this Declaration and the record owners thereof are members of the Pine Shadows Homeowners Association, Inc. In addition to the two (2) Lots shown on Plat Cabinet C, Slot 4657, a number of additional “future and subsequently recorded plats of PINE SHADOWS” will be recorded from time to time until a minimum aggregate total of thirteen (13) townhouse Lots have been created. Section 2: "Association" shall mean and refer to the Pine Shadows Homeowners' Association, Inc., its successors and assigns.

Section 3: "Lot" shall mean and refer to any plot of land as shown on any recorded subdivision map of the "Properties" excluding the aforesaid Common Areas lands.

Section 4: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the "Properties," including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5: "Common Areas" shall mean and refer to all real property (including any improvements thereto) owned in fee simple by the Association or for which the Association shall have been granted by Declarant easement rights for the common use and enjoyment of all the Owners of Lots in PINE SHADOWS, subject to this Declaration and By-Laws.

Section 6: "Declarant" shall mean and refer to Highland Homes, LLC., a North Carolina Limited Liability Company, its successors and assigns. In the event Highland Homes, LLC, for any reason, should cease to exist, then Declarant shall mean any entity which purchases or otherwise acquires Highland Homes, LLC's remaining interests in and to the development known as PINE SHADOWS.

Section 7: "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 vote total shall be accorded to each Lot.

ARTICLE TWO: Property Rights.

Section 1: Owners' Easements of Enjoyment: Each Owner of a Lot in PINE SHADOWS shall have a right and easement of enjoyment in common with every other Lot Owner in PINE SHADOWS in and to Common Areas lands. The Owner of each Lot in PINE SHADOWS shall have an exclusive right and private easement of enjoyment in common only with the Owner of the Lot with whom a party wall is shared. Such rights shall be appurtenant to the land and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon Common Areas;

(b) The right of the Association to suspend the voting rights and the right of access to and through the Common Areas if such access is intended for recreational purposes and the right to the use of the recreational facilities located on Common Areas by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of Common Areas 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 2/3 of each class of members has been recorded.

(d) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas and facilities, and in aid thereof to mortgage said property, and the rights of such mortgagees in said properties shall be subordinate to the rights of the homeowners hereunder.

Section 2: Ownership of each Lot shall entitle the owner or owners thereof to the use of not more than two automobile parking spaces, one within or inside the garage located on

that owner's Lot and one outside on the driveway directly in front of said garage. No Lot owner may park his car in any manner or in any place so as to prohibit another Lot owner from parking his car within his allotted spaces. Beyond this allocation, additional parking is designed for "Guests only." The parking of boats, trailers, motor homes and commercial vehicles of any type except delivery vehicles while in the process of making deliveries is expressly prohibited. The Board of Directors of the Association shall have the power and authority to regulate parking (such authority to include, but not necessarily be limited to bringing legal action against and collecting reasonable attorney's fees from a Lot owner who willfully or negligently fails to abide by the provisions herein contained) and no Lot owner under any circumstances will be allowed to leave his vehicle parked and unattended if the location of that vehicle in any manner, fashion or form blocks or impedes the rights of ingress, egress and regress of any other Lot owner in the subdivision. Declarant, for itself, its successors and assigns, hereby gives and grants unto each Lot owner in PINE SHADOWS a non-exclusive easement of ingress, regress and egress over, across and through the Common Areas of PINE SHADOWS, which easement shall be appurtenant to and run with the land. .

Section 3: Delegation of Use: Subject to this Declaration and By-Laws, a Lot owner may delegate his right of enjoyment to Common Areas and facilities to his heirs and assigns, members of his family, invitees, agents, licensees, guests, tenants, or contract purchasers who reside on the property.

Section 4: Conveyance of Common Areas: At such times, as hereinafter provided, as Declarant transfers legal control of the Homeowners' Association over to the various persons or entities who then constitute the membership of the association, Declarant shall convey marketable fee simple title to the Common Areas 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 or road rights of way, sidewalks, parking areas and utility easements. Subject to Declarant's reserved easement rights and subject to Declarant's reserved right to create additional Lots as set forth hereinbelow, the Association, from and after the sale and conveyance of twelve of the

thirteen Lots in PINE SHADOWS, shall be solely responsible for maintaining and insuring the Common Areas. So long as Declarant remains the record owner of any Lot within the Properties, Declarant expressly reserves the right to alter and restructure existing Lot lines of any unsold Lot in PINE SHADOWS. NOTICE IS HEREBY GIVEN that Declarant will not, unless in Declarant's sole discretion Declarant decides to the contrary, deed marketable fee simple title to the Common Areas to the Association until such time as Declarant likewise deeds marketable fee simple title to the last of the thirteen (13) Lots initially planned for PINE SHADOWS, and further, at that time, Declarant may elect to create additional townhouse Lots in PINE SHADOWS which, if created, will be subject to this Declaration in the same manner as the original thirteen (13) Lots and Declarant may also, again in Declarant's sole discretion, elect to create up to four (4) additional single family detached dwelling Lots, which Lots, if created, will not be subject to this Declaration. Should either event occur, then the Common Area of PINE SHADOWS which Declarant will convey to the Association will be subdivided from the acreage shown on Plat Cabinet C, Slot 4455, Haywood County Registry.

ARTICLE THREE: 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 classes of voting membership:

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

Class B - The Class B member(s) shall be the Declarant which shall be entitled to six (6) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first: In the event Declarant, in Declarant's sole discretion, adds more townhouse

Lots to Pine Shadows than the thirteen originally provided for herein, those Lots until sold to a third party purchaser for value shall be deemed Class B Lots. Such additions, if made by Declarant, will then be included in making the computations as set forth in subparagraph (a) immediately below. This formula is based on the premise that Declarant will create at least thirteen (13) Lots in PINE SHADOWS which, from the date this Declaration is recorded until the date each of the thirteen (13) Lots is conveyed by Declarant to a third party purchaser for value shall be deemed Class B Lots. In addition, should Declarant elect to create additional townhouse Lots as herein provided, each such Lot, from the date Declarant's decision is evidenced by an Amendment to this Declaration recorded on the public record of Haywood County until the date each Lot is conveyed to a third party purchaser for value shall be likewise deemed a Class B Lot.

(a) when the total votes outstanding in the Class A membership equals or exceeds the total votes of outstanding in the Class B membership, or

(b) January 1, 2012, whichever event first occurs.

Section 3: Declarant, in its sole discretion, may and can turn over control of the Association at any time prior to the timetable set forth above, if Declarant should deem the same to be necessary and/or desirable.

ARTICLE FOUR: Covenant for Assessments.

Section 1: Creation of the Lien and Personal Obligation of Assessments. 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, both 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. Liens against the property of a defaulting Lot owner may be obtained as set forth in the General Statutes of the State of North Carolina. 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 the delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Declarant shall not be liable for payment of any Annual or Special Assessment.

Section 2: Purpose of Assessments.

(a) The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents of the Properties.

(b) In addition, the assessments as collected shall be spent for general maintenance, which shall include, but not necessarily be limited to, lawn care such as the mowing and trimming of lawn areas and such other items as blowing sidewalks and driveways free of leaves. This maintenance responsibility, on both individual Lots as well as the Common Areas of PINE SHADOWS, shall be the responsibility of the Association.

©) By way of further illustration, and not by way of limitation, the Board of Directors of the Association, being responsible for procuring adequate fire and extended casualty insurance on all the buildings and general liability insurance on all the Common Areas of PINE SHADOWS, shall defray the cost of the same from the Annual Assessment.

(d) The Annual Assessment shall also be used to pay for the electricity lighting Common Areas lands and the streets serving PINE SHADOWS.

(e) Declarant intends, during construction, to do all plantings for the subdivision solely at Declarant's cost; subject, however, to the provision, that once the plantings have been done, maintenance and replacement costs for all such plantings within any given Lot shall be the responsibility, financial and otherwise, of that individual Lot owner and not the responsibility of Declarant and/or the Association. Plantings within the Common Areas shall be the responsibility of the Association to be paid from this Assessment.

(f) By way of further information regarding the assessment, each Lot Owner should note that due to differing amounts of exposure to the elements and other factors, some Lots may require more maintenance than other Lots. It is in the best interest of the Association

and all the Lot Owners individually, that all Lots be properly maintained and that the Association be required to provide such maintenance. Lastly, it should be noted that money spent, particularly by and through a special assessment on any given Lot, enhances the value of all Lots within the Properties, some of which may require special assessments for capital maintenance at some date in the future when other Lots within the Properties do not have this same need or requirement.

Section 3: Maximum Annual Assessment. Until January 1, 2008, the maximum Annual Assessment shall be Twelve Hundred (\$1,200.00) Dollars per Lot, payable at the rate of One Hundred (\$100.00) Dollars per month.

(a) From and after January 1, 2008, the maximum Annual Assessment may be increased each year by the Board of Directors of the Association and/or Declarant, without a vote of the Lot Owners, in an amount equal to but not greater than the increase in the Consumer Price Index (as published by the United States Department of Labor) for the preceding calendar year.

(b) From and after January 1, 2008, the maximum Annual Assessment may be increased each year by the Board of Directors of the Association and/or Declarant above that total increase established by the Consumer Price Index for the preceding calendar year only by a vote of two-thirds (2/3) of all the Lot Owners who are voting in person or by proxy, at a meeting duly called for this purpose.

©) The Board of Directors may fix the Annual Assessment at any amount not in excess of the maximum.

Section 4: Special Assessments for Capital Improvements. In addition to the Annual Assessment 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 Common Areas lands, including fixture and personal property related thereto, and for maintenance, repair or replacement of roofing, gutters and/or painting for each

townhouse building; provided, however, that except for the particular situation as set forth in Article

Five, Section 5, any such 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. It is Declarant's intent that exterior maintenance of each townhouse unit shall be a common concern and a common expense for all Lot owners in PINE SHADOWS. To that end, the costs of any and all exterior maintenance, as hereinafter defined, shall be paid for by Special Assessment.

Section 5: Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Lot Owners not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Lot Owners or of the proxies entitled to cast sixty percent (60%) of all the 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 quota at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6: 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.

Section 7: Date of Commencement of Annual Assessment: Due Dates. The Annual Assessment provided for herein shall commence as to any given Lot on the day that Lot is conveyed to a third party purchaser for value, with the amount of the assessment being prorated for the remainder of the month in which the conveyance occurred. The Board of Directors shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth

whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8: 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 ten (10.0%) percent per annum, plus a one-time late payment penalty of Forty (\$40.00) Dollars. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 9: 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 10: In addition to the above, the assessment provided for herein shall be allocated in part to a reserve fund which shall be established by the Board of Directors. Said reserve, funded by and through the Annual Assessment collected monthly, shall be used for periodic maintenance, repair and replacement of the dwelling units themselves and/or Common Areas maintenance, repair and improvements.

ARTICLE FIVE: Insurance and Assessments:

Section 1: The premiums for all insurance policies for the purposes set forth hereinbelow shall be deemed a common expense and shall be paid as part of the Annual Assessment, collected monthly, for each Lot.

Section 2: The Board of Directors shall have the authority to and shall obtain insurance for

all buildings owned by the Association against loss or damage by fire or other hazards in an amount equal to the maximum insurable replacement value (100% of current replacement costs) as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage such that the coverage will be sufficient to cover the costs of all repair or reconstruction work necessitated by damage or destruction from any insurable hazard.

Section 3: The Board of Directors shall have the authority to and shall also obtain a broad form public liability policy covering all Common Areas and all damage or injury to person or property caused by the negligence of the Association or any of its agents.

Section 4: The Board of Directors shall have the authority to and shall obtain insurance for all buildings owned by individual Lot Owners against loss or damage by fire, extended casualty or other hazards in an amount equal to the maximum insurable replacement value (100% of current replacement costs) as determined annually by the Board with the assistance of the insurance company providing such coverage such that the insurance coverage will be sufficient to cover the full replacement cost of any repair or reconstruction work necessitated by damage or destruction from any insurable hazard, This master or blanket policy shall insure against damage to the roof, party wall, foundations, supports and basic structure of the building. In the event of any conflict between the terms and conditions set forth herein and the terms and conditions of any policy of hazard insurance duly obtained by and through the responsible actions of the Board of Directors, then the terms and conditions of the actual policy shall control.

Section 5: In the context of Article Five, Sections 2 through 5, if the proceeds of the hazard insurance are insufficient to defray the estimated costs of reconstruction and/or repair, the Board of Directors shall have the authority to impose one or more special assessments in an amount sufficient to provide funds for such reconstruction or repair against all the individual Lot owners prorated, without the requirements of an affirmative vote of the Lot Owners.

Section 6: All insurance policies required as set forth herein will be obtained in the name of the Association and will designate not only the individual Lot Owner and said Owner's

mortgagees but also the Association, through its Board of Directors, as a loss payee, all as their interests may appear.

Section 7: In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of a Lot Owner designating the Association as a loss payee, the Board of Directors and the individual Lot Owner or Owners shall upon receipt of the insurance proceeds, contract jointly to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly.

Section 8: Each individual Lot Owner shall be solely and exclusively responsible for obtaining insurance coverage for said Owner's personal possessions and personal general liability insurance.

ARTICLE SIX: Architectural Control.

Section 1: No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, 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, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the 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

the Board or its designated committee 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 fully complied with. All such requests shall be sent by certified mail to the Declarant, or to Board of Directors, 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.

Section 2: As to all construction within the Properties, this approval process will remain the sole responsibility of Declarant so long as Declarant owns one or more Lots in PINE SHADOWS, or until such time as Declarant, in writing, transfer this responsibility to the Board of Directors of the Association or any Architectural Control Committee established

by the Board.

ARTICLE SEVEN: Party Walls. Roofs. Foundations and Foundation

Section 1: General Rules of Law to Apply. Each wall, roof, foundation and foundation wall which is built as a part of the original construction of the homes upon the Properties and placed on or traverse to the dividing line between the Lots and all reconstruction or extensions of such structures shall constitute a party wall, roof, foundation and foundation wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and lateral support in below-ground construction and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2: Sharing of Repair. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall or benefit therefrom in proportion to such use and benefit. If repair is necessitated by the occurrence of a casualty for which the Association had insurance, then such costs as are set forth herein shall be the responsibility of the Board of Directors.

Section 3: Destruction by Fire or other Casualty. If a party wall, roof, foundation or foundation wall is destroyed or damaged by fire or other casualty, then consistent with the provisions hereof, any Owner who has used the structure may restore it, and if the other Owners thereafter make use of the structure, they shall contribute to the cost of restoration thereof in proportion to such use; without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4: Easement for Construction. The Owner of any Lot may construct, reconstruct or extend a party wall, roof, foundation or foundation wall in any direction (subject to and within the limitations of architectural control and other limitations of this Declaration) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such Owner shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

Section 5: Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6: Right of Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7: Certification by Adjoining Property Owner that No Contribution is Due. If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property Owner is owed any money under any right of contribution as provided for hereunder, request the adjoining property Owner or property Owners to certify that no money is then due under any right of contribution. It shall be the duty of each adjoining property Owner to make such certification immediately upon request and without charge; provided, however, that where the adjoining property Owner claims an amount of money due under a right of contribution the certification shall contain a recital of the amount so claimed.

Section 8: Arbitration. In the event of any dispute arising concerning a party wall or other external improvements covered by this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE EIGHT: Exterior Maintenance.

Section 1: As set forth in the Preamble as well as in Article Four, Section 2©) and Section 4, the Board of Directors of the Association shall be responsible for maintenance and upkeep of the Common Areas as well as the maintenance and upkeep of the exterior structure of each Lot within the Properties. To that end, each Lot Owner herein grants to the Association, its successors and assigns, agents, employees and licensees, an exclusive easement to come upon said Lot at reasonable times for the sole and exclusive purpose of doing such exterior structural work. In addition to those matters set forth in Article Four, Section 2, from the Annual Assessment or any duly voted upon Special

Assessment, the Association may provide funds for each Lot for necessary repairing and replacing roofs, gutters, downspouts, re-painting original exterior surfaces and all other original structural exterior improvements, excluding the replacement of glass surfaces, screens, awnings, HVAC or ventilation equipment, walks, driveways or foundations, and any maintenance to approved structural additions to the initial dwelling unless this maintenance has been affirmatively assumed by the Board of Directors in writing at the time the structural addition was approved.

Section 2: Declarant and, subsequent to when Declarant has turned over the affairs of PINE SHADOWS to the Association, the Association shall be responsible for maintenance of the Common Areas and stormwater detention basins serving PINE SHADOWS. In the event either or both entities fail to do so, Declarant herein gives and grants to the Town of Waynesville the right and authority to promulgate necessary rules and regulations and/or to enter onto the Common Areas and/or stormwater detention basins of PINE SHADOWS in order to enforce the maintenance of same if either or both are not adequately maintained to Town standards by either Declarant or the Association.

Section 3: Walking Trail: To gain approval for this subdivision, Declarant has been compelled by the Town of Waynesville to construct a walking trail within the Common Area easement. NOTICE IS HEREBY GIVEN that neither Highland Homes, LLC., nor the Association assumes any responsibility for or liability therefor for said easement and walking trail. It is the intent of Highland Homes, LLC, and the Association to post at the termini of said walking trail a permanent sign advising that any one who walks on said trail or enters onto said easement shall do so at his or her own risk and that neither Highland Homes, LLC, nor the Association, nor any individual Lot owner in PINE SHADOWS shall be responsible, to the extent permitted by law, for any injury to person or damage to property arising as the result of entering upon said easement and using said walking trail, unless said injury or damage was caused by the negligence of the Association or a Lot Owner or those acting through said Owner. Nevertheless, the Association will obtain general liability insurance, designating Declarant, the Association and the individual Lot owners as insured parties, covering any activity within said walking

trail easement.

Section 4: The Owner of any Lot may, at his election, plant harmonious trees, shrubs, vegetable or flower gardens and grass in the Lot's front, side or rear yard space; provided, however, that such plantings and voluntary Owner maintenance does not hinder the Association in performing its maintenance tasks as set forth above nor violate any Town of Waynesville ordinances. All such plantings and must first be approved in writing by the Architectural Control Committee unless said plantings are annuals and/or perennial flowers.

Section 5: In the event that the need for maintenance or repair is caused by or through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject. It is specifically contemplated that such maintenance as provided for herein shall arise from normal usage and weathering and does not include maintenance made necessary by fire or other casualty.

ARTICLE NINE: Easements

Section 1: All of the Properties, including all Lots and Common Areas, are 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 Lot in PINE SHADOWS, or the Associations' Board of Directors shall have the power and authority to grant and establish upon, over, under and across the Common Areas 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: All Lots shall be subject to easements for encroachment of initial improvements constructed on adjacent Lots or on the Common Areas to the extent that such initial improvements actually encroach, including, but not limited to, such items as overhanging

eaves, gutters and downspouts, steps, porches and walls. The centerline of the party wall of each dwelling shall be the common lot line between the Lots.

ARTICLE TEN: Use Restriction

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

Section 2: Use of Property. No portion of the Property (except for temporary office of the Declarant and/or a model townhouse used by Declarant for sale's purposes) shall be used except for residential purposes and related incidental purposes. No Lot shall be used for commercial, industrial, fraternal or religious purposes of any kind whatsoever. No Lot owner may rent his Lot on a seasonal or short-term basis. Any such seasonal or short-term rental will be deemed a violation of this provision; provided, however, that any Lot owner may rent his Lot based upon a written and recorded lease whose term is for at least six consecutive months. A Lot owner may use the structure built upon his Lot in part for a home office provided said usage does not generate upon the streets serving the entire subdivision additional motor vehicular traffic such that it becomes an unreasonable burden upon the other Lot owners in the subdivision. In addition, absolutely no parking on the subdivision streets or road rights of way or easements will be permitted as the result of a Lot owner using his home in part as a home office. No Lot may be used in any fashion or manner as an on-site distribution point for goods or services.

Section 3: Any minor encroachment onto the Common Areas or onto the adjacent Lot owners' Lot done by Declarant during initial construction on any Lot shall be waived so long as said violation does not conflict with or violate any applicable governmental regulation or ordinance.

Section 4: Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be or 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 for pickup by governmental or other similar garbage/trash removal services.

Section 5: Signs. No signs of any kind except those advertising an individual Lot "For Sale" or "For Rent" and those signs used by the Declarant in the advertising of the Property, shall be displayed for public view in and about the premises. Any such permitted sign shall be no larger than 18" x 24" and the top of which shall not be located more than four (4) feet above ground level.

Section 6: Use of Common Areas. No planting or gardening shall be done upon or in any Common Areas lands except as authorized by the Board of Directors of the Association.

Section 7: 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 mailboxes or newspaper containers and no temporary structures such as shed, mobile homes, trailers or tents may be placed on any Lot or the Common Areas. Declarant, its successors or assigns, may place one or more construction trailers on any Lot or the Common Areas 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 8: All dead or diseased trees, shrubs, bushes or other vegetation shall be cut and promptly removed from any Lot by the Association in the performance of its maintenance duties as soon as the Declarant or Architectural Control Committee has determined that such are dead.

Section 9: Architectural Review Committee: Declarant intends to create in PINE SHADOWS a community which is both functional and aesthetically pleasing. To facilitate achieving this goal, Declarant establishes itself as an Architectural Review Committee to review all plans, specifications and site location drawings for all improvements to be constructed at any time on any Lot, prior to any ground breaking occurring. As part of this mandatory review process, Declarant will approve only those plans, specifications and

site locations which, in its sole opinion and discretion, will best maintain a harmonious relationship among all structures within PINE SHADOWS, its topography, its vegetation, and its overall community design.

(a) This approval process of the Architectural Review Committee will remain the sole responsibility of Declarant, its successors and assigns, until such time as Declarant, in writing, voluntarily transfers this responsibility to a third party, such as a Homeowners' Association, or until such time as such a transfer becomes mandatory as herein provided. When this responsibility is transferred by Declarant to a third party, the Architectural Review Committee shall consist of three (3) or more representatives appointed by said third party. Once created, the Architectural Review Committee shall be the successor in interest to Declarant.

(b) The general guidelines which Declarant, as the Architectural Review Committee, and then the three person Architectural Review Committee, will observe are delineated as follows:

(i) All construction or the placement of any improvements, on any Lot in PINE SHADOWS shall comply with all applicable State and Town or County building codes and requirements. To that end, prior to the commencement of construction or the placement of any improvements on any Lot, the Lot owner shall submit to Declarant in writing copies of the proposed construction documents.

(ii) The Construction Documents shall include, but not necessarily be limited to, all plans, specifications, drawing, elevations and site plans showing the location and orientation of the improvements to be constructed. The site plan will include, in addition, the location of driveways which shall be paved, parking which shall be sufficiently large to provide parking facilities for parking all motor vehicles off of the subdivision roads, culverts, drainage and other improvements. Should the Lot owner intend to alter the natural drainage pattern of his Lot, then said documentation shall show the planned changes in the contour of the land and the planned drainage pattern of the Lot.

(iii) In the Construction Documents, as submitted for approval to Declarant, its successors and assigns, the Lot owner will identify all exterior colors and exterior

finish materials and other construction materials to be used, as well as the height of and the materials to be used in the construction of any fences on the Lot as well as the overall height of the structure above finished grade. No concrete or cement block shall be left exposed after construction is completed.

(iv) Any fuel or storage tank shall either be installed below ground or be fully screened and fully concealed from the view of other Lot owners.

(v) Under no circumstances will vinyl siding be permitted on any structure located on any Lot. Exterior colors on any structure located on any Lot will be required to blend harmoniously with the surrounding environment. Exterior colors must remain unchanged in PINE SHADOWS unless specifically approved in writing by the Architectural Review Committee.

(vi) After any such construction or placement of improvements approved by Declarant, its successors or assigns, all construction debris will be immediately removed. ©) Declarant, and then the Architectural Review Committee, shall have the right to refuse to approve any improvements to any Lot which improvements, individually or collectively, in its sole opinion and discretion, are incompatible with the external design, construction and location of said improvement(s) with respect to surrounding structures, topography or the general plan of development for the Property; subject, however, to the provision that in the event Declarant fails to give written approval or disapproval 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 fully complied with. In the event construction of a structure or any appurtenant improvement is commenced with the approval requirement described herein and such construction continues for sixty (60) days or more without Declarant, an Owner, or the Architectural Review Committee bringing a legal action seeking to enjoin such construction, then the approval requirement shall be deemed waived. All such requests shall be sent by certified mail to the Declarant or directly to the Architectural Review Committee, as the case may be, at the last known address of the party to whom the request is being sent. If the Lot owner should then fail to construct the improvements on his Lot in conformity with the plans and specifications

submitted by said Owner to Declarant which has then approved said construction or placement of improvements, this failure shall be deemed a breach of these Restrictions.

Section 10: No animals, livestock, fowl or poultry shall be permitted on any Lot, either as “pets” or for commercial purposes, except that dogs, cats, or other commonly domesticated household pets may be kept, provided they are not kept or bred for commercial purposes and provided further that said animals do not become a nuisance to the owners of any other Lot and that said pets are not permitted to roam freely beyond the borders of their owners' Lot. By way of example, but not by way of limitation, a dog or dogs kept upon any Owners' Lot which bark or whine with some degree of regularity or some degree of continuousness shall be deemed a nuisance and shall not be permitted to remain on said Lot unless kept inside the Lot owner's home and not kept outside. All Lot owners, at all times, must clean up after their pets. Failure to do so may result in a fine or fines being levied by either Declarant or the Association against the defaulting Lot owner. Unpaid fines shall become a lien on the land of the defaulting Lot owner as provided under the laws of the State of North Carolina.

Section 11: No obnoxious or offensive activity or trade of any kind or nature whatsoever shall be permitted to be carried out on any Lot, nor shall a lot owner do anything thereon which may or shall reasonably become an annoyance or nuisance to the other lot owners in the subdivision. Outside lights, such as lot voltage, low wattage and/or landscape type lighting shall be permitted and motion and switch-activated lighting attached to a structure shall be permitted; provided, however, that such lighting shall be designed to only illuminate and protect, so far as practicable, only the area of a Lot owned by the person who installed such lighting. With respect to same, all outside lighting, whether designed to be permanent or temporary, must be approved by the Architectural Review Committee prior to its installation.

Section 12: No outside metal swingsets, no outside clotheslines and no outside storage of any kind shall be permitted on any Lot. Only one “dish” for the receiving and transmitting of electronic data, limited in size to twenty-four (24) inches in diameter, shall be permitted on any Lot.

Section 13: Whenever Declarant, its successors and assigns, is permitted or required by this instrument to correct, repair, clean, preserve, abate or take any action upon any Lot, subdivision roadway, easements or common area, such action shall not be deemed a trespass or give rise to any liability of any nature under any other theory of tort law or other theory of law. By way of illustration, and not by way of limitation, each Lot owner shall have the duty and responsibility to keep his Lot in a reasonably safe, sightly and visually pleasant condition. Should a Lot owner fail to do so, Declarant, its successors and assigns, shall have the right, but not the absolute duty, to prevent the creation or continuing presence of any unclean, unsafe, unsightly, unkept condition existing on any Lot in the subdivision. In such case, the defaulting Lot owner would indemnify and save Declarant, its successors and assigns, from any cost or liability incurred by Declarant, its successors and assigns, abating such a nuisance as herein described.

Section 14: Declarant, its successors and assigns, in its sole discretion, may allow reasonable variances and adjustments of these restrictions in order to alleviate difficulties and hardships in their enforcement or operation. Any such variance to be effective must be in writing and recorded in the Haywood County Registry. All Lots shall be subject to easements for encroachment of initial improvements constructed on adjacent Lots to the extent that such initial improvements reasonably and actually encroach so long as said encroachment does not conflict with or violate any applicable governmental regulation or ordinance and so long as the encroachment is an encroachment and not an attempt to construct on a neighboring Lot improvements for the Lot then under construction.

ARTICLE ELEVEN: Easements for Construction Purposes

The Declarant, or its duly authorized agents, shall have full rights of ingress and ingress to and through, over and about the Common Areas 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 guests, licensees, clients or invitees shall in any way interfere or hamper Declarant, its employees, successors, agents or assigns in connection with construction.

ARTICLE TWELVE: General provisions

Section 1: Enforcement. The Association, or any Owner, acting individually or in concert with other Lot owners, 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 anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. In the event of any contradiction, real or apparent, between the Articles of Incorporation and the By-Laws, the By-Laws shall control and in the event of any contradiction, real or apparent, between the By-Laws and this Declaration, then the terms and conditions of this Declaration shall control.

Section 3: Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless a document executed by seventy-five (75%) percent of the Lot Owners is recorded nullifying this Declaration. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five (75%) percent of the Lot Owners and thereafter by not less than sixty-seven (67%) percent of the Lot Owners. Any amendment must be recorded.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed in its limited liability company name, the day and year first above written.

Highland Homes, LLC., a North Carolina
Limited Liability Company

By: _____
David B. Gardner, Member/Manager

STATE OF NORTH CAROLINA-COUNTY OF _____

I, _____, a notary public in and for said county and state do hereby certify that David B. Gardner personally came before me this day and acknowledged that he is a Member/Manager of Highland Homes, LLC., a North Carolina Limited Liability Company, and that being authorized to do so and in such capacity and for the purposes herein set forth, he each executed the foregoing instrument on behalf of the Limited Liability Company.

Witness my hand and notarial seal, this the 23rd day of October, 2006.

My commission expires: _____

Notary Public

Please Affix Notary Seal