

*Caviness*

SIDE NO 994572 BK 4480 PG 368

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**NORTH CAROLINA**  
**GUILFORD COUNTY**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR SOUTHERN CHASE AT BENT TREE**

**THIS DECLARATION**, made this 13th day of November, 1996, by **D. R. HORTON, INC.**  
- **GREENSBORO**, a Delaware corporation with its principal office and place of business in  
Guilford County, North Carolina, hereinafter referred to as the Declarant;

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the County of Guilford, State of  
North Carolina, which is more particularly described as follows:

All of that certain parcel of land shown on that plat entitled Southern Chase at Bent  
Tree, Phase 1, which appears in the Office of the Register of Deeds of Guilford  
County, North Carolina, in Plat Book 122, Page 110.

WHEREAS, Declarant is creating on the above described property a planned residential  
community to be known as Southern Chase at Bent Tree; and

WHEREAS, Declarant desires to provide for the preservation and maintenance of the  
common areas and for certain other responsibilities in connection with Southern Chase at Bent Tree  
and to this end desires to subject the real property described above, together with such additions as  
may hereafter be made thereto, to the covenants, conditions, restrictions, and easements, hereinafter  
set forth, each and all of which is and are for the benefit of the property comprising Southern Chase  
at Bent Tree and each owner thereof.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall  
be held, sold, and conveyed subject to the following covenants, conditions, restrictions and  
easements, all of which are for the purpose of protecting the value and desirability of, and which  
shall run with the real property, shall be binding on all parties having or acquiring any right, title,  
or interest in the described property or any part thereof, and shall inure to the benefit of each owner  
thereof.

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## ARTICLE I

### DEFINITIONS

**Section 1.** "Association" shall mean and refer to Southern Chase at Bent Tree Homeowner's Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

**Section 2.** "Southern Chase at Bent Tree" shall mean and refer to that certain real property hereinabove described which is herein made subject to this Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 3.** "Common Area" shall mean and refer to all common areas within Southern Chase at Bent Tree owned by the Association for the common use and enjoyment of the Owners. The Common Area at the time of the conveyance of the first Lot is described as follows:

All of that land designated as "Common Area" as shown on that plat entitled Southern Chase at Bent Tree, Phase I, which appears of record in the Office of the Register of Deeds of Guilford County, North Carolina in Plat Book 122, Page 110.

Declarant reserves the right, in its sole discretion, to convey from time to time additional property to the Association, and the Association shall accept any such conveyance of additional property and thereafter such additional property shall be held and maintained by the Association as Common Area.

Improvements on the Common Area may include, but shall not be limited to, roadways, entrance and subdivision signs, retention or detention ponds or erosion control devices. The Association shall maintain any retention or detention ponds and any erosion control devices located on the Common Areas described above or on any other Common Areas hereinafter conveyed to the Association by Declarant that are required to be maintained by the governmental office having jurisdiction for watershed protection as directed by such governmental office. In the event the Association is dissolved or ceases to exist or otherwise defaults in its obligation to maintain any such pond or erosion control device, then in such event the Owners of record of the Lots at the time of the required maintenance shall be jointly and severally liable for any and all costs associated thereto.

**Section 4.** "Lot" shall mean any separately numbered plot of land, regardless of size, as shown on a recorded subdivision map of Southern Chase at Bent Tree.

**Section 5.** "Dwelling Unit" shall mean a residence containing sleeping facilities for one or more persons and a kitchen.

**Section 6.** "Member" shall mean and refer to every person or entity entitled to membership with voting rights in the Association.

**Section 7.** "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 Southern Chase at Bent Tree, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 8.** "Declarant" shall mean and refer to D. R. Horton, Inc. - Greensboro, its successors and assigns.

**Section 9.** "Board of Directors" or "Board" means those persons elected or appointed to act collectively as the directors of the Association.

**Section 10.** "VA" shall mean the Department of Veterans Affairs and "HUD" shall mean the Department of Housing and Urban Development.

**Section 11.** "Bylaws" shall mean the bylaws of the Association as they now or hereafter exist.

## ARTICLE II

### **COMMON AREA OWNERSHIP AND MAINTENANCE**

**Section 1. Owners' Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot.

**Section 2. Delegation of Use.** Any Owner may delegate his rights of enjoyment of the Common Area to the members of his family, his lessees, contract purchasers who reside in Southern Chase at Bent Tree, or his guests.

**Section 3. Rules and Regulations.** The Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area. Such rules and regulations shall be maintained in a place reasonably convenient to the Members and available to them for inspection during normal business hours.

**Section 4. Regulation of Use of Common Area.** The Association shall have the power to limit the number of guests, to regulate hours of use, and to curtail any use or uses of the Common Area it deems necessary for either the protection of the facilities or the best interests of Members.

**Section 5. Suspensions.** The Association shall have the power to suspend the right to the use of any Common Area of a Class A Member or any person to whom that Member has delegated his right of enjoyment 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.

**Section 6. Mortgaging Common Area.** The Association shall have the power to borrow money for the purpose of improving the Common Area and facilities thereon and pursuant thereto to mortgage the Common Area, or any portion thereof; provided, however, that the execution of such mortgage shall require the approval of at least two-thirds (2/3's) of the Members, exclusive of the Declarant.

**Section 7. Common Area Dedication or Transfer.** The Association shall have the right to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility (including any entity authorized by the City of High Point or Guilford County to supply cable television service) 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 approved by at least two-thirds (2/3's) of the Members, exclusive of the Declarant.

### ARTICLE III

#### **LAND USE**

**Section 1. Restrictions.** All of Southern Chase at Bent Tree shall be subject to the covenants, conditions, restrictions and easements contained herein.

**Section 2. Designated Residential Property Restrictions: Rental.** All Lots shall be used, improved and devoted exclusively to residential use by the Owner thereof, his immediate family, guests, invitees and lessees. Any lease or rental agreement for a Lot shall be in writing and for a period of at least thirty (30) days. Such leases shall provide that the terms of the lease are subject to the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. No Owner of any Lot shall permit the use of his Dwelling Unit for transient hotel or commercial purposes. Corporate or partnership Owners, other than the Declarant, shall permit the use of a Dwelling Unit owned by it only by its principal officers, directors or partners, or other guests or lessees. Such corporate or partnership Owner shall annually sign and deliver to the Association a written statement designating the name of the party (or parties) entitled to use such Dwelling Unit, together with a written covenant of such party in favor of the Association whereby the party agrees to comply with the terms and provisions of this Declaration and with the rules and regulations which may be promulgated by the Association from time to time and acknowledging that the party's right to use such Dwelling Unit shall exist only so long as the corporation or partnership shall continue to be a member of the Association. Upon demand by the Association to any corporate or partnership Owner to remove a party for failure to comply with the terms and provisions of this Declaration and/or the rules and regulations of the Association or for any other reason, the corporate or partnership Owner shall forthwith cause such party to be removed, failing which, the Association, as agent of the Owner, may take such action as it may deem appropriate to accomplish such removal; and all such action by the Association shall be at the cost and expense of the Owner who shall reimburse the Association therefor upon demand, together with such attorneys' fees as the Association may have incurred in the process of removal.

Nothing contained in this Declaration shall prevent the Declarant from maintaining a model home or sales office on any Lot and from material or equipment being placed or stored on any Lot in connection with its construction activities.

**Section 3. Common Area Restriction.** All Common Area, including any recreational facilities and amenities thereon, shall be used, improved and devoted exclusively for the welfare and benefit of the Owners and for the general benefit and enhancement of Southern Chase at Bent Tree, subject to those easements set out herein in Article VII.

**Section 4. Common Area Construction or Alteration.** No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area except at the direction of and with the express written consent of the Association; provided, however, the Declarant shall have the right to place in and reserves an easement over the Common Area for storm drainage lines, sewer lines, telephone lines, water lines, facilities for management of surface water, electrical and gas lines, cable television lines, and other utility lines and facilities.

**Section 5. Nuisance or Annoying Activity.** No noxious or offensive activity shall be carried on or upon the Common Area.

**Section 6. Parking; Satellite Discs; Antennas.** The Association may regulate parking of all kind on the Common Area. The installation and maintenance of satellite discs which are in excess of twenty inches in diameter and of radio antennas shall be prohibited on Common Area, Dwelling Units, or Lots. Satellite discs which are twenty inches or less in diameter may be placed on Common Area, Dwelling Units and Lots only with the prior approval of the Architectural Committee as set forth in Section 2 of Article IV. The Association may regulate or prohibit the erection of television antennas on Common Area, Dwelling Units, or Lots.

**Section 7. Animals.** No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any Dwelling Unit except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and further provided that they are kept and maintained in compliance with all applicable laws and ordinances of the County of Guilford and, if applicable, any municipality, relating thereto.

**Section 8. Boats, Trailers and Motor Vehicles.** No boats, buses, trailers, campers or recreational vehicles shall be parked on any Common Area, or within the right of way of any public streets in Southern Chase at Bent Tree; provided, however, such boats or vehicles may be kept or stored on a private driveway located entirely within a Lot, but no nearer to the street than the front building line of the main structure on such Lot. No junked automobiles or any other type of salvage shall be placed or allowed to remain on any Lot, Common Area, or on any street located within Southern Chase at Bent Tree.

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## ARTICLE IV

### ARCHITECTURAL CONTROL

**Section 1. Architectural Committee.** An Architectural Committee consisting of three (3) persons shall be appointed by the Declarant. At such time as the Class B membership expires, the Architectural Committee shall be appointed by the Board of Directors of the Association.

**Section 2. Plan or Design Approval.** No site preparation or initial construction, erection, or installation of any improvements, including, but not limited to, Dwelling Units, outbuildings, driveways, fences, walls, signs, television antennas, satellite dishes (but satellite dishes in excess of twenty inches in diameter are prohibited as provided in Section 6 of Article III), clothes lines, mailboxes, post lamps and other structures, or excavation, or changes in grade shall be undertaken upon any Lot unless the plans and specifications therefor, showing the nature, kind, shape, height, materials, and location of the proposed improvements shall have been submitted to the Architectural Committee and expressly approved in writing. No subsequent alteration or modification of any existing improvements or construction, erection or installation of additional improvements may be undertaken or allowed to remain without the review and express written approval of the Architectural Committee. No approval shall be required, however, for any improvements made by the Declarant.

**Section 3. Effect of Failure to Approve or Disapprove.** In the event that the Architectural Committee fails to approve or disapprove any of the foregoing within thirty (30) days after plans and specifications therefor have been submitted and received (receipt being hereinafter defined), approval will not be required, and the requirements of this Article will be deemed to have been fully satisfied; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Architectural Committee if they contain erroneous data or fail to present full and adequate information upon which the Architectural Committee can arrive at a decision.

For purposes of this Section 3, plans and specifications will not be deemed to have been "received" unless either a member of the Architectural Committee acknowledges in writing such receipt or the plans and specifications are sent by certified or registered mail to a member of the Committee or to the management company of the Association and a return receipt is received acknowledging the receipt thereof by such member.

**Section 4. Right of Inspection.** The Architectural Committee shall have the right, at its election, to enter upon any of the Lots in Southern Chase at Bent Tree during preparation, construction, erection, or installation of any improvements to determine that such work is being performed in conformity with the approved plans and specifications.

**Section 5. Exterior Maintenance.** The exterior maintenance of Lots and the Dwelling Units located thereon and other improvements constructed thereon shall be the duty and responsibility of the Owner of such Lot and shall not be the responsibility of the Association. If, however, in the opinion of the Association any Owner shall fail to discharge his or her repair,

maintenance or upkeep responsibilities in a reasonable and prudent manner to a standard harmonious with that of other Lots in Southern Chase at Bent Tree, the Association, at its discretion, and following ten (10) days' written notice to the Owner, may enter upon and make or cause to be made maintenance work or repairs as may be deemed by the Association reasonably required. The Association, or its agents, shall have an easement for the purpose of accomplishing the foregoing. The costs incurred by the Association in rendering such services plus a service charge of twenty percent (20%) of such costs, shall be added to and become a part of the assessments to which such Lot is subject.

**Section 6. Original Improvements by Declarant.** Nothing herein contained shall in any way prevent or interfere with the right of the Declarant to construct the original improvements desired by Declarant on any Lot, and no approval shall be required from the Architectural Committee for any construction by the Declarant.

## ARTICLE V

### **MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Members.** The Declarant, for so long as it shall be an Owner, and every person or entity who is an Owner of a fee simple or undivided fee simple interest in any Lot which is subject by covenants of record to assessments by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of such Lot shall be the sole qualification for membership, and no Owner shall have more than one membership, except as expressly provided hereinafter. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Association may promulgate reasonable rules relating to the proof of ownership of a Lot.

**Section 2. Classes of Members and Voting Rights.** The Association shall have two (2) classes of voting Members:

**Class A.** Class A Members shall be all Owners with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the required ownership interest. When more than one person or entity holds the required ownership interest in a Lot, all such persons or entities shall be Members. The vote for each such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot, and no fractional votes may be cast.

**Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the required ownership interest, provided that 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:



- (a) The total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or
- (b) Ten (10) years after the date hereof.

With the recording of new sections of Southern Chase at Bent Tree, and the annexation of additional lands subject to the jurisdiction of the Association, new Class A and Class B memberships shall be created, and the conversion of Class B memberships to Class A membership shall be made separately with respect to each such section of Southern Chase at Bent Tree.

**Section 3. Right of Declarant to Representation on Board of Directors of the Association.** Notwithstanding anything contained herein to the contrary, until ten (10) years after the date hereof, or until Declarant shall have conveyed or leased seventy-five percent (75%) of the Dwelling Units shown on the preliminary plan of Southern Chase at Bent Tree heretofore submitted to Guilford County or the City of High Point and submitted to VA or HUD, whichever first occurs, Declarant (or the assignee of the right granted in this Section) shall have the right to designate and select a two-thirds (2/3) majority of the Board of Directors of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association. Declarant shall have the right to remove any person or persons selected by it to act and serve on the Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or Directors so removed. Any Director designated and selected by Declarant need not be an Owner. Any representative of Declarant serving on the Board of Directors of the Association shall not be required to disqualify himself from any vote upon any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest. Similarly, Declarant, as a member of the Association, shall not be required to disqualify itself upon any vote upon or entrance into any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest.

## ARTICLE VI

### **ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation for Assessments.** The Owner of any Lot subject to the provisions of this Declaration, by acceptance of a deed therefor, whether or not expressed in any such deed, is deemed to covenant and agrees to pay to the Association:

- (a) Standard annual assessments or charges as herein provided;
- (b) Special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided.



All annual and special assessments on a Lot, together with interest thereon and costs of collection thereof, as hereinafter provided, 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 and costs, and reasonable attorney's fees (as provided in North Carolina General Statutes 6-21.2) incurred by the Association in collecting delinquent assessments shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessment became due. The personal obligation of an Owner for delinquent assessments shall not pass to his successors or assigns in title unless expressly assumed by such successor or assign.

**Section 2. Purpose of Assessments.**

(a) The assessments levied by the Association shall be used exclusively for the purposes of the general enhancement and promotion of Southern Chase at Bent Tree, including without limitation the recreation, health, safety and welfare of the Owners in Southern Chase at Bent Tree, the enforcement of these covenants and the rules of the Association, and, in particular, the improvement and maintenance of the Common Areas and facilities thereon, including, without limitation, the maintenance of any dedicated streets which are not accepted for maintenance by the appropriate governmental authority, the maintenance of dams and ponds, including retention or detention ponds, located within the Common Area, the maintenance of entranceways, landscaping and lighting of Common Areas, the cost of operating, maintaining and repairing any street lights or signs erected by the Association or the Declarant, the payment of taxes assessed against the Common Area, the payment of assessments for public capital improvements levied against the Common Area, the maintenance of liability and other insurance and for such other needs consistent with this Declaration as may arise.

(b) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operation and managing Southern Chase at Bent Tree, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of Southern Chase at Bent Tree.

**Section 3. Standard Annual Assessment.** To and including December 31, 1996, the standard annual assessment shall be shared equally (except as otherwise provided herein in Section 7(b)) and shall not be in excess of One Hundred Twenty Dollars (\$120.00), payable in equal monthly installments of Ten Dollars (\$10.00), for each Lot, the exact amount of which shall be determined by the Board of Directors; and after December 31, 1996, the standard annual assessment may be increased in accordance with the following provisions:

- (a) From and after December 31, 1996, the standard annual assessment may be increased by the Board of Directors of the Association effective January 1 of each year, without the vote of the Members, by a percentage which may not exceed the percentage increase reflected in the Consumer Price Index, All Items (1982-84 = 100) U. S. City Average, published by the U. S. Bureau of Labor Statistics, or such index as may succeed the Consumer Price Index, for the twelve month period ending the immediately preceding July 1, or by ten percent (10%), whichever is greater, over the standard annual assessment of the previous year.
- (b) After December 31, 1996, the standard annual assessment may be increased without limit by the assent of two-thirds (2/3) of the votes of each class of the Members who are voting in person or by proxy at a meeting called for such purpose.
- (c) The Board of Directors may fix the standard annual assessment at an amount not in excess of the maximum.

**Section 4. Special Assessment for Repairs.** In the event any portion of the Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, employees, agents, or family members, the Association is hereby authorized to repair such damaged area in a good and workmanlike manner. The amount necessary for such repairs, labor and material shall become a special assessment upon the Lot of said Owner.

**Section 5. Special Assessment for Capital Improvements.** In addition to the standard annual assessments authorized above, the Association may levy one or more special assessments applicable to that year for the purpose of defraying the costs of construction or reconstruction, unexpected repair, or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of the 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 Section 3 and 5.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 5 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast 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 quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Uniform Rate of Assessment.**

(a) With the exceptions set forth in subsection (b) of this Section 7 of this Article VI, both the standard annual and special assessments (with the exception of the Special Assessment authorized by Article VI, Section 4 above), must be fixed at a uniform rate for all Lots and shall be collected on a monthly or quarterly basis in advance.

(b) There shall be no standard annual assessment for any Lot owed by the Declarant or owed by any other Owner on which construction of a Dwelling Unit has not begun. Beginning on the first day of the first month following the month on which construction of a Dwelling Unit has begun, the standard annual assessment for said Lot shall be an amount equal to twenty-five percent (25%) of the regular standard annual assessment for Lots on which there are Dwelling Units. The full standard annual assessment on a Lot shall commence and thereafter be due after the construction of a Dwelling Unit on said Lot on the first day of the first month following the earlier of (a) the date of the conveyance of said Lot by the builder of the Dwelling Unit on said Lot to a new Owner, or (b) the date of the occupancy of the Dwelling Unit on said Lot.

**Section 8. Date of Commencement of Annual Assessments: Due Dates.** The full standard annual assessment provided for herein shall commence as to a particular Lot following the construction of a Dwelling Unit on said Lot on the first day of the first month following the earlier of (a) the date of the conveyance of said Lot by the builder of the Dwelling Unit on said Lot to a new Owner, or (b) the date of the occupancy of the Dwelling Unit on said Lot (with twenty-five percent (25%) of the regular standard annual assessment for a Lot beginning on the first day of the first month following the beginning of construction of a Dwelling Unit on said Lot, as provided in subparagraph (b) of Section 7 above). The standard annual assessment shall be prorated for the year in which it begins.

The Board of Directors shall fix the amount of the standard annual assessment against each Lot at least thirty (30) days in advance of each assessment period. Written notice of the standard annual assessment shall be sent to every Owner subject thereto, but failure to receive such notice shall in no way affect the obligation of each Owner therefor or the lien therefor as provided herein. The due dates and appropriate penalties for late payment shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing setting forth whether the assessments on a specified Lot have or have not been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of the status of the assessments due.

**Section 9. Effect of Nonpayment of Assessments: Remedies of the Association.** Assessments authorized by this Declaration shall be due and payable on the dates established by the

Board of Directors from time to time. Fees, fines, and other charges authorized by this Declaration shall be due and payable thirty (30) days after written notice thereof from the Association to an Owner. Any assessment, fee, fine or other charge not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of Deeds of Trust. Interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

**Section 10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association.** Upon default by the Association in the payment to the governmental authority entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in Southern Chase at Bent Tree shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in Southern Chase at Bent Tree. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

**Section 11. Subordination of the Lien to Mortgages and Ad Valorem Taxes.** The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any first mortgage or first deed of trust on such Lot, and subordinate to ad valorem taxes. The sale or transfer of any Lot shall not affect the assessment lien; provided, however, that the sale or transfer of any Lot pursuant to a decree of foreclosure on a first mortgage or first deed of trust thereon or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessments, fees, fines or other charges as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments, fees, fines or other charges thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or first deed of trust.

**Section 12. Exempt Property.** Any portion of Southern Chase at Bent Tree dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein; provided, however no land or improvements devoted to use as a dwelling shall be exempt from said assessments.

**Section 13. Reserve Fund.** The Board of Directors of the Association, in establishing the annual budget for operation, management and maintenance of Southern Chase at Bent Tree, shall

designate therein a sum to be collected and maintained as a reserve fund for replacement of any capital improvements to the Common Area (Capital Improvement Fund). This Fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Area, as well as the replacement of portions of the Common Area. The amount to be allocated to the Capital Improvement Fund shall be established by the Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacements in the Common Area. The amount collected for the Capital Improvement Fund may be maintained in a separate account by the Association and such money shall be used only to make capital improvements to the Common Area. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance. Although the funds held in the Capital Improvement Fund, and any increments thereto or profits derived therefrom, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. The funds held in the Capital Improvement Fund shall not be subject to withdrawal by an Owner.

**Section 14. Collection of Assessments On Bent Tree Property.** The owners of Lots in Southern Chase at Bent Tree also shall be members of the Bent Tree Property Owner's Association (the "Bent Tree Association"), as set forth in that Declaration of Covenants, Conditions and Restrictions for Bent Tree which is recorded in the Guilford County Registry (the "Bent Tree Declaration"); and as members in the Bent Tree Association, said members also will be obligated to pay to the Bent Tree Association assessments that may be due the Bent Tree Association pursuant to the Bent Tree Declaration (which assessments also are subordinated to the lien of any first mortgage or deed of trust and to ad valorem taxes). The Board of Directors of the Association, if it so elects, may collect from the Members the assessments of the Members which are due from the Members to the Bent Tree Association and transfer the assessments then collected to the Bent Tree Association on behalf of the Members.

## ARTICLE VII

### **EASEMENTS**

**Section 1. Walks, Drives, Utilities, Etc.** Common Areas shall be subject to such easements for walkways, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other utilities, ingress, egress and regress and otherwise as shall have been established or hereinafter are established by the Declarant, whether by express easement or by the recording of a plat dedicating or otherwise establishing an easement. The Association shall have the power and authority to grant and establish further easements upon, over, under and across the Common Area. The Declarant reserves an easement and the right to grant easements over the Common Areas for the aforesaid purposes.

**Section 2. Encroachments; Declarant's Easement to Correct Drainage.** All Lots and the Common Area shall be subject to easements for the encroachment of initial improvements

constructed by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, bay windows, steps and walls. If any encroachment shall occur subsequent to subjecting Southern Chase at Bent Tree to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be and remain a valid easement for such encroachment for the maintenance of the same. For a period of twenty five (25) years from the date hereof, the Declarant reserves an easement and right on, over and under any property comprising Southern Chase at Bent Tree to maintain and to correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary. After such action has been completed, the Declarant shall restore the affected property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take such action to all affected Owners. These rights and reservations are assignable by the Declarant.

**Section 3. Easement for Utilities.** An easement is hereby established for county, municipal, state or public utilities serving Southern Chase at Bent Tree, their agents and employees over all Common Areas hereby or hereafter established for setting, removing, and reading utility meters, maintaining and replacing utility or drainage facilities and connections, and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection and collection of garbage.

**Section 4. Sign Easements.** Declarant and the Association shall each have the right to erect within the Common Area subdivision signs and landscaping and lighting surrounding same. In addition, easements for the maintenance of subdivision signs and landscaping and lighting surrounding same are reserved as indicated on recorded plats. Declarant hereby reserves unto itself and grants, gives and conveys to the Association a perpetual, non-exclusive easement over the portions of Lots designated as "sign easements" on the plat of Southern Chase at Bent Tree, now or hereafter recorded, to maintain, repair, and replace the subdivision signs which may be located thereon, and the lighting fixtures and landscaping surrounding same. The Association shall be responsible for maintaining, repairing and replacing any such signs, landscaping and lighting and the costs of such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners. In addition to the easements reserved and granted above as to the portion of Lots designated "sign easement," Declarant hereby reserves unto itself and gives, grants and conveys to the Association the right of ingress, egress and regress over other portions of such Lots as shall be reasonably necessary to effectuate the purposes stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entitles now owning or subsequently acquiring all or a part of the Property.

**Section 5. Street Lighting.** Easements for the installation, maintenance, repair and replacement of street lights are reserved for the benefit of Declarant and the Association over those portions of the Common Area and the Lots extending ten (10) feet on either side of the right-of-way of any street (whether public or private). The Association shall be responsible for the maintenance,

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repair, and replacement of any such street lights (unless such maintenance, repair and replacement is to be provided by a utility company as hereinafter set forth) and all costs associated with such maintenance, repair and replacement shall be part of the common expenses of the Association. Declarant, as well as the Association, shall have the right, in the sole discretion of each, to a contract with a utility company for the installation of street lighting which may require an initial payment and/or a continuing monthly payment to the utility company by the Association, all of which payments shall be part of the common expenses of the Association.

## ARTICLE VIII

### ANNEXATION OF ADDITIONAL PROPERTIES

**Section 1. Annexation by Members.** Except as provided in Section 2 of this Article, additional lands may be added and annexed to Southern Chase at Bent Tree only if two-thirds (2/3) of each class of all the votes entitled to be cast, in the aggregate, by Members are cast in favor of annexation. A meeting shall be duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days in advance of the meeting.

For the purpose of such meeting, the presence thereof of Members or authorizing proxies entitled to cast sixty percent (60%) of the votes, in the aggregate, of the Members, shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called within sixty (60) days thereafter, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

If a quorum is present and a majority of the votes are cast in favor of the annexation, but the majority is less than the two-thirds (2/3) majority of each class required for approval of the annexation, and it appears that the required assent of two-thirds (2/3) of each class may be achieved if the Members not present or voting by proxy assent to the annexation, then and in that event, the Members not present or voting by proxy may assent to or dissent from the proposed annexation in writing within one hundred twenty (120) days following the date of the meeting at which the vote was taken. Each Member assenting or dissenting shall be deemed to have cast, respectively, all of the votes to which he is entitled under Article V, Section 2 of this Declaration either in favor of or against the annexation. If the number of votes cast at the meeting in favor of the annexation, together with the votes (deemed to have been cast) by the Members assenting to the annexation, shall constitute the requisite two-thirds (2/3) majority of each class of all votes entitled to be cast, the annexation shall stand approved.

**Section 2. Annexation by Declarant.** The Declarant may annex additional lands to Southern Chase at Bent Tree in the following manner:

- (a) If, within fifteen (15) years of the date of incorporation of the Association, the Declarant should develop additional lands within the boundaries of that property



described in Exhibit "A" attached hereto and incorporated herein by reference, such additional lands may be annexed to Southern Chase at Bent Tree without the assent of the Members.

- (b) The Declarant may annex to Southern Chase at Bent Tree the additional land described in subparagraph (a) of this Section 2 by recording in the Guilford County Registry a Declaration of Covenants, Conditions and Restrictions, duly executed by Declarant, describing the lands annexed and incorporating the provisions of this Declaration. The additional land shall be deemed annexed to Southern Chase at Bent Tree on the date of recordation of the Declaration of Annexation, and no other action or consent shall be necessary.
- (c) Subsequent to recordation of such Declaration by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any property that is designated as Common Area within the lands annexed.

## ARTICLE IX

### 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. Rights of Lenders and Insurers of First Mortgages.** "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies, other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have upon written request therefor the following rights:

- (a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Board of Directors of the Association, such financial statement or report to be furnished by April 15 of each calendar year.
- (b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this

Declaration of Covenants, Conditions and Restrictions or the Articles of Incorporation or By-Laws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.

- (c) To receive notice of any condemnation loss or casualty loss which affects a material portion of the Common Areas.
- (d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (e) To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Areas, other than those specific rights vested in the Association under Article II hereof.
- (f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing.

**Section 3. Term and Amendment by Owners.** The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The Covenants, Conditions and Restrictions of this Declaration may be amended during the first thirty (30) year period by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots and thereafter by an amendment signed by not less than seventy-five (75%) of the Lot Owners; provided, however, no amendment purporting to revoke or curtail any right herein conferred to Declarant shall be effective unless executed by Declarant, and no amendment relating to the maintenance or ownership of any permanent detention or retention pond shall be effective unless reviewed and approved by the governmental office having jurisdiction for watershed protection and no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements or affect any lien for the payment thereof established herein.

**Section 4. Certification and Recordation of Amendment.** Any amendment must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain a certification by the officers executing the amendment on behalf of the Association that the requisite Owner approval has been obtained and is evidenced by written acknowledgment(s) signed by the Owners approving the amendment and made a part of the minute book of the Association; and (3) be properly recorded in the Office of the Register of Deeds of Guilford County, North Carolina. Any amendment

recorded and certified by the officers executing the amendment shall be conclusively presumed that such amendment has been duly adopted. Additions to existing property constituting Southern Chase at Bent Tree pursuant to Article VIII shall not constitute an "amendment"

**Section 5. Conflicts.** In the event of any irreconcilable conflict between this Declaration and the Bylaws of the Association, the provisions of this Declaration shall control. In the event of an irreconcilable conflict between this Declaration or the Bylaws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

**Section 6. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 7. Contract Rights of Association.** The undertakings and contracts authorized by the initial Board of Directors (including contracts for the management of Southern Chase at Bent Tree) shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by any Board of Directors duly elected by the membership after the recording of this Declaration, so long as such undertakings and contracts are within the scope of the powers and duties which may be exercised by the Board of Directors of the Association in accordance with this Declaration, the Articles of Incorporation and the Bylaws; and provided further that any undertaking or contract entered into by the Association at a time the Declarant has the right to appoint a majority of the Board of Directors shall contain a provision reserving the right of the Association to terminate such undertaking or contract upon not more than ninety (90) days written notice to the other party(ies) thereto.

## ARTICLE X

### **VA AND HUD APPROVAL**

As long as there is a Class B membership, the following acts will require the prior approval for compliance with established HUD or VA guidelines: Annexation of additional properties, other than annexation under Sec. 2(a) of Article VIII hereof, mortgaging of Common Area, dedication of Common Area, and amendment to this Declaration of Covenants, Conditions and Restrictions or the Articles of Incorporation or the Bylaws of the Association.

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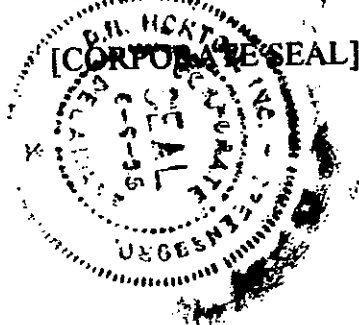
IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused these presents to be executed by its duly authorized officers, this the 13th day of November, 1996.

**D. R. HORTON, INC. - GREENSBORO**  
a Delaware corporation

By: *M. L. McAllister*  
President

ATTEST:

*Daniela Anderson*  
Asst. Secretary



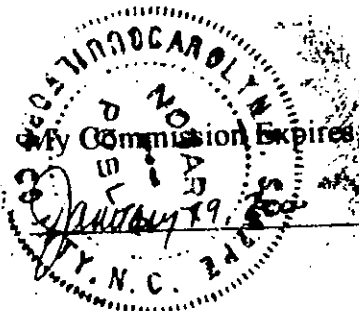
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NORTH CAROLINA

GUILFORD COUNTY

I, Carolyn P. Sharpe, a Notary Public, do hereby certify that Pamela J. Anderson personally appeared before me this day and acknowledged that she is the Assistant Secretary of **D. R. HORTON, INC. - GREENSBORO**, a Delaware corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal, and attested by her self as its Assistant Secretary on behalf of said corporation, and the said Assistant Secretary acknowledged the said writing to be the act and deed of said corporation.

Witness my hand and official seal, this 13 day of November, 1996.



Carolyn P. Sharpe  
Notary Public

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North Carolina - Guilford County  
The certificate (s) of \_\_\_\_\_

994572 H

RECORDED

KATHERINE LEE PAYNE  
REGISTER OF DEEDS  
GUILFORD COUNTY, NC

BOOK: 4480  
PAGE(S): 0368 TO 0388

11/19/1996 15:20:44

A Notary (Notaries) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time shown herein.

KATHERINE LEE PAYNE, REGISTER OF DEEDS

Katherine Lee Payne  
Assistant/Deputy Register of Deeds

11/19/1996  
1 NISC DOCUMENTS  
20 NISC DOC ADMIN FGS  
1 PROBATE FEE

994572

\$6.00  
\$40.00  
\$2.00

### **EXHIBIT A**

That certain piece, parcel or tract of land situated in the City of High Point, North Carolina, High Point Township, Guilford County, North Carolina, more particularly described as follows:

BEGINNING at an iron pipe at the intersection of the southwest margin of the right-of-way of Willard Dairy Road (State Road No. 1836) and the northwest margin of the right-of-way of Southwest School Road (State Road No. 1971); and running thence South 32° 14' 20" West 1,331.58 feet along the northwest margin of the right-of-way of Southwest School Road to an iron pipe, said pipe being South 23° 34' 16" East 284.08 feet from an existing North Carolina Geodetic Survey Marker "Willard"; thence North 86° 18' 54" West 1,659.17 feet along the northern margin of the right-of-way of Southwest School Road to an iron pipe; thence North 33° 16' 47" West 1,319.57 feet along the northeast margin of the right-of-way of Southwest School Road to the centerline of Barrow Road (State Road 1833); thence with the centerline of Barrow Road North 45° 31' 57" East 74.45 feet to a point; thence continuing with the centerline of Barrow Road North 48° 14' 05" East 600.74 feet to a point which is the intersection of the centerline of Barrow Road and the centerline of the 50 foot wide right-of-way of Piedmont Natural Gas Company; thence with the centerline of Piedmont Natural Gas Company right-of-way the following five (5) courses and distances: South 60° 05' 12" East 38.31 feet to a gas line marker; South 56° 47' 07" East 319.86 feet to a gas line marker; South 56° 57' 14" East 312.18 feet to a gas line marker; South 54° 58' 07" East 430.49 feet to a gas line marker; and South 54° 35' 22" East 265.84 feet to a point which is the intersection of the centerline of the Piedmont Natural Gas Company right-of-way and the centerline of the 70 foot wide Colonial Gas right-of-way; thence North 62° 43' 28" East 1,178.98 feet along the centerline of the Colonial Gas right-of-way to a point in the southwest margin of the right-of-way of Willard Dairy Road; thence along the southwest margin of the right-of-way of Willard Dairy Road South 52° 49' 31" East 513.27 feet to the point of BEGINNING, the above described property is further shown on that survey prepared by Evans Engineering, Inc., dated December 1, 1995.

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