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Craven, NC
Sherril B. Richard Register of Deeds
BK **2535** PG **131**

✓ Prepared by and Return To: Howard, Stallings, From & Hutson, P.A., P.O. Box 975, New Bern, NC 28563
STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

**DECLARATIONS OF RESTRICTIONS,
CONDITIONS AND EASEMENTS OF
GRANTHAM PLACE**

THESE DECLARATIONS OF RESTRICTIONS, CONDITIONS AND EASEMENTS, made and entered into this the 21st day of November, 2006, by and between GRIT OF NEW BERN, LLC, a North Carolina Limited Liability Company (hereinafter called "Developer"); and ALL PROSPECTIVE PURCHASERS of Lots 1 through 70, in Grantham Place, a Planned Unit Development (the "Subdivision"), a map of which is recorded in Plat Cabinet H, Slides 79-F and 79-G, in the office of the Register of Deeds of Craven County (the "Map"), reference to said Map being hereby made for a more perfect description of said lots;

WITNESSETH:

WHEREAS, Developer has acquired title to those lots described above (hereafter from time to time referred to individually as a "Lot" or collectively as the "Lots"), and intends to convey said Lots by deeds, Deeds of Trust, mortgages and other instruments to various persons, firms and Associations, subject to certain restrictive and protective covenants and conditions which are deemed to make said Lots more desirable to the end that the restrictive and protective covenants and conditions herein set out shall inure to the benefit of each person, firm or Association which may acquire title to any or all of said Lots and which shall be binding upon each such person, firm or Association to whom or to which Developer hereafter may convey any of said numbered Lots by deed, mortgage, deed of trust or other instrument. **THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.**

WHEREAS, the restrictive and protective covenants herein are imposed on the Lots for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property and every part thereof, and all of which are to be construed as restrictive covenants running with the title to the Lots;

WHEREAS, this Subdivision is a planned unit development subject to the provisions of N.C.G.S. Chapter 47F (the "Planned Community Act"), as amended from time to time, and the Craven County Subdivision Ordinance. To the extent that the Planned Community Act permits its provisions to be modified or clarified or further defined by the terms of restrictive covenants such as these, and the Articles of Incorporation and the Bylaws of a planned community's owners' association, then these Restrictive Covenants, and the Articles of Incorporation and Bylaws of the Association (as defined herein) shall be deemed controlling in the case of any conflict. To the extent that the Planned Community Act provides that it cannot be modified or contradicted by contrary terms of restrictive covenants or Articles of Incorporation or Bylaws of an owners' association, then the provisions of the Planned Community Act shall be deemed controlling.

NOW, THEREFORE, in consideration of the premises herein, Developer hereby covenants and agrees with said Prospective Purchasers that each of the above-mentioned numbered lots shall be held, sold and conveyed subject to the restrictive and protective covenants and conditions herein set forth and said restrictive and protective covenants and conditions shall become a part of each instrument conveying any of the Lots, as fully and to the same extent as if set forth therein, and are intended to run with the land. As a condition of the sale or conveyance of any of the Lots, the purchasers agree and covenant to abide by and conform with said restrictive and protective covenants and conditions. Developer reserves the easements herein specified.

THE RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS AND EASEMENTS ARE AS FOLLOWS:

1. LOTS. The owner(s) of a numbered parcel constituting one of the Lots herein may combine with such numbered parcel, parts or portions of another numbered parcel or parcels so long as the total number of Lots is not increased, and the aggregate shall be considered as one Lot for the purposes of these Declarations. No property other than the Lots is encumbered by these restrictive and protective covenants. Variations in lot lines are permitted so long as the number of Lots is not increased.

2. ARCHITECTURAL CONTROL.

A. All plans and specifications for any structure or improvement whatsoever to be erected on any Lot, including, without limitation, the construction material, the roofs and exterior color schemes, and the proposed location, elevations and orientation (relative to streets and the Lot or Lots) for any and all structures or improvements, driveways, retaining walls, decks, porches and other incidental structures, and the landscaping plans, shall require prior written approval of an Architectural Control Committee (the "Committee"), established as set forth below. Further, any later additions after initial approval thereof, and any exterior remodeling, reconstruction, or alterations thereto on any Lot shall also be subject to, and shall require the prior written approval of Developer. Notwithstanding anything to the contrary in the foregoing, the following general restrictions shall apply to exterior construction materials, colors and roofs, with the determinations of quality, actual color, combination of materials and colors and appropriateness within such



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general requirements to be further determined by the Committee:

(i) Exteriors shall be of vinyl shake, stucco, cementitious or concrete board siding, wood, brick and/or stone;

(ii) Exteriors shall be one of the following colors: sage, khaki, cream, gray, clay or white, with the appropriate variations thereof, or any combinations of such colors, subject to approval by the Committee;

(iii) Shingles shall be estate gray or weathered wood color, in a dimensional style by GAF Timberline; and.

(iv) All exterior trim must be in white.

B. There shall be submitted to the Committee two (2) complete sets of the final plans and specifications for any and all proposed improvements, the erection or alteration of which is desired. No structures or improvements of any kind shall be erected, altered, placed or maintained upon any Lot unless and until the final plans, elevations, and specifications thereof have received written approval as herein provided. Such plans shall include plot plans showing the location on the Lot of the building, wall, fence or other structure or improvement to be constructed, altered, placed or maintained thereon, together with a description of the proposed construction materials, color schemes, roof design and material, and landscape design. Committee shall reserve the right to require a filing fee of no more than fifty and 00/100 dollars (\$50.00) to accompany the submission of such plans. Such filing fees will be used to cover the costs incurred by the Committee in inspections and approving plans.

C. Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt thereof. One (1) set of said plans and specifications and details with the approval or disapproval endorsed thereon shall be returned to the person submitting them, and the other copy thereof shall be retained by Committee for its permanent files.

D. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are (1) not in accordance with any of the provisions of these Restrictions; (2) if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such Lot or with the adjacent buildings or structures; (3) if the plans and specifications submitted are incomplete; (4) if plans and specifications do not conform to building standards established for the subject area; (5) or in the event Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interests, welfare or rights of all or any part of the real property subject hereto, or the owners thereof. The decisions of the Committee shall be final and not subject to appeal or review.

E. Neither the Committee nor any member or agents thereof shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance



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with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications. All buildings must be constructed in compliance with the North Carolina Uniform Residential Building Code.

F. The Committee or its designated member(s) shall have the right to inspect all construction to insure that the structure is in accordance with the approved plans, specifications and details. If the finished building or other structure does not comply with the submitted plans and specifications, the Committee retains the right to make the necessary changes at owner's expense, and the further right to file under the North Carolina labor and materialmen's lien laws notice of liens for any costs incurred. Any lien obtained will be subordinate to any first deed of trust on the property. No structure or improvement shall be constructed or made unless it substantially conforms with the approved plans, specifications and details.

G. The Committee shall initially consist of the Developer. The Committee will be known as the Grantham Place Property Control Committee. Beginning at such time as the Developer deems appropriate, but in no event later than the time upon which Developer has conveyed all of the Lots to owners other than Developer, the Committee shall consist of three individuals to be initially appointed by Developer, and to be thereafter appointed, to be replaced, to possess the qualifications, and to possess the powers, as specified herein. Each member shall serve until he/she dies, resigns, is legally incompetent or is removed and replaced as herein provided. Each member of the Committee shall be an owner of an interest in a Lot, an officer of a corporate owner of a Lot, a partner in a partnership owner of a Lot, or a member in a limited liability company owner of a Lot. A member of the Committee may resign by written notice to the remaining members of the Committee. A member may be removed by the remaining members of the Committee, if the member being removed has become unqualified because of failure to meet the criteria stated above. A member of the Committee may be removed with or without cause by a writing signed by a majority of the owners of the Lots, which writing specifies the Lots owned by the voters, and names a replacement for the member so removed. Such writing shall be delivered to each of the members of the Committee and shall be effective from the time of such delivery. The remaining members of the Committee shall replace any member who has resigned, sold his Lot, is legally incompetent, or has died. So long as the Developer owns any of the Lots, it may remove any member of the Committee and replace the member so removed. A written record shall be kept of all actions of the Committee. The members of the Committee shall serve without compensation or reimbursement. Any member of the Committee may call a meeting upon two days' notice to the other members of the Committee. Such notice shall state the time, place and purpose of such meeting. At least two (2) members of the Committee must be present at a meeting in order for any action of the Committee to be taken at that meeting. A written decision signed by two members of the Committee shall be the decision of the Committee.

3. LAND USE AND BUILDING TYPE. No structure shall be erected, altered, placed or permitted to remain on any Lot other than for use as a single-family, residential dwelling, and only one single-family residential dwelling may be erected or permitted to remain upon any Lot. Notwithstanding the foregoing, Developer and its designers, during the development stage, may



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maintain a dwelling for use as a model home to aid sales in the development. After development has been completed, no such model home may be maintained in the development. No mobile, manufactured or modular home, or any home designed to be built primarily off site and transported to the site in preassembled components, may be erected or permitted to remain upon any Lot. No outbuilding, including without limitation a detached garage, shed or carport shall be erected upon a Lot unless said outbuilding is incidental to the residential use of said Lot, and is architecturally compatible with the residence on the Lot. No such outbuilding shall be constructed prior to construction of the residence on the Lot, and all plans and specifications for such outbuilding must be approved in advance by the Committee.

4. DWELLING SIZE. Each dwelling erected upon a Lot shall contain not less than 1,400 square feet on the ground floor if a one-story home, and not less than 1,000 square feet on the ground floor if a two-story home, based on the outside measurement of enclosed, floor, heated area, exclusive of open porches and garages.

5. QUALITY OF IMPROVEMENTS AND SETBACKS. No building shall be erected or permitted to remain nearer to any front, side or rear lot line in the development than the minimum building lines shown or indicated on the recorded Map. It is provided, however, that eaves, steps, stoops and fireplace chaises shall not be considered as a part of the building for the purposes of interpreting this Paragraph of these Declarations. Moreover, the location of structures on Lots shall be approved by the Committee. The provisions of this Paragraph shall supercede any notes on the aforesaid Map. An error in the placement of structures in an amount less than ten percent (10%) of the front setback requirement in question is not a violation of these Declarations or of the provisions of the recorded Map.

A. The dwelling and any and all outbuildings on any Lot shall be constructed of new materials of good grade, quality and appearance, and all construction shall be performed in a good and workmanlike manner. No used structures shall be relocated or placed on any Lot. No metal storage shed or barn shall be located on any Lot. All decks and porches shall have the underneath portion screened or enclosed. Any outbuildings shall be of the same design and color scheme as the residence. Construction of dwellings shall be, at a minimum, on a raised slab or better, and not slab-on-grade. If a dwelling is constructed on slab, the slab shall be a minimum of twenty-four inches (24") above footing.

B. Once construction has started on any Lot, the improvements must be substantially completed in accordance with plans and specifications, as approved, within nine (9) months from commencement, with extensions, as approved by the Committee.

C. Fences may be erected along any side lot line or rear lot line ("Rear Yard Fences"). Such Rear Yard Fences shall not exceed four feet in height from ground level, shall be constructed of wood or vinyl, and the color and design and location thereof must be approved by the Developer (or Committee, if one has been appointed). No Rear Yard Fences shall be erected nearer to any street than the front face of the dwelling located on the Lot. Only white, wooden picket fences not



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to exceed three feet in height from ground level may be constructed in the front yards (forward of the front face of the dwelling located on the Lot) of Lots ("Front Yard Fences"). No Front Yard Fences may extend closer to the street than the edge of the sidewalk that is parallel to the street and closest to the residence. No chain link fence, metal pipe fence or any fence constructed primarily of metal shall be erected or permitted to remain on any Lot.

D. The size, design, materials and location of all dog pens and dog runs shall be approved by the Committee.

E. Cluster mailboxes shall be provided within common areas of the subdivision, with a box for each Lot, and no mailboxes shall be permitted on the Lots. Maintenance, repair and replacement of, and handling of distribution and replacement of keys for, the cluster mailboxes shall be by the Association.

F. No television satellite dish shall be placed, erected or permitted to remain upon any Lot unless the same shall be approved as to size, materials and location by the Committee. The Committee may refuse to allow the placement of any satellite dish which exceeds twenty-four (24) inches in diameter and which is not located in a way to minimize its visibility from any street or adjoining property. No exterior radio antennae or similar device shall be allowed on any Lot.

G. All residences are required to have concrete, brick, strip concrete, aggregate, stone, stamped concrete or river rock driveways. The location and materials and design of driveways must be approved by the Committee. Brick columns or like structures at the end of driveways are prohibited.

H. Any dwelling or outbuilding on any Lot which is destroyed in whole or in part by fire, windstorm or for any other cause or act of God, must be rebuilt or all debris removed and the lot restored to a sightly condition with reasonable promptness; provided, however, that in no event shall such debris remain longer than sixty (60) days.

I. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to a septic tank or other sewage system constructed by the Lot owner(s) and approved by the appropriate governmental authority and the Committee.

J. All front yards must be sodded with grass prior to occupancy, other than approved driveways and landscaped areas.

6. NUISANCES AND ADDITIONAL RESTRICTIONS. No noxious, illegal or offensive trade or activity shall be carried on upon any Lot nor shall any thing be done thereon which may be or become a nuisance or annoyance to the neighborhood.

A. Except during the construction of a residence, no truck or commercial vehicle in excess of 3/4 ton load capacity shall be parked or permitted to remain on any Lot.



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B. No vehicle shall be parked on any street in the Subdivision. No wrecked or junked motor vehicle or vehicle without current license plates and registration shall be permitted to remain upon any Lot.

C. Any pleasure boat, trailer, utility trailer, boat trailer, motor home, boat, recreational vehicle or habitable motor vehicle of any type parked on a Lot shall be shielded from view from any street or any adjacent Lot. If same is too large to be so shielded from view, then it shall not be permitted to be parked or stored on any Lot.

D. Any clothesline or trash container located on any Lot shall be shielded from view from any Lot, and any street.

E. No elevated tanks of any kind shall be erected or permitted to remain upon any Lot, other than LP gas cylinders to the extent used for fuel for heating systems and appliances within the dwelling on a Lot, and for a gas grill on a Lot. Such LP gas cylinders shall be screened from view from any street, or from adjacent properties.

F. It is encouraged that in the fertilization on any Lot of any lawn or yard, that liquid fertilizers (not time release fertilizers) be used, so that nutrient runoff from yards and lawns into surrounding bodies of water is minimized.

G. No above-ground swimming pools shall be permitted on any Lot in the Subdivision.

H. There shall be no outdoor burning of debris, trash, yard waste, or any other materials on any Lot.

7. RESERVATIONS BY DEVELOPER. Developer reserves the drainage and utility easements as shown on the Map of Grantham Place Subdivision, as well as a drainage and utility easement ten (10) feet in width centered on each side lot line, ten (10) feet in width along road right of ways, and ten (10) feet in width along each rear lot line. Developer shall have all rights of an owner of such easements, including, without limitation, the right to grant permanent or temporary, nonexclusive rights to such easements to others, including without limitation the Association. It is provided, however, that in the event Lots are combined, side lot line easements shall be terminated and a new easement along the outside lot lines of the combined lot automatically shall be created. Developer reserves a right of way and easement for the purposes of ingress, egress, regress, and access to Developer's adjacent properties for the installation and maintenance of utilities, and further subdivision over the streets in the subdivision as shown on the Map. Said easements are appurtenant to the remaining property of Developer.

8. UNDERGROUND ELECTRICAL DISTRIBUTION CONTRACT. Developer reserves the right to subject the real property in this development to a contract with an electric utility for the installation of underground electric cables and/or the installation of street lighting,



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either or both of which may require an initial payment and/or a continuing monthly payment to the electric utility by the owner(s) of each Lot.

9. ANIMALS. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that two (2) dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for commercial purposes. All animals must be confined to their owner's Lot(s) at all times.

10. SIGNS. No sign of any type, including political signs, shall be erected, placed or permitted to remain upon any Lot except average-sized realtor and builder signs advertising the property for sale (no more than two per Lot at any one time), and signs by the Developer or its designees during the development period advertising the development and the sale of Lots and/or houses therein. A sign or signs announcing the name of the development may be maintained in Common Areas.

11. OCCUPANCY. No dwelling erected upon any Lot shall be occupied as a residence while original construction is in progress nor at any time prior to its being fully completed. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home or other temporary structure shall be placed or permitted to remain upon any Lot except for storage of materials and other use by the contractor erecting a dwelling on said Lot. Landscaping on the Lot shall be complete prior to occupancy of the dwelling.

12. GRANTHAM PLACE HOMEOWNERS' ASSOCIATION, INC. A nonprofit corporation named Grantham Place Homeowners' Association, Inc. (the "Association") has been or will be formed under the direction of Developer, pursuant to the rules and requirements of the Nonprofit Association Act (Chapter 55A), and the Planned Community Act of the General Statutes of North Carolina as an association of the owners of Lots. Its purposes are as set forth in its Articles of Incorporation (the "Articles") and its Bylaws (the "Bylaws"), and to manage, maintain, and operate the Buffers designated as Common Area, the median at the entrance to the subdivision, the cluster mailboxes and easement areas for same, and the Stormwater Pond area, all as shown and/or designated on the Map, and the stormwater drainage system required by the State of North Carolina, and any entrance signs and/or lights at the entrances to the Subdivision (the "Common Areas").

A. Each Owner of a fee or undivided fee interest in a Lot within the Subdivision shall be a member of the Association. Developer, by these Declarations, and the owners of individual Lots by their acceptance of individual deeds thereto, covenant and agree with respect to the Association:

(i) That for so long as each member is an owner of a Lot within the Subdivision, each will perform all acts necessary to remain in good and current standing as a member of the Association;



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(ii) That each shall be subject to the rules and regulations of the Association with regard to ownership of a Lot;

(iii) That any unpaid assessment, whether general or special, levied by the Association in accordance with these Restrictions, or the Articles or the Bylaws of the Association, which remains unpaid for a period of thirty days or longer after its due date, shall be a lien upon the Lot upon which such assessment was levied upon filing of a Claim of Lien with the Clerk of Superior Court of Craven County, North Carolina, and shall be the personal obligation of the person or entity who or which was the owner of the Lot at the time the assessment fell due;

(iv) Each membership in the Association shall relate to and have a unity of interest with an individual Lot which may not be separated from ownership of said Lot. The records of the Association shall be available pursuant to the provisions of the Planned Community Act and Chapter 55A of the North Carolina General Statutes; and,

(v) The Association shall have one class of members which shall be all owners. They shall be entitled to one vote for each Lot owned; provided, however, when more than one person or entity holds an interest in any Lot, all such owners shall hold the membership with regard to such Lot in undivided interests. The vote of such multiple owners of a Lot shall be exercised as they, among themselves, shall determine, but in no event shall any fractional vote be counted or more than one vote be cast with respect to any one Lot.

B. The management and administration of the affairs of the Common Areas of the Subdivision shall be the sole right and responsibility of the Association upon the conveyance of such Common Areas to the Association by the Developer. The Association must accept such conveyance(s) provided that the conveyance is made free and clear of liens and encumbrances other than easements and rights-of-way of record, provisions of these Restrictive Covenants, and obligations to the State or other applicable governmental authority with regards to the operation or maintenance of such Common Areas. The management shall be carried out in accordance with the terms of these Restrictions, and the Articles and Bylaws of the Association, and the Planned Community Act, but may be delegated or contracted to managers or management services. The Common Areas, once owned by the Association, cannot be mortgaged or conveyed by the Association without the consent of owners entitled to cast at least eighty percent (80%) of the votes in the Association. Such mortgage or conveyance, if any, must be subject to any easements of ingress or egress to any Lot owners.

C. The following expenses shall be considered the community expenses of the Subdivision (the "Community Expenses") and shall include:

(i) All amounts expended by the Association in operating, administering, managing, repairing, replacing and improving the Common Areas of the Subdivision; all amounts expended by the Association in insuring the improvements on the Common Areas and any personal property of the Association against fire and other perils as determined necessary by the Association,



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and in carrying general liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas, and in obtaining Directors and Officers insurance in reasonable amounts, and in obtaining any and all insurance otherwise required by law; all amounts expended in maintaining the entrance signs, planting islands and the landscape buffer areas and lights; all amounts expended by the Association in legal, engineering, or architectural fees; all similar fees which may be incurred by the Association from time to time in performing the functions delegated to the Association by these Restrictions; and all amounts expended in any form by the Association in enforcing the Restrictions, the Articles and Bylaws; and all amounts expended by the Association in complying with the laws and regulations of any applicable governmental authority.

(ii) All amounts expended by the Association in carrying out any duty or discretion as may be required or allowed by these Restrictions, the Articles or the Bylaws.

(iii) All amounts declared to be Community Expenses in the Bylaws or in these Restrictions.

(iv) All taxes and special assessments which may be levied from time to time by any governmental authority upon the Common Areas owned by the Association.

D. (i) Each owner of a Lot or Lots, other than the Developer, hereby covenants, by acceptance of a deed for same (whether or not it shall be so expressed in such deed) to pay to the Association annual general assessments or charges as hereinafter provided. The annual general assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge and lien on the Lot after such amounts have remained unpaid for a period of thirty days or longer after same become due, and upon filing of a claim of lien of record in the office of the Clerk of Superior Court in Craven County, North Carolina. Furthermore, each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a successor in title to a Lot unless expressly assumed by them but, subject to the provisions of these Declarations, delinquent assessments shall continue to be a lien upon such Lot.

(ii) Until December 31, 2007, the annual general assessment shall be Seventy-Five and 00/100 Dollars (\$75.00) per Lot.

(a) From and after December 31, 2007, the annual general assessment may be increased each year not more than ten percent (10%) above the assessment for the previous year without any vote of the membership.

(b) From and after December 31, 2007, the annual general assessment may be increased by an amount greater than ten percent (10%) of the assessment for the previous



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year provided the proposed increase is approved by a vote of two-thirds (2/3) of the members who are voting in person or by a proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual general assessments which come due after December 31, 2007, at an amount not in excess of the ceiling established herein.

(d) Once the annual general assessment has been set, notice of the annual general assessment shall be given to all owners by hand delivery or by placing written notice in the United States Postal Service with postage prepaid to the last address shown on the Association's records. After the initial notice of the assessment, no bills for such assessment will be forwarded to any owner but such assessment thereafter shall become due and payable as provided by the Board of Directors.

(e) As provided in the Bylaws and subject to the restrictions and limitations provided herein, the Board of Directors shall establish an Annual Budget in advance for each fiscal year. Such budget shall project all expenses for the forthcoming fiscal year which may be required for the proper operation, management and maintenance of the Association and the Common Areas, including a reasonable allowance for contingencies and reserves. The budget shall take into account any projected or anticipated income. The Board of Directors shall keep separate, in accordance with Paragraph D.(ii)(g) hereof, items relating to the daily operation, management and maintenance of the Association and Common Areas from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors, copies of said Annual Budget shall be delivered to each owner and the assessment for said year shall be established, subject to the restrictions and limitations provided herein, based upon such budget; however, the non-delivery of a copy of said Budget to each owner shall not affect the liability of any owner for such assessment. The Annual Budget shall be divided by the number of Lots subject to the annual general assessments at the time of the annual meeting of the members and the quotient shall be the annual general assessment per Lot for the succeeding fiscal year.

(f) The Board of Directors, in establishing the Annual Budget for operation, management and maintenance of the Association and Common Areas, shall designate therein a sum to be collected and maintained as a reserve fund for the periodic maintenance, repair and replacement of capital improvements to the Common Areas (the "Capital Improvement Fund"), which Capital Improvement Fund shall be for the purpose of enabling the Association to maintain, repair or replace structural elements and mechanical equipment constituting a part of the Common Areas, as well as the replacement of personal property which may constitute a portion of the Common Areas held for the joint use and benefit of the owners. The amount to be allocated to the Capital Improvement Fund may be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for repair, maintenance and replacement of capital improvements to the Common Areas. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Association and such monies shall be used only for periodic maintenance, repair and replacement of capital improvements to the Common



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Areas. The Capital Improvement Fund shall be maintained out of the annual general assessments. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors, be expended for daily operation, management and maintenance of the Association and Common Areas.

(g) 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 operating and managing the Association, or the proper undertaking of all acts and duties imposed upon it by virtue of these Declarations, the Articles and the Bylaws, except that monies placed in the Capital Improvement Fund shall be used only for the specified purposes of said fund. As monies for any assessment are paid into the Association by any owner, the same may be commingled with monies paid to the Association by the other owners. Although all funds, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Areas, 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 the owner of a Lot shall cease to be a member of the Association by reason of his divestment of ownership of such Lot, by whatever means, the Association shall not be required to account to such owner for any share of the fund or assets of the Association, including any monies which owner may have paid to the Association, 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 the Association.

(iii) Written notice of any meeting called for the purpose of taking any action authorized under Paragraph D.(ii)(b.) of this Article shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the 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.

(iv) Annual general and special assessments shall, except as otherwise provided herein, be fixed at a uniform rate for all Lots.

(v) **The annual general assessments provided for herein shall commence as to each Lot upon closing of the purchase of such Lot by the first owner other than the Developer. The Developer shall not, in any event, be required to pay any general assessments to the Association on any Lots owned by the Developer. The Developer shall remain responsible for maintenance and repair of the Common Areas until conveyance of same to the Association. The annual general assessments shall be payable annually, on or prior to January 1. The payment of any assessment or installment thereof shall be in default, if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the**



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delinquent assessment shall bear interest at the rate of the lesser of ten percent (10%) per annum or the maximum rate permitted by law until such delinquent assessment and all interest due thereon has been paid in full.

(vi) The annual general assessments levied by the Association shall be used exclusively to improve, maintain and repair the Common Areas, to pay the expenses of the Association, to pay the cost of the entrance lights, to pay the cost of maintaining the Common Areas and to pay the cost of any insurance the Association determines to purchase. Taxes, hazard insurance, and maintenance on dwellings and Lots shall not be a purpose of said assessments (other than as set forth in paragraph 13. herein); but rather shall be an individual cost to be borne by each owner.

(vii) 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.

(viii) 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 foreclosure of a first mortgage 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. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

E. Special assessments may be levied against Lots for such reasons as are provided in these Restrictions, the Articles or the Bylaws, and on such terms as provided by the directors and the members. Upon a two-thirds (2/3) vote of the members of the Board of Directors and a two-thirds (2/3) vote of members who are voting in person or by proxy at a meeting duly called for this purpose, the Association may levy and impose special assessments. The purpose for which special assessments are levied include, but are not limited to, providing funds to pay Community Expenses which exceed the general assessment fund then on hand to pay same (specifically including the cost of any construction, reconstruction or repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto) and providing a contingency fund for capital improvements and extraordinary expenses. Special Assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge and lien on the Lot when they remain unpaid for a period of thirty (30) or more days after they become due, and upon the filing of a Claim of Lien with the Clerk of Superior Court of Craven County, North Carolina. Furthermore, each such assessment, together with interest, cost, and reasonable attorneys' fees, shall be the personal obligation of the person who was the owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent special assessments shall not pass to a successor in title to a Lot unless expressly assumed by them but, subject to the provisions of these Declarations, delinquent assessments shall continue to be a lien upon such Lot.

Written notice of any meeting of the members called for the purpose of levying and



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imposing special assessments shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the 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.

F. Any annual general or special assessment, if not paid within thirty (30) days after the date such assessment is due, together with interest at the rate of the lesser of ten percent (10%) per annum or the maximum rate permitted by law, late fees as permitted by law, costs of collection, court costs, and reasonable attorneys' fees shall constitute a lien against the Lot upon which such assessment is levied. The Association may record notice of the same in the Office of the Clerk of Superior Court of Craven County or file a suit to collect such delinquent assessments and charges. The Association may file Notice of Lis Pendens, bring an action at law against the Owner personally obligated to pay the same and/or bring an action to foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein.

13. MAINTENANCE. All Lots, whether occupied or unoccupied, shall be well maintained and mowed, and no unattractive growth or accumulation of rubbish or debris shall be permitted. In the event an owner of any Lot shall fail to maintain the premises and/or the improvements situated thereon in a manner in keeping with other property in the neighborhood or the community, the Developer (for so long as it is a property owner in the subdivision) and/or the Association, shall have the right, through their agents and employees, to enter upon said Lot and clear, clean, repair, maintain and restore the Lot and the exterior of any building and any other improvements erected thereon. Each owner by acceptance of a Deed to his property acknowledges this authority, and agrees that the cost to the Developer and/or Association, as the case may be, of performing such mowing and trash or debris removal shall be a liability of the owner of the subject Lot, which shall be paid by such owner to the Developer and/or the Association, as the case may be, upon demand for payment thereof. The cost of such maintenance shall be considered a legal obligation of the Lot owner for which the Developer and/or the Association may maintain an action in a Court having jurisdiction. Further, if the obligation is owed to the Association, the Association shall be entitled to enforce such payment through filing of a lien or through court action or both.

14. STREETS. Developer shall construct all streets within Grantham Place to standards specified by the North Carolina Department of Transportation and the Craven County subdivision ordinance for residential streets. Upon completion of construction of such streets, and to the extent that such streets are dedicated as public streets, the maintenance thereof shall be assumed by the North Carolina Department of Transportation, in accordance with the policies and ordinances of the North Carolina Department of Transportation. Developer shall maintain such streets to standards imposed by the North Carolina Department of Transportation until the earlier of the following:

A. Transfer of the maintenance responsibilities for any street to the Association, which



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transfer would be made only at such time as the streets meet all applicable standards so as to qualify for acceptance by the North Carolina Department of Transportation.

B. Acceptance by the North Carolina Department of Transportation of maintenance responsibilities for such street.

Nothing contained herein shall prohibit Developer from constructing private streets, not offered to for dedication to the public, which streets are to be owned and maintained by the Association. Any such private streets shall be constructed in accordance with the standards for private streets established by the North Carolina Department of Transportation.

C. The Association shall further at all times maintain in good working condition all street lights or area lights constructed within the Subdivision and constructed for the common benefit of the Lot owners, to the extent that such street lights or are lights are not owned and/or maintained by a public utility. The Association shall further have the responsibility of maintaining a sightly appearance along all street rights-of-way, and utility easements adjacent thereto.

15. STORMWATER RESTRICTIONS AND SEDIMENTATION EROSION CONTROL.

A. The covenants in this Section 15 are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW7 051101, as issued by the Division of Water Quality under NCAC 2H.1000.

B. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.

C. These covenants, as with all of the covenants herein, are to run with the land and be binding upon all person and parties claiming under them.

D. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.

E. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.

F. The maximum allowable built-upon area per lot is 3,300 square feet. This allotted amount includes any built-upon area constructed within the Lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking or the water surface of swimming pools.



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G. All runoff from the built-upon areas on any Lot must drain into the permitted system. This may be accomplished through a variety of means including roof drain gutters which drain to the street, grading the Lot to drain toward the street, or grading perimeter swales to collect the Lot runoff and directing them into a component of the stormwater system. Lots that will naturally drain into the system are not required to provide these additional measures. Lot owners shall not impede the flow of stormwater through ditches or swales that are a part of the stormwater system, and a Lot owner shall be liable for the cost of removal of any such impediments caused or placed by such Lot owner.

H. Maintenance and repair, or modifications required by applicable authority, of the stormwater system, including without limitation, the stormwater retention pond, and drainage ditches or swales which are within drainage easements on the Lots, shall be the responsibility of the Association, upon transfer of the Common Areas to the Association. Upon transfer of the stormwater retention area and stormwater system to the Association, the Association will cooperate with the developer to assure transfer of the permit for the stormwater system from the Developer to the Association.

I. All Lot owners and their agents shall comply with the North Carolina sedimentation and pollution control laws and regulations and applicable erosion control ordinances, and shall restrain visible sedimentation from erosion.

15. COMPLIANCE AND ENFORCEMENT. In the case of failure of an owner to comply with the terms and provisions contained in these Restrictions or the Articles or the Bylaws of the Association, the following relief shall be available:

A. The Association, an aggrieved owner or owners within the Subdivision on behalf of the Association, or any owner on behalf of all the owners within the Subdivision shall have the right to bring an action and recover sums due, damages, injunctive relief, and/or such other and further relief as may be just and appropriate, including without limitation, reasonable attorneys' fees incurred in such enforcement action. The Association, through its Board of Directors, or through an adjudicatory panel appointed by the Board, shall also have the right to levy fines and to suspend privileges of a member pursuant to procedures established by the Association under the Planned Community Act, as same may be amended from time to time.

B. If the violation is the nonpayment of any annual general or special assessment, the Association shall have the right to suspend the offending owner's voting rights for any period during which an assessment against the Lot remains unpaid.

C. The remedies provided by this Article are cumulative and are in addition to any other remedies provided by law.

D. The failure of the Association or any person to enforce any restriction contained in these Restrictions, the Articles or the Bylaws shall not be deemed to waive the right to enforce such



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restrictions thereafter as to the same violation or subsequent violation of similar character.

16. **VARIANCES.** The Committee may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided however, that such is done in conformity with the intent and purpose of the general development scheme and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood or the Subdivision. Any such variance shall be approved by the Committee in writing and delivered to the Lot owner(s).

17. **WAIVER.** No provision contained in these Restrictions, the Articles or the Bylaws, shall be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any person or entity as to the same or similar future violations, no matter how often the failure to enforce is repeated.

18. **DURATION AND AMENDMENT.** These Restrictions and Covenants and Conditions shall run with the land and shall be binding on all persons acquiring title to any of the Lots up to and including December 31, 2016, at which time said Restrictions and Covenants and Conditions shall be extended automatically for successive periods of ten (10) years. At any time, by written instrument executed by the then owners of Lots to which sixty-seven percent (67%) of the votes of the Association are then allocated, and duly recorded in the office of the Register of Deeds of Craven County, these restrictions may be amended in whole or in part. No such amendment shall affect the easements and rights reserved by Developer unless Developer shall consent to such amendment. Further, the Developer may amend these Restrictions and Covenants pursuant to Section 22 herein.

19. **BINDING EFFECT.** All covenants, restrictions, reservations, easements and privileges contained herein shall run with the land and the grantee, by accepting any deed to any portion of such land subjected hereto, accepts the same subject to these Restrictions and its terms and conditions and agrees for himself, his heirs, successors and assigns, to be fully bound by each and all of the terms and conditions of these Restrictions, jointly, separately and severally.

20. **CAPTIONS.** The captions preceding the various Paragraphs of these Restrictions are for the convenience of reference only, and shall not be used as an aid in interpretation or construction of these Restrictions. As used herein, the singular includes the plural and where there is more than one owner of a Lot, said owners are jointly and severally liable for the obligations herein imposed. Throughout this Declaration, references to the masculine shall be deemed to include the feminine, the feminine to include the masculine and the neuter to include the masculine and feminine.

21. **NOTICE.** All notices provided for or permitted pursuant to these Restrictions shall be in writing and, except as is herein expressly otherwise provided, notice shall be deemed sufficient and service thereof completed upon hand-delivery, or upon receipt, refusal or nondelivery



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of same when mailed postage prepaid to the party to or upon whom notice is being given or served at the address of such party last reflected on the records of the Association.

22. FUTURE DEVELOPMENT RIGHTS. Developer reserves the right, for itself or its assigns, but does not have the obligation, to subject additional property which may be acquired by Developer or its assigns, adjacent to the rear of Lots 18 - 27, to the provisions of these restrictions. The property would be made subject to these covenants by amendment by Developer, which amendment could be made by Developer alone and would not require the signature of any other property owners in the subdivision. Such property would be incorporated into said Lots 18 - 27 to increase the size of said Lots, but would not increase the total number of Lots in the subdivision. In the event said property, or any portion thereof, is subjected to these restrictions, the parties owning such property shall have rights identical to the rights of the owners of the above-described Lots. At the present time, no property other than the Lots numbered 1-70 as shown on the above map are subject to these restrictions.


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IN TESTIMONY WHEREOF, GRIT of New Bern, LLC, has caused this instrument to be executed in its name by its Manager, this the 21st day of November, 2006.

GRIT OF NEW BERN, LLC

(SEAL)

BY: R. Mitchell Brydge (SEAL)
R. MITCHELL BRYDGE, Manager

NORTH CAROLINA

COUNTY OF CRAVEN

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: R. Mitchell Brydge, Manager

Date: 11-21-2006



Deborah D. Travis
NOTARY PUBLIC
Deborah D. Travis, Notary Public
Notary's typed or printed name
My Commission Expires:
10-22-2009

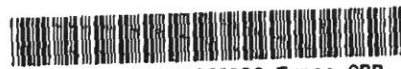


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