

DECLARATION OF COVENANTS  
FOR  
GREYSTONE AT PHOENIX

This declaration of protective covenants is to replace all existing covenant agreements and covenant amendments for Greystone at Phoenix up to this date. The developer no longer exists. Therefore these covenant agreements are to impose mutually beneficial restrictions for the benefit of all Property Owners within the community. We are compliant with NC Planned Community Act.

Article I

Section 1. Architectural Review Committee (ARC). The ARC membership shall be appointed by the Board of Directors and will consist of no less than three individuals. The committee is empowered to administer the rules of the Covenant Agreements and to ensure uniform and harmonious construction within Greystone at Phoenix.

Section 2. Area of Common Responsibility shall mean and refer to the Common Area or Green Space which, by the terms of this declaration or any supplemental declaration, become the responsibility of the Association. Any public rights-of-way adjacent to the Properties may be part of the Area of Common Responsibility.

Section 3. “Articles of Incorporation” or “Articles” shall mean and refer to the Articles of Incorporation of Greystone at Phoenix Owners Association, Inc., which is filed with the North Carolina Secretary of State.

Section 4. “Association” shall mean and refer to Greystone at Phoenix Owners Association, Inc, a North Carolina non-profit corporation, its successors or assigns. The “Board of Directors” or “Board” shall be the elected body having its normal meaning under North Carolina corporate law.

Section 5. “By-laws” shall mean and refer to the By-Laws of Greystone at Phoenix Owners Association, Inc., as they may be amended from time to time.

Section 6. “Common Area” shall mean all real and personal property which the Association now or hereafter owns for the common use and enjoyment of all Owners.

Section 7. “Common Assessment” shall mean and refer to assessments levied against all lots in the Properties to fund Common Expenses.

Section 8. “Common Expenses” shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Lot/Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws and the Articles of Incorporation of the Association.

Section 9. “Community-Wide-Standard” shall mean the standard of construction, conduct, maintenance, or other activity, generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors or ARC, but such determination must be consistent with the Community-Wide Standard.

Section 10. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 11. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 12. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage or Deed of Trust.

Section 13. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot/Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

Section 14. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 15. "Properties" shall mean and referred to the real property described in Exhibit "A" attached hereto, together with such additional property as may be hereafter subjected to this Declaration by Supplemental Declaration.

Section 16. "Special Assessment" shall mean and refer to assessments levied in accordance with Article X, Section 2 of this Declaration and the By-Laws.

Section 17. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by the Association which subjects additional property to this Declaration and/or imposes, expressly, or by reference, additional restrictions, and obligations on the land described herein. The term, so also referred to the instrument recorded by the Association pursuant to Article VIII, Section 2 of this Declaration to subject additional property to this Declaration.

Section 18. "Lot/Unit" shall be interchangeable with "Lot" or "Unit" and shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use, and occupancy as a residence. The term shall include all portions of the homesite owned as well as any structure hereon.

Section 19. "Greystone at Phoenix" shall mean and referred to the real property described in Exhibit "A", which is or which is intended to be developed as Greystone at Phoenix, and and which will include the Properties.

## Article II Property Rights

Section 1. General. Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area. Any Owner may delegate his or her right of use and enjoyment to the members of his or her family, social invitees, and lessees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt.

## Article III Membership and Voting Rights

Section 1. Membership. Every Owner, as defined on Article I , shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot/Unit owned. In the event the Owner of a Lot/Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The membership rights of a Lot/Unit owned by a corporation, partnership, limited liability company, or fiduciary, shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary.

Section 2. Voting. Members shall be entitled to one (1) equal vote for each Lot/Unit in which they hold the interest required for membership under Section 1 hereof, there shall be only one (1) vote per Lot/Unit. Each Owner shall be entitled to either personally cast the vote attributable to his or her Unit, or to submit a vote email or Proxy. Proxy votes must be submitted at or before the time of voting, and must be on a proxy form, clearly defining the issue to be voted upon, and signed by the Owner.

#### Article IV Maintenance

Section 1. Associations's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement of all landscaping, and other flora, structures, and improvements, including all street areas, including private drive easements (but not private driveways), parking areas, medians, sidewalks, street lights, boundary fence or wall, ponds and retention areas, fountains, gazebos, entry, features, and signage, entry gates and gatehouses, or other common buildings and facilities situated upon the Common Areas, and of such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association. Maintenance of roads in Greystone at Phoenix shall include snow removal as necessary.

All costs associated with maintenance, repair and replacement of General Common Areas shall be a Common Expense to be allocated among all Lots/Units as part of the Common Assessment.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, (a) if such maintenance is required by this Declaration, (b) if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Section 2. Owner's Responsibility: Each Owner shall maintain his or her Lot/Unit and all structures, parking areas, and other improvements comprising the Lot/Unit in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibilities otherwise assumed by or assigned to the Association pursuant to this Declaration, any Supplemental Declaration or other declaration of covenants, applicable to such Lot/Unit. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot/Unit and the Owner thereof in accordance with Article X, Section 2(b) of this Declaration, provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Section 3. Access Easement to Perform Maintenance There shall be reciprocal appurtenant access easements for maintenance and repair between each appurtenant Lot/ Unit. Entry onto the appurtenant Lot/Unit shall only be during reasonable hours, except the case of an emergency. The easement shall be exercised with a minimum of interference to the quiet enjoyment of the Owner's property, and any damage shall be repaired at the expense of the Lot/Unit Owner performing the maintenance or repairs.

## Article V Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then, at a minimum an insurance policy, providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members or agents or any other person who has a right to occupy a Unit. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million (\$3,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses of the Association and shall be included in the Common Assessment, as defined in Article I and as more particularly described in Article X, Section 1. The policies may contain a reasonable deductible, and in the case of casualty insurance, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals a full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties.

(a) All policies shall be written with a company authorized to do business in North Carolina, which holds Best's rating of A or better.

(b) All policies on the Common Area shall be for the benefit of the Association and its Members and their Mortgagees, as their interest may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors, provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

In addition to the other insurance required by this Section, the Board shall attain as a Common Expense, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required.

Section 2. Individual Insurance: By virtue of taking title to a Lot/Unit subject to the terms of this Declaration, each Owner covenants and agrees with all the other Owners and the Association that each Owner shall carry adequate blanket all-risk casualty insurance on the Lot/Unit and structures constructed thereon. Proof of such insurance shall be given to the Association upon request. Each Owner further covenants and agrees that in the event of either a partial loss or damage or total destruction of structures comprising his or her Lot/Unit, the Owner shall proceed properly to repair or to reconstruct the structure. Units shall be repaired or reconstructed in the manner consistent with the original construction or such other plans and specifications as are approved by the Association.

Section 3. Damage and Destruction: Any damage or destruction to the Common Area shall be repaired or reconstructed. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. In the event of any loss covered by the insurance held by the Association, only the Board or its duly authorization agent may file and adjust insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties.

Section 4. Disbursement of Proceeds: If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be dispersed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and place in the capital improvements account.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners on the same basis as provided for Common Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

#### Article VI No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition or sale. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

#### Article VII Condemnation after Turnover

The Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney-in-fact for all Owners in such matters. Whenever any part of the Common Area shall be taken by or conveyed under threat of condemnation to any authority or having the power of condemnation or eminent domain, each

Owner shall be entitled to written notice of such taking or conveyance. The Board may convey Common Area under threat of condemnation only if approved by at least sixty-six (66%) of eligible voters. The award made for such taking or proceeds of such convenience shall be payable to the Association.

## Article VIII Annexation of Additional Property

Section 1. Annexation With Approval of Members. The Association may annex any additional real property to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of the majority of the Association present at a meeting duly called for such purpose.

Section 2. Annexation shall be accomplished by filing of record in the public records of Ashe County, North Carolina, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

## Article IX Rights and Obligations of the Association

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

Section 2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Such property shall be maintained by the Association and at its expense for the benefit of the Owners, subject to any restrictions, set forth in the deed or other instrument transferring such property to the Association.

Section 3. Enforcement. The Board, a property management company, or an Enforcement Committee established by the Board, with the Board's approval, may impose sanctions for violations of the Declaration, By-Laws, or the Association's rules and regulations. Such sanctions may include, without limitation:

(a) imposing monetary fines which shall constitute a lien on the Lot/Unit of the violator after compliance with the notice and hearing procedures set forth in the By-Laws. (In the event, that any occupant, guest or invitee of a Lot/Unit violates the Declaration, By-Laws, or any a Association rules and regulations and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) filing notices of violations in the public records providing record notice of any violation of the Declaration, By-Laws, or any Association rules and regulations;

(c) suspending an Owner's right to vote;

(d) suspending any Person's right to use any portion of the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot/Unit; and

(e) suspending any services provided by the Association to an Owner or the Owner's Lot/Unit if the Owner is more than sixty (60) days, delinquent in paying any assessment or other charges owed to the Association.

(f) filing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

in addition, the Board May elect to enforce any provision of the Declaration, By-Laws, or any Association rules and regulations by exercising self-help (specifically including, but not limited to, the filing of liens in the public records for non-payment of assessments and other charges, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules, or the correction of any maintenance, construction or other violation of the Declaration, By-Laws, or any Association rules and regulations). The Association may levy a Special Assessment pursuant to Article X, Section 2(b) to cover all costs incurred in bringing a Unit into compliance with the terms of the Declaration, By-Laws, or any Association rules and regulations.

In the event that any occupant, guest, or invitee of a Lot/Unit violates the Declaration, By-Laws, or any Association rules and regulations, the Board, property management company or any Enforcement Committee established by the Board, with the Board's approval, may sanction such occupant, guest, or invitee and/or the Owner of the Lot/Unit that the violator is occupying or visiting.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of the Declaration, By-Laws, or any Association rules and regulations, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking in enforcement action. Any search determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county or municipal ordinances and to permit Ashe County to enforce ordinances on the Properties for the benefit of the Association and its Members.

Section 4. Implied Rights. The Association may exercise any other right or privilege give it to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any any such right or privilege..

Section 5. Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities to provided such services and facilities. The cost of services and facilities provided by the Association shall be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge use and consumption fees for services and facilities through Benefited Assessments or by requiring payment at the time the service or facility is provided. As an alternative, the Association may arrange for the cost of the services and facilities to be billed directly to Owners by the provider(s) of such services and facilities. By way of example, some services in facilities, which may be provided include landscape maintenance, garbage collection, pest control service, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security monitoring, caretaker, fire protection, utilities, and similar services and facilities the Board, without the consent of the Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

## Article X Assessments

Section 1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors. There shall be three (3) types of assessments: (a) Common Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Special Assessments as described in Section 2 below; and (c) Benefited Assessments as described in Section 3 below. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

An Initial Capital Contribution of \$500.00 shall be paid to the Association by any new Lot/Unit purchaser at the closing of sale of any Lot/Unit within Greystone at Phoenix. The purpose of this contribution is to assist in establishing and maintaining adequate funds for the operation of the Association.

Common Assessment: The Common Assessment (Annual Dues) are \$864 per year as of the date of this document and may be adjusted pursuant to the By-Laws to meet the responsibilities of the Association. The Common Assessment rate must at all times be sufficient to meet the annual budget and to maintain a reserve level that will satisfy the National Reserve Study Standard definition of "reserve adequacy".

All assessments together with interest, late charges and costs associated with reasonable attorney fees, shall be deemed delinquent if not paid within 60 days of notice, and shall be a charge on the land and shall be a continuing lien upon the Lot/Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees and disbursements, shall also be the personal obligation of the Person who was the Owner of such Lot/Unit at the time the assessment arose, and his or her guarantee shall be jointly and severally liable for such a portion thereof as may be due and payable at the time of the convenience, except no first Mortgagee who obtains title to a Lot/Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.



The Association shall, promptly after written demand, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to the particular Lot/Unit owned by such Owner. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, the Common Assessment and any mandatory Benefited Assessments shall be paid annually. Each Owner, by acceptance of a deed to his or her Lot/Unit acknowledge that all Common Assessments and Mandatory Benefited Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; provided, the Board may permit any assessment to be paid in installments. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot/Unit, the Board may revoke the privilege of paying in installments and require annual assessment to be paid in full immediately.

No Owner may wave or otherwise exempt itself from liability for the assessments provided herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Lot/Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

## Section 2. Special Assessments.

(a) Entire Membership. The Association may levy Special Assessments from time to time provided such assessment receives the affirmative vote of the majority of the Board of Directors of the Association, and majority affirmative vote of the Members of the Association requesting a membership vote on the Special Assessment passed by the Board of Directors. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Less Than All Members. The Association may levy Special Assessments against any Member individually or against such Member's Lot/Unit to reimburse the Association for costs incurred in bringing a Member and his or her Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member.

## Section 3. Benefited Assessments.

(a) General. The Board of Directors shall have the power specifically to assess Lots/Units receiving benefits, items, or services not provided to all Lots/Units within the Properties. Expenses of the Association (1) that are incurred upon the request of the Owner of a Lot/Unit for specific items or services relating to the Lot/Unit, or (2) that are incurred by the Association pursuant to this Declaration, a Supplemental Declaration, or the By-Laws for providing specific items or services relating to or benefiting a Lot/Unit or Lots/Units shall be specifically assessed against the Lot/Unit or Lots/Units benefited, in the amount of the cost of

the benefit received or according to the method of equitably assessing the Lots/Units set forth in this Declaration or the By-Laws.

(b) Mandatory Benefited Assessments. At the time that the budget for Common Expenses is prepared, the Board shall determine Mandatory Benefited Assessments applicable to Units for that fiscal year. Benefited Assessments may differ depending on the type or location of a Unit.

Section 4. Lien for Assessments. Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior in superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meeting any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien may be enforced by suit, judgment, and foreclosure, or any other method permitted by applicable law.

Section 5. Date of Assessments. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide.

Section 6. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges, and costs (including attorney's fees, and disbursements) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Lot/Unit. The sale or transfer of any Lot/Unit shall not affect the assessment lien. However, the sale or transfer of any Lot/Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage 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/Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot/Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot/Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lot/Units, including such acquirer, its successors and assigns.

## Article XI Use Restrictions

The Properties shall be used only for residential, recreational, and related purposes as may be more particularly be set forth in the Declaration and amendments hereto. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make into enforce rules and restrictions for governing the use of the Properties, in addition to those contained herein. Search rules and regulations shall be binding upon all Owners, occupants, invitees, and licensees, if any, until and unless overruled, canceled, or modified in a regular or special meeting of the Association by vote of at least a majority of the total Association.

Section 1. Construction and Use. Greystone at Phoenix shall be developed as a refined mountain community. No construction or improvements shall be built until approved by the Architectural Review Committee ("ARC"). All construction shall be site-built and shall be post and beam, timber frame, log or other natural building materials that blend in harmoniously with

the existing mountain environment. Composite or pre-constructed components reflecting advances in building systems and materials may be incorporated into construction, upon approval by the "ARC".

All construction within Greystone at Phoenix shall be built by licensed general contractors. Construction shall be from 7:30 a.m. to 5:00 p.m. Monday through Friday. All professional mowing, groundskeeping and landscaping shall be performed from 7:30 AM to 5:00 p.m. Monday through Friday.

Lot/Unit owners shall be responsible for any damage caused to the Common Areas or roads within Greystone at Phoenix by their contractors or employees. Such damage will be treated as a Benefited Assessment under Section 3 of Article X. A maximum of 6 cubic yards of concrete per load may be delivered on a tandem truck within Greystone at Phoenix. Each Lot/Unit owner shall be responsible for notifying his/her contractor of this restriction in order to prevent damage to the paved roads within Greystone.

(a) Permitted uses: All Lots shall be used exclusively for single-family residential purposes; however, the following uses are permitted:

(i) residential rental is allowed provided the tenants are fully informed of the covenant in the rules and regulations.

(ii) home-based businesses are allowed so long as deliveries to the home do not exceed two (2) UPS, Federal Express, or similar deliveries per day. Any other use or activity which creates a nuisance to the neighborhood is prohibited

Section 2. Site Improvements. Only one (1) single-family dwelling may be constructed upon any Lot/Unit. A single-family residential dwelling may include an attached or detached garage, with any accessory housekeeper or family member apartment above the garage. Any detached garage shall be in conformity with the aesthetics of the main residential dwelling, and may not be constructed more than one year prior to construction of the main dwelling. Outbuildings must be enclosed on all four sides and must be constructed of the same materials as a main residence, except that when the main residence is log, the outbuildings on the Lot may be log-sided. All structures placed on any Lot/Unit, whether the main dwelling or an outbuilding, shall be subject to the architectural and site plan review.

Section 3. Square Footage. All homes constructed within Greystone at Phoenix from the date of this covenant document and going forward, shall consist of a minimum of 2200 ft.<sup>2</sup> of heated and furnished living space, exclusive of garages, porches, finished and unfinished basements. A minimum of 1800 ft.<sup>2</sup> shall be located on the ground floor. The height of each dwelling is subject to all local and state regulations including but not limited to the "Mountain Ridge Protection Act" which limits the height of buildings on ridges above 3000 feet to elevation to no more than 42 feet.

Section 4. Improvement Siting. In order to ensure that environmental, privacy and view considerations are given maximum attention, the site and location of houses and other structures upon any Lot/Unit shall be controlled and must be approved by the "ARC". All homes, buildings, and other structures, if any, shall be located so that, to the degree reasonably possible, desirable views and privacy will be available and maintained to the owners of other Lots/Units within the Property. All buildings shall be located with regard to the topography of each Lot/Unit, taking into consideration the location of large trees, houses and buildings previously built and other aesthetic and environmental considerations. Any grading, or other land use which creates or causes erosion runoff into streams or other Lots/Units shall be prohibited.

Section 5. Setbacks. All houses another structure shall be in compliance with Ashe County setback requirements, but in no event shall be closer than thirty (30) feet to the street right-of-way or drive easement and not closer than twenty-five (25) feet to the adjoining property line unless a variance is granted by the "ARC". Buildings shall be measured from their furthest point, including deck, eave or wall.

Section 6. Construction Timeline. The exterior of all houses and other structures, plus landscaping, must be completed within twelve (12) months after beginning construction, except where such completion is impossible or would result in great hardship to the owner or builder due to complexity of design or construction and or other unforeseen events. Improvements to construction which have ceased for 90 days and improvements which have been partially or totally destroyed and not repaired or rebuilt in a reasonable time shall be deemed nuisances within control of the Association. Front, side and rear yards shall be landscape pursuant to a landscaping plan approved by the "ARC".

Section 7. Parking on Roadways Prohibited. Parking of any type of vehicle or equipment on any roadways or drive easements within Greystone at Phoenix is prohibited. Each Property Owner shall be responsible for providing ample parking on their property.

Section 8. Exterior Lighting. All light bulbs or other exterior light fixtures on any residence or building shall be white, clear or non-frost. No exterior sodium street lights or security lights shall be permitted. To the extent practicable, no exterior lighting shall be permitted which illuminates property other than the source property, and no exterior lighting shall be allowed or permitted at night beyond such times set adjoining property owners would consider such lighting a nuisance.

Section 9. Prohibited Construction and Storage. The following are prohibited from any Lot/Unit in Greystone at Phoenix: commercial vehicles, tractor-trailers, house trailers, mobile homes, manufactured or prefabricated homes, modular homes, previously constructed homes, system-built homes, or any type of vehicle or container for storage, either temporary or permanent; however, this prohibition shall not apply to construction trailer used by contractors during the construction of the main dwelling, it being clearly understood that these construction trailers shall not be permitted to remain on the Lot after completion of construction.

Section 10. Unsightly Conditions. Each Property Owner shall prevent to the degree practical, and remove any accumulation of construction materials, litter, or trash, and shall prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds, either before, during or after construction. Lawn and garden equipment, tools and other similar types of property and equipment shall be concealed from view of all roadways. Property Owners shall conceal or attempt to conceal all RVs, boats and utility trailers from view of all roadways. No inoperable motor vehicles or junk of any type shall be allowed on any Lot.

Section 11. HVAC and related Systems. All garbage receptacles, electric and gas meters, heat pumps and air-conditioning equipment, water pumps, fuel tanks, equipment and service yard contents on the property must be placed or stored in safely landscaped, fenced or screened-in areas to conceal them from view of all roadways and adjacent properties, or installed within the main dwelling house, within an accessory building or buried underground.

Section 12. Fences. Perimeter fences are not permitted as they are contrary to the open character of Greystone at Phoenix. Sidewalks and fences as landscape design elements shall be considered on a case-by-case basis. The design and placement of fences shall be approved by the "ARC".

Section 13. Pets and Animals. No full size or miniature pigs, horses, poultry, or livestock shall be kept, raise or bred on any Lot. Dogs, cats or other domesticated household pets are permissible, provided they are not bred or maintained for commercial purposes, and further provided, they are kept under direct supervision of the owner, not allowed to roam, and do not become a nuisance. No pet shall be kept tied up on any property or kept in any screen porch or patio unless someone is present in the house. A property owner shall immediately pick up and remove any solid animal waste of deposited by such a owner's pet. Any owner who determines to keep a pet thereby agrees to indemnify and hold harmless the Association against any loss or liability of any kind arising from such owner's having a pet. Barking dogs or aggressive dogs will be considered a nuisance and will not be tolerated.

Section 14. Nuisances and Offensive Activity. No offensive or noxious activity shall be carried on upon the Property. Offensive and noxious activity or behavior shall include but not be limited to any behavior which is inconsistent with both the reasonable and pleasurable use of the Property by Property Owners and their reasonable expectations of vacationing, year-round living, studying, or working free of excessively bright lights, racing or loud vehicles, significantly loud electronic music distractions, or other similar unresolved behavior or activity curtailing or likely to curtail the reasonable pleasure and use of the Property by others who are not participating in such offensive or noxious activity.

Section 15. Sanitary Septic System. All homes constructed upon a Lot/Unit shall be connected to a properly designed, installed and approved sanitary septic system required by the appropriate governmental authorities. No person may obstruct or re-channel the drainage flow of water from drainage swales, storm sewers, or storm drains.

Section 16. Solar Panels. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot/Unit unless it is in an integral and harmonious part of the architectural design of a dwelling, and until the plans and specifications have been approved by the "ARC".

Section 17. Hunting, Discharging of Firearms and Fireworks. Hunting and discharging a firearms within Greystone at Phoenix is prohibited. However, if deer or other wild animals become nuisances by doing damage to the real or personal property of any Owner, such steps as may be necessary to remove or abate the nuisance are authorized. Fireworks are prohibited unless supervised and sponsored by the Association on the 4th of July.

Section 18. Golf Carts and similar vehicles. The use of golf carts and similar UTV's are encouraged as an economical and environmentally friendly means to visit neighbors, check, mail, and utilize the roads within Greystone at Phoenix, provided that they are properly muffled, operated at reasonably low speeds, and not being continuously operated to the point of being offensive or a nuisance.

Section 19. Signs. Property owners are encouraged to maintain "911" types signs with the name and address, which will be of a uniform type designed and approved by the "ARC". Property owners may place for sale signs on Lots/Units once the size and design are approved by the "ARC".

Section 20. Tree and Shrub Removal. Trees and shrubs eight (8) inches or less in diameter at its base may be removed at any time without "ARC" approval in order to beautify and enhance the appeal of any Lot/Unit. No tree or shrub measuring more than eight (8) inches in diameter at its base may be removed until the owner is ready to begin construction, following submission and approval of a site plan to the "ARC". No tree or shrub measuring more than four (4) inches at its base located within twenty-five (25) feet of a street right-of-way,

drive easement, or property line shall be cleared without written approval of the "ARC", except those necessary for construction of a private driveway and parking area, and well and septic systems. Once the site plan is submitted and approved, trees, and shrubs within thirty-five (35) feet of the main dwelling or within fifteen (15) feet of approved outbuildings may be removed without further request for approval.

Section 21. Statuary, TV Satellite Dishes and Outside Antennas. Satellite dishes not over 18" in diameter are permitted without "ARC" approval so long as they are attached to the main residence and are inconspicuously located. No yard statutory or TV or radio antenna shall be erected without "ARC" approval.

Section 22. Construction in Common Areas or Green Space. No individual shall undertake construction in Common Areas or Green Space except at the direction of or with the written approval of the "ARC".

Section 23. Subdividing and Recombining Lots and Time Sharing. No Lot/Unit within Greystone at Phoenix may be subdivided so as to increase the total number of building sites, however, subject to "ARC" approval, adjoining owners may straighten or reconfigure property lines. Lots may be combined in order to increase the total buildable area, however, combining lots does not result in a reduction of dues and assessments.

No Lot/Unit shall be made subject to any type of time-sharing or similar program.

Section 24. Garage Sales and Auctions. Garage, rummage and similar sales are prohibited. Auctions of any kind, including real or personal property are prohibited.

Section 25. Driveways and Mailboxes. The placement, style and design of all driveways on the properties must be approved by the "ARC" and must be paved or otherwise finished. Location and design of all mailboxes placed in the subdivision shall be approved by the Architectural Review Committee before they are installed. All mailboxes must be of a standard color, design and size.

Section 26. Duty to Insure - Repair or Replacement of Damaged or Destroyed Property. In the event of damage or destruction by fire or other casualty to any dwelling or outbuilding, the owner of same shall, within thirty (30) days of the receipt of the insurance proceeds paid pursuant to an insurance policy, covering such building, but in no event later than six (6) months from the date of such damage or destruction, either (i) commence reconstruction of the damaged or destroyed building; or (ii) clear the Lot/Unit upon which the damage or destroyed building is located of all debris and reseed the Lot/Unit. In the event: (i) restoration of the building is commenced but is terminated before completion of the building and such termination continues for a period of at least thirty (30) days; (ii) the Lot/Unit is not cleared of debris within thirty (30) days after commencement of clearance of the Lot/Unit; or (iii) restoration or commencement of clearance of the Lot/Unit does not occur within said three (3) month period, the Association shall have the right to clear the Lot/Unit of debris and reseed the Lot/Unit. The cost of such repair shall be and expense attributable to the Lot/Unit as a Benefited Assessment. In the event of a Lot/Unit shall be cleared and reseeded, then it shall be the obligation of the owner of such Lot/Unit to continue to maintain the Lot/Unit.

Section 27. Duty of Property Owners to Inform Declarant of Current Address. Each Property Owner shall have the affirmative duty an obligation to inform the Association in writing of any change of ownership of the Property, the Property Owner's current address, and of any known failure of the Property Owner to receive any information from the Association at the correct address of the Property Owner. No Property Owner may be excused from his/hers obligations established in these Covenants if the Association mailed notice of such obligation,

assessment, bill, statement, or other notice to the last address of said Property Owner which is recorded on the books of the Association.

#### Section 28. Leasing of Units.

(a) "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot/Unit by any person or persons, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) Leases. Dwellings located on Lots/Units may be leased for single residential purposes (30 days or more) or may be leased on a short term basis (less than 30 day). All short term leases must be with a Board approved property management company. All leases and rentals shall require, without limitations, that the tenants acknowledge receipt of a copy of the Declaration of Covenant Agreements, By-Laws, use restrictions and rules and regulations of the association. The lease shall obligate the tenant to comply with the foregoing. Any damage to roads or common areas by tenants is the financial responsibility of the homeowner. Homeowners are limited to a maximum occupancy for any and all rentals to two people per bedroom (# of bedrooms should match their septic system permit). The minimum rental age is 25.

### Article XII General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representative, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change, said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Section 3. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including council fees and disbursements, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors, excluding directors that are parties to such suit or proceedings) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, neglect or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors or committee members may also be Members of the Association), and the Association shall indemnify and forever hold each such officer, director,

and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to find this obligation, if such insurance is reasonably available.

Section 4. Easements for Utilities, Etc. There is hereby reserved onto the Association, and the designees (which may include, without limitation, Ashe County, North Carolina and any utility), blanket easements upon, across, over, and under all of the Properties, Lots/Units for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, ponds, wetlands, drainage systems, street, lights, signage, and all utilities, including, but not limited to, water lines, meter boxes, telephone, gas, and electricity; provided, however, that the exercise of this is easement shall not unreasonably interfere with the use of any Lot/Unit and, except in an emergency, entry into any Lot/Unit shall be made only after reasonable notice to the Owner or occupant thereof. Under no circumstances shall the Association be held liable for any damage or injuries, resulting from exercise of the easements granted to this Section.

Notwithstanding anything to the contrary contained in this Section, no electrical lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article in no way adversely affect any other recorded easement on the Properties.

Section 5. Sever-ability. 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 6. Perpetuities. If any of the covenant, conditions, restrictions, or other provisions of this Declaration shall be determined to be unlawful, avoid, or voidable for violation of the Rule Against Perpetuities, then search violations shall not affect any other provisions.

Section 7. Use of the "Greystone at Phoenix" Name and Logo. Any use of the name and logo of Greystone at Phoenix is subject to approval by the Board of Directors except when solely to specify that particular property is located within the development.

Section 8. Compliance. Every Owner and occupant of any Lot/Unit shall comply with all lawful provisions of this Declaration, the By-Laws and rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Unit Owner or Owners.

Section 9. Security. Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and security of the property in the Properties. The Association may, but shall not be obligated to, maintain or support certain services or activities within the Properties designed to make the Properties safer than they otherwise might be. The Association shall not in any way be considered insurers or guarantors of security within the Properties, however the Association shall not be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security



measures undertaken all Owners and occupants of any Unit, tenants, guests and invitees of any Owner, as applicable, acknowledge that the Association and its Board of Directors, do not represent or warrant that any fire protection system, burglar alarm system or other security system or measure, including any mechanism or system for a limited access to the Properties may not be comprised or circumvented, that any fire protection or burglar alarm system or other security systems or measures will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, nor that fire protection or burglar alarm systems or other security systems or measures will in all cases provide the detection or protection for which the system is designed or intended. Each Owner and occupant of any Unit, and each tenant, guest and invitee of an Owner, as applicable, acknowledges and understands that the Association, its Board of Directors and committees are not insurers, and that each Owner and occupant of any Unit and each tenant, guest and invitee of any Owner assumes all risks for loss or damage to persons, to Units and to the contents of Units and further acknowledges that the Association, its Board of Directors and committees have made no representations or warranties, nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems or other security systems recommended or installed or any security measures undertaken within the Properties.

Section 10. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to a Lot/Unit shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transfer shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, under the later of (a) the transfer of title to such purchaser or transferee, and (b) the date upon which such notice is received by the Board, notwithstanding the transfer of the title.