

The original formal document can be found in Book 4933 at Page 0464, Mecklenburg County, North Carolina Register of Deeds, recorded on November 20, 1984.

NORTH CAROLINA

SUPPLEMENTAL DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
(Quail Hollow Estates - Phase III -  
Map "D" - Map Book 20 at Page 732)

MECKLENBURG COUNTY

THIS SUPPLEMENTAL DECLARATION is made and executed to be effective the 5<sup>th</sup> day of November, 1984, by THE HOWIE CO., INC. (Developer"), Edward M. Harrington ("Trustee"), and 1<sup>st</sup> HOME FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENSBORO ("Original Developer").

WITNESSETH:

WHEREAS, an area of land then known as "North Village", consisting of approximately 236.5 acres located at the northwest intersection of Sharon Road West and Park Road lying on the easterly side of Little Sugar Creek, was on November 14, 1977, zoned as a residential, planned unit development (RPUD), said RPUD being zoned for a combination of detached, single-family dwellings and multi-family buildings for rent and for sale, with open common areas within the RPUD; and

WHEREAS, Original Developer developed portions of the area within the RPUD (now generally known as "Quail Hollow Estates") designated for detached, single-family dwellings by placing on record certain subdivision maps recorded in Map Book 16 at Pages 252 and 281 and Map Book 19 at Pages 362 and 418 and by subsection these subdivisions to a general scheme of development by the filing for record of identical restrictive covenants recorded in Book 4194 at Page 497, Book 4273 at Page 224, Book 4347 at Page 537 and Book 4398 at Page 148, respectively; and

WHEREAS, Developer is the successor to Original Developer in the ownership and future development of substantially all of the remaining detached, single-family Lots within the RPUD and succeeded to the rights of Original Developer to annex additional subdivisions within the RPUD designated for detached, single-family dwellings to said general scheme of development; and

WHEREAS, Developer has annexed those subdivisions shown on maps recorded in Map Book 20 at Pages 249, 327 and 731 to said general scheme of development by the filing of those Supplemental Declarations recorded in Book 4669 at Page 171, Book 4774 at Page 458, and Book 4933 at Page 473, respectively, and now desires to further exercise said privilege by annexing and bringing within said general scheme of development that new subdivision for detached, single-family housing known as Quail Hollow Estates, Phase III, Map "D" as same is shown on map thereof recorded in Map Book 20 at Page 732; and

WHEREAS, Original Developer is the owner and holder of that Note secured by Deed of Trust recorded in Book 4812 at Page 646 in the Mecklenburg Public Registry

and Trustee is the trustee of said Deed of Trust, and Trustee as well as Original Developer desire to subordinate the lien and operation of said Deed of Trust to the terms of those restrictive covenants as hereinafter set forth and join in this instrument for the sole purpose of accomplishing the same;

NOW, THEREFORE, pursuant to the matters set forth in the premises and pursuant to the authority of the Developer "as successor to Original Developer" as set forth in Section 3 of ARTICLE VII of the Declaration recorded in Book 4194 at Page 497, Developer does by these presents hereby declare that all of the Lots shown on plat recorded in Map book 20 at Page 732 as well as all common areas depicted thereon are hereby subjected to those Restrictive Covenants hereinafter set forth and are included within the general scheme of development referred to above, said Restrictive Covenants to run with, burden and bind the title to all of the land shown on said subdivision map recorded in Map Book 20 at Page 732 and all of said land shall henceforth be held, transferred, sold, conveyed, occupied and used subject to the restrictive covenants hereinafter set forth, for and during the period of time hereinafter specified.

## ARTICLE I

### DEFINITIONS

The following words when used in this Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Architectural Control Committee" shall mean and refer to the committee of persons appointed pursuant to Article V to supervise the preservation of the architectural and aesthetic values of the Properties.
- (b) "Association" shall mean and refer to the Quail Hollow Homeowners Association #4, Inc., its successors and assigns.
- (c) "Common Area" shall mean and refer to those areas of land designated "Common Area" or "Common Open Space" on the subdivision plat recorded in Map Book 20 at Page 731 as well as shown on any subdivision plat for detached, single-family residences within the general scheme of development for such Lots as referred to in the premises. Said areas are intended to be devoted to the common use and enjoyment of the members of the Association, as herein defined, and are not dedicated for use by the general public.
- (d) "Developer" shall mean and refer to The Howey Co., Inc. and any successor to all or substantially all of the business of The Howey Co., Inc. in developing the remaining undeveloped land in the RPUD for detached, single-family dwellings.

- (e) “Established Drainage” shall mean and refer to the drainage pattern existing at the time of the completion of the grading of the Properties or any part thereof, including such planting of vegetation as may have been made or designed by the Developer.
- (f) “Living Unit” shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy as a residence by a single family.
- (g) “Lot” shall mean and refer to any plot of land intended and subdivided for a detached, single family residence shown upon one of the recorded subdivision maps of the Properties, but shall not include the Common Areas.
- (h) “Member” shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1 of this Supplemental Declaration.
- (i) “Mortgage” shall mean and refer to any mortgage, deed of trust or similar instrument granted as security for the performance of any obligation.
- (j) “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not mean or refer to any mortgage or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure.
- (k) “Properties” shall mean all land shown on subdivision maps (now or hereafter recorded) which create Lots within said RPUD for the erection of detached, single-family residential units and which have been (by Original Developer) or will be (by Developer) subjected to the general scheme of development of same by the recordation of Declarations or Supplemental Declarations similar to the terms hereof. Said general scheme of development exists at this time with respect to those subdivisions shown on maps thereof recorded in Map Book 16 at Pages 252 and 281, Map Book 19 at Pages 362 and 418, Map Book 20 at Pages 249, 327, 731 and 731.
- (l) “Structure” shall mean and refer to any thing or devise (other than trees, shrubbery, which is less than two (2) feet high if in the form of a hedge, and landscaping) the placement of which upon any Lot or Parcel may affect the appearance of such Lot or Parcel, including by way of illustration and not limitation, any building, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool,

clothes line, fence, curbing, paving, wall, hedge more than two (2) feet in height, signboard or any temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot or Parcel. "Structure" shall also mean and refer to (i) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot or Parcel, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot or Parcel, and (ii) any change in the grade of any Lot or Parcel of more than six (6) inches from that existing at the time of purchase by an Owner.

## ARTICLE II

### PROPERTY RIGHTS

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

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facilities if any are at any time constructed upon the Common Area.
- (b) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.
- (d) the right of the Association to execute easements and/or cross-easements with other Associations in Quail Hollow Estates, providing for the use and enjoyment in common by members of this Association and members of the other said Associations of certain Common Area as designated on that certain map of "North Village" approved on November 14, 1977, as amended to date, by the Charlotte City Council and on file with the Charlotte-Mecklenburg Planning Commission.
- (e) the right of the Association, with the assent of two-thirds (2/3) of each class of members, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family who reside on the Properties, his tenants, or contract purchasers and guests.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 2. Voting Rights. The Association shall have two classes of voting membership.

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

Class B. With respect only to the Owners of Lots shown on that subdivision map recorded in Map Book 20 at Page 732, there shall also be "Class B member(s)". The provisions of this instrument regarding Class B members relate only to such persons or entities who are members by virtue of owning one or more Lots shown on said map. Said Class B member(s) shall be the Developer and it will be entitled to four (4) votes for each such Lot owned. Said Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (1) when total votes outstanding in the Class A membership within said subdivision equal the total votes outstanding in said subdivision in the Class B membership, or
- (2) on November 1, 1986.

### ARTICLE IV

#### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Except as elsewhere herein expressly provided, each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and

(2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until December 31, 1981, the maximum annual assessment was One Hundred Twenty and No/100 (\$120.00) Dollars per Lot.

- (a) From and after December 31, 1981, the maximum annual assessment may be increased each year without a vote of the membership not more than 8% above the maximum assessment which could have been charged the previous year.
- (b) From and after December 31, 1981, the maximum annual assessment may be increased above 8% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, providing that any such assessment shall have the assent of two-thirds

(2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all single family detached Lots. The said assessments may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of the Lot by Developer to any party other than a party that purchased the Lot for the purpose of construction thereon of a residence (the intent being to exempt Developer and builder from any obligation to pay Assessments) and as to the Lot(s) purchased by such builder(s), the annual assessment shall commence upon the first day of the month following the occupancy of the home thereon as a residence. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight (8%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or



transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payment 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.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, except as provided in Section 7 of this article, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE V

### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an Architectural Control Committee composed of three (3) or more representatives appointed by the Developer, so long as the Developer owns a Lot, and thereafter by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## ARTICLE VI

### USE RESTRICTIONS

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling not to exceed three stories in height.

Section 2. Dwelling Specifications. No dwelling shall be erected on any Lot so as to have a ground floor heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 1,700 square feet in the case of a one-story dwelling. In the case of a multi-level dwelling the minimum ground floor heated living area (exclusive of uncovered porches, stoops, terraces, attached garages and carports) shall be not less than 1,000 square feet and a minimum total heated living area of 1,800 square feet.

Section 3. Outside Antennas. No outside radio or television antennas other than those of customary and usual size and configuration shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the Architectural Control Committee.

Section 4. Signs. No signs of any kind shall be displayed to the public view of any Lot except one sign of not more than five (5) square feet advertising the property for sale or rent or signs used by the Developer or its agent to advertise the property during the construction and sales period.

Section 5. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

## SECTION VII

### PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The Real Property presently subjected to said general scheme of development, to which the subdivision shown on map recorded in Map Book 20 at Page 732 is being annexed or added by this Supplemental Declaration, consists of the real estate shown on subdivision maps recorded in Map Book 16 at Pages 252 and 281, Map Book 19 at Pages 362 and 418, Map Book 20 at Pages 249, 327 and 731 in the Mecklenburg Public Registry.

Section 2. Additions to the Properties by the Association. Additional land may be annexed to the Properties pursuant to the assent of two-thirds of the Class A membership and two-thirds of the Class B membership at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

The presence of members or proxies entitled to cast sixty (60%) percent of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat. Such annexation shall be effectuated by filing for record among the Land Records of Mecklenburg County, North Carolina, a Supplemental Declaration with respect to such additional land.

Section 3. Additions to the Properties by Developer. Notwithstanding the provisions of Section 2 of this Article VII, if the Developer, its successors and assigns,

should develop additional lands within the portion of Quail Hollow Estates zoned for single family detached residences, such additional lands may be annexed to the Properties at any time prior to the expiration of fifteen (15) years after May 29, 1979 (the date of the first Declaration within said general scheme of development) without the assent of Class A members or the Class B members by filing for record among the Land Records of Mecklenburg County, North Carolina, a Supplemental Declaration with respect to such additional lands.

Section 4. Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger provided, however, that such merger shall have been approved by the vote of two-thirds of the Class A membership and two-thirds (2/3) of the Class B membership at a meeting duly called for such purpose, in accordance with the provisions of Section 2 of this Article VII. The provisions of Section 2 of this Article VII with respect to notice, quorum, adjournment and proxies shall apply to any vote required under this Section 4. The surviving or consolidated Association may administer the covenants and restrictions established by this Declaration within the Properties together with covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however shall effect any revocation, change, or addition to the covenants established by this Declaration within the Properties except as hereinafter provided.

Section 5. Other Additions. Upon approval in writing of the Association pursuant to a vote of its members as provided in its By-Laws, the owner of any property who desires to add it to the scheme of this Declaration and subject it to the jurisdiction of the Association, may file for record among the Land Records of Mecklenburg County, North Carolina, a Supplementary Declaration so effecting the same.

Section 6. Effect of Annexation. In the event that any additional lands are annexed to the Properties pursuant to Section 2, Section 3 or Section 5 of this Article VII (a) such additional lands shall be considered within the definition of the "Properties" for all purposes of this Declaration, and (b) all voting of each class of the membership of the Association, and all voting by the Owners hereunder, shall be aggregated as a single vote, it being intended that any voting requirements need not be fulfilled separately for each subdivision map for detached, single-family housing units within said general scheme of development and for each tract of additional lands described in a Supplemental Declaration.

## ARTICLE VIII

### EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the plat or plats of the Properties recorded or to be recorded. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law, or in equity, all restrictions, conditions covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Supplemental Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Supplemental Declaration shall run with and bind the land, for a term of twenty (20) years from June 1, 1979 (date of filing of first Declaration within said general scheme of development), after which time they shall be automatically extended for successive period of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the Lot Owners, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the above named parties do hereby execute this instrument to be effective as of the day and year first above written.

*Signatures by parties and notaries follow in the original.*