

Prepared by Eastpointe Associates, LLC

Return to: ~~Eastpointe Associates, LLC~~  
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Seay, Titchener & Horne  
P. O. Box 18807  
Raleigh, NC 27619

26680

NORTH CAROLINA  
JOHNSTON COUNTY

DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
FOR GROVEWOOD, Phase One  
PLAT BOOK 52 , PAGES 462, 463, 464 and 465  
JOHNSTON COUNTY REGISTRY

BOOK 1749 PAGE 564

THIS DECLARATION, made on the date hereinafter set forth by Eastpointe Associates, LLC, a Limited Liability Company, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Clayton Township, County of Johnston, State of North Carolina which is more particularly described on Exhibit "A" attached hereto.

AND WHEREAS, Declarant hereby declares that all of the properties within the boundaries of property shown as lots, streets and common area on maps of Grovewood, recorded in Plat Book 52 , pages 462 through 465, inclusive, Johnston County Registry shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

STATEMENT OF PURPOSE AND INTENT

The Declarant is engaged in the development of a tract of land containing approximately 31.05 acres of land, located on Dairy Road and Barber Mill Road to be known as Grovewood and herein referred to as "Grovewood." Grovewood will include a cluster form of residential development.

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ARTICLE IIDEFINITIONS

SECTION 1. "Association" shall mean and refer to Grovewood Homeowners Association, Inc., its successors and assigns.

SECTION 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of all members or designated classes of members of the Association, including greenways and recreational areas.

SECTION 4. "Lot" shall mean and refer to any plot of land shown upon the last recorded subdivision map of the Properties on which such plot appears (provided said map has been approved by Declarant), with the exception of the Common Area, privately owned recreation area and non-residential areas.

SECTION 5. "Lot in Use" shall mean and refer to any lot on which a dwelling unit, other than apartment, has been fully constructed and occupied as a dwelling unit.

SECTION 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

SECTION 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 8. "Declarant" shall mean and refer to Eastpointe Associates, LLC, and those of its successors and assigns, if any, to whom the rights of Declarant hereunder are expressly transferred hereafter, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

SECTION 9. "Amenities" shall mean the facilities constructed, erected, or installed on the Common Area for the use, benefit and enjoyment of Members.

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ARTICLE IIIANNEXATION OF ADDITIONAL PROPERTIES

SECTION 1. ANNEXATION BY MEMBERS. Except as provided in Section 2 of this Article, additional lands may be added and annexed to the Properties only if both two-thirds (2/3) of all of the votes entitled to be cast, in the aggregate, by Class A members and also two-thirds (2/3) of all of the votes entitled to be cast by Class B members, if any, are cast in favor of annexation. A meeting shall be duly called for this purpose, written notice of which shall be sent to all members of the Association, setting forth the time, place and purpose of the meeting, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

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

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

SECTION 2. ANNEXATION BY DECLARANT. The Declarant may annex additional lands to the Properties in the following manner:

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(a) If, within ten (10) years of the date of incorporation of the Association, the Declarant should develop additional lands within the boundaries of lands described in Exhibit "A" of the Articles of Incorporation and attached hereto as Exhibit A and shown on the general plan of Grovewood heretofore submitted to the Town of Clayton, such additional lands may be annexed to said Properties without the assent of Class A members. Detailed plans for the development of additional lands may be submitted to the Town of Clayton prior to such development if such submission is required by ordinances of the Town of Clayton.

(b) The Declarant may annex to the Properties the additional lands described in Subsection (a) of this Section 2 by recording in the Johnston County Registry a declaration of annexation, duly executed by Declarant, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions therein. The additional land shall be deemed annexed to the Properties on the date of recordation of the declaration of annexation, and no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation.

(c) Subsequent to recordation of the declaration of annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any Common Area within the lands annexed as such Common Area is developed.

ARTICLE IVMEMBERSHIP

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

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ARTICLE VVOTING RIGHTS

SECTION 1. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Article IV with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article IV. When more than one person holds such interest in any Lot, all such persons shall be members. 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, and no fractional vote may be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in which it holds a fee or undivided fee interest, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; provided, that the Class B membership shall be reinstated with all rights, privileges, and responsibilities if, after conversion of the Class B membership to Class A membership hereunder, additional lands are annexed to the Properties without the assent of Class A members on account of the development of such additional lands by the Declarant, all within the times and as provided for in Article III, Section 2 above; or

(b) on January 1, 2008

SECTION 2. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and according to the provisions of Article VI, Section 1(c).

ARTICLE VIPROPERTY RIGHTS

SECTION 1. Members' Easement of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to each of the following provisions:

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

(b) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage the Common Area, or any portion thereof, and the rights of such mortgage in said Properties shall be subordinate to the rights of the homeowners hereunder; provided, however, that if any Common Area is mortgaged while the Class B membership is in existence, the execution of such mortgage shall require the same approval of the membership which is required for Special Assessments for Capital Improvements as set forth in Article VII, Section 4 of this Declaration.

(c) The right of the Association to suspend the voting rights and right to the use of the recreational facilities by a Member or any person to whom he has delegated his right of enjoyment for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days, for any infraction of its published rules and regulations;

(d) The rights 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 approved by members entitled to cast three-fourths (3/4) of the votes of the Class A membership and three-fourths (3/4) of the votes of the Class B membership, if any, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance. The instrument effecting such dedication, transfer or conveyance shall be sufficient if executed by appropriate officers of the Association, and contains a recital of the approval of the members;

(e) The right of the Association to formulate, publish and enforce rules and regulations as provided in Article VIII.

SECTION 2. Delegation of Use. Any member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

SECTION 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area shown on the aforementioned

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recorded map to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot, except utility, antenna and drainage and sedimentation easements and easements of governmental authorities. Similarly, Declarant will convey to the Association common areas which are parts of Grovewood as those portions are annexed in the future until all common areas as shown on the plans approved by the Town of Clayton have been conveyed to the Association.

SECTION 4. The Association may regulate the parking of boats, trailers, and other such items on the Common Area (including the provision of special facilities for which a reasonable charge may be made).

#### ARTICLE VII

##### COVENANT FOR ASSESSMENT

SECTION 1. Creation of the Personal Obligation of Assessments. Notwithstanding any provision or inference in this Declaration to the contrary, no Lot shall be subject to any annual or special assessments until and unless such Lot becomes a Lot in Use, except as follows: Following approval of each area by both the Town of Clayton and either the Veterans Administration or the Federal Housing Administration and the annexation of each such area by the Declarant, and before the sale of any Lot in the area annexed, the Common Area of such annexed area shall be conveyed to the Association. The obligation to pay the annual assessment as to all Lots in each annexed area shall accrue from the first day of the first month following annexation.

The amount of assessment on each Lot which is not a Lot in Use shall be one-fourth (1/4) of the assessment applicable to a Lot in Use.

The Declarant, for each Lot in Use owned within the Properties, hereby covenants, and each Owner of any Lot in Use, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, 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 fixed, established and collected from time to time as hereinafter provided. The annual and special assessments on Lots in Use and the annual assessments on lots which are not Lots in Use, together with such interest thereon and costs of collections thereof, as hereinafter provided, including without limitation, reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot and improvements against which each such assessment is made and shall be the personal obligation of the person who was the Owner of such property for the period of such person's ownership. The

personal obligation shall not pass to his successors in title unless expressly assumed by them; however, such unpaid assessments or charges shall continue to be a lien on the property against which the assessment was made. All assessments relating to Common Area shall be shared equally by the owners of each Lot in Use.

Notwithstanding the foregoing, the Declarant may, at its election, postpone, in whole or in part, the date on which the assessment shall commence provided that the Declarant maintains the Common Areas for which no assessment is being collected during the period of such postponement. (For example, an assessment may be collected for the maintenance of one lake while the Declarant continues to maintain another lake.)

If any person shall purchase land within the boundaries of the Property and shall apply to the secretary of the Association, or such person who has been designated by the Association for the maintenance of payment records, for information as to whether assessments applicable to the land being purchased is subject to any past due assessments, it shall be the duty of the secretary or other person in charge of assessment records to immediately issue a written statement as to whether the land being purchased is subject to past due assessments. If such issued statement indicates the status of past due assessments, the purchaser of land shall be entitled to rely upon the accuracy of such statement and shall purchase free of any lien for past due assessments not shown on such statement.

SECTION 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the beautification of the Properties, the recreation, health, safety, and welfare of the residents in the Properties, the enforcement of these Covenants and the rules of the Association, and, in particular, for the improvement and maintenance of the Properties and providing the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area. Nothing herein shall mean that assessments may not be used for the beautification of areas within the subdivision but which are not part of the Common Areas, such as entrance signs, access easements crossing private property, median strips within public streets or the interior of cul de sacs.

SECTION 2A. Initial Assessment. The initial assessment for each Lot in Use shall be \$100.00 to be collected at the closing of such sale for the benefit of the Association for the purpose of ensuring that the Association will have cash available to meet unforeseen expenditures deemed necessary by the Board.

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SECTION 3. Basic and Maximum Annual Assessments. To and including January 1, 1999, the basic (and maximum) annual assessment shall not be in excess of \$96.00, prorated, per Lot in Use, except as otherwise provided herein, the exact amount of which shall be determined from time to time as provided in subsection 5 of this Section.

(a) From and after January 1, 1999, the basic annual assessment may be increased by the Board of Directors of the Association effective January 1 of each year, without a vote of the membership, by a percentage which may not exceed 10 percent (10%) per year.

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 new construction, reconstruction of described capital improvements or unexpected repair or replacement of described capital improvements upon the Common Area, including the necessary fixtures and personal property related thereto: provided that any such assessments shall be adopted by a two-thirds (2/3) affirmative vote of each class of members voting in person or by proxy 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 time, place and purpose of the meeting.

SECTION 5. Uniform Rate of Assessments. Both annual and special assessments relating to the Common Area must be fixed at a uniform rate for all Lots in Use and may be collected on an annual basis. Similarly, annual assessments relating to the Common Areas must be fixed at a uniform rate for all other Lots and may be collected on an annual basis. Assessments shall be collected in advance.

SECTION 6. Quorum for any Action Authorized Under Section 4. At the first meeting called for the purpose stated in Section 4 hereof, the presence at the meeting of members or of proxies entitled to cast sixty percent (60%) of all 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 in Section 4, and the required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Such subsequent meeting shall be held within sixty (60) days following the preceding meeting.

SECTION 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence

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as to all Lots in Use and other Lots, then existing, on the first day of the month following the conveyance of a portion of the Common Area. The first annual assessments shall be adjusted according to the number of months remaining in the fiscal 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 and appropriate penalties for late payment shall be established by the Board of Directors. The Association upon demand at any time shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessment on a specified Lot have been paid. A reasonable charge may be made to defray the actual cost of furnishing such certificate. Such certificate shall constitute conclusive evidence of payment of any assessment therein stated to have been paid.

SECTION 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessments are not paid within thirty (30) days after the due date, assessment shall bear interest from the date of delinquency at the lesser of the highest lawful rate of ten (10%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Area or abandonment of his Lot.

SECTION 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, that the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu of foreclosure 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 assessment thereafter becoming due or from the lien thereof.

ARTICLE VIIIUSE RESTRICTIONS

SECTION 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area.

SECTION 2. Quiet enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties which may be or may become a nuisance or annoyance to the neighborhood.

ARTICLE IX

EASEMENTS

All of the Properties, including Lots and Common Area, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines and other public utilities as shall be established by the Declarant or by his successors in title, prior to the conveyance of Lots to subsequent owners or the conveyance of Common Area to the Association; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Area conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties.

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SECTION 1. Easement for Entry Features. There is hereby reserved to Declarant and the Association an easement for ingress, egress, installation, construction, landscaping and maintenance of entry features and similar streetscapes for the Community, over and upon each Lot as more fully described on the recorded subdivision plats for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features to the front of the house.

SECTION 2. Maintenance. Each Owner shall maintain the Sideyard and Backyard Area on its Lot at its sole cost and expense.

ARTICLE X

RIGHTS OF FIRST MORTGAGEES AND INSURERS OF FIRST MORTGAGES

SECTION 1. Notice of Default to First Mortgagees and Insurers of First Mortgages. In the event that any Member is in default in any obligation hereunder which remains unpaid for a period of sixty (60) days, every lender who is a first mortgagee as to the Lot of the defaulting Member and the insurer of such first mortgage, shall be immediately notified of such default, provided that such lender and/or insurer shall have given notice to the Association that it is a first mortgagee or insurer as to the Lot of such Member and shall have requested the notice of default as herein set forth.

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SECTION 2. Right to inspect Books of the Association. Every first mortgagee and/or insurer of a first mortgage of the Lot of a Member of the Association shall have the right during regular business hours to examine the books and records of the Association.

ARTICLE XIGENERAL PROVISIONS

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

SECTION 2. Severability. Invalidation of any 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. Waiver of Encroachment into Common Area. Notwithstanding any provisions herein to the contrary except as provided in Section 9 of this Article XI, it is expressly provided that the Association may waive to the Declarant, as well as any other member, any non-negligent and unintentional encroachment into the common area resulting from survey error or mis-pour of footings. The following hypothetical is by way of illustration and not of limitation: Due to a surveying error or the erroneous plotting of topo lines, a greenway intended to extend along a drainage area is incorrectly located. Thereafter, upon discovery of the error subsequent to the time of the conveyance of the greenway to the Association, such error could be corrected by a waiver between the Association and the Declarant.

SECTION 4. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants, conditions and restrictions of this Declaration may be amended during the thirty (30) year period by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots existing at the time of such amendment, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. No amendment shall become effective

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unless the Town of Clayton's Planning Board approves the amendment or within thirty (30) days after said proposed amendment has been submitted to the Town of Clayton's Planning Board it fails to comment, in which case approval shall be deemed to have been given.

SECTION 5. Procedure for Certification and Recordation of Amendment. Any instrument amending these covenants, conditions, and restrictions other than an amendment by the Board to correct an error or inconsistency in drafting, typing, or reproduction shall be delivered following execution by the Owners, to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days after delivery, do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots as provided in Section 4 of this Article. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined);

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS  
CONDITIONS AND RESTRICTIONS OF GROVEWOOD

By authority of its Board of Directors, Grovewood Homeowners Association hereby certifies that the foregoing instrument has been duly executed by the Owners of \_\_\_\_\_ percent of the Lots of Grovewood and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Grovewood.

This the \_\_\_\_\_ day of \_\_\_\_\_, 1998.

Grovewood Homeowners Association

By: \_\_\_\_\_  
President

ATTEST:

SECRETARY

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(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Johnston County Registry.

All amendments shall be effective from the date of recordation in the Johnston County Registry, provided, however, that no such instrument shall be valid until it has been indexed in the name of this Association. When an instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to the Owners of all Lots in Grovewood.

SECTION 6. Rights of Declarant or Association to Amend to Achieve Tax-Exempt Status. The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors of the Association, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, in order to qualify the Association or the Properties or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Johnston County Registry.

SECTION 7. Protective Covenants for Lots. Nothing herein shall affect the Declarant's right to establish from time to time appropriate protective covenants governing the use of Lots and the size and location of building thereon. Further, nothing herein shall be deemed to grant to the Association any right to govern the Use of any Lot by its owner, except for the exercise of easements rights owned by the Association which are located on the Lots of Owners.

SECTION 8. FHA/VA Approval. Notwithstanding any provision in this instrument to the contrary, as long as there is a Class B membership, the following actions shall be allowed if Declarant desires to qualify sections of Grovewood for Federal Housing Administration or Veterans Administration approval (but not otherwise), and only if the actions have received the prior approval of the Federal Housing Administration or the Veterans Administration: (1) annexation of additional properties, and dedication of additional Common Areas; (2) exchange of Common Area for other portions of the properties; (3) amendment of this Declaration of Covenants, Conditions and Restrictions.

SECTION 9. Other Associations. Nothing herein shall affect the Declarant's right to establish other associations (e.g. townhouse associations) and in connection therewith designate common area solely for the benefit of members of such associations. The annexation to Grovewood Homeowners Association, Inc. of areas

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within such associations shall not entitle the members of Grovewood Homeowners Association, Inc. to the use of Common Areas established for the benefit of members of such other associations.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument on this the 29th day of September, 1998.

Limited

Eastpointe Associates, LLC, a Liability Company

By: John R. Aman (SEAL)  
John R. Aman, Manager

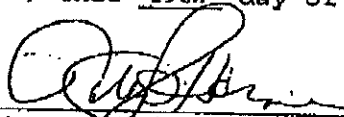
By: Edward O. Wessell (SEAL)  
Edward O. Wessell, Manager

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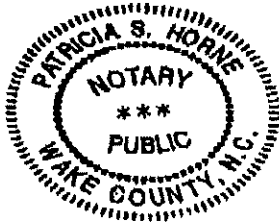
NORTH CAROLINA  
WAKE COUNTY

I, the undersigned Notary Public, do hereby certify that John R. Amen and Edward O. Wessell, Managers in Eastpointe Associates, LLC, a Limited Liability Company, personally came before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal, this 29th day of September, 1998.

  
\_\_\_\_\_  
Notary Public

My commission expires: 9/9/2003



State of North Carolina - Johnston County  
The foregoing instrument of  
Patricia S. Horne  
Notary (Notarize) Public in fact certified to be correct.  
This instrument was presented for registration and recorded  
in Book 1749 page 579  
This 29th day of September 1998 at 4:35 PM  
in the City of Waxahatchee  
\_\_\_\_\_  
Register of Deeds  
\_\_\_\_\_  
Deputy Register of Deeds

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## EXHIBIT A

Beginning at an iron pin located at the northeastern corner of property belonging now or formerly to the Town of Clayton (Deed Book 1325, page 768, Johnston County Registry) and in the southern property line of property belonging now or formerly to Betty Sherron (Deed Book 1390, page 324, Johnston County Registry); said beginning point being further located South 61 degrees 39 minutes 15 seconds East 27.29 feet and South 61 degrees 39 minutes 15 seconds East 50.31 feet from a nail in the centerline of Barber Mill Road (N.C.S.R. 1555); thence from said BEGINNING POINT South 57 degrees 43 minutes 13 seconds East 238.91 feet to an iron pin at the southwestern corner of property belonging now or formerly to Dorothy F. Garner (Deed Book 1173, page 15, Johnston County Registry); thence along and with the southern property line of property belonging now or formerly to Dorothy F. Garner South 57 degrees 12 minutes 10 seconds East 136.16 feet to an iron pin; thence along and with the eastern property line of property belonging now or formerly to Dorothy F. Garner North 54 degrees 41 minutes 30 seconds East 170.63 feet to an iron pin; thence North 44 degrees 30 minutes 30 seconds East 406.85 feet to an iron pin in the southern right of way line of Dairy Road (N.C.S.R. 1583); thence North 44 degrees 30 minutes 30 seconds East 31.63 feet to an iron pin in the centerline of Dairy Road (N.C.S.R. 1583); thence along and with the centerline of Dairy Road (N.C.S.R. 1583) South 55 degrees 12 minutes 03 seconds East 37.29 feet to a point; South 49 degrees 19 minutes 32 seconds East 49.99 feet to a point; South 44 degrees 00 minutes 14 seconds East 49.95 feet to a point; South 41 degrees 0 minutes 08 seconds East 157.22 feet to a point in the centerline of Dairy Road (N.C.S.R. 1583) and being the northwest corner of property belonging now or formerly to Beaver Properties (Deed Book 1169, page 754, Johnston County Registry); thence along and with the western line of property belonging now or formerly to Beaver Properties South 48 degrees 58 minutes 18 seconds West 653.25 feet to an iron pin at the southwest corner of property belonging now or formerly to Beaver Properties; thence along and with the southern property line of property belonging now or formerly to Beaver Properties South 41 degrees 01 minutes 42 seconds East 500 feet to an iron pin in the southeast corner of property belonging now or formerly to Beaver Properties; thence along and with the eastern property line of property belonging now or formerly to Beaver Properties North 48 degrees 58 minutes 18 seconds East 653.40 feet to a point in the centerline of Dairy Road (N.C.S.R. 1583) the northeast corner of property belonging now or formerly to Beaver Properties; thence along and with the centerline of Dairy Road (N.C.S.R. 1583) South 41 degrees 01 minutes 42 seconds East 191.13 feet; South 40 degrees 11 minutes 23 seconds East 160.48 feet and South 36 degrees 36 minutes 12 seconds East 50 feet to a point; thence South 62 degrees 27 minutes 57 seconds West 191.17 feet to an iron pipe in the northwest corner of property belonging now or formerly to Talton F. Earp (Deed Book 1051, page 147, Johnston County Registry); thence along and with the western property line of property belonging now or formerly

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to Talton F. Earp and Levy H. Radford (Deed Book 996, page 341, Johnston County Registry) South 00 degrees 07 minutes 11 seconds West 262.02 feet to an iron pin in the northwest corner of property belonging now or formerly to Julius R. Hall (Deed Book 1038, page 620, Johnston County Registry); thence along and with the western property line of property belonging now or formerly to Julius R. Hall South 00 degrees 12 minutes 56 seconds East 296.04 feet to an iron pin in the northern property line of property belonging now or formerly to David G. Setterfield, Jr. (PB 39, page 21, Johnston County Registry); thence along and with the northern property line of property belonging now or formerly to David G. Setterfield, Jr. South 81 degrees 29 minutes 46 seconds West 8.12 feet to an iron pin; North 87 degrees 43 minutes 21 seconds West 249.93 feet to an iron pin in the northeast corner of property belonging now or formerly to Glenn S. Joslyn; thence along and with the northern property line of property belonging now or formerly to Glenn S. Joslyn North 87 degrees 33 minutes 18 seconds West 389.53 feet to an iron pin in the northeast corner of property belonging now or formerly to Eugene B. and Joane Karaszanski; thence along and with the northern property line of property belonging now or formerly to Eugene B. & Joane Karaszanski North 87 degrees 27 minutes 40 seconds West 492.92 feet to an iron pin in the northeast corner of property belonging now or formerly to Ed N. Ferrell, Sr. (PB 18, page 189, Johnston County Registry); thence along and with the northern property line of property belonging now or formerly to Ed N. Ferrell, Sr. North 88 degrees 24 minutes 56 seconds West 101.86 feet to an iron pin in the run of Rocky Branch; thence along and with the run of Rocky Branch the following courses and distances; North 22 degrees 36 minutes 05 seconds West 116.36 feet; North 18 degrees 06 minutes 47 seconds West 56.25 feet; North 42 degrees 38 minutes 32 seconds East 10.63 feet; North 42 degrees 28 minutes 32 seconds East 33.14 feet; North 06 degrees 46 minutes 48 seconds East 42.40 feet; North 62 degrees 40 minutes 11 seconds East 34.24 feet; North 05 degrees 25 minutes 13 seconds East 47.09 feet; North 41 degrees 40 minutes 52 seconds West 45.54 feet; North 23 degrees 03 minutes 22 seconds West 31.82 feet; North 22 degrees 05 minutes 52 seconds West 96.76 feet; North 25 degrees 51 minutes 03 seconds West 97.62 feet; North 16 degrees 26 minutes 29 seconds West 40.24 feet; North 04 degrees 52 minutes 38 seconds West 70.94 ft; North 13 degrees 49 minutes 33 seconds West 62.44 feet; North 06 degrees 45 minutes 45 seconds East 76.09 feet; North 09 degrees 00 minutes 02 seconds West 107.40 feet; North 39 degrees 33 minutes 43 seconds West 56.24 feet; North 39 degrees 33 minutes 43 seconds West 195.19 feet to a point in the southern right of way line of Barber Mill Road (N.C.S.R. 1555); thence North 53 minutes 21 minutes 28 seconds West 30.52 feet to an iron pin in the centerline of Barber Mill Road (N.C.S.R. 1555) thence along and with the centerline of said road North 26 degrees 05 minutes 58 seconds East 203.55 feet to an iron pin; thence South 57 degrees 43 minutes 13 seconds East 77.72 feet to an iron pin in the southeast corner of property belonging now or formerly to the Town of Clayton (Deed Book 1325, page 758, Johnston County

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Registry); thence along and with the eastern property line of property belonging now or formerly to the Town of Clayton North 25 degrees 56 minutes 06 seconds East 40.25 feet to the point and place of BEGINNING, said tract containing 31.05 acres as shown on survey entitled "Preliminary Plat, Cluster Development, Grovewood Subdivision" dated 11/18/97 by Jerry Turner & Associates, Inc., This tract being the same property conveyed to Lee Brothers Rentals by deed dated 9/22/87 from Wesley A. Garner and wife, Dorothy F. Garner and recorded 10/5/87 in Book 1067, page 392, Johnston County Registry, less and except that tract conveyed by Lee Brothers Rentals by deed recorded in Book 1124, page 530 and less and except that property conveyed by Lee Brothers Rentals to the Town of Clayton by deed recorded in Book 1325, page 768, Johnston County Registry.

Prepared by Eastpointe Associates, LLC

Mail to:  
26681

~~xxEastpointe Associates LLC~~  
~~xxxxxxBox 18807~~  
~~xxRaleigh NC 27619~~

Seay, Titchener & Horns  
P. O. Box 18807  
Raleigh, NC 27619

STATE OF NORTH CAROLINA

GROVEWOOD

TOWN OF CLAYTON

PROTECTIVE COVENANTS

COUNTY OF JOHNSTON

0001749 PAGE 583

THIS DECLARATION, made this 29th day of September, 1998  
by Eastpointe Associates, LLC, a Limited Liability Company,  
hereinafter called "Declarant."

WITNESSETH:

THAT WHEREAS, the Declarant is the owner of the real property described in Article I of this Declaration and is desirous of subjecting said real property to the Protective Covenants hereinafter set forth, each and all of which is and are for the benefit of such property and for each owner thereof, and shall inure to the benefit of and pass and run with said property, and each and every lot or parcel thereof, and shall apply to and bind the successors in interest or any owner thereof.

NOW, THEREFORE, the Declarant hereby declares that the real property described in and referred to in Article I hereof is and shall be held, transferred, sold and conveyed subject to the Protective Covenants set forth below:

ARTICLE I

The real property which is, and shall be held, transferred, sold and conveyed subject to the Protective Covenants set forth in the Articles of this Declaration is located in the Town of Clayton, County of Johnston, State of North Carolina, and is more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The real property described in Article I hereof is subject to the Protective Covenants and Restrictions hereby declared to insure the best use and the most appropriate development and improvements of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of

## BOOK 1749 PAGE 584

their property; to preserve so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials, to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on lots; to prevent haphazard inharmonious improvements on lots; to secure and maintain proper setbacks from street; and adequate free spaces between structures, and in general to provide adequately for a high type and quality of investments made by purchasers of lots therein.

ARTICLE II

**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 detached single-family dwelling, which may have private garages for one or two cars.

ARTICLE III

**SITE AND PLAN APPROVAL.** No building, fence, swimming pool or any other structure shall be erected, placed, or altered on any premises in said development until the building plans, specifications, and plot showing the location of such improvements, have been approved in writing as to conformity and harmony of internal design with existing improvements in the development, and as to the location of the improvements with respect to topographies including finished ground elevation by the Declarant. The Declarant shall have the sole discretion as to the location, design and color of any accessory building, including, but not limited to, storage buildings, greenhouse, playhouse, doghouse and dog runs, etc. In the event Declarant fails to approve or disapprove such design or location within sixty days after said plans and specifications have been submitted to them, or in any event, if no suit to enjoin the erection of such improvements or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with.

ARTICLE IV

**DWELLING SIZE AND DRIVEWAYS.** Except with the prior written approval of the Declarant, no single story residential structure which has a heated area of less than 940 square feet, exclusive of porches, breeze-ways, steps and garages, shall be erected or placed or permitted to remain on any lot, no two story residential structure which has an area of less than 1100 square feet, exclusive of porches, breeze-ways, steps and garages, shall be

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erected or placed or permitted to remain on any lot. All driveways shall be paved with concrete. Declarant reserves the right to waive in writing any minor violation of this Article of this Declaration, and for purposes hereof, any violation which does not exceed 10% shall be considered a minor violation.

ARTICLE V

**BUILDING LOCATION.** No building shall be located on any lot nearer to the front lot line than eighteen feet, provided, however, that on a corner lot, a dwelling may be located not nearer than twelve feet to one street if same is at least eighteen feet from the other street. No building shall be located nearer than six feet to an interior lot line, nor nearer than fifteen feet to the rear property line. For the purpose of this covenant, eaves, steps, chimneys, stoops and uncovered porches shall not be considered a part of a building; provided, however, that these shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

ARTICLE VI

**LOT, AREA AND WIDTH.** All lots as shown on the recorded map hereinabove referred to are approved. Adjustments may be made, however, in the line between any two lots so long as the area of any lot is not reduced by more than ten percent (10%) and so long as all other restrictions herein set forth are observed. However, any such adjustment shall conform to all Town of Clayton development standards.

ARTICLE VII

**EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The easements provided for herein may be moved to conform to the relocation of lot lines provided such movement does not interfere with the existing rights belonging to the owners of other lots.

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ARTICLE VIII

BUSINESS, MANUFACTURING, COMMERCIAL AND PROFESSIONAL USES PROHIBITED; NUISANCES PROHIBITED. No part of the said property shall be used for business, manufacturing, commercial or professional purposes. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance to the neighborhood. No signs or billboards shall be erected or maintained on the premises. No trade materials or inventories may be stored or regularly parked on the premises. No business activity or trade of any kind whatsoever, which shall include but not be limited to the use of any residence as a doctor's office or professional office of any kind, a fraternity house, a rooming house, a boarding house, an antique shop or gift shop, shall be carried on upon any lot.

ARTICLE IX

TEMPORARY STRUCTURES. No trailer, tent, shack, barn, or other outbuilding, except a private garage for not more than two cars and an accessory building or structure as authorized by the provisions of Article II, shall be erected or placed on any lot covered by these covenants. Except with the prior consent of the Declarant, no detached garage shall at any time be used for human habitation temporarily or permanently.

ARTICLE X

FENCES. No fence, wall hedge, or mass planting shall be permitted to extend beyond the minimum building set back line established herein except upon approval by the Declarant. Any fence constructed must be approved by the Declarant. Any fence constructed must be approved by the Declarant as to location, style design and materials. No fence shall be more than ~~four~~ <sup>six</sup> feet tall. All fence must remain in back of house between back of property line and rear of house.

ARTICLE XI

APPEARANCE. Each owner shall keep his building site free of tall grass, undergrowth, dead trees, trash and rubbish and property maintained so as to present a pleasing appearance. In the event an owner does not properly maintain his building site as above provided, in the opinion of the Declarant, then Declarant may have the required work done and the costs thus incurred shall be paid by the owner.

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ARTICLE XII

**ANIMALS.** No animals (including horses) or poultry of any kind, other than house pets shall be kept or maintained on any part of said property. All pets must be kept on a leash when out doors.

ARTICLE XIII

**PARKING.** Adequate off-street parking shall be provided by the owner of each lot for the parking of motor vehicles owned by such owner, and owners of lots shall not be permitted to park their automobiles, boats or trailers on the streets in the development, and such property shall be parked in a garage or screened area. Garage door shall be kept closed at all times except during time of ingress and egress from the garage.

ARTICLE XIV

**SATELLITE RECEIVING DEVICES.** The erection of satellite receiving dishes of any kind whatsoever on individual lots shall be prohibited unless specifically approved by the Declarant. Antennas will not be allowed.

ARTICLE XV

**UNDERGROUND UTILITIES AND STREET LIGHTING.** Declarant reserves the right to subject the real property described hereinabove to contract with Town of Clayton for the installation of underground electric cables and the installation of street lighting, either or both of which may require a continuous monthly charge to the owner of each building lot.

ARTICLE XVI

**TERM.** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change these covenants in whole or in part.

ARTICLE XVII

**ENFORCEMENT.** Enforcement shall be by proceeding at law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

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ARTICLE XVIII

SEVERABILITY. Invalidation of any one of these covenants or any part thereof by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect, and the failure of any person or persons to take action to enforce the violation of any of these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

IN TESTIMONY WHEREOF, the Declarant has executed this instrument the day and year first above written.

Eastpointe Associates, LLC,  
a Limited Liability Company

By: John R. Aman (SEAL)  
John R. Aman, Manager

By: Edward O. Wessell (SEAL)  
Edward O. Wessell, Manager

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NORTH CAROLINA

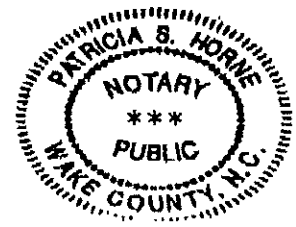
WAKE COUNTY

I, Patricia S. Horne, a Notary Public of said County and State do hereby certify that John R. Aman and Edward O. Wessell, Managers in Eastpointe Associates, LLC, a Limited Liability Company, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 29th day of September, 1998.

*Patricia S. Horne*  
Notary Public

My commission expires: 9/9/2003



State of North Carolina - Johnston County  
The foregoing certificate of Patricia S. Horne  
Notary (Notarized Public in (770) certified to be correct.  
This instrument was presented for registration and recorded  
in Book 1749 Page 589  
This September 29 1998 at 4:35 PM  
By C. [Signature]  
Register of Deeds Deputy Register of Deeds

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## EXHIBIT A

Being all of Lots 40 through 53, inclusive; and Lots 74 through 79, inclusive as shown on plat of Grovewood Subdivision, Phase One as recorded in Plat Book 52, pages 462 and 465, Johnston County Registry.

Being all of Lots 29 through 39, inclusive; Lots 54 and 55; Lot 73; and Lots 80 through 87, inclusive as shown on plat of Grovewood Subdivision, Phase One as recorded in Plat Book 52, pages 463 and 465, Johnston County Registry.

Being all of Lots 14 through 28, inclusive; Lot 72 and Lots 88 through 94, inclusive as shown on plat of Grovewood, Phase One as recorded in Plat Book 52, pages 464 and 465, Johnston County Registry.

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Prepared by and hold for:  
R. Danuette Underwood

NORTH CAROLINA  
JOHNSTON COUNTY

**AMENDMENT TO  
Declaration of Covenants, Conditions  
and Restrictions for  
GROVEWOOD SUBDIVISION  
Phase One, Plat Book 52, Pages 462-465,  
Johnston County Registry**

THIS AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Grovewood Subdivision, Phase One, Plat Book 52, Pages 462-465, Johnston County Registry, made on this 20th day of May, 1999, as set forth by EASTPOINTE ASSOCIATES, LLC, a North Carolina Limited Liability Company, hereinafter referred to as "Declarant", and the Board of Directors of the Grovewood Homeowners' Association, Inc., hereinafter referred to as "the Board of Directors";

**WITNESSETH:**

WHEREAS the Declarant is the owner of certain property located in Clayton Township, Johnston County, North Carolina, which is more particularly described as Grovewood Subdivision, Phase One, as recorded in Plat Book 52, Pages 462-465, Johnston County Registry; and

WHEREAS the Declarant established the covenants, conditions and restrictions for this Subdivision in a Declaration recorded at Book 1749, Page 564 and Book 1749, Page 583 of the Johnston County Registry; and

WHEREAS in said Declaration it allowed for the Amendment of these Covenants by an instrument signed by the owners of not less than 90% of the lots existing at the time of such amendment; and

WHEREAS as of the date herein the Declarant is the sole owner of the lots within this Subdivision; and

WHEREAS in said Declaration it further stated that such amendment must be agreed upon by the Board of Directors of this homeowners' association; and

WHEREAS the Board of Directors of this association have agreed to an amendment by the signing of their names hereto below; and

WHEREAS Article X of the Protective Covenants of Grovewood Subdivision, as recorded at Book 1749, Page 583 of the Johnston County Registry sets forth the requirements of the placement of fences on the lots within said Subdivision, and the Declarant and Board of Directors desire to amend this provision of these covenants.

BOOK 1830 PAGE 229

THEREFORE, Article X of the Protective Covenants of Grovewood Subdivision, as recorded at Book 1749, Page 583 of the Johnston County Registry is amended as follows:

**ARTICLE X**

**FENCES.** No fence, wall hedge or mass planting shall be permitted to extend beyond the minimum building setback line established herein except upon approval by the Declarant. Any fence constructed must be approved by the Declarant as to location, style design and material. No fence shall be more than six (6) feet tall. Fences must remain from the front corners of the house to the back property line. Fences may extend to the side property lines and rear property line of each lot.

Except as modified and amended herein, all other provisions of the Declaration and Protective Covenants of Grovewood Subdivision, shall remain in full force and effect.

Entered into the day and year first above written.

EASTPOINTE ASSOCIATES, LLC, a  
North Carolina Limited Liability Company

By: John R. Aman  
Member/Manager

By: Edward O. Wessell  
Member/Manager

In Witness Whereof, we, as all of the initial Board of Directors of Grovewood Homeowners' Association, Inc., hereby evidence our assent to the adoption of the foregoing Amendment by our signatures below, on the day and year first above written.

John R. Aman (SEAL)  
JOHN R. AMAN

Edward O. Wessell (SEAL)  
EDWARD O. WESSELL

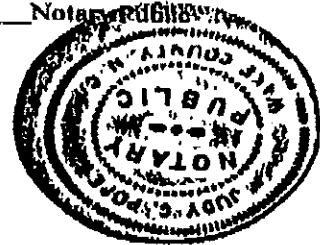
BOOK 1830 PAGE 230

NORTH CAROLINA  
Wake COUNTY

I, a Notary Public of the aforesaid County and State, certify that John R. Aman and Edward O. Wessell, Member/Managers of Eastpointe Associates, LLC, a North Carolina Limited Liability Company and also in their capacity as Directors of the Grovewood Homeowners' Association, Inc. Board of Directors, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal or stamp, this the 20 day of May, 1999.

My Commission Expires: 10-31-2000 Judy H. Pope Notary Public



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State of North Carolina-Johnston County  
The foregoing certificate(s) of

Judy H. Pope

Notary (Notary Public is (are) certified to be correct.

This instrument was prepared for registration and recorded in Book 1830 Page 230

This May 21 1999 at 4:15 PM

Phyllis H. Wall

Register of Deeds

Sandra T. Sullivan  
Deputy Register of Deeds

Asst