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HOKE COUNTY *ch*  
ONNIE DUDLEY  
REGISTER OF DEEDS

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Prepared By/Return To: Joel S. Jenkins, Jr., Attorney  
NORTH CAROLINA *P.O. Box 53515  
Fay NC 28705*

RESTRICTIVE COVENANTS

HOKE COUNTY

THE HOLLIES AT WESTGATE, SECTION 2,  
PART 2

THIS DECLARATION, made this 22nd of February, 2006, by WESTGATE OF HOKE, LLC, a North Carolina limited liability company, hereinafter referred to as "Developer".

WITNESSETH:

WHEREAS, Developer is the owner of certain property in McLauchlin Township, Hoke County, North Carolina, which is known as THE HOLLIES AT WESTGATE, SECTION 2, PART 2, per plat of same duly recorded in Plat Cabinet 3 Slide 3-38 Map 006 of the Hoke County, North Carolina Registry.

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

ARTICLE I

DEFINITIONS

Section 1. "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 seller, but excluding those having such interest merely as security for the performance of an obligation.

Section 2 "Properties" shall mean and refer to that certain real property herein before described; provided, however, that Developer shall have the right to add additional property to "The Hollies at Westgate". Such future additions shall be subject to these Restrictive Covenants and included in definition of "Properties."

Section 3. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties, or any additions thereto.

Section 4. "Association" shall mean and refer to Westgate of Hoke Homeowners Association, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina.

#### ARTICLE I

#### USE RESTRICTIONS

Section 1. Land Use. All Lots shall be used for single-family residential purposes only and shall not be used for any business or commercial purposes; provided, however, that Developer reserves the right to use any Lot and any improvement thereon owned by Developer as a model home with sales office. Group family homes are prohibited.

Section 2. Building Type. All Lots shall be residential Lots, and no structure shall be erected, altered, placed or permitted to remain on any of said Lots except one detached single home dwelling of not more than two and one-half stories in height, a private garage for not more than three cars and other outbuildings in the rear of the dwelling house which may be incidental to normal residential use in subdivisions of similar category. Such outbuildings erected, altered, placed or permitted shall be of the same quality, workmanship and material as the principal dwelling structure and must be centered along the rear Lot line, and must comply with Section 3 below. Any outbuilding erected, altered, or placed on any lot must be approved by the Developer, Developer's agent, or the Association prior to construction. Manufactured outbuildings shall be placed upon a Lot only with the prior consent of the Developer or the Developer's agent. All outbuildings whether constructed or manufactured, must have an asphalt shingle roof. No mobile home (Class A or B) or modular home will be allowed on any Lot to which these covenants apply.

Section 3. Set Back Requirements. There shall be no structure on any of the designated single-family Lots within thirty (30) feet of the street on which the Lot fronts, or within less than ten (10) feet of the side lines of the Lot and not less than fifteen (15) feet from any side street, or the provisions of the Hoke County Zoning Ordinance, whichever is more restrictive nor closer than thirty (30) feet total. For the purposes of this covenants, eaves, steps, overhangs and chimneys shall not be considered as a part of the building, provided however, that this shall not be construed to permit any portion of an improvement on a Lot to encroach upon another Lot. When consistent with the Zoning Ordinance, the building line set-back as provided for in this Paragraph may be varied by as much as ten percent (10%) with the express consent of Developer, which said consent document need not be recorded in the Office of the Register of Deeds. Hoke County, North Carolina.

Section 4. Minimum Size of Each Dwelling. The ground floor of the main structure exclusive of one-story porches and garages shall not be less than One Thousand (1000) square feet for a one-story non-duplex dwelling and not less than Six Hundred (600) square feet for the first floor or a two-story dwelling. Square footage is determined by the outside dimensions of the main structure, excluding any unheated space. Heated

area living space shall mean the ordinary living space in a house which is designated and constructed so as to be capable of being heated for regular living space in cold weather. In the computation of floor space, unheated storage areas, garages, and porches shall not be counted. Houses shall be constructed using either "crawl space" or "slab" on "grade" construction. No residence or other building, and no fence, wall, utility yard, driveway, swimming pool or other structure or improvement, regardless of size or purpose, whether attached to or detached from the main residence, shall be commenced, placed, erected or allowed to remain on any building plot, nor shall any addition to or exterior change or alteration thereto be made, unless and until building plans and specifications covering the same, showing the same nature, kind, shape, height, size, materials, floor plans, exterior color schemes with paint samples, location and orientation on the building plot and approximate square footage, construction schedule, on-site sewage and water facilities, and such other information as the Developer shall require, including, if so required, plans for the grading and landscaping of the building plot showing any changes proposed to be made in the elevation of surface contours of the land, have been submitted to and approved in writing by the Developer and until a copy of all such plans and specifications, as finally approved by the Developer, have been lodged permanently with the Developer. No alteration in the exterior color of the home or the color of the shingles shall be made without prior written approval of the Developer. The Developer shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and lot-grading and landscaping plans which are not suitable or desirable in its option for any reason, including purely aesthetic reasons connected with future development plans of the Developer of said land or contiguous lands. In passing upon such building plans and specifications and lot-grading and landscaping plans, the Developer may take into consideration the suitability and desirability of the proposed constructions and of the materials of which the same are proposed to be built to the building plot upon which it proposes to erect the same, the quality of the proposed workmanship and materials, the harmony of external design with surrounding neighborhood and existing structures therein, and the effect and appearance of such constructions as viewed from neighboring properties. In the event the Developer fails to approve or disapprove such building plans and specifications within thirty (30) days after the same have been submitted to it as required above, the approval of the Developer shall be presumed and the provisions of this paragraph four (4) shall be deemed to have been complied with. However, no residence or other building, structure or improvement which violates any of the covenants and restrictions herein contained or which is not in harmony with the surrounding neighborhood and the existing structures therein shall be erected or allowed to remain on any part of a building plot on said land.

Section 5. Driveways. All driveways shall be constructed of concrete.

Section 6. Fences. No fence shall be constructed or erected closer to the street on which the house fronts than the rear corners of the house. Provided further that on a corner Lot, no fence of any description may be erected closer to any street line than the corner of the house closest to the street line. Provided however, If a house has a screened porch on either rear corner, the fence may come off either the back or the front corner of the screened porch. All fences that are visible from the street shall be white vinyl privacy, white vinyl picket, or ornamental iron/aluminum. Any portion of the fence that is not visible from the street shall be white vinyl privacy, white vinyl picket,

ornamental iron/aluminum, wood picket, wood privacy, or split rail with welded wire. Prior to construction, the Developer and/or the Association must approve all fences. .

Section 7. Temporary Structures. No trailer, tent, shack, garage, barn or similar type outbuilding shall be placed, erected or allowed to remain on said property without the written consent of Developer, its successors or assigns. No structure of a temporary character shall be used as a residence temporarily, permanently or otherwise.

Section 8. Restricted Activities. No commercial, noxious or offensive trade or activity shall be carried on upon any plot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

Section 9. Animals. The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, shall be and is prohibited within any Lot, except the keeping of not more than two (2) orderly domestic pets (dogs or cats) shall be permitted; provided however, that such pets are not kept or maintained for commercial purposes for breeding, and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property. All pets shall be registered and inoculated as required by law. No dangerous dogs, including, but not limited to, pit bulls, rottweilers, Dobermans, and chows, shall be permitted on the premises, unless the Lot owner installs a six (6) foot privacy fence that complies with Section 6, above, and in addition installs a six (6) foot chain link fence, with said chain link fence installed at least ten (10) feet inside the perimeter of the privacy fence. The above-listed breeds of dog may not be exercised in the neighborhood, even if the dog is on a leash. Any of the above-listed breeds of dogs may be removed at the sole discretion of the Developer and/or the Association. All owners of the above-listed breeds must provide the Association with a current copy of liability insurance in the minimum amount of \$1,000,000.00.

Any dog house or dog containment structure or system must be located to the rear of the principal dwelling structure and must be located within twenty (20) feet of the rear of the main structure. No such permitted dog house or dog containment structure or system shall be placed, erected or maintained closer to any street than the rear corner of the principal dwelling structure, and in no event closer to any street than thirty (30) feet.

Section 10. Motor Vehicles. No automobile or motor vehicle may be dismantled or stored on said property; and no mechanically defective automobile, motor vehicle, mechanical machine, or machinery shall be placed or allowed to remain on said property at any time. Notwithstanding the above, these restrictions shall not apply if such vehicle is kept in an enclosed garage. No commercial trucks, including but not limited to those with eighteen wheels, shall be permitted to be parked on the premises except in the course of delivery, pick up, or discharge of a specific commercial duty.

No camping trailer, motor home or recreational vehicle (not including sports utility vehicles) shall be permitted on the premises except in accordance with restrictions contained herein. No camping trailer, motor home, or recreational vehicle may be parked closer to the front street than either the front corner of the house on the premises or the front corner of the adjacent house, whichever is further from the street, and must be within the yard setbacks. Any permitted camping trailer, motor horn, or recreational vehicle must be kept in a well-maintained condition and appearance. On corner Lots, no

camping trailer, motor home, or recreational vehicle shall be permitted any closer to any street than the principal dwelling structure. In no event shall any permitted camping trailer, motor home, or recreational vehicle be used as a residence temporarily, permanently, or otherwise.

Section 11. Exterior Alterations. No exterior alterations, additions, or changes of any kind may be made to the structure or design of the residence and improvements now on said property without the written consent of Developer, its successors or assigns.

Section 12. Mailboxes. All mailboxes shall be uniform to those initially installed by the Developer.

Section 13. Signs. No sign of any character shall be displayed or placed upon any Lot except "For Sale" or "For Rent" signs, which signs may refer only to the particular premises on which displayed, shall not exceed two (2) square feet in size, shall not extend more than four (4) feet above the surface of the ground, shall be fastened only to a stake in the ground and shall be limited to one (1) sign to a Lot. The Declarant may enter upon any building plot and summarily remove and destroy any signs which do not meet the provisions of this section.

Section 14. Satellite Dishes. No satellite dish antennae, radio tower or antenna of any nature shall be placed or allowed to remain on said property except for a satellite dish measuring no more than eighteen (18) inches in diameter, attached to the rear of the dwelling, or the rear corner of the dwelling, so long as said satellite dish is not readily visible from the road.

Section 15. Clotheslines. Clotheslines are not permitted.

Section 16. Basketball Goals. No basketball goals of any nature, whether stationary or portable, regulation size or otherwise, shall be allowed in the street or public right of way. Only portable basketball goals shall be allowed in side or front yards or driveways provided they are properly maintained in good repair and condition. Permanently installed goals must be placed in the back yard. Unsightly basketball goals located in front and side yards are subject to removal by the Association.

Section 17. Yard Maintenance. Each owner shall landscape and maintain his yard in a well-manicured style so as to enhance his own as well as his neighbors' homes and Lots. The grass of each Lot shall be kept at a reasonably short length, and all trees, shrubs and bushes shall be properly pruned. If the yard is not maintained properly, the Association has the right to perform the required work and to bill the Lot owner for said work. The Association may obtain a lien against any Lot owner who fails to timely pay any bill for maintenance work done by the Association.

Section 18. Trash and Yard Debris. No trash of any kind, whether household or yard debris, shall be placed or allowed to remain on said property, except in proper containers. Containers should only be placed by the street on the evening before the day trash is scheduled to be picked up. Each owner shall promptly remove the trash container from the sheet, in no case later than the evening of the day the trash was removed.

Section 19. **Swimming Pools.** There shall be no above ground swimming pools. In-ground pools are permitted and must be surrounded by a four (4) foot privacy or ornamental fence.

Section 20. **Mutual Benefit.** It is understood and agreed that these restrictions are made for the mutual benefit of the grantors and grantees and any and all subsequent grantees, and all such parties shall be deemed to have a vested interest in these restrictions and the right to enforce the same.

Section 21. **Noise.** Each lot owner covenants and agrees that he will control the noise level emanating from any activities on the lot at a reasonable level. The lot owner shall not allow the noise level to become a nuisance or to otherwise interfere with adjoining property owners' reasonable use of their lots.

### ARTICLE III

#### UTILITIES AND UTILITY AND DRAINAGE EASEMENTS

Section I. **Utilities.** Developer reserves the right to subject the real property in this entire subdivision to a contract with Public Utility Provider(s) for the installation of overhead and/or underground electric cables, cables for other utilities, and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to public Utility Provider by the owner of each building. Developer and its successors in title may devote any Lot or portion thereof, not already sold, for any construction and uses which it, in its discretion, deems necessary in order to provide the subdivision with utilities.

Section 2. **Utility and Drainage Easement.** Easements for installation and maintenance for 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 interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage, or which may obstruct or retard the flow of water. All areas indicated as streets and easements on the recorded plat are hereby dedicated to public use for such uses forever except side yard easements which are for the use and benefit of those persons and Lots as described herein.

### ARTICLE IV

#### GENERAL PROVISIONS

Section 1. **Enforcement.** So long as Developer is an owner of a Lot shown on the plat, Developer, or any Owner, at any time, 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 these Restrictive Covenants. Failure by the Developer 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. **Amendment.** It is understood and agreed, and the present owners and all subsequent Grantees of present owners expressly agree by the acceptance of land within the above described subdivision area, that the covenants and restrictions of the Declaration shall run with and bind the land for a term of twenty (20) years from the date

the Declaration is recorded, after which time they shall be automatically extended for successive periods often (10) years.

Notwithstanding anything contained herein, these restrictive covenants may be amended at any time by written consent of Developer, its successors or assigns, so long as Developer, its successors or assigns, owns any one Lot in THE HOLLIES AT WESTGATE.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions, which shall remain in full force and effect

ARTICLE V

CONFLICTING PROVISIONS

To the extent the provisions of this Declaration conflict with any applicable provisions of the Hoke County Zoning or Subdivision Ordinance, the conflicting provisions of the County Ordinances shall control.

ARTICLE VI

HOMEOWNERS ASSOCIATION.

As a member of Westgate of Hoke Homeowners Association, each Lot owner shall be liable for annual dues of \$180.00, payable annually. Said dues will be pro-rated for the year in which the Lot is sold to the owner and thereafter shall be billed annually by the Association. . Notwithstanding the foregoing, if the Developer has begun construction of the pool and clubhouse by January 1, 2007, then such annual dues shall be \$360.00 per year, payable quarterly. If such construction has not begun by January 1, 2007, then the increase in annual dues to \$360.00 shall not become effective until such time as the said pool and clubhouse are completed.

Additionally, there shall be a one time start-up assessment of \$75.00 which shall be due and payable upon the sale of any Lot by the Developer to the lot owner.

IN WITNESS WHEREOF, Westgate of Hoke, LLC, the Developer herein, has caused this Declaration to be signed in its name the day and year first above written.

WESTGATE OF HOKE, LLC

By: H & H INVESTMENTS, INC.

Member/Manager

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

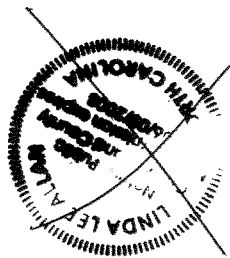
D. Ralph Huff III, President

(SEAL)

By: CAVINESS & CATES, INC.

Member/Manager

By: [Signature] (SEAL)  
Watson G. Caviness, President



NORTH CAROLINA  
CUMBERLAND COUNTY

I, the undersigned Notary Public for said County and State, hereby certify that D. RALPH HUFF, III personally appeared before me this day and acknowledged that he is President of H & H INVESTMENTS, INC., a North Carolina corporation, member/manager of Westgate of Hoke, LLC, a North Carolina limited liability company, and that he, as President being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and notarial stamp or seal this 22<sup>nd</sup> day of February, 2006.

[Signature]  
Notary Public Linda Lee Allan

My Commission Expires:

06/08/08



NORTH CAROLINA  
CUMBERLAND COUNTY

I, the undersigned Notary Public for said County and State, hereby certify that WATSON G. CAVINESS personally appeared before me this day and acknowledged that he is President of CAVINESS & CATES, INC., a North Carolina corporation, member/manager of Westgate of Hoke, LLC, a North Carolina limited liability company, and that he, as President being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and notarial stamp or seal this 22<sup>nd</sup> day of February, 2006.

[Signature]  
Notary Public Linda Lee Allan

My Commission Expires:

06/08/08

