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Prepared by and return to: F. Stuart Clarke, THORP AND CLARKE, Attorneys,  
P.O. Box 670, Fayetteville, NC

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NORTH CAROLINA DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
CUMBERLAND COUNTY SOUTH MAIN, PHASE TWO

THIS DECLARATION, made this the 24<sup>th</sup> day of March, 2004, by **SOUTH MAIN HOPE MILLS, LLC**, a North Carolina Limited Liability Company with its principal place of business in Cumberland County, North Carolina, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Rockfish Township, Cumberland County, North Carolina, which is to be known as **SOUTH MAIN, PHASE TWO**, as shown on the plat of same duly recorded in Plat Book 109, Page 69, Cumberland County Registry;

NOW, THEREFORE, Declarant 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. "Association" shall mean and refer to **SOUTH MAIN HOMEOWNERS ASSOCIATION OF HOPE MILLS, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 2. "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.

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Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described. In the event that additional property is annexed into the subdivision by the methods hereinafter described, such additional annexed property shall thereafter also be included within the definition of "Properties".

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties. In the event that additional property is annexed into the subdivision by the methods hereinafter described, such additional annexed property and the lots comprising same shall thereafter also be included within the definition of "Lot".

Section 5. "Declarant" shall mean and refer to South Main Hope Mills, LLC, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 6. "Common Area" shall mean and refer to all property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

All of that area described as "Common Area" as shown on that certain plat of South Main, Phase Two, recorded in Plat Book 109, Page 69, in the Office of the Register of Deeds of Cumberland County, North Carolina.

## ARTICLE II PROPERTY RIGHTS

Section 1. Owner's 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 and shall be preserved to the perpetual benefit of the Association, subject to the following provisions:

(a) the right of the Association to suspend the voting rights of 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;

(b) 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.

(c) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

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, his tenants, or contract purchasers who reside on the property.

Section 3. Access Rights. Ownership of each Lot shall include easements over the common areas for access, ingress and egress from and to public streets and walkways and easements for enjoyment of the common areas.

ARTICLE III  
USE RESTRICTIONS

Section 1. Land Use. All lots in the tract known and described as residential lots may be developed as traditional, single-family residences except that only one residence or dwelling shall be permitted on any one lot.

Section 2. Building Type. No structure shall be erected, altered, placed or permitted to remain on any single-family building lot other than one detached single-family dwelling not to exceed two stories in height and a private garage for not more than three (3) cars and other outbuildings incidental to residential use of the lot. Such outbuildings erected, altered, placed or permitted shall be of the same quality, workmanship and material as the principal dwelling structure, and will be erected and placed according to Section 3 below. Portable, metal buildings are strictly prohibited.

Section 3. Set Back Requirements.

(a) Corner Lots:

(1) There shall be no structure on any of the designated single-family corner lots within thirty (30) feet from the street on which the lot fronts, nor within fifteen (15) feet of the side lot line from any side street; nor within five (5) feet from the interior side lot line. The rear set back line shall be five (5) feet from the rear lot line, so long as the rear lot line abuts another lot in said subdivision. If the rear lot line abuts a lot outside the subdivision, then the rear set back requirement shall be thirty-five (35) feet.

(2) There shall be no structure, which will be situated in a diagonal position fronting the corner where both roads meet, on any of the designated single-family corner lots within thirty (30) feet from the side lot lines of both roads; nor within five (5) feet from any interior lot line. The rear set back line shall be five (5) feet from the rear lot line, so long as the rear lot line abuts another lot line in said subdivision. If the rear lot line abuts a lot outside the subdivision, then the rear set back requirement shall be thirty-five (35) feet.

(b) Interior Lot Lines:

There shall be no structure on any of the interior designated single-family lots within thirty (30) feet on which the lot fronts; nor within five (5) feet from the side lot lines. The rear set back line on all interior lots shall be five (5) feet from the rear lot line, so long as the rear lot line abuts another lot line in said subdivision. If the rear lot line abuts a lot outside the subdivision, then the rear set back requirement shall be thirty-five (35) feet.

For the purposes of this covenant, eaves, steps and overhangs 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. Outbuildings, as permitted in Section 2 above, shall be erected or placed no closer than five (5) feet to the rear lot line of 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 (10) per cent with the express consent of South Main Hope Mills, LLC, which said consent document need not be of record in the Office of the Register of Deeds, Cumberland County, North Carolina.

Section 4. Minimum Size of Each Dwelling. No dwelling shall be permitted to be erected on any lot not meeting the following minimum size requirement: The ground floor of the main structure, exclusive of one-story porches and garages, shall not be less than one thousand four hundred (1,400) square feet for a one-story non-duplex dwelling not less than seven hundred fifty (750) square feet for the first floor of a two-story dwelling, total to be no less than one thousand four hundred (1,400) square feet. 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 designed and constructed so as to be capable of being heated for regular living use in cold weather. In the computation of floor space, unheated storage area, garages, and porches shall not be counted. 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 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 Declarant 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 Declarant and until a copy of all such plans and specifications, as finally approved by the Declarant, have been lodged permanently with the Declarant. The Declarant 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 opinion for any reason, including purely aesthetic reasons connected with future development plans of the Declarant of said land or contiguous lands. In passing upon such building plans and specifications and lot-grading and landscaping plans, the Declarant 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 the surrounding neighborhood and existing structures therein, and the effect and appearance of such constructions as viewed from neighboring properties. In the event the Declarant 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 Declarant 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. 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 South Main Hope Mills, LLC, its successors or assigns. Nor shall any structure of a temporary character be used as a residence temporarily, permanently, or otherwise.

Section 7. 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 8. Animals. No animals or poultry of any kind, except common pets, shall be placed or kept on any part of the premises. No breed of dogs that may be perceived by members of general public as being dangerous or having a propensity for being dangerous, including, but not limited to, pit bulls, rottweilers, dobermans, chows and German shepherds, nor any dog whose lineage includes in part any of said breeds, nor any dog that has at any time bitten a person, nor any dog that has been trained as an attack dog, shall be permitted on the premises.

Any dog house or dog containment structure or system must be located to the rear of the main structure and must be located within twenty feet (20') of the rear of the main structure. No such permitted dog house or dog containment structure or system shall be placed, erected or maintained nearer to any street than the rear or side of the principal dwelling structure on improved lots or nearer to any street than the setback line on any vacant lot or nearer to any street than thirty (30) feet.

On corner lots, no dog house or dog containment structure or system shall be placed any closer to the street than the back, rear corner of the principal dwelling structure on improved lots.

Section 9. Motor Vehicles. No automobile or motor vehicle may be dismantled or repaired on said premises. No mechanically defective automobile, motor vehicle, mechanical device, machine, machinery, or junk car shall be placed or allowed to remain on said property at any time. No commercial trucks, including but not limited to eighteen wheelers, 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 automobile or motor vehicle shall be parked in the street or public right of way.

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 parked on a permanent parking pad as large as the camping trailer, motor home, or recreational vehicle. The placement of the parking pad is subject

to the control and approval of the Aesthetic Committee. Any permitted camping trailer, motor home, or recreational vehicle must be kept in well maintained condition and appearance, which condition and appearance are subject to the approval and control of the Aesthetic Committee. 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 10. Fences. No fence measuring more than seventy-two (72) inches from the ground shall be erected or allowed to remain upon any numbered building lot. A chain-link, vinyl, wood privacy, picket or ornamental iron fence measuring no more than seventy-two (72) inches from the ground may be erected in the area between the rear of the house and the rear property line. In no case, however, shall such fence be erected which shall extend nearer to any street than the principal dwelling structure on improved lots or nearer to any street than the setback line on any vacant lot. Wooden privacy fences shall not be painted without the approval of South Main Hope Mills, LLC. Any fence erected closer to the street than the front of the dwelling shall be an ornamental fence not more than forty (40) inches in height. All fences shall be approved by South Main Hope Mills, LLC prior to erection.

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 South Main Hope Mills, LLC, its successors or assigns.

Section 12. Satellite Dishes and Radio Antennas or Towers. No satellite dish antennas, 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 24 inches in diameter, attached to the rear of the dwelling, so long as said satellite dish is not visible from the road.

Section 13. Clothes Lines. Clothes lines are not permitted.

Section 14. Signs. Except as otherwise permitted herein, no sign of any character shall be displayed or placed upon any building plot except "For Sale" 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 property. The Declarant may enter upon any

building plot and summarily remove and destroy any signs which do not meet the provisions of this paragraph.

Section 15. Outdoor Furniture. No upholstered furniture, of any nature, shall be placed or allowed to remain outside as lawn furniture.

Section 16. Basketball Goals. No basketball goals of any nature, whether stationary or portable, of regulation size or otherwise, shall be allowed in the street or public right of way. Basketball goals shall be allowed in owners' yards or driveways, provided they are properly maintained in good repair and condition.

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. Grass should be kept at a reasonably short length, and trees, shrubs and bushes shall be properly pruned and all yards shall be kept free of weeds.

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 provided by the County of Cumberland, placed where trash is normally picked up, and may only be placed there on the evening before the day trash is normally picked up. Each owner shall promptly remove the trash container from the point of pickup, in no case later than the evening of the day the trash was removed.

Section 19. Mailboxes. No mailbox of any type or nature shall be permitted on the premises, other than the black mailbox with white post approved by Declarant and such as those initially provided by the Builders. In the event the mailbox is destroyed, damaged or falls into disrepair, the owner shall replace the mailbox with one of identical make, type and color as approved from time to time by Declarant.

Section 20. Above Ground and In-Ground Pools. There shall be no above-ground swimming pools. In-ground pools are permitted and must be surrounded by a four foot (4') privacy, ornamental or chain link fence.

ARTICLE IV  
UTILITIES AND UTILITY AND DRAINAGE EASEMENTS

Section 1. Utilities. The Declarant reserves the right to subject the real property in this subdivision to a contract with CP&L for the installation of underground electric cables and/or the



installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to CP&L by the Owner of each building.

This property is subject to an ongoing monthly continuous fee for the installation and/or maintenance of underground utilities and street lighting by CP&L.

Section 2. Utility and Drainage Easements. Easements for installation and maintenance for utilities and drainage facilities are reserved as shown on the recorded plat, and in addition thereto, an additional ten (10) foot easement for all such purposes is reserved along all interior lot lines, such ten (10) foot easement being five (5) feet on each side of each interior lot line of each of the aforesaid lots, and in addition thereto, an additional five (5) foot easement for all such purposes is reserved along the rear property line on all lots along the perimeter of the subdivision. 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. A five (5) foot easement is reserved along the rear property line on all lots along the perimeter of the subdivision in which the Declarant or the Association may erect and maintain a perimeter fence. 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.

Section 3. Landscape Easement. Landscape easements are reserved as shown on the recorded plat.

ARTICLE V  
SIGN EASEMENT

The Declarant does hereby grant to Association a Sign Easement on the "Common Area" as described on that certain Plat of South Main, Section One, recorded in Plat Book 109, Page 69, Cumberland County Registry, and that Declarant does hereby bargain, sell, grant and convey unto the Association the right of unobstructed access at all reasonable times in and across the property more particularly described as "Common Area" as shown on plat recorded in Plat Book 109, Page 69, Cumberland County Registry, granting the Association the unfettered right to construct and maintain a sign for a subdivision entitled "South Main". The Association has the obligation to maintain and keep in good repair said sign located on the described premises.

ARTICLE VI

Section 1. Creation of the Lien and Personal Obligation of Assessment. The Declarant for each Lot owned within the Properties, hereby covenants, and 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:

- (a) annual assessments or charges, and
- (b) 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 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 pass to his successors in title.

(c) assessments and fines for violations of this declaration of covenants, conditions and restrictions, as to be established, collected and described herein.

The annual and special assessments, and fines and assessments for violation of this declaration of covenants, conditions and restrictions, 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 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 pass to his successors in title.

(d) Notwithstanding anything in the foregoing to the contrary, under no circumstances will the Declarant be assessed and pay annual assessments, special assessments, and/or assessments and finds for violations of this declaration of covenants, conditions and restrictions as provided for herein.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be for the purpose of maintaining the street lighting, including underground low voltage lighting and high voltage spot lights, maintaining the entrance walls and structures, maintaining subdivision signage,

maintaining the landscape easement, maintenance and upkeep of the flora in the landscape easement, including maintaining any sprinkler systems and green spaces for use in conjunction with the common areas, and for such other purposes as may be consistent with maintenance of the high character of the development for the benefit of all the owners and protecting the value and desirability of the real property and enhancing of homes and lots. The assessments levied by the Association shall also be for the purpose of paying all taxes, insurance and utilities associated with those items identified herein above..

Section 3. Annual Assessment.

(a) Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be Sixty and No/100 (\$60.00) Dollars per lot.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the annual assessment may be increased each year not more than ten (10%) per cent above the assessment for the previous year by a vote of two-thirds of the members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) The annual assessment shall not be increased above the foregoing limit without the approval of two-thirds of the members.

(d) Notwithstanding anything in the foregoing to the contrary, under no circumstances will the Declarant be assessed and pay annual assessments as provided for herein.

Section 4. Notice and Quorum for Any Action Authorized under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty (50%) per cent of all the membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Uniform Rate of Assessment. Assessments must be fixed at a uniform rate for all lots and shall be collected on an annual basis.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of January following the conveyance of the common area to the Association. 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 notices of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid in pro-rata monthly installments. 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 7. Fines and Assessments for Violations of This Declaration of Covenants, Conditions and Restrictions, and Aesthetic Rules, Regulations and Decisions of the Aesthetic Committee.

(a) The Declarant, prior to conveyance of all lots in the subdivision, or an Aesthetic Committee composed of three (3) or more representatives appointed by the Board of Directors after the conveyance of all lots in the subdivision, shall cause to be issued letters of warning to any owners deemed to be in violation of any covenants, conditions or restrictions or Aesthetic Rules, Regulations and Decisions of the Aesthetic Committee.

(b) If the violation or decision is not remedied, a second letter of warning shall be issued to the owner, advising the owner of the date of imposition of the daily fine, as well as the amount thereof, if the violation is not remedied by the imposition date.

(c) Alternatively, in the event an owner neglects or otherwise refuses to remedy any violation of the covenants, conditions or restrictions, or Aesthetic Rules, Regulations and Decisions of the Aesthetic Committee, then and in that event, the Aesthetic Committee may effect such remedy or maintenance and the cost of such remedy or maintenance shall be added to and become a part of the assessment to which such lot is subject pursuant to Article VI.

(d) Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum fine or assessment shall be \$10.00 per day per lot in violation, enforceable by lien as set forth in Article VI, Section 9.

(e) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum fine or assessment may be increased each year not more than ten (10%) per cent above the assessment for the previous year by a vote of two-thirds of the members who are voting in person or by proxy at a meeting duly called for this purpose.

(f) The maximum fine or assessment shall not be increased above the foregoing limit without

the approval of two-thirds of the members of the Homeowner's Association.

(g) Notwithstanding anything in the foregoing to the contrary, under no circumstances will the Declarant be assessed and pay annual assessments, special assessments and/or assessments and fines for violations of the declarations of covenants, conditions and restrictions as provided for herein.

Section 8. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not abate the personal obligation of the prior owner. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. 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 twelve (12%) per cent 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. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

## ARTICLE VII MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all owners of detached units with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an 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.

Class B. Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to a Class A membership respectively upon the happening of either of the following events, whichever occurs earlier:

- (a) When the total aggregate votes outstanding of Class A equals the total votes outstanding in the Class B Membership; or
- (b) on January 1, 2010.

ARTICLE VIII  
ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected, replaced or maintained upon the Properties, nor shall any exterior color, exterior addition to or change or alteration therein be made until the plans and specifications showing the color, 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 the Declarant, prior to the conveyance of all lots in the subdivision, or by an architectural committee composed of three (3) or more representatives appointed by the Board of Directors after the conveyance of all lots in the subdivision. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (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 IX  
EXTERIOR MAINTENANCE

The Association shall provide maintenance for the landscape easement, the entrance walls and structures, entrance sign, subdivision signage, street signs, stop signs, street lighting, including underground low voltage lighting and high voltage spot lights, sprinkler systems, landscaping, landscape lighting, the flora in the common area, including any sprinkler systems, and common areas in SOUTH MAIN, PHASE TWO, Plat Book 109, Page 69, Cumberland County Registry; and denoted as "Landscape Easement" on said plats or associated with the entrance to the subdivision, or otherwise associated with the subdivision and for such other purposes as may be consistent with maintenance of the high character of the development for the benefit of all the owners and protecting

the value and desirability of the real property and enhancement of homes and lots. Additionally, the Association shall provide maintenance for any walking trails, recreation lands, parks, landscape easement, entrance signs, sidewalks, street signs, stop signs, lighting, sprinkler systems, landscaping, landscape lighting, and common areas added to the subdivision in the future. The cost of such maintenance, repairs and replacements shall be paid for out of the assessments provided for in Article VI above. In the event an Owner neglects or otherwise refuses to maintain his or her house and other accoutrements in a state of repair consistent with the beauty and welfare of the remaining area, including but not limited to painting of the exterior, then and in that event, the Architectural Control Board may effect such maintenance, repairs or replacement, and the cost of such maintenance, repairs and replacements shall be added to and become a part of the assessment to which such lot is subject pursuant to Article VI.

ARTICLE X  
ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property shall require the assent of two-thirds (2/3) of the Class A Members and two-thirds of the Class B Members, if any, 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. The presence of Members or of 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 each subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that 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.

Section 2. If at any time before January 1, 2010, the Declarant shall decide to develop additional lands or any portion thereof, said additional lands may be annexed to said properties without the assent of the Class A Members.

ARTICLE XI  
GENERAL PROVISIONS

Section 1. 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 of ten (10) years.

Notwithstanding anything contained herein, these restrictive covenants may be amended at any time by South Main Hope Mills, LLC, its successors or assigns, so long as South Main Hope Mills, LLC, its successors or assigns, owns any one lot contained in SOUTH MAIN, PHASE TWO, recorded in Plat Book, 109, Page 69, Cumberland County Registry, or subsequent Sections of South Main.

Section 2. Enforcement. If the parties hereto, or any of them or their heirs or assigns shall violate or attempt to violate any of the covenants herein it shall be lawful for the Homeowners Association or the Aesthetic Committee to enforce these restrictions as agents of the homeowners, or persons owning real property situated in said development for subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate said covenants and either to prevent him or them from so doing or to recover damages or other dues or for such violation.

Section 3. 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.

ARTICLE XII  
CONFLICTING PROVISIONS

To the extent the provisions of this Declaration conflict with any applicable provisions of the Cumberland County Code or North Carolina General Statute, the conflicting provisions of the North Carolina General Statute or the Cumberland County Code shall control in that order.

ARTICLE XIII  
AESTHETIC CONTROL

There is herein created an Aesthetic Committee, composed of the Declarant, prior to the conveyance of all lots in the subdivision (including annexed properties), and after the conveyance of all lots in the subdivision (including annexed properties), composed of three (3) or more representatives appointed by the Board of Directors. The Aesthetic Committee shall be empowered to oversee all matters of aesthetics in the subdivision, including, but not limited to yard landscaping and maintenance, yard or house decoration, structures and any item placed



within a yard or driveway, or upon a house, as well as to oversee violations of these covenants, restrictions and conditions. The Aesthetic Committee may from time to time promulgate Aesthetic Rules and Regulations or may find that an owner has violated the Aesthetic Rules and Regulations, or has violated the spirit of the Rules and Regulations, or the Aesthetic goals and objectives of the subdivision. In such case, the Aesthetic Committee shall have the remedies and follow the procedures set out in Article V, Section 7, above.

ARTICLE XIV  
COMPLIANCE WITH WETLANDS REGULATIONS

Section 1. A portion of this subdivision has been determined to meet the requirements for designation as a regulatory wetland. A 401 Water Quality Certification was issued for this subdivision with the condition that the regulatory wetland not be filled. No subdivision filling or alteration of the wetland portion of this subdivision shall be accomplished unless said filling or alteration conforms to the requirements of state wetland rules adopted by the State of North Carolina in force at the time of the proposed alteration. All lots abutting or including within its lot dimensions a portion of any now existing ditch or any ditch as relocated shall be responsible for the maintenance of said open ditch and charged with the obligation to retain and protect the free-flowing character of the water contained therein subject to the provisions of Article IV, Section 2, et seq.

Section 2. The areas shown on the recorded plat as wetland areas shall be maintained in perpetuity in their natural condition. No person or entity shall fill, grade, excavate, or perform any other land disturbing activities; nor cut, remove, or harm any vegetation, nor construct any structures, on such wetland areas.

Section 3. The property owner shall report the name of the subdivision, SOUTH MAIN, PHASE TWO, in any application pertaining to said wetland rules.

Section 4. This covenant is intended to ensure continued compliance with the mitigation condition of authorizations issued by the State of North Carolina, Division of Water Quality, and the United States of America, U. S. Army Corps of Engineers, Wilmington District, and therefore may be enforced by the State of North Carolina and by the United States of America.

Section 5. This covenant is to run with the land and shall be binding on the Owner and all parties claiming under it.

Section 6. Article XIV, Compliance with Wetlands Regulations, cannot be amended without the express written consent of the U. S. Corps of Engineers, Wilmington District.

TO THE TRUE AND FAITHFUL PERFORMANCE OF THESE COVENANTS AND AGREEMENTS, SOUTH MAIN HOPE MILLS, LLC has caused this instrument to be signed in its name by its member-managers, this the 24<sup>th</sup> day of March, 2004.

**SOUTH MAIN HOPE MILLS, LLC, Declarant**

**BY: TERRY SPELL REALTY, INC., Member-Manager**

By: [Signature]  
Terry W. Spell, President

**BY: H & H INVESTMENTS, INC., Member-Manager**

By: [Signature]  
D. Ralph Huff, III, President

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NORTH CAROLINA  
CUMBERLAND COUNTY

I, [Signature] a Notary Public of Cumberland County, North Carolina certify that **TERRY W. SPELL, President of Terry Spell Realty, Inc., Member-Manager of South Main Hope Mills, LLC**, personally came before me this day and acknowledged that he is President of Terry Spell Realty, Inc., a corporation, member-manager of South Main Hope Mills, LLC, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and Notarial Seal, this the 24 day of March, 2004.

My Commission Expires: 2-29-07

[Signature]  
NOTARY PUBLIC

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NORTH CAROLINA  
CUMBERLAND COUNTY

I, [Signature] a Notary Public of Cumberland County, North Carolina certify that **D. RALPH HUFF, III, President of H & H INVESTMENTS, INC., Member-Manager of South Main Hope Mills, LLC**, personally came before me this day and acknowledged that he is President of H & H Investments, Inc., member-manager of South Main Hope Mills, LLC, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and Notarial Seal, this the 24 day of March, 2004.

My Commission Expires: 2-29-07

[Signature]  
NOTARY PUBLIC

The foregoing Certificate(s) of [Signature]

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By [Signature] J. LEE WARREN, JR. REGISTER OF DEEDS FOR CUMBERLAND COUNTY, Deputy/Assistant - Register of Deeds