

# HOMEOWNERS ASSOCIATION ESTATES OF THE SALISBURY

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**October 2003**

## BYLAWS

### OF

#### HOMEOWNERS ASSOCIATION OF ESTATES OF THE SALISBURY, INC. (Amended at the Board Meeting 03/21/2001 and ratified at the Annual Meeting 6/20/2001)

### Article 1 – ORGANIZATION & PURPOSES

- 1.1 The name of the organization is the Homeowners Association of the Estates of the Salisbury, Inc. (the “ASSOCIATION”).
- 1.2 The registered office of the Corporation required by law to be maintained in the State of North Carolina shall be located at:

48 Patton Ave  
Asheville, North Carolina 28801
- 1.3 The registered agent at such address shall be McGuire, Wood & Bisette, P.A.
- 1.4 The Principal office of the ASSOCIATION shall be located at the same address as the registered office or such other place as may be designated by the BOARD OF DIRECTORS.
- 1.5 The purposes and objectives of the ASSOCIATION shall be to administer the subdivision of Estates of the Salisbury (which encompasses the property described in Exhibit “A” attached hereto) and to implement and enforce the RESTRICTIONS as defined herein.

### ARTICLE 2 – DEFINITIONS

- 2.1 “ASSOCIATION” shall mean and refer to the Homeowners Association of the Estates of the Salisbury, Inc., a North Carolina nonprofit corporation, and its successors and assigns.
- 2.2 “BOARD” shall mean and refer to the Board of Directors of the ASSOCIATION.
- 2.3 “DECLARATION” shall mean and refer to the Declaration Creating the Homeowners Association of Estates of the Salisbury, Inc.
- 2.4 “LOT” shall mean and refer to a lot in the subdivision of the Estates of the Salisbury as described in Exhibit “A” attached hereto, except that where a LOT OWNER owns more than one LOT and those LOTs are adjoining and only one house exists on the lot, the combined LOTs shall be counted as one LOT for voting and assessment purposes.
- 2.5 “LOT OWNER” shall mean and refer to one or more PERSONS who hold the record title to a LOT as defined in paragraph 2.4.
- 2.6 “MEMBER” shall mean and refer to a person or entity entitled to membership in the ASSOCIATION, as provided herein.
- 2.7 “OWNER” shall mean and refer to one or more persons or entities who hold the record title to any portion of the PROPERTIES, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

- 2.8 **“PERSON”** means a natural person, a corporation, a partnership, trustee, or other legal entity.
- 2.9 **“PROPERTIES”** shall mean and refer to the real property described in Exhibit “A” attached hereto.
- 2.10 **“RESTRICTIONS”** shall mean and refer to those Protective Covenants recorded in Deed Book 727, Page 868, Henderson County Registry together with Amendments recorded in Deed Book 727, page 868 and Deed Book 727, Page 868, Henderson County Registry.
- 2.11 **“ROADWAYS”** shall mean the Estates of the Salisbury in Henderson County, North Carolina, as described in Exhibit “A” attached hereto.
- 2.12 **“SUBDIVISION”** shall mean the Estates of the Salisbury in Henderson County, North Carolina, as described in Exhibit “A” attached hereto.
- 2.13 **“MEMBER – IN - GOOD STANDING”** shall mean a MEMBER who is current (not more than forty-five days late) in his payments of assessments of the ASSOCIATION.

### **ARTICLE 3 – ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

- 3.1 **MEMBERSHIP.** Every OWNER shall be deemed to have a membership in the ASSOCIATION. No OWNER, whether one or more PERSON, shall have more than one (1) membership per LOT owned. In the event the OWNER of a LOT is more than one person, votes and rights of use and enjoyment shall be provided herein. The rights and privileges of membership may be exercised by a MEMBER or the MEMBER’s spouse. The membership rights of a LOT owned by a corporation or partnership shall be exercised by the individual designated by the OWNER in a written instrument provided by the Secretary.
- 3.2 **VOTING.** Only MEMEBRS –IN-GOOD STANDING shall be allowed to vote. MEMBERS shall be entitled to one equal vote for each LOT (defined in 2.4) in which they hold the interest required for membership. In any situation in which a MEMBER is entitled personally to exercise the vote for his LOT and more than one person holds the interest in such LOT, the vote shall be exercised as those persons determine among themselves and advise, the LOT’s vote shall be suspended if more than one person seeks to exercise it.
- 3.3 **MEETINGS.** Annual and special meetings shall be held at such place as designated by the Board within Henderson County, North Carolina.

- A. **ANNUAL METINGS** shall be held at 7:00 p.m. on the third Wednesday of June of each year. The purpose of the Annual meeting shall be to elect Directors of the Association for the following year (in accordance with 4.1), to approve the ASSOCIATION's budget for the following year, to set the assessments to be paid by each lot owner for the following year, and the transaction of any other business presented to the members. The President shall preside over the meeting and may limit the time for debate and discussion of all issues presented to the meeting provided, a reasonable time shall be allowed.
- B. **SPECIAL MEETINGS** of the MEMBERS may be called at any time by the President or the BOARD. A special meeting shall be called by the President or the BOAR within thirty (30) days after delivery to the secretary of a petition signed by at least forty (40) percent of the MEMEBERS requesting a special meeting for a stated purpose.
- C. **NOTICE.** The Board shall mail notice of the annual and special meetings to each voting member, at their address of record, at least thirty (30) days prior to the date of the meeting. The notice will state the time and place of the meeting and any issues that will be voted on at the meeting. The notice will contain a ballot for voting on the issues and will be accompanied by copies of annual reports or audits regarding those issues, conducted by outside agencies or companies, and the analysis and recommendations of the Board. Attendance at a meeting shall constitute waiver of notice.
- D. **QUORUM.** A quorum shall consist of whatever number of the MEMBERS-IN-GOOD STANDING of record, represented either in person or by absentee ballot, are present at the meeting. The vote of majority of the MEMBERS-IN-GOOD STANDING present at a meeting shall be the act of the MEMBERS.
- E. **ABSENTEE BALLOTS.** \* A MEMBER-IN-GOOD STANDING may vote personally or by absentee ballot duly authorized, in writing and filed with the Secretary any time before the ANNUAL MEETING.

#### **ARTICLE 4-BOARD OF DIRECTORS**

- 4.1 **COMPOSITION AND SELECTION.** The affairs of the ASSOCIATION shall be governed by a Board if Directors composed if four (4) persons plus one (1) member-at-large. All directors, as well as the member-at-large, shall be owners of LOTs or spouses of such LOT OWNERS and shall be MEMBERS-IN-GOOD STANDING; provided, however, no LOT OWNER and his or her spouse may serve on the BOARD at the same time. All directors and the member –at-large shall be nominated and elected by the MEMBERS-IN-GOOD STANDING.

Nominations for BOARD members must be received by the Secretary thirty (30) days before the ANNUAL MEETING. All MEMBERS-IN-GOOD STANDING shall be entitled to cast one (1) vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. Each elected director shall serve for a term of two (2) years, except for the member-at-large who shall serve a one-year term. Election of Board members shall be staggered, with the election of the President and Secretary one year and the election of the Vice-President and Treasurer the following year. All BOARD members shall be elected for the 1997-1998 term. The following year only the Vice-President and Treasurer will be elected. The Member-at-large shall be elected every year.

Removal of directors may be with or without cause by a vote of the majority of the MEMBERS entitled to vote at an election of directors or with good cause by a vote of the majority of the BOARD. A director is subject to removal for cause if he or she ceases to be an OWNER or MEMBER-IN-GOOD STANDING. There shall be no cumulative voting in regard to removal of a director. Upon removal at a duly called meeting directors may be elected at the same meeting. Whenever a vacancy occurs in the BOARD, it may be filled by a majority vote of the remaining members of the BOARD at any meeting called for that purpose.

**4.2 POWERS AND DUTIES.** The business and affairs of the ASSOCIATION shall be managed by the BOARD, who shall have all powers and duties necessary for the administration of the ASSOCIATION, including, but not limited to, the power to adopt such rules and regulations as it deems necessary and appropriate and to impose sanctions for violations thereof, including without limitation, monetary fines. With regard to repairs or improvements to the common areas of the association, i.e. the roads, water system, entryways, etc., the Board has the power to replace or repair only "like Kind". All other repairs or replacements, except in an emergency situation, must be approved by a majority of members voting on the issue either at an Annual Meeting or a Board Meeting, after being duly notified of the meeting and the vote by Newsletter. Furthermore, the Board must request bids from at least 3 independent contractors, who are appropriately licensed and insured, for repairs or improvements. In addition to duties imposed by these BYLAWS or any resolution the ASSOCIATION that may hereafter be adopted, the BOARD shall have the power to and be responsible for, the following, in way of explanation but not limitation;

- A. Preparation and adoption of an annual budget, in which there shall be, established the contribution of each LOT OWNER to defray the common expenses.

- B. Making assessments to be paid by LOT OWNERS to defray the common expenses, including assessments for road maintenance for the ROADWAYS, establishing the means and methods of collecting such assessments and establishing the period of installment payments of the annual assessment.
  - C. Collecting the assessment, depositing the proceeds thereof in a bank depository that it shall approve, and using the proceeds to administer the ASSOCIATION.
  - D. Enforcing by legal means the provisions of the REWSTRICTIONS, DECLARATION or these BYLAWS, and the rules and regulations adopted by it and bringing any proceeding that may be instituted on behalf of or against the MEMBERS concerning the ASSOCIATION.
  - E. Removing officers of the ASSOCIATION, with or without cause, and filling vacancies which may occur.
- 4.3 MEETINGS.** The annual regular meeting of the BOARD shall be held without notice and immediately after and at the same place as the annual meeting of the MEMBERS. In addition, the BOARD may provide the time and place for the holding of additional regular meetings. Special meetings of the BOARD may be called by or at the request of the President or any two (2) directors. Three directors shall constitute a quorum.
- 4.4 VOTING.** Each director shall have one vote and the vote of a majority of the number of directors present at a meeting of which a quorum is present shall be the act of the BOARD. The member-at-large shall be a non-voting member of the BOARD, and mat vote only in the event of a tie vote of the other BOARD members.
- 4.5 INFORMAL ACTION.** Action taken by a majority of the directors without a meeting is nevertheless BOARD action if written consent to the action is question is signed by all the directors and filed in the Corporate Minute Book, whether done before or after the action is taken.

## ARTICLE 5- OFFICERS

**5.1 COMPOSITION AND ELECTION.** The officers of the ASSOCIATION shall consist of a President, Vice-President, Secretary, Treasurer, and Member-at-Large. Officers of the ASSOCIATION shall be elected at the annual regular meeting of the ASSOCIATION. Each officer shall hold office for two years; except that the member-at-large shall hold office for one year; or until his or her successor is elected and qualifies, whichever occurs first. There shall be no limit to the number of terms any serve if duly elected by the MEMBERS. Officers may be removed from office, with or without cause, by a majority vote of the BOARD. The BOARD shall fill any vacancy of any office.

**5.2 DUTIES.** The duties of officers shall be as follows:

- A. The president shall be the principal administrator and manager of the business and affairs of the ASSOCIATION, bound by the policies and procedures established by the BOARD. He or she may sign any contracts, checks, or other instruments, which the BOARD has authorized to be executed and in general, perform all duties incident to the office of President. The President shall prepare the agenda and preside over all meetings of the MEMBERS.
- B. The Vice-President shall serve the duties of the President in the absence of the President or in the event of the President's death, disability or refusal to act. The Vice-President shall also perform such other duties as, from time to time, are assigned to the Vice-President by the President of the BOARD.
- C. The Secretary shall prepare and keep the minutes of all meetings of the MEMBERS and of the BOARD. The secretary shall prepare and send notice to each MEMBER of a forthcoming meeting in accordance with bylaws. The secretary shall also perform any other duty which the BOARD may assign to the office of Secretary.
- D. The Treasurer shall have the following duties:
  - (1) To keep a list of all MEMBERS and the OWNERS of each LOT.
  - (2) To receive and record all assessments paid by MEMBERS.
  - (3) To receive and verify all bills and invoices, and prepare checks of payment therefore, to be signed by the President, or Vice-President in the absence of the President. Checks in the amount of four hundred (400) dollars or more shall require the signatures of both the President and Vice-President.
  - (4) To deposit all monies received by the ASSOCIATION in bank or banks selected by the BOARD and verify each bank statement sent to the ASSOCIATION.

(5) To perform any other duties which the BOARD may assign to the office of Treasurer.

E. The Member-at-large shall perform any duties which the President or the BOARD may assign.

#### **ARTICLE 6- INDEMNIFICATION**

6.1 The ASSOCIATION shall indemnify any director, officer, or former director for former officer of the ASSOCIATION against liabilities and reasonable litigation expenses, including attorney's fee's incurred by him or her in connection with any action, suit, or proceeding in which he or she is made or threatened to be made a party reason of being/or having been such director or officer, except in relation to matters as to which he or she shall be adjusted in such action, suit, or proceeding to have acted in bad faith or to have been liable or guilty by reason of willful misconduct in the performance of his or her duty. The BOARD may purchase and maintain insurance to provide for this indemnification.

#### **ARTICLE 7- FISCAL YEAR**

7.1 The BOARD shall have power and authority to fix the fiscal year of the ASSOCIATION. Unless the BOARD shall so fix the fiscal year, the fiscal year shall end on June 30, of each year.

#### **ARTICLE 8- AMENDMENTS**

8.1 These Bylaws may be amended or repealed and new Bylaws may be adopted only by the affirmative vote of a majority of the members of the association voting on the issues at either the Annual Meeting or at a Special Meeting, after being duly notified of the meeting and the vote by mail.

#### **ARTICLE 9- ASSESSMENTS**

9.1 There shall be two categories of assessments to be paid by the LOT OWNER to carry out the activities and functions of the ASSOCIATION. One category shall be an assessment to pay the cost of maintaining the ROADWAYS. The other category shall be an assessment for the cost of all other activities and functions of the ASSOCIATION. The BOARD shall establish the amount of each assessment to be paid by the LOT OWNER at the annual meeting of the BOARD. The BOARD may call a special meeting of the Directors for the purpose of increase g or decreasing an annual assessment if circumstances so indicate. The assessment shall be based on the budget adopted by the BOARD for the ensuing year at the annual meeting. A copy of the purposed budget shall be mailed to each MEMBER at least thirty (30) days prior to the annual meeting.



- 9.2** The assessments per LOT for maintenance of the ROADWAYS shall be calculated by dividing the budget cost by the number of LOTS, as defined in paragraph 2.4. The LOT OWNER of each LOT, his total assessment for maintenance of ROADWAYS shall be the calculated assessment per LOT multiplied by the number of LOTS which he owns.
- 9.3** The assessment per LOT OWNER for the cost of all activities and functions of the ASSOCIATION for the ensuing year other than the maintenance of the ROADWAYS shall be calculated by subtracting the budgeted cost of maintaining the ROADWAYS from the total budget for the ensuing year and dividing the result by the number of LOT OWNERS. Each LOT OWNER shall pay this assessment.
- 9.4** The assessments calculated under paragraph 9.2 and 9.3 shall be reduced by the amount, if any, of unspent funds remaining from the previous year, except the BOARD may choose to put aside any unspent funds and hold them for future repairs and maintenance of the ROADWAYS and or the water system. Monies retained for future repairs may not be used for regular ASSOCIATION expenses without the express vote of the BOARD.
- 9.5** The annual payment to be paid by each LOT OWNER to the ASSOCIATION is the sum of the amounts attributable to him under Paragraphs 9.2 and 9.3.
- 9.6** The BOARD shall establish the procedure, amount, and frequency of payments to be made by each LOT OWNER to the ASSOCIATION to satisfy his obligations under Paragraph 9.5.
- 9.7** The BOARD shall set the penalty for late payments. If a LOT OWNER fails to pay an assessment within 45 days of the date on which it is due and payable, the BOARD shall take whatever legal action is necessary to obtain the payment of the assessment.

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

### **EXHIBIT A**

The property encompassed by the Homeowners Association of Estates of Salisbury, Inc. is the subdivision known as the Estates of the Salisbury Subdivision in Henderson County, North Carolina Deed Book 727, Page 868 and in one plat recorded in the Registry of Deeds, Henderson County, North Carolina Deed Book 848, and Page 663.

Prepared by Michael T. Moore, Attorney

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

PROTECTIVE COVENANTS

KNOWN ALL PERSONS BY THESE PRESENTS that ESTATES OF THE SALISBURY, owned by FRANK W. KASEY and wife, ZELDA T. KASEY, hereinafter "Owner" does hereby covenant and agree with all persons, firms and corporations now owning or hereafter acquiring any lots in ESTATES OF THE SALISBURY, as shown on Plat recorded on Plat Slides 714 and 715, of the Henderson County Registry, that said lots are hereby subjected to the following restrictions as to the use thereof and said restrictions are to run with said property and every part thereof, by whomsoever owned, to-wit:

1. No building, fence, wall, satellite television receiver (either affixed to earth or portable) or other structure shall be erected, placed or altered on any lot until the proposed building plans, specifications, plot plans (showing the proposed location of such building or structure, drives and parking areas), and construction schedule shall have been approved in writing by the HOUSING RESTRICTION COMMITTEE, which shall be appointed by the owners of ESTATES OF THE SALISBURY hereinafter referred to as "THE COMMITTEE", and their respective successors and assigns. Refusal of approval of plans, location or specifications may be based by the Committee upon any ground, including purely aesthetic considerations which in the sole and uncontrolled discretion of the Committee shall deem sufficient. No alterations may be made in such plans after approval by the Committee is given except by and with the written consent of the Committee. No alterations in the exterior appearance of any building or structure shall be made without like approval by the Committee. One copy of all plans, specifications and related data shall be furnished the Committee for its records.

2. The exterior of all houses and other structures must be completed within one year after the construction of same shall have commenced except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergencies or natural calamities. Any such exceptions must be approved in writing by the Committee.

3. It is expressly understood that construction on any lot in the Subdivision must begin within twelve months of purchase of said property. Any exception must be approved in writing at the time of purchase by the Committee.

4. All lots are for single family residential purposes only. No building of structure intended for or adopted to business purposes, and no apartment house, double house, lodging house, rooming house, hospital, sanitarium, doctor's office, multiple family dwelling, or any other such related use of any nature whatsoever shall be erected, placed permitted or maintained on the lots herein described, or any part thereof, except as otherwise herein provided for. The main dwelling shall contain a minimum of 1400 square feet for a one story dwelling and 1800 square feet in case of a two story or split-

level house. Basements, unfinished attic space, other storage space, garages, carports, porches or other area not enclosed by the main structure shall not be considered floor space in meeting the above requirements. No outbuildings shall be erected without prior approval of the Committee. The Committee reserves the right, at its discretion, to refuse the square footage requirements as set out above.

5. No building shall be erected nearer than 20 feet from the front boundary line or said lot, nor 10 feet to any side street line, nor nearer than 15 feet to any adjoining property line, nor within any utility easements referred to in Paragraph 18 hereof, unless prior approval is obtained from the Committee. For purposes of the covenant, stoops, terraces, eaves, steps and open porches shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon any easement or right of way on any other lot. In the event of the unintentional violation of any of the building line restrictions herein set forth, the Committee shall have the right, with the mutual written consent of the owner or owners for the time being of the particular lot in question, to change the building line restrictions set forth herein.

6. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No animals whatsoever excepting domestic pets such as dogs, cats, or small animals shall be harbored on any lot. It is specifically understood that no dogs shall be permitted to run free. No hunting shall be allowed within the Subdivision or property included in ESTATES OF THE SALISBURY. No motorcycles, mini bikes, or motorized two-wheel vehicles shall be allowed other than duly licensed vehicles which are used exclusively for transportation purposes and then only in properly driven by a duly licensed operator, with it being further understood and agreed that such motorcycles, mini bikes, or motorized two-wheel vehicles shall be allowed to operate within ESTATES OF THE SALISBURY only upon the regularly platted roads.

7. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkempt condition of buildings grounds on such lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or specific area.

8. No sign of any kind shall be displayed to public view on any lot, except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder and/or architect to advertise the property during the construction and sales period. Nothing in this paragraph shall be construed to prevent the Subdivision from erection of entrance display signs designed to designate areas within the Subdivision including street signs.

9. Each lot owner shall provide space for off-street parking of at least two automobiles on said lot prior to the occupancy of any swelling. Parking on the streets of said Subdivision will not be permitted except during times when the normal parking facilities on the lot will not accommodate all the vehicles owned by persons visiting said

lot owners. Any driveway to be located on any lot shall be hard surfaced with concrete, blacktop or similar permanent hard surface.

10. No liquid waste of any description shall be drained, dumped or disposed of in any way into open ditches or water courses. Trash, garbage or other waste shall be kept in sanitary containers, hidden from view of adjoining property owners and streets until disposed of. No portion of any lot shall be used or maintained as a dumping ground for rubbish or any description.

11. Grass and weeds are to be kept down on all vacant lots to prevent any unsightly condition. This is an obligation of the owner and is to be done at his expense, with it being further understood and agreed that the Committee herein reserves the right to enter upon any lot or lots where grass and weeds present an unsightly and unsanitary condition and summarily abate and remove the same at the expense of the owner, with such action to be done at the sole discretion of the Committee and to not require any advance notice to be served upon the owner of such lot or lots.

12. No buildings shall be erected of exposed cement or exposed cinder blocks and no building shall be built where siding shall not consist of asbestos shingles or aluminum, nor shall there be any metal roofing on any structure. There shall be no prefabricated buildings placed upon said lots except prefabricated components of buildings such as window units, door units, roof trusses, cabinet units, etc., which shall be permitted. All homes constructed in the Subdivision shall be principally of brick, stone, or eight (8) inch wood siding or any other such material approved in writing by the Committee, its successors and assigns, reserve the right to modify the paragraph in its sole discretion.

13. No structure of temporary character shall be placed upon any lot at any time; however, this prohibition shall not apply to shelters used by a contractor during construction of a main dwelling house it being clearly understood that these latter temporary shelters may not, at any time, be used as a residence or permitted to remain on the lot after completion of construction. No trailer, mobile home, basement, tent, shack, garage or other outbuilding erected on these tracts shall be at any time used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence, nor shall any residence be moved onto a building lot in the subdivision. No dwelling house erected on any lot shall be occupied in any manner whatsoever while in course of construction, nor at any time prior to its being fully completed, as herein required.

14. Trucks, including pick-up trucks, recreational campers, boats and carriages for boats may be parked or stored on a lot only with the permission of the Committee, and then only in areas which are screened from the street and adjoining properties within the subdivision. The assembly or disassembly of a motor vehicle shall not be conducted upon any lot. No vehicle shall be parked without a valid licensed tag.

15. No fuel tanks or similar storage receptacle may be exposed to view, and may be installed only within the main dwelling house, within enclosed garage, or buried underground.

16. Electric power, telephone and cable television service to all structures on any lots shall be by underground cable or underground wires from the utility company's main underground cables or lines to said structures, if such be deemed feasible and practical by the owner. The owner of the ESTATES OF THE SALISBURY reserves the right to subject the real property herein described to a contract with the appropriate electric utility company 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 the utility company by the owner of each lot.

17. Outside clothes lines will not be permitted.

18. Easements for installation and maintenance of utilities, drainage facilities and other public conveniences are reserved as shown on the recorded plat above referred to. Within these easements, no structures, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and other public conveniences, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each lot and all improvements within said area 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 Owner of ESTATES OF THE SALISBURY reserves the right to create and impose additional easements or rights of way over lot or lots owned by it for street, drainage and utility installation purposes by recording of appropriate instruments and such shall not be construed to invalidate any of these covenants. The Committee shall have and is hereby granted the right to erect a perimeter fence and the Committee is hereby granted such rights of way and access as shall be reasonably necessary to construct and maintain such fence.

19. No other easements, right of way, or rights of access shall be deeded, granted or in any way given by lot owners to any other person, firm or corporation through and over any lot in this Subdivision, without the written permission of the Committee. In particular, no owner of a perimeter lot shall permit such lot to be used for access to or from any property not located within ESTATES OF THE SALISBURY without the express consent of the Committee. No lot shall be re-subdivided except as approved by the Committee.

20. Clear cutting of timber is prohibited. This includes the removal of any trees located within ESTATES OF THE SALISBURY without prior approval of the Committee.

21. Until such time as appropriate action is taken to turn the maintenance of streets in the herein described ESTATES OF THE SALISBURY over to the state, or over

governmental entity, or Homeowners Association, it shall be and hereby is the responsibility of the lot owners to maintain all streets adjoining their lot or lots in the said ESTATES OF THE SALISBURY. For the purposes hereof, lot owners shall include both purchasers of the said lots and the Owner of the ESTATES OF THE SALISBURY, as to those lots unsold.

22. All covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty (20) years from the date hereof, 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 lots affected by such covenants has been recorded, agreeing to amend or terminate said covenants in whole or part.

23. In the event of a violation or breach of any of these restrictions by any property owner, or agent, or agent of such owner, the Committee, Association, or the owner of any lot in the Subdivision, or any of them jointly or severally, shall have the right to proceed at law or inequity to compel a compliance in any event. In addition to the foregoing, the Committee its successors and assigns, shall have the right, whenever there shall have been built on any lot in the Subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the owner if after thirty (30) days written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction, or condition in this Declaration of Restrictions, however long continued, shall not be deemed a waiver of right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.

24. The invalidation by any court of any restriction or restrictions in the Declaration of Restrictions contained shall in no way affect any of the other restrictions contained herein, which shall remain in full force and effect.

25. In that it is contemplated that a Homeowners Association may be created for future purchasers and acquirers of those lots in the ESTATES OF THE SALISBURY, it is therefore expressly understood and agreed that any purchaser or acquirer of any said lot in the subdivision, by the acceptance of a Deed or Contract for any lot, agreed to and shall be a member of and subject to the obligations and duly and acted bylaws of any such Homeowners Association, when and if such is created. The right to create a Homeowners Association shall be in the sole and exclusive direction and control of the Owner. The Homeowner Association shall have the express right, power and authority to levy assessments, with aid assessments to be for the purpose of road maintenance, road repairs, road improvements, maintenance of common areas, maintenance of common road right-of-way areas, water system repairs, costs, and maintenance and improvements, and any other costs and expenses incurred by the said Homeowners Association. All such assessments shall automatically be a lien against the various lots sold to individual property owners within ESTATES OF THE SALISBURY. The property owner shall

fifteen (15) days from the time of assessment to pay and satisfy such liens and assessments, and the failure thereof shall give the Homeowner Association the full right to foreclose upon the said lien arising from the assessment, and in such an event any and all court costs and attorney fees shall be chargeable back to the non paying property owner. For any non pay accounts which are more than fifteen (15) days in default, the Homeowners Association shall have the right to charge and receive interest on such unpaid account, with said interest to be at the rate of four (4%) percent of the amount of the assessment. It is expressly understood and agreed that the owner, or owners, of ESTATES OF THE SALISBURY shall not be required to become a member of eth Homeowners Association or subject to the terms and conditions of the said Homeowners Association.

26. It is understood and agreed that the above said Homeowners Association shall be responsible for the management, upkeep, and maintenance and servicing of the water system of the ESTATES OF THE SALISBURY. It is further understood and agreed that the owner of the ESTATES OF THE SLAISBUIRY or, the Homeowner Association with the prior, express written permission of the owner, may transfer the ownership, operation and control of said water system unto another entity, and the said entity shall have the right to assess such fees and costs for water consumption as by law allowed.

27. For the purposes hereof the Owner of the ESTATES OF THE SALISBURY shall be Frank W. Kasey and wife, Zelda T. Kasey their heirs and successors and assigns, however specifically any purchaser or any lot or lots within the ESTATES OF THE SALISBURY sold in the normal course of business by the owner, with it being further expressly understood and agreed that any bulk purchaser or acquirer of lots should be deemed to be an "Owner". For the purposes hereof a "bulk purchaser" shall be defined as a purchaser of 33 1/3% or more of the total lots owned by Frank W. Kasey and wife Zelda T. Kasey at any one time. Should bulk purchaser purchase less than the entirety of the lots than owned by Frank W. Kasey, and wife Zelda T. Kasey, then both Frank W. Kasey and wife, Zelda T. Kasey, and any such bulk purchaser or bulk purchasers shall be deemed to be owners of the ESTATES OF THE SALISBURY.

28. It is hereby expressly understood and agreed that the Committee shall and does have the right to modify, amend or eliminate any of the terms and conditions of these Protective Covenants for any lot or lots in which title is vested in Frank W. Kasey, and wife Zelda T. Kasey and in pursuance thereof, it is expressly understood and agreed that such modifications, amendments or eliminations are to be at the sole and exclusive discretion of the Committee and does not require the approval or joinder of any other person, corporation or entity, expressly including any owner of any lot or lots in the ESTAES OF THE SALISBURY.

Witness the following signature and seals, this the 25 day of August, 1989.

Frank W. Kasey (SEAL)

Zelda T. Kasey (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, a Notary Public of said and county do hereby certify that Frank W. Kasey and wife, Zelda T. Kasey, personally appeared before me and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial seal, this the 25 day of August 1989.

Anne S Stewart  
NOTARY PUBLIC

My Commission Expires 10/17/92



**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**AMENDMENT TO  
PROTECTIVE COVENANTS**

THIS AMENDMENT TO PROTECTIVE COVENANTS is made this \_\_\_\_\_ day of January, 2003 by the HOMEOWNERS ASSOCIATION OF ESTATES OF THE SALISBURY, INC. (Association”).

**WITNESSETH:**

WHEREAS, CERTAIN Protective Covenants were recorded by Frank W. Kasey and wife, Zelda T. Kasey, creating certain restrictions, covenants, agreements, rights and duties affecting all of those lots shown on that plat of ESTATES OF THE SALISBURUY as recorded on Plat Slides 714 and 715, Henderson County Registry, and Protective Covenants being recorded in Deed Book 744, at page 51, Henderson County Registry; and

WHEREAS, pursuant to such protective Covenants, Frank W. Kasey and wife, Zelda T. Kasey incorporated the Association pursuant to the provisions set forth in paragraph 25 of the above-referenced Protective Covenants; and

WHEREAS, The Association has hereto amended paragraph 12 of the Protective Covenants by instruments dated June 22, 1999, and recorded in Deed Book \_\_\_\_, Page \_\_\_\_, Henderson County Registry; and

WHEREAS, the Association desires to amend a paragraph 12 of the Protective Covenants, to remove the wording included in the June 22, 1999 amendment referenced hereinabove; and

WHEREAS, the above-referenced Protective Covenants provide for a “Committee” to be appointed by the “Owner” (originally Frank W. Kasey and Zelda T. Kasey); and

WHEREAS, the original above-referenced “Owners” have conveyed to the Association all rights, duties, and responsibilities for appointment of the “Committee” described in the Protective Covenants; and

WHEREAS, paragraph 12 of the said Protective Covenants specifically delegates to the “Committee”, its successors and assigns “the right to modify said paragraph 12, in its sole discretion”; and

WHEREAS, the Association has delegated original “Committee” responsibilities, rights, and duties unto the Association Board of Directors, who in turn has designated the president of the Association as the “Committee”;

NOW THEREFORE, the Association, on behalf of itself, and each and every present or future lot owner in the above-described subdivision known as "Estates of the Salisbury" covenant and agree as follows:

1. That paragraph 12 of the Protective Covenants recorded in Deed Book 744, at page 51 Henderson County Registry, as amended, be further amended to delete the following sustenance at the end of the paragraph(which sentence was added in the prior amendment):

"Notwithstanding anything else in this paragraph 12 to the contract, modular construction of residences upon; lots within the subdivision shall be permitted, but such modular construction must meet both of the following construction standards: 1) the North Carolina State Building Code for residential construction, and 2) any such dwelling constructed may not have any permanent steel frame as part of it's permanent construction."

2. Except as amended pursuant to this Amendment to Protective Covenants, all of the Protective Covenants set forth in Deed Book 744, Page 51, Henderson County Registry shall remain in full force and effect.

This 7<sup>th</sup> day of January 2002.

**HOMEOWNERS ASSOCIATION OF ESTATES OF THE SALISBURY. INC.**

Attest: \_\_\_\_\_  
Elaine Maciorowski, Secretary

By: \_\_\_\_\_  
Cary Galloway, President

(Corporate Seal)

Board of Directors

By: \_\_\_\_\_ (Seal)  
Cary Galloway, Director and "Committee"

By: \_\_\_\_\_ (SEAL)  
Elaine Maciorowski, Director

By: \_\_\_\_\_ (SEAL)  
Joel Hoover, Director

By: \_\_\_\_\_ (SEAL)  
Tim Brewer, Director

By: \_\_\_\_\_ (SEAL)  
Hue Collins, Treasurer

State of North Carolina Henderson County.

I, a Notary Public of the County and State aforesaid, certify that Elaine Maciorowski personally came before me this day and acknowledged that she is Secretary of Homeowners Association of Estates of the Salisbury, Inc., a North Carolina Non-profit Corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by her as its Secretary. Witness my hand and official stamp or seal, this 7 day of January 2002

My commission expires 10/27/2006

\_\_\_\_\_ Notary Public  
Lucia Cruz

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

I, Lucia Cruz, a Notary Public for said County and State, certify that Cart Galloway, Elaine Maciorowski, Joel Hoover and Tim Brewer each a Director of the Homeowners Association of the Estates of the Salisbury, Inc. and Cary Galloway being he "Committee; referred to in Deed Book 744, at Page 51, Henderson County Registry, personally came before me this day and acknowledge the due execution of the foregoing instrument in writing by himself or herself for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this the 7<sup>th</sup> day of January, 2002

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

My Commission Expires: 10/27/2006

North Carolina, Henderson County The foregoing certificate(s) of Lucia D. Cruz Notary Public and certified to be correct, this instrument presented for registration and recorded in this office this 5<sup>th</sup> day of March, 2003 at 8:50am in book 1092, page 6

\_\_\_\_\_  
Register of Deeds

\_\_\_\_\_  
Deputy

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

**AMENDMENT TO  
PROTECTIVE COVENANTS**

**THIS AMENDMENT TO PROTECTIVE COVENANTS is made this 22<sup>nd</sup> day of June, 1999 by the HOMEOWNERS ASSOCIATION OD ESTAES OF THE SALISBURY, INC. (Association”).**

**WITNESSETH:**

WHEREAS, certain Protective Covenants were recorded by Frank W. Kasey and wife, Zelda T. Kasey, creating certain restrictions, covenants, agreements, rights and duties affecting all of those lots shown on that plat of ESTATES OF THE SALISBURY as recorded on Plat Slides 714 and 715, Henderson County Registry, said Protective Covenants being recorded in Deed Book 744, a t page 51, Henderson County Registry; and

WHEREAS, pursuant to such Protective Covenants, Frank W. Kasey and wife, Zelda TR. Kasey incorporated the Association pursuant to the provisions set forth in paragraph 25 of the above-referenced Protective Covenants; and

WHEREAS, the Association desires to amend a paragraph set forth in the said Protective Covenants, namely paragraph 12 regarding the type and character building construction and materials allowed to be located on lots within the subdivision; and

WHEREAS, the above-referenced Protective Covenants provided for a “Committee” to be appointed by the “Owner” (originally Frank W. Kasey and Zelda T. Kasey); and

WHEREAS, the original above-referenced “Owners” have conveyed to the Association al rights, duties, and responsibilities for appointment of the “Committee” described in the Protective Covenants; and

WHEREAS, paragraph 12 of said Protective Covenants specifically delegates to the “Committee” its successors and assigns “the right to modify said 12, in its sole discretion; and

WHEREAS, the Association has delegated original “Committee” responsibilities, rights, and duties unto the Association Board of Directors, who in turn has designated the president of the Association as the “Committee”.

NOW THEREFORE, the Association, on behalf of itself, and each and every present or future lot owner in the above-described subdivision known as “Estates of the Salisbury” covenant and agree as follows:

1. That paragraph 12 of the Protective Covenants recorded in Deed Book 744, at Page 51 Henderson County Registry, be amended to add to following sentence at the end of the paragraph:

“Notwithstanding anything else in this Paragraph 12 to the contrary, modular construction of residence upon lots within the subdivision shall be permitted, but such modular construction must meet both of the following construction standards: 1) the North Carolina State Building Code for residential construction, and 2) any such dwelling constructed may not have any permanent steel frame as part of it’s permanent construction.”

2. Except as amended pursuant to this Amendment to Protective Covenants, all of the Protective Covenants set forth in Deed Book 744, Page 51, Henderson County Registry shall remain in full force and effect.

THIS THE 22<sup>ND</sup> DAY OF June, 1999.

HOMEOWNERS ASSOCIATION OF ESTATES OF THE SALISBURY, INC.

Attest: \_\_\_\_\_  
Doris Abramson, Secretary

BY: \_\_\_\_\_  
Julie Uzelac, President

(Corporate Seal)

Board of Directors:

BY: \_\_\_\_\_ (SEAL)  
Julie Uzelac, Director and “Committee”

BY: \_\_\_\_\_ (SEAL)  
Doris Abrmson, Director

BY: \_\_\_\_\_ (SEAL)  
Bob Moore, Director

BY: \_\_\_\_\_ (SEAL)  
Larry Rhodes, Director

State of North Carolina Henderson County.

I, a Notary Public of the County and State aforesaid, certify that Doris Abramson personally came before me this day and acknowledge that she is Secretary of Homeowners Association of Estates of the Salisbury, Inc., a North Carolina Non-profit Corporation amend that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by her as its Secretary Witness my hand and official stamp or seal, this 22 day of, June 1999.

My commission expires 04/03/2001

R Ann McKinney Notary Public

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

I, R Anne McKinney, a Notary Public for said County and State, certify that Julie Uzelac, Larry Rhoades, Doris Abramson and Bob Moore each a Director of the Homeowners Association of the Estates of the Salisbury, Inc. and Julie Uzelac being the "Committee" referred to in Deed Book 744, a t Page 51, Henderson County Registry, personally came before me this day and acknowledged the due execution of the foregoing instrument in writing by himself or herself for the uses and purposes therein set forth.

My Commission Expires: 04/23/2001

North Carolina, Henderson County.

The foregoing certificate(s) of

R. Ann McKinney

Notary Public and certified to be correct this instrument presented for registration and recorded in this office this 25 day of June , 1999 at 11:30am in Book 992, page 203

\_\_\_\_\_  
Register of Deeds

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