

PREPARED BY: The Board of Directors of the Oliver's Landing Owner's  
Association, Inc.

STATE OF NORTH CAROLINA  
COUNTY OF ALEXANDER

CONSOLIDATION OF  
DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR  
OLIVER'S LANDING  
WITH SUPPLEMENTS AND  
AMENDMENTS

The DECLARATION OF COVENANTS AND RESTRICTIONS FOR OLIVER'S LANDING, consisting of the Original 1988 Declaration, as amended by its 14 amendments and supplements, and the amendments adopted at the Oliver's Landing Owner's Association, Inc. held on **February 25, 2010**, herein referred to as the "DC & Rs", that were all recorded in the Registry of Deeds, Alexander County, North Carolina, are hereby consolidated and restated into one document entitled "CONSOLIDATION OF DECLARATION OF COVENANTS AND RESTRICTIONS FOR OLIVER'S LANDING WITH SUPPLEMENTS AND AMENDMENTS", which Consolidation amends and replaces all prior Declarations and Covenants, amendments and supplements, and the amendments passed on February 25, 2010. This compilation consists of, consolidates, restates, and replaces the following recorded documents:

1. Declaration of Covenants and Restrictions for Oliver's Landing, dated April 1, 1988, and recorded June 14, 1988, in Book 0288, pages 379 to 388, made by Larrick Development, a North Carolina General Partnership, known herein as "Developer";
2. First Amendment to Declaration of Covenants and Restrictions For Oliver's Landing, dated October 11, 1988, and recorded December 12, 1988, in Book 0292, page 274;
3. Supplemental Declaration of Covenants and Restrictions for Oliver's Landing, Phase II, dated January 4, 1994, and recorded January 5, 1994, in Book 358, pages 1548 & 1549;

4. Developer's Certification, dated May 15, 1995, and recorded May 16, 1995, in Book 368, page 0700;
5. Supplemental Declaration of Covenants and Restrictions for Oliver's Landing, Phases III, IV, & VI, dated April 15, 1996, and recorded April 18, 1996, in Book 374, page 0193;
6. Supplemental Declaration of covenants and Restrictions for Oliver's Landing, Phase III, IV, VI and VII, dated May 1, 1996, and recorded May 9, 1996, in Book 374, page 1668;
7. Supplemental Declaration of Covenants and Restrictions for Oliver's Landing, Phase V-A & VII, dated December 9, 1997, and recorded December 30, 1997, in Book 0387, page 1255;
8. Restrictive Covenants for Oliver's Landing, Phase V, dated March 4, 1998, and recorded March 10, 1998, in Book 389, pages 0345 to 0347;
9. Amendment to Declaration of Covenants and Restrictions for Oliver's Landing, dated May 12, 1999, and recorded May 18, 1999, in Book 0400, page 2448 & 2449;
10. Supplemental Declaration of Covenants and Restrictions for Sewage Transfer System Serving Oliver's Landing, dated April 20, 2001, and recorded April 23, 2001, in Book 0419, pages 0967 to 0969;
11. Supplemental Declaration of Covenants and Restrictions for Establishment of An Architectural Review Committee Serving Oliver's Landing, dated April 29, 2002, and recorded May 1, 2002, in Book 0434, pages 0066 to 0068;
12. Supplemental Declaration of Covenants and Restrictions for Oliver's Landing, Phase 9, dated January 15, 2004, and recorded January 15, 2004, in Book 0463, pages 1843 & 1844;
13. Supplemental Declaration of Covenants and Restrictions for Oliver's Landing, Phase 9A, dated March 29, 2005, and recorded March 30, 2005, in Book 0480, pages 0878 & 0879; and
14. Amendments to the "Declaration of Covenants and Restrictions for Oliver's Landing" Recorded in Book 288 at page 379, Alexander County Registry (The Declaration), dated May 15, 2006, and recorded September 11, 2006, in Book 0499, pages 1502 to 1505.
15. All of the amendments to these Declaration of Covenants and Restrictions for Oliver's Landing, passed by the lot owner members of the Oliver's Landing Owners Association, Inc., dated February 26, 2009, and recorded March 16, 2009, in Book 529, pages 0365 through 0374.

16. All of the amendments to these Declaration of Covenants and Restrictions for Oliver's Landing, passed by the lot owner members of the Oliver's Landing Owners Association, Inc., dated February 25, 2010, and recorded March 1, 2010, in Book 538, pages 1485 through 1503.

THIS CONSOLIDATED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS, with all Supplements and Amendments incorporated herein to this date, (the "Declaration") is made this 25<sup>TH</sup> day of February, 2010 by the OLIVER'S LANDING OWNER'S ASSOCIATION, INC., a North Carolina non-profit corporation, hereafter referred to as "OLOA".

### **STATEMENT OF PURPOSE**

OLOA and its members are the fee simple owners of certain real properties located in Wittenburg Township, Alexander County, North Carolina, named "Oliver's Landing", a residential community, a part of which was and will be developed for single family residential lots.

The DC & Rs are for the use and benefit of the OLOA, its members, itself, its successors and assigns, and for future property owners, and is for the preservation and protection of values and to ensure the attractiveness of all properties within Oliver's Landing. All real property in Oliver's Landing is subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, all of which are for the benefit of said property and each owner thereof.

OLOA is an organization of property owners which has the powers of owning, maintaining and administering any common areas in Oliver's Landing; purchasing, leasing or otherwise providing for common recreational facilities and private community security services; administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values of property and amenities serving Oliver's Landing.

NOW, THEREFORE, OLOA, and its members, their successors and assigns, and for all its future grantees, their heirs, successors and assigns, declare that the real property described herein is and shall be owned and conveyed subject to this Declaration. This Declaration shall apply to those lots in Oliver's Landing more specifically described as:

All of the numbered lots and common areas appearing on the maps of Oliver's Landing, which plats, as amended, are recorded in the Office of the Register of Deeds of Alexander County, State of North Carolina, as follows:

1. Phase I, which plats are recorded in Plat Book 5, at Pages 60 and 60A; 65

(revision of Lot 7, plat states sheet 2 of 2, in fact only 1 sheet); 70 (revision of several lots, states sheet 2 of 2, in fact only 1 sheet); 85 (revision of Lots 36, 37 and 38, states sheet 2 of 2, in fact only 1 sheet); 86 (states sheet 1 of 2, in fact only 1 sheet); 222 (revision of Lots 55 through 58 and Lot 63, sheet 2 only); 242 (revision of Lots 20 through 23); 249 (revision of Lots 59 through 64); and in Plat Book 6, at Page 10 (revision of Lot 60) and Page 35 (Boundary Adjustment to Correct Right of Way).

2. Phase II, which plats are recorded in Plat Book 5, at Pages 154 (4 sheets), and at Pages 173 (revision of Phase II, 4 sheets; and in Plat Book 6, at Page 19 (revision of Lots 64, 65 and 66).
3. Phase III, which plat is recorded in Plat Book 5, at Pages 183, and 213 (revision of Lots 6 and 7).
4. Phase IV, which plat is recorded in Plat Book 5, at Pages 184.
5. Phase V, which plate is recorded in Plat Book 5, at Page 243.
6. Phase V-A, which plat is recorded in Plat Book 5, at Page 219.
7. Phase VI, which plat is recorded in Plat Book 5, at Page 202.
8. Phase VII, which plat is recorded in Plat Book 5, at Page 206; and in Plat Book 6, at Page 6 (revision of Lots 5, 7 and 8).
9. Phase IX, which plat is recorded in Plat Book 9, at Page 011.
10. Phase IX-A, which plat is recorded in Plat Book 9, at Page 205.

## **ARTICLE I DEFINITIONS**

Section 1. “Association” shall mean and refer to OLIVER’S LANDING OWNER’S ASSOCIATION, INC., a North Carolina non-profit corporation, it successors and assigns.

Section 2. “Common Areas” shall mean the lots used for recreational purposes including Lots Nos. 31, 32, and 33 and all roads and streets shown on the recorded plats and not otherwise maintained by public authority. Also included are all street lights in non-publicly maintained streets and roadways located on the real property owned by Developer by virtue of the Deed recorded in Book 279 at Page 562, Alexander County Registry, or owned by OLOA.

Section 3. “Developer” shall mean and refer to LARRICK DEVELOPMENT or its successors and assigns of any portions of the lands for future development.

Section 4. “Development” shall mean and refer to Oliver’s Landing, a development proposed to be and developed on the Properties by the Declarant.

Section 5. “Lot” shall mean and refer to any plot of land, with delineated boundary lines, appearing on the Maps with the exception of the Common Area. The term “Improved Lot” shall mean any lot upon which has been constructed any house or other dwelling and for a Certificate of Occupancy has been issued by the appropriate governmental authority. The term “Unimproved Lot” shall refer to any Lot which is not an Improved Lot.

Section 6. “Maps” shall mean and refer to maps of the Properties as recorded (either now or hereafter) in the Alexander County, North Carolina Public Registry.

Section 7. “Member” shall mean and refer to all Lot Owners, and to every other person or entity that holds membership in the Association.

Section 8. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot including the Developer if it owns any Lot and including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. “Properties” shall mean and refer to the properties which are now or may hereafter be made subject to this Declaration and brought within the jurisdiction of the Association.

## **ARTICLE II USE RESTRICTIONS**

Section 1. All numbered lots appearing on the maps of Oliver’s Landing, as set forth in items 1 through 10 in the Statement of Purpose hereinabove, shall be known and described as residential lots, and no part of said residential lots shall be used for any type of business or store, or street. No structure shall be erected, altered, placed, or permitted to remain on any residential lot other than one detached single-family dwelling and permitted accessory buildings. These restrictions shall apply to that property defined herein as residential lots.

Section 2. No residential lot shall be re-subdivided so as to create an additional building lot. Where a residence has been erected on a plot consisting of more than one lot, said plot shall not thereafter be sold separately or re-subdivided, if such sale or re-subdivision would result in a violation of the zoning laws of Alexander County or other governmental body then having zoning jurisdiction over said lots, or a violation of these covenants; and, in such case said plot shall be treated as one Improved Lot for purposes of assessments under Article III, Section 5(b) of this Declaration. In the event a residence is built on one or more lots or one and a portion of another lot, the outside boundaries of

the newly created lot shall then be subject to the easement and setback requirements as set out herein.

If an owner legally consolidates two or more lots or parcels into one lot or plot, then said plot shall be treated as one lot for purposes of assessments under Article III, Section 5(b) of this Declaration. If the owner later legally re-subdivides the plot back into two or more lots or parcels, then the owner shall pay the assessments on each lot or parcel retroactive to the date that the lots or parcels were consolidated.

Section 3. Unattached garages constructed in accordance with these DC & Rs would be allowed only with a main dwelling on an Improved Lot. No free-standing basements, mobile homes, trailers of any kind, semi or semi trailers, shell homes, campers, tents, shacks, or recreational vehicles shall be erected, placed, or allowed to remain on any Lot. Long term or permanent storage of utility trailers, boats, boat trailers, marine trailers, personal watercraft, personal watercraft trailers, ATVs, campers or recreational vehicles are permissible on Improved Lots, only, when provision is made to assure they are not visible from the street or lake. Otherwise, boats, boat trailers, utility trailers, personal water craft, personal water craft trailers, ATV's, marine trailers, campers, or recreational vehicles are only permissible on any Improved Lot, temporarily for up to two (2) weeks in any twelve (12) month period. Loading of travel trailers or campers is allowed as long as it is limited to no more than 72 hours per trip.

Section 4. No trade or business, and no noxious or offensive activities shall be carried on upon any residential lot or tract, nor shall anything be done thereon which may become an annoyance or a nuisance to the neighborhood. No livestock, poultry, or animals, other than household pets, may be kept on this property.

Section 5. Except in Phase V, a single-story residence shall contain not less than 2,000 square feet of heated floor space. A two-story residence shall contain not less than 2,400 square feet of heated floor space. A split-foyer or split-level residence erected shall contain not less than 2,000 square feet of heated floor space, not to include that heated floor space located under another floor below front street level. In Phase V, a single-story residence shall contain not less than 1,585 square feet of heated floor space and any two-story or multi-story residence shall contain at least 1,585 square feet of heated floor space on the main floor. Heated floor space is exclusive of enclosed or unenclosed breezeways and porches including porches enclosed only by wire screening; exclusive of the attic, garage, and storage areas above front street level; and exclusive of any garage and finished or unfinished basement areas and storage areas (whether heated or unheated) below the front street level entrance.

Section 6. No sign of any kind may be displayed to the public view on any residential lot, except one sign not more than five square feet advertising the property for sale or rent, or a sign used by a builder, or material supplier, to advertise the property or materials during the construction and sale. Home alarm system signs are permitted.

Section 7. No lot shall be used or maintained as a dumping ground for rubbish, or as a storage area for junk automobiles. All trash, garbage, or other waste, shall be kept in sanitary containers, which are either underground or which are stored out of view from the front of the property by an enclosure at least 12” higher than the container or containers. The owner or general contractor of a residence, during construction, shall be required to maintain at all times a dumpster containing not less than 6 cubic yards of space, for the purpose of depositing all trash which could potentially pose a health or safety hazard, or all trash which could potentially be carried by wind to an adjacent lot.

Section 8. Outside clothes lines will not be permitted on any of the lots. All storage tanks, which shall include gas bottles and swimming pool filtration equipment, and hot tubs, shall be either underground or surrounded by an enclosure at least 12” higher than the equipment or hot tub. Above ground swimming pools, of a permanent or semi-permanent type, are prohibited. Compost devices or bins must be surrounded by an enclosure at least 12” higher than the device or bin.

Section 9. (a) The exterior walls of all buildings constructed or located on the residential lots shall be of brick, stone, stucco, or cement board, and any combination thereof. No asbestos shall appear above ground level. No cement block, cinder block, or poured concrete walls shall appear above ground level, unless stuccoed with at least 1/8” thick coating material.

(b) Materials used in conjunction with the exterior, such as gables, dormers, cupolas, shutters, soffits and decorative areas must be approved by the Architectural Review Committee and by the Board of Directors prior to construction.

(c) No metal buildings or log houses whatsoever shall be permitted. In Phase V, no accessory buildings or structures of any kind are allowed.

Section 10. No building materials shall be stored on any lot except for the purpose of construction on such lot, and shall not be stored on such lot for longer than the length of time reasonably necessary for the construction in which the same is to be used.

Section 11. The owners of all Improved Lots shall be required to maintain their lots in such a manner that the undergrowth or grass remains less than 12” in height. Rocks used for drainage or landscaping that can be seen from the street cannot be rip rap rock, but must be decorative or river rocks.

Section 12. No fence or gate shall be erected or placed any closer to the front property line than the front line of the home constructed on the lot. All fences, gates or walls constructed, erected, or placed on any Lot shall be constructed of brick, wrought iron, wrought aluminum or stone or any combination thereof. No other fence material is permitted.

Section 13. No satellite dish, radio or TV antenna, or other similar structure shall be erected, placed or permitted to remain closer to the front property line than the front of the home. The location of all satellite dishes, radio or TV antennas, or similar structures shall be approved by the Developer and subsequently by the Association as herein

provided, and shall be screened, if possible, so as not to be visible from the street. No antenna shall extend in height more than 5' above the highest point of the residence to be constructed.

Section 14. All drives and walks shall be constructed from concrete, brick or flagstone concreted in place. Asphalt driveways are not permitted.

Section 15. All mailboxes shall be located in height and distance from the street, in accordance with the applicable rules of the United States Post Office in force at the time of construction. Except in Phase V, all mailboxes shall be of a breakaway type approved by the North Carolina Department of Transportation as called out in the North Carolina Administrative Code (NCAC) 19A NCAC 2E-0404. These Mailboxes shall be housed completely, except for the opening, and shall be of similar appearance to that of the primary material on the front of the house. In Phase V, all mailboxes shall conform to those used in the existing homes, now being a black metal box and paper holder with scroll work.

Section 16. In addition to any easements shown on the recorded plat, the Developer, now OLOA, reserved a 10-foot easement along the front of all lots for any future utility needs, such as electrical, water, sewer, telephone, gas, or cable TV. The Developer, now OLOA, reserved a 10-foot easement along the rear of all lots for the same purposes mentioned above, except for those lots which abut the waterfront, which exception does not apply to Phase V. The Developer, now OLOA, reserved a 5-foot easement along the sidelines of all lots for the same purposes mentioned above, and reserves a 10-foot easement along the sidelines of the street side of all corner lots, for the same purposes mentioned above.

Section 17. All homes and all other buildings, other than boat storage facilities located at the waterfront, which exception to boat storage facilities located at the waterfront does not apply to Phase V, shall be constructed in accordance with the zoning ordinance of the County of Alexander, and shall be constructed at least 35 feet from the front property line, 10 feet from either side property line, 15 feet side property line at side street, and 30 feet from the rear property line, provided the property conforms to the Alexander County requirements of R-20 residential and is served by public water and public sewer. In Phase V, properties not served by both public water and public sewer shall have the following setback requirements: 40 feet from the front property line, 15 feet from either side property line including side lines at street intersections, and with a rear yard requirement of 40 feet.

Lot number 86 is a five sided lot, and for the purposes of the rear setback line, the Developer had certified that the line having a length of 75 feet is the rear lot line and not the line which has 190 feet and which is considered to be a side yard line.

Section 18. The owner of a lakefront lot shall be entitled to construct a boat storage facility in accordance with the restrictions set forth below:

- A. Boathouse – a boathouse is defined as a roofed structure not extending past the shoreline used for the purpose of boat storage. A boathouse must be no more than one story; however, an open deck on top with a railing not more than 36” in height is allowed. The maximum permissible size of a boathouse shall be 600 square feet. The boathouse must be constructed from materials compatible with the exterior of the residence built, or to be built on the lot, and also must be built in accordance with ARTICLE II, Section 9 above. A boathouse shall have operable doors for all boat entrances. In the case where a boathouse does not have a deck above, the roof must be built from materials identical with the roofing materials used in the residence constructed, or to be constructed, on the Lot.
- B. Boat Slip or Pier – a boat slip or pier is defined as a structure (either floating or permanently anchored to the ground) which extends past the shoreline over water. The owner of a residential lakefront lot shall be entitled to one boat slip, pier, or combination. This boat slip or pier shall be constructed in strict accordance with the Private Facility Guidelines as published by Duke Power Company. All boat slips and piers must be constructed of a material that will withstand water damage, such as pressure treated lumber or creosote treated lumber. No boat slip or pier shall be enclosed on the sides. A boat slip may have an open deck on top with a railing not more than 36” in height. In the case where a boat slip does not have deck above, a roof may be built only by using materials identical with the residence constructed, or to be constructed, on the lot. All boat slips and piers shall be kept and maintained in such a manner that they are aesthetically pleasing. This section does not apply to Phase V.

Section 19. Seawalls. To assure a prestigious lakefront appearance, a durable seawall, if practicable, will be required for all lakefront property owners of Oliver’s Landing. The seawall for each lot shall connect with the seawall or seawalls of adjoining lakefront lots.

Lot owners will be required to construct a seawall within twelve (12) months after closing the purchase of a lakefront lot or lots in Oliver’s Landing.

To provide an image of development unity the seawall shall be of a construction of a designer wood wall with a layer of granite riprap at the wall base.

Section 20. All free standing garages and all garages constructed as a part of any residence shall be enclosed and shall have garage doors. Car-ports of any type are prohibited.

Section 21. No streets of any type shall be allowed on any numbered lot in Oliver’s Landing for the purpose of ingress, egress, or regress to any real property adjoining Oliver’s Landing.

Section 22. As to Phase V, within this Section of Oliver's Landing, i.e., Phase V, the Developer has approved four (4) plans for residences and any one of the four (4) plans must be used in constructing a residence in this Phase V. Any changes to the selected floor plan must be approved by the Developer.

Section 23. As to Phase V, the conveyance of these lots shall be subject to an easement for ingress, egress and regress over the rear 30 feet of the above described property for any golfer to retrieve an errant golf ball, and, in addition, no fencing shall be allowed within the 30-foot rear area and no trees 4" or larger shall be cut, and this easement and restriction shall run with the land so long as the golf course adjoins this property. Lots 17, 18 and 19 are exempt from this restriction No. 23 easement.

Section 24. As to Phase V, Developer shall have the right to grant relief from compliance with these restrictive covenants in the construction of any residence provided Developer deems such violations of these restrictive covenants to be minor or shall deem same as an interpretation of all restrictive covenants governing Oliver's Landing.

Section 25. Any trees, shrubs, or roots taken out of the ground on any lots, improved or unimproved, must be removed within 3 weeks.

Section 26. (Left blank for future use)

Section 27. Permitting Dogs to Run at Large. Penalty. Liability for Damage. No person shall allow his or her dog to run at large in the Oliver's Landing Community; or on anyone else's property.

All dogs, while on OLOA common properties or facilities, must be held or restrained by a leash by the owner of the dog, or by another person with the dog owner's permission.

Any person with a dog or other pet in his or her possession or under his or her control in the OLOA Community shall be responsible and liable for the conduct of the animal, shall carry equipment for removing feces, and shall place feces deposited by such animal in an appropriate receptacle. That receptacle shall be disposed of at their own home.

Any person intentionally, knowingly, and willfully violating this section shall be subject to a fine of at least \$50 per occurrence, and shall also be liable in damages to any person injured or suffering loss to his property or chattels.

The enforcement and collection of any fines under this rule shall be in the same manner as the enforcement and collection of the Association assessment.

**ARTICLE III**  
**COVENANTS FOR MAINTENANCE AND SECURITY ASSESSMENTS**

Section 1. Responsibility for Maintenance and Security Services.

The Association shall be responsible for providing the services set forth in Section 2 below and for collecting the assessments set forth in this ARTICLE.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used as follows:

- (a) to maintain all street lights and all roads constructed within the Development to the standard that such roads were in at the time of their original completion, such maintenance and repair to continue until such roads are publicly maintained;
- (b) to maintain all landscaping in the Common Areas in a manner consistent with the overall appearance of the Development.
- (c) to provide such private security services as may be deemed reasonably necessary by this Association for the protection of the Common Areas and all Lots from theft, vandalism, fire and damage from animals;
- (d) to provide through lease or otherwise recreational facilities;
- (e) to pay all ad valorem taxes levied against the Common Areas and any property owned by the Association.
- (f) to pay the premiums on all hazard insurance carried by the owner of the Common Areas and all public liability insurance carried by the Association pursuant to its By-Laws;
- (g) to pay all legal, accounting and other professional fees incurred by the Developer or the Association in carrying out the duties as set forth herein or in the By-Laws.
- (h) to operate and maintain the sewer system serving the entire Oliver's Landing community until such time as the operations of the sewer system shall be taken over and assumed by public authority. Such sewer system shall be considered common area for the benefit of the members and others.

Section 3. Creation of the Lien and Personal Obligation for Assessments.

Each Owner by acceptance of a Deed for one or more Lots in the Development covenants and agrees with the Developer and the other Lot Owners to pay annual assessments in such amounts as may be necessary to provide for the services as set out in Section 2 of this ARTICLE and to pay other charges and special assessments for capital

improvements as the same may be established and collected as hereinafter provided. The Developer is not required to set out this covenant and agreement in any Deed conveying any Lot in the development. Any such assessments or charges, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment and charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot when the assessment is due. The personal obligation for delinquent dues and charges shall not be a personal obligation of the successor in title to the Owner when such assessment and charge is made unless the successor Owner expressly assumes the obligation; however, such assessments and charges, together with interest, costs and reasonable attorney's fees shall continue to be a lien against any Lot even though the Owner may have transferred such Lot to a successor Owner.

Section 4. Special Assessments for Capital Improvements and Emergencies.

In addition to the annual assessments authorized above, the Developer, or after conveyance of the Common Area, the Board of Directors of the Association, may levy in any year, a special assessment applicable to that year, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repairs or replacement of a capital improvement upon the common Area, including fixtures and personal property related thereto, and the common roadways serving the Development or for the purpose of meeting any unanticipated expenses related to the Common Areas. However, such special assessments may be levied only after obtaining the written consent of the Owners of at least 51% of the aggregate number of Lots then subject to the Declaration, exclusive of any Lots owned by the Developer.

Section 5. Assessment Rate.

(a) Both annual and special assessments shall be fixed at a uniform rate for all Unimproved Lots. Both annual and special assessments shall be fixed at a uniform rate for all Improved Lots.

(b) The amount of the aggregate annual assessments for each year shall be the amount necessary to fund the expenses described in Section 2 of this ARTICLE. During the first year after the commencement of the annual assessment against the first Lot for which such assessment is made as provided in Section 6 of this ARTICLE. The maximum annual assessment shall be \$100.00 per unimproved Lot and \$200.00 per improved Lot. For each calendar year thereafter, the maximum annual assessment may be increased by up to 20% of the prior year's maximum annual assessment by the appropriate assessing authority as set forth in Section 1 of this ARTICLE. If the annual assessment is not increased annually by the maximum amount permitted as herein set out, the difference between the actual increase made and the maximum increase permitted for that year shall be computed and can be assessed by the Board of Directors of the Association in any future year by the appropriate assessing authority as set forth in Section 1 of this ARTICLE. In addition to assessing such percentage not used in any previous assessment year, the Board of Directors of the Association shall continue to have the right to increase the assessment by 20% per year of the previous amount charged. Assessments shall be determined on a calendar year basis covering the period

from January 1 through December 31. Therefore, to be an Improved Lot, such Lot must have an occupied home as of January 1.

(c) Any increases in the annual assessment in excess of that permitted in Subsection (B) of this Section may be levied only after obtaining the written consent of the Owners of at least 51% of the aggregate number of Lots then subject to the Declaration, exclusive of any Lots owned by the Developer.

Section 6. Date of Commencement of Annual Assessment: Due Dates. The annual assessment provided for herein shall commence on April 1, 1998 for each Lot. The annual assessment shall be determined on a calendar year basis for the period January 1 through December 31 of each year. The first annual assessment for each Lot shall be adjusted according to the number of months remaining in the calendar year after the conveyance of fee title from the Developer to another party if such conveyance occurs after April 1, 1988. The Developer or, after the conveyance of the Common Areas, the Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The due dates shall be established in such written notice. As soon as practicable after the beginning of each calendar year, the Developer or, after conveyance of the Common Areas, the Board of Directors of the Association shall furnish to each Owner a brief accounting of the receipts and disbursements made during the previous calendar year.

Section 7. 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 eighteen percent (18%) per annum. In addition to such interest charge, the delinquent Lot Owner shall also pay such late charges as may have been theretofore established by the Developer or, after the conveyance of the Common Areas, the Board of Directors of the Association, to defray the costs arising because of late payment. The Developer or, after the conveyance of the Common Areas, the Association, may bring an action at law against the delinquent Owner or foreclose the lien against the Lot. All interest, costs and reasonable attorney's fees of such actions or foreclosures shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Area or abandoning his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a Lot or any mortgage or deed of trust to the Developer. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in Lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer; provided, however, that the Developer or, after the conveyance of the Common Areas, the Board of Directors of the Association may in its sole discretion, determine such unpaid assessments to be an annual or a special assessment, as applicable, collectable pro rata from all Lot Owners including the foreclosure sale purchaser. Such pro rata portions are

payable by all Lot Owners notwithstanding the fact that such pro rata portions may cause the annual assessment to be in excess of the maximum permitted under Section 5 of this ARTICLE. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

#### **ARTICLE IV ASSOCIATION**

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

Section 2. Voting. All Lot Owners (including the Developer) shall be entitled to one (1) vote for each Lot owned. Each Improved Lot Owner shall be entitled to one additional vote (for a total of two (2) votes for each Improved Lot Owned). When more than one person owns an interest (other than a leasehold or security interest) in any lot all such persons shall be Members and the voting rights appurtenant to said Lot may be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Unimproved Lot or (2) votes for any Improved Lot.

Section 3. Board of Directors. The Association shall be governed by a Board of Directors in accordance with its By-Laws.

Section 4. Conveyance of Common Areas to the Association. At the election of the Developer, the Developer shall convey the Common Areas to the Association at such time as Developer deems appropriate. Upon such conveyance the Association shall have all of the rights, duties, obligations, powers, and privileges as set forth herein in favor of the Developer.

#### **ARTICLE V GENERAL PROVISIONS**

Section 1. Enforcement. The Developer, the Association or any non-breaching Owner or any of them jointly or severally, shall have the right to proceed at law or in equity to enforce compliance with the terms hereof or to prevent the violation or breach of such terms by any Owner or his agent. In addition to the foregoing, Developer or its assigns shall have the right, whenever there shall have been built on any Lot any structure which is in violation of these restriction, to enter upon such Lot and correct or remove such violating structure at the expense of 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 contained in this Declaration shall not be deemed a waiver of the 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 such enforcement.

Section 2. Severability. The invalidation by any Court of any restrictions contained in this Declaration shall in no way affect any of the other restrictions, but shall remain in full force and effect.

Section 3. Duration and Amendment. All of the covenants, restrictions and servitudes set forth herein shall run with the land. An Owner affected hereby by accepting the deed to such premises, accepts the same subject to said covenants, restrictions and servitudes and agrees for himself, his heirs, legal representatives, administrators, and assigns, to be bound by each of said covenants, restrictions, and servitudes jointly, separately, and severally. These covenants shall be in effect until January 1, 2012, and shall be automatically extended for successive periods of ten (10) years each unless the Owners of not less than a majority of the Lots agree to terminate or modify the same in a written instrument which shall be executed and recorded in the Alexander County, North Carolina, Public Registry at any time prior to the expiration of said term or any succeeding ten-year period.

Section 4. Future Declarations. Developer for itself and its successors and assigns, reserves the right to make subject to the provisions of this Declaration other portions of property conveyed to Developer by the Deed recorded in Book 279 at Page 562, Alexander County Registry and any property contiguous thereto and hereafter acquired by the Developer. If Developer deems it appropriate to subject future development to the provisions of this Declaration of Covenants and Restrictions, the Developer shall cause to be prepared and recorded a new Declaration of Covenants and Restrictions which shall identify the future phases of Oliver's Landing. Developer reserves the right to change future Declaration of Covenants and Restrictions on any future developments of the real property hereinabove referred to.

## **ARTICLE VI SEWER TRANSFER SYSTEM**

Section 1. Management and Maintenance of the Sewer Transfer System. For purposes of this Article VI, "non OLOA homes and lot owners" refers to home owners or residents not paying the OLOA general assessment under subsection (a) below, and are not full general assessment paying members of OLOA. The System shall be maintained and operated by the Association. Costs for electricity, maintenance and repairs and other reasonable and necessary operating costs, including, but not limited to accounting fees, postage and other administrative expenses, for or to the System shall be defrayed by the following:

- a. through the use of general (also know as annual) or special assessment moneys levied and collected in accordance with Article III of the OLOA Consolidated Declaration, and Article XII of the OLOA Amended By Laws, and
- b. from "non OLOA home and lot owners" hooked up to the OLOA Maintained Sewer System. The uniform Sewage Service Fee, to be paid by each "non OLOA home and lot owner" hooked up to the OLOA Maintained Sewer System, shall be proposed by the Association Board of Directors, and shall be approved by the Association's Board of

Directors at least thirty (30) days in advance of each operating year for the System, which period may, but need not, correspond to the accounting year for the Association's general budget. The annual Sewage Service Fee is \$60.00 per "non OLOA home and lot owner" hooked up to the OLOA Maintained Sewer System. The Board of Directors of the Association shall have the right to increase the annual Sewage Service Fee by 20% per year of the previous amount charged, without obtaining the written consent of at least 51% of the OLOA owners.

In addition to the annual general assessments authorized above, the Board of Directors of the Association, may levy on "non OLOA home and lot owners", in any year, a special assessment applicable to that year, for the purpose of defraying, in whole or in part, their prorated cost of any construction, reconstruction, repairs or replacement of the Sewer Transfer System or for the purpose of meeting any unanticipated expenses related to the Sewage Transfer System. However, such special assessments may be levied only after obtaining the written consent of the OLOA Owners of at least 51% of the aggregate number of Lots then subject to the Declaration.

c. Copies of the Sewage System budget may be either mailed or otherwise made generally available, to the record owner of each "non home and lot owner's" property at the address on file with the Association. Billing by the Association to each such property owner whose residence is served by the System shall occur at least annually, and payment shall be due and payable in full within thirty days from the mailing of said billing. Failure to pay the Sewage Service Fee in full within the allotted thirty (30) days from the date of billing will subject the delinquent owner(s) and his or her benefited property to interest charges, late charges, and attorney's fees equivalent to those specified in the DC & Rs for past-due annual or special assessments under Article III, Section 3, 7, and 8.

d. Upon tap-on of an OLOA home or lot owner, or a "non OLOA home or lot owner" to the system, each such new tap-on owner shall pay a one time special assessment of \$250.00, or such amount as approved by the OLOA Board of Directors, to establish or supplement a maintenance reserve fund, as directed by both the Conveyance Agreement and the Wastewater Collection Permit.

e. Any and all moneys collected by the Association as fees for sewage service shall be placed in a segregated fund, or at minimum, shall be accounted for, as to both costs and revenues, by a separate budget item in the general budget of the Association. This budget shall include both provisions for covering normal operating costs as well as a maintenance reserve for replacement of the pumps or any other mechanical components of the System, excluding, any grinder pumps or other equipment or fixtures located within a residence or between the residence and the tap into the sewer line within the street right-of-way, which later items shall remain the exclusive property of the relevant property owner(s). Such maintenance reserve, however, shall not be set or maintained at an amount excessive to the full replacement costs for which it is maintained.

Section 2. Sewer Hook Ups. Non OLOA homeowners and lot owners, seeking to hook up to the OLOA Maintained Sewer System must adhere to and comply with this Article VI; and if there is a main line that attaches to the OLOA sewer system that serves several homes, each homeowner will be responsible for payments under this Article. The Board of Directors of the OLOA must approve each application for each homeowner or lot owner requesting to hook on to the OLOA Maintained Sewer System.

## **ARTICLE VII ARCHITECTURAL REVIEW COMMITTEE**

### Section 1. Article I. Architectural Control.

1. Establishment of the Architectural Review Committee. In order to control design and location of houses and other improvements to be constructed, erected, or placed (hereinafter “improvements”) upon lots in Oliver’s Landing, the Oliver’s Landing Owners Association (hereinafter “OLOA”) and it’s Board of Directors hereby creates an Architectural review Committee (hereinafter “Committee”) for the purpose of reviewing, approving, suggesting changes to, and rejecting plans and specifications for such improvements, regardless of when such improvements are made. The committee is also created for the purpose of reviewing, approving, suggesting changes to and rejecting above ground swimming pools, out buildings, boathouses, and enclosures for satellite dishes. The Architectural Committee is a recommending committee, and all actions or recommendations of the committee must be and are subject to final approval of the OLOA Board of Directors.

(a) The committee will consist of three to five OLOA members appointed by the Board of Directors, with one being a member the Board of Directors. The committee will meet on a regular basis as determined by the committee chairperson.

(b) Before any clearing, grading or construction of any nature begins on any lot, written approval in advance must be obtained from the Committee. The plans include the complete construction plans, the plot plan (showing proposed location and elevation of such building, fences, walks, drives, parking areas etc.)

(c) The committee or its designated agents shall have forty-five (45) days after physical receipt of the plans to accept or reject the same in whole or in part, and to submit the plans to the OLOA Board for final approval. If no response by the committee and Board has been made within said 45 days, the plans shall be deemed to be approved as submitted. After the plans are approved by the Board of Directors, and after the committee gives written permission or approval for construction to begin, the actual construction shall be commenced and completed in accordance with the approved plans, together with the requirements of the Declaration of Covenants and Restrictions. All plans submitted to the committee, and all committee recommendations, must have final approval from the OLOA Board of Directors.

(d) The actual construction shall be the responsibility of the owner of the lot and the builder. Any permission granted for construction under this covenant, shall not constitute or be construed as an approval, warranty or guaranty, expressed or implied, by the committee or OLOA.

Section 2. Article II. Restrictions.

(a) Any and all restrictions stated previously in all other Declarations of Covenants and Restrictions pertaining to Oliver's Landing, as amended, remain in force and effect.

(b) For all new construction, the total construction time permitted by this document will be limited to twenty-four (24) months from the day initial clearing, grading or construction begins until completion of all construction, and all construction debris is cleared from the lot. For any existing construction underway prior to this document being registered, the twenty-four month restriction will begin on the day this document becomes registered.

Section 3. Article III. Enforcement.

(a) Enforcement of this or any Declaration of Covenants and Restrictions shall be the responsibility of the OLOA Board of Directors. Notification and recommendations of the committee will be given to the Board for action.

(b) The initial step to correct any alleged violation will be to discuss any such situation with the OLOA member. If no agreement or corrective action is made, a Notice of Violation will be issued to the property owner. If no settlement or corrective action is made within a reasonable time, the Board has the authority to proceed, as the majority of the board members deem appropriate. This can be a fine, or corrective action taken by a third party which would be billed to the property owner.

(c) Enforcement may also be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. In the event it is necessary to enforce this declaration by appropriate legal or equitable proceedings, the party or parties violating or attempting to violate the same shall be liable for the cost of such proceedings, including reasonable attorney's fees.

**ARTICLE VIII  
MISCELLANEOUS**

Section 1. Articles of Incorporation. The Articles of Incorporation of the Oliver's Landing Owners Association, Inc., dated May 21, 1991, are recorded in the Office of the Registry of Deeds, Alexander County, North Carolina, in Book 322, at pages 176 through 178.

Section 2. By-Laws. The By-Laws of Oliver's Landing Owners Association, Inc., dated January 1, 1996, as last amended on February 25, 2010, are not recorded.

IN WITNESS WHEREOF, the Association has caused this instrument to be executed this 1st day of March, 2010.

OLIVER'S LANDING OWNER'S ASSOCIATION, INC.

By: /S/ Gaylen W. Allsop  
Gaylen W. Allsop President

Attested:

By: /S/ Karen Hewitt  
Karen Hewitt, Secretary

STATE OF NORTH CAROLINA )  
COUNTY OF )

I, a Notary Public for said County and State, do hereby certify that Gaylen W. Allsop, personally came before me this day and acknowledged that he is the President of Oliver's Landing Owner's Association, Inc., a North Carolina non-profit Corporation, and that by authority duly given as an act of said corporation, the foregoing instrument was signed by him in his name as President for and by said corporation, and attested by Karen Hewitt, as its Secretary.

Witness by my hand and official stamp or seal this 1st day of March, 2010.

My Commission Expires: 11/03/2012 /S/ Regina P. Huber  
\_\_\_\_\_, Notary Public

(Notary Public Seal Here on Original)