

NORTH CAROLINA

WARREN COUNTY

THIS SUPPLEMENTAL DECLARATION of covenants and restriction by American Central Corporation of North Carolina, hereinafter called "Developer",

WITNESSETH:

WHEREAS on May 31, 1965 Developer executed and recorded in the office of the Register of Deeds of Warren County, North Carolina, in Book 222, page 50, a certain DECLARATION which, by its terms, provided for this Supplemental Declaration of covenants and restriction, and

WHEREAS, the Developer desires to impose upon Lots, 3, 4, 5, 6 and 7 of Section A those restrictions set forth in Article VII, Section 1, of said Declaration and to eliminate said lots from the provisions of Article VII, Section 2, to the end that said lots may be used only for residential purposes; and

WHEREAS, the Developer desires to add a new Section to said Article VII, as hereinafter set forth:

NOW, THEREFORE, the Developer declares that Lots 3, 4, 5, 6 and 7 of Section A be, and they hereby are, added to Article VII, Section 1, of said Declaration and the said lots are eliminated from Article II, Section 2, of said Declaration; and

The Developer further declares that a new Subsection be added to Article VII, Section 3, in the following words and figures, to wit:

"Subsection 3-a: Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 of Section H may be used for temporary or permanent residence only, having a minimum floor space of 500 square feet, but may not be used for any commercial activity, and no wells may be dug, bored or opened on any one of said lots."

IN WITNESS WHEREOF, THE AMERICAN CENTRAL CORPORATION OF NORTH CAROLINA, by resolution of its Board of Directors, has caused

THIS DECLARATION,

By AMERICAN CENTRAL CORPORATION of North Carolina, hereinafter called Developer.

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this declaration and desires to create thereon a residential community with permanent parks, playgrounds, open spaces and other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer will incorporate or cause to be incorporated under the law of the State of North Carolina, as a non-profit corporation, The Wildwood Point Association, for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, shall be transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the Wildwood Point Association

(b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II, hereof.

(c) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties

Book 222 - Page 51

and intended to be devoted to the common use and enjoyment of the owners of the Properties.

(d) "Original Lot" shall mean and refer to any plot of land shown upon any original recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined.

(e) "Owner" shall mean and refer to the equitable owner whether one or more persons or entities holding any original lot, whether such ownership be in fee simple title or as land contract vendee, not withstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee except if the mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(f) "Member" shall mean and refer to all those owners who are members of the Association as provided in Article III, Section 1 hereof.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION:

ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Roanoke Township, Warren County, North Carolina, and is more particularly described as follows:

Parcel One: Containing approximately 293.5 acres, more or less, and bounded generally as follows: on the north by North Carolina Secondary Road #1362, on the north, east and south by land of Virginia Electric and Power Company, and on the west by land now or formerly of Eugenia B. Davis and by a small .2 acre parcel of land belonging to Virginia Electric and Power Company; and,

Parcel Two: Containing approximately 34.47 acres, more or less, and bounded generally as follows: on the north by land formerly of B. F. Jones' Estate but now or formerly of J. D. Jones, S. T. Smelley, W. B. Moseley and I. M Raney and by a small .03 acre parcel of land belonging to Virginia Electric and Power Company, on the east by land of Virginia Electric and Power Company, on the south by North Carolina Secondary Road #1362 and land now or formerly of R. E. Taylor and by land now or formerly of L. F. Baird.

being platted as Section A, B, C, D, F, T Wildwood Point, all of which real property shall hereinafter be referred to as "Existing Property".

Section 2. Additional Lands may become subject to this Declaration

(a) The Developer, its successors and assigns, at any time prior to December 31, 1975, shall have the right to bring additional lands into the scheme of this Declaration. Such proposed additions it made shall become subject to assessment for their just share of Association expenses. The Common Properties within all such additions shall be devoted to the common use and enjoyment of

Book 222 - Page 52

all owners of properties which are subject to this Declaration. The Developer's rights to bring additional lands into the Declaration shall not be held to bind the Developer, its successors or assigns, to make the proposed additions or to adhere to the scheme in any subsequent development of the land described herein. The additions authorized under this and the succeeding sub-sections shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the

scheme of the Covenants and Restrictions of this Declaration to such property. Such Supplementary Declarations may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the Covenants established by this Declaration within the existing property.

(b) Other Additions. Upon approval in writing of the Association pursuant to a vote of its members as provided in its Articles of Incorporation, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration of Covenants and Restrictions, as described in subsection (a) hereof.

(c) Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the Covenants established by this Declaration within the Existing Property except as hereinafter provided.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

##### Section 1. Membership.

(a) Every person or entity who holds an equitable interest or an undivided equitable interest in any original lot whether as land contract vendee or fee holder being subject to these covenants and to assessment by the Association shall be a member of the Association provided that any such person or entity who holds such interest merely as a security for the performance of

Book 222 - Page 53

an obligation shall not be a member.

(b) Persons not holding an interest in any lot may become non-voting members of the Association under terms and conditions prescribed by the Board of Directors.

##### Section 2. Voting Rights

The Association shall have one class of voting membership. Voting members shall be all those members who hold the interests required for Membership in Article III in Section 1 (a) above. When more than one person holds such interest or interests in any original lot, all such persons shall be members and the vote for such lot shall be exercised as they among themselves determine. In no event shall more than one vote be cast with respect to any such Original Lot.

### ARTICLE IV

#### PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Article IV in Section 3, every member shall have a right and easement of enjoyment in and to the Common Properties as such easement shall be appurtenant to and shall pass with the title to every Original Lot.

Section 2. Title to Common Properties. The Developer may retain the legal title to the Common Properties until such time as, in the opinion of the Developer, the Association is able to maintain the same and to meet any existing obligations which may be a lien thereon, notwithstanding any provision herein, the Developer hereby covenants, for itself, its successors and assigns, that it shall convey the Common Properties to the Association not later than January 1, 1970.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Developer and of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. The members' rights and easements in the Common Properties shall be subordinate to any mortgage given by the Developer or Association as security for funds borrowed for the said improvements. Any indebtedness which shall

be created for the purpose of making improvements to the Common Properties shall be an obligation of the Association. In the event of a default upon any such mortgage, the lender or mortgagee shall have all the rights afforded under the mortgage or security agreement and under the laws of the State of North Carolina, including the right after taking possession of The Properties, to charge admission and other fees as a condition to continue en-

Book 222 - Page 54

joyment by the members, and if necessary to open the enjoyment of such properties to a wider public. If the mortgage indebtedness is satisfied and possession of the Properties returned to the Association, all rights of the members hereunder shall be restored; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and

(c) The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

#### Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Developer being the owner of all the Properties hereby covenants and each subsequent owner by acceptance of the conveyance therefore, whether or not it shall be expressed in any such deed or conveyance, be deemed to covenant and agree to pay to the Association; (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with such interest thereon and cost of collection thereon as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the homes situated upon the Properties, including but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Book 222 - Page 55

Section 3. Basis and Amount of Annual Assessment. The annual assessment shall be \$28.50 per original lot. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided any such assessment shall have the affirmative or two-thirds (2/3) of the votes of all voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for

any such period provided that any such change shall have the assent of two-thirds (2/3) of the voting members who are voting in person or by proxy at a meeting duly called for this purpose written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2, hereof.

Section 6. Quorum for Any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members or of proxies, entitled to cast sixty (60) percent of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Book 222 - Page 56

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the first day of April, 1966. The assessment for each succeeding year shall become due and payable on the first day of April of each year. No adjustments or prorations of assessments shall be made by the Association. For purposes of levying the assessment, assessments shall be considered as paid in advance and shall be levied against any property which is subject to this Declaration or Supplementary Declarations. The due date of any special assessment under Section 4 hereof shall be fixed in the Resolution authorizing such assessment.

Section 8. Duties of the Board of Directors. The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto at least thirty (30) days in advance of such assessment due date. Such assessment roster shall be kept in the office of the Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon becoming a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the due date, a penalty fee not to exceed \$2.00 shall be added thereto and from that date interest at the rate of six (6) percent per annum may be added to the delinquent balance and penalty and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property. There shall be added to such assessment, delinquent fee and interest, the cost of preparing and filing

Book 222 - Page 57

Complaint in such action and in the event that Judgment is obtained, such Judgment shall include interest on the total amount as above provided and reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a degree of foreclosure, or any other

proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article I, Section 1 hereof; (c) all properties exempted from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

## ARTICLE VI

### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon the The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said board or its designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and the Article will be deemed to have been fully complied with.

Book 222 - Page 58

## ARTICLE VII

### BUILDING AND USE LIMITATIONS

Section 1. All lots in Section B, C, D, and E of Wildwood Point Subdivision shall be limited to residential use. Lots numbered 8 through 91, inclusive in Section A of Wildwood Point Subdivision shall be limited to residential use.

No building shall be erected, altered, placed or permitted to remain on any residential lot other than one or two family dwelling and private garages or out-buildings incidental thereto. All dwellings must have a minimum enclosed living area of 720 sq. ft. exclusive of open porches or attached garages. All structures shall be completed on the exterior within six (6) months from start of construction. No structure of a temporary nature, trailer, basement, tent, shack, garage, barn or other outbuilding shall be occupied or stored on any residential lot either temporarily or permanently. No residence structure shall be located nearer than 35 feet to the front property line, nor nearer to the roadway than the setback line which is indicated on the recorded plat. No residence structure shall be located nearer than 10 feet from any side lot line. No sign or any kind of advertising device shall be displayed to the public view on any residential lot except one professional sign of not more than one (1) foot square, other than signs used by a builder to advertise a new home previously unoccupied.

Section 2. Lots numbered 1 through 7 inclusive in Section A and lots numbered 1, 2, 45 and 46 in Section F may be used for either commercial or residential purposes. Business establishments situated thereon shall be limited to retail sales, service, and uses normally permitted in commercial districts. Smoke, odor or excessive noise which would be offensive to adjoining residential areas shall not be permitted.

Section 3. Lots numbered 3 through 44 inclusive in Section F and all lots in Section T may be used for either residential or camping purposes. On each of said lots the owner shall be permitted to place temporary or seasonal living quarters for vacation and recreational use but in no event shall any permanent or year round residence be erected having an enclosed living are of less than 720 square feet.

Section 4. No animals, livestock or poultry of any kind shall be raised or kept on any lot except dogs, cats or other household pets provided that they shall not be so maintained for any commercial purpose.

Trash, garbage or any other waste material shall be kept in sanitary containers or incinerators. Equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

All structures intended for occupancy must be equipped with inside plumbing facilities. All sanitary plumbing and wells shall conform with the minimum requirements and be approved by the Health Department of Warren County, North Carolina.

Section 5. Easements. Easements are reserved along and within 10 feet of the rear line and sidelines of all original lots in the subdivision for the construction and perpetual maintenance of conduits, poles, wires and fixtures for electric lights, telephones and other public and quasipublic utilities and drainage and to trim any trees which at any time may interfere or threaten to interfere with the maintenance of such lines with right of ingress to and egress from and across said premises to employees of said utilities. Said easement to also extend along any owner's side and rear property lines in cases of fractional lots. The person owning more than one lot may build on such lot line and the easement shall be inoperative as to said line provided that such building shall be placed thereon prior to the instigation of use of this easement for one of the foregoing purposes.

It shall not be considered a violation of the provision of easement if wires or cables carried by such pole lines pass over some portion of said properties not within the five foot wide easement as long as such lines do not hinder the construction of buildings on the property.

Section 6. Variance. The purpose of the foregoing Building and Use Limitations being to insure the use of the properties for attractive residential uses, to prevent nuisances, to prevent impairment of the attractiveness of the property, to maintain the desirability of the community and thereby secure to each owner the full benefits and enjoyments to his home with no greater restriction upon the free and undisturbed use of his property than are necessary to insure the same advantages to other owners. Any reasonable change, modification or addition to the foregoing shall be considered by the Developer and the Association and if so approved will then be submitted in writing to the abutting property owners and if so consented to in writing shall be recorded and when recorded shall be as binding as the original Covenants.

The foregoing Building and Use Limitations shall not apply to the Common Properties.

#### ARTICLE VIII

#### GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall insure to the benefit of and be enforceable by The Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty years from the date this Declaration is recorded,

after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds of the original lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as a member or owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.