

**FIFTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BRANDON OAKS**

WHEREAS, 67% of the total Voting Power of all Members of the Brandon Oaks Homeowners Association have voted to approve the following amendments to the Declaration of Covenants, Conditions and Restrictions for Brandon Oaks,

NOW THEREFORE, in consideration of the foregoing recitals, Brandon Oaks Homeowners Association does hereby declare as follows:

Section 4.03 of Article 4 of the Declaration of Covenants, Conditions and Restrictions as recorded in Book 683 at Page 229 in the Union County, North Carolina Public Registry shall be deleted in its entirety and the following is substituted in lieu thereof:

4.03. Tenants.

(A) All Owners must reside in and occupy their Lots for a period of three consecutive (3) years prior to entering into any lease or rental agreement as to any Lot. Any Owner who rents or leases his, hers, or their Lot to a tenant shall not be entitled to use and enjoy any recreational or other common facilities on the Common Area during the period the Lot is occupied by such tenant.

(B) No Owner shall lease or rent less than an entire Lot and no more than one family, related by blood, marriage, adoption and/or domestic partnership shall live in any one Lot. Except as provided in Section 7.19, the Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than one year. Any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Rules and Regulations for Brandon Oaks, and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. The failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of the Declaration, the Bylaws, and the Rules and Regulations.

(C) In the event an Owner shall rent or lease their Lot, such Owner shall immediately give to the Association in writing the following:

(1) The name of all tenants and the Lot address rented or leased;

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- (2) The current address of such Owner;
- (3) A true and complete copy of the lease or rental agreement; and
- (4) A certification by the Owner that the Lot was owner-occupied for three consecutive years prior to being rented or leased and that Owner has provided the tenant a copy of the Declaration, this and any other applicable amendments, the Bylaws and the current Rules and Regulations, and that Owner has advised all tenants of all obligations they may have thereunder as tenants.

(D) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

Section 7.01 of Article 7 of the Declaration of Covenants, Conditions and Restrictions as recorded in Book 683 at Page 229 in the Union County, North Carolina Public Registry shall be deleted in its entirety and the following is substituted in lieu thereof:

7.01. Residential Use. Each Lot shall be used solely for the construction of a single-family residence and the occupancy of said residence by a single family, consisting of human beings, and not corporate entities, all of which are related to each other by blood, marriage, adoption, and/or domestic partnership. No other use shall be permitted. Each Lot shall be Owner-occupied and each Owner must reside in and occupy the Lot for a period of three (3) consecutive years prior to entering into any lease or rental agreement as to the Lot. Except as provided in Section 7.19, no Owner shall use, cause, or permit the Lot to be used for any business, commercial, manufacturing, or mercantile use or purpose, or for any other nonresidential use or purpose. No structure shall be erected, altered, placed, or permitted to remain on any Lot exceeding two and one-half (2 1/2) stories in height, with a private garage for not more than three (3) cars, and other outbuildings incidental to residential use of the Lot as may be approved by the Board or architectural control committee.

Section 7.07 of Article 7 of the Declaration of Covenants, Conditions and Restrictions as recorded in Book 683 at Page 229 in the Union County, North Carolina Public Registry, as amended by Amendment of Declaration of Covenants, Conditions and Restrictions for Brandon Oaks recorded in Book 707 at Page 582, and by Third Amendment to Declaration of Covenants, Conditions and Restrictions for Brandon Oaks recorded in Book 1388 at Page 516 in said registry, shall be deleted in its entirety and the following is substituted in lieu thereof:

7.07 Fences. No fence or wall shall be erected on any Lot closer to the street than the side street setback or the front of the building façade. No fence or wall shall be erected on any berm of dirt which was placed along the side or rear lot line of any Lot by the Declarant. All fencing must be approved by the Board or architectural control committee prior to installation according to the following restrictions:

(i) **Privacy fencing.** Privacy fencing around patios, decks, or pools may be erected only after prior approval by the Board or architectural control committee as to design, height, materials, and finishes.

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(ii) **Perimeter fencing.** Perimeter fencing shall be picket fencing, or decorative metal or split-rail only, six (6) feet in height. The spacing between the pickets of perimeter fencing shall be not less than 1 ½ inches and all such pickets shall be installed on the exterior side of the fence. All other types of fencing are expressly prohibited, except that:

(a) Metal fencing may be attached to the interior side of split-rail fencing in order to contain pets within the yard, and,

(b) Privacy fencing may be installed around the perimeter of a Lot only after prior approval by the Board or the architectural control committee as to all aspects of design, height, materials, and finishes.

Section 15.09 of Article 15 of the Declaration of Covenants, Conditions and Restrictions as recorded in Book 683 at Page 229 in the Union County, North Carolina Public Registry shall be deleted in its entirety and the following is substituted in lieu thereof:

15.09. Professional Management. In the event that Declarant or the Association enters into any contract with any person or entity to provide management or maintenance services to the Project, such contract provide that the Association shall have the right to terminate the contract at any time for cause without penalty or fee, or without cause upon thirty (30) days' written notice, without penalty or fee.

Section 17.03 of Article 17 of the Declaration of Covenants, Conditions and Restrictions as recorded in Book 683 at Page 229 in the Union County, North Carolina Public Registry shall be deleted in its entirety and the following is substituted in lieu thereof:

17.03. Notices. Notices shall be in writing and shall be addressed and sent as follows:

(i) If to an Owner, to the address of his, hers or their Lot, or to the electronic email address provided and designated in writing by said Owner as Owner's preferred electronic mailing address;

(ii) if to Declarant, to Pace/Dowd Properties, Ltd., 6719-C Fairview Road, Charlotte, N.C. 28210; and (iii) if to the Association, to the address of the Project. The Association may designate a different address for notices by giving written notice of such change of address to all Owners and to Declarant. Declarant may designate a different address for notices by giving written notice of such change of address to the Association. Any Owner may designate a different address for notices by giving written notice of such change of address to the Association.