

BOOK 3769 PAGE 440

Plat. to Thomas W. King
P.O. Box 7815
Rocky Mount, N.C. 27854

NORTH CAROLINA

DECLARATIONS OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
COBBLESTONE II TOWNHOMES

WAKE COUNTY

THIS DECLARATION, made on the date hereinafter set forth by Garry Gardner Investment Corporation, hereinafter referred to as the "Declarant";

W I T N E S S E T H :

THAT WHEREAS, the Declarant is the owner of approximately 13.15 acres of real property located near the City of Raleigh, Wake County, North Carolina, which is more particularly described as follows:

BEGINNING at an iron stake in the eastern right-of-way line of Iron Horse road, the southwestern corner of that certain 2.21-acre greenway easement, along Iron Horse Road previously conveyed by Garry C. Gardner and wife, Sue F. Gardner, to the City of Raleigh by instrument recorded in Book 3531, Page 141, Wake County Registry; thence from said beginning point thus determined with and along the arc of a curve along the eastern curving into the northern right-of-way line of Iron Horse Road having a chord bearing of N. 42° 21' 17" W. and a chord distance of 242.25 feet to an iron stake, southeastern corner of Lot 15, Block C, Section I of Cobblestone Subdivision recorded in Map Book 1985, Page 1435, Wake County Registry, cornering; thence along the eastern property line of Block C of Section I of Cobblestone Subdivision recorded as aforesaid, N. 3° 22' 10" W. 798.62 feet to an iron stake in the eastern property line of Lot 3, Block C of Section I of Cobblestone Subdivision as shown on map as aforesaid, cornering; thence N. 73° 01' 33" E. 122.97 feet to a point; thence along the arc of a curve having a chord bearing of N. 17° 43' 42" E. and a chord distance of 24.66 feet to a point; thence along the arc of a curve having a chord bearing of N. 60° 20' 04" W. and a chord distance of 212.42 feet to a point, cornering; thence S. 0° 34' 37" E. 12.61 feet to an iron stake, cornering; thence along the southern right-of-way line of a private street adjoining Lot 1, Block C of Section I of Cobblestone Subdivision as shown on map as aforesaid, the arc of a curve having a chord bearing of S. 88° 30' 53" W. and a chord distance of 79.66 feet to a point and the arc of a curve having a chord bearing of S. 75° 26' 13" W. and a chord distance of 71.78 feet to an iron stake, cornering; thence N. 14° 04' 12" W. 214.95 feet to an iron stake in the line of the R. M. Haithcock Heirs, cornering; thence with and along the line of the R. M. Haithcock Heirs to and with the line of David L. Brady, N. 89° 38' 19" E. 431.49 feet to an iron stake in or near Hinton Branch, cornering; thence with and along the run of Hinton Branch, the following courses and distances: S. 24° 38' 22" E. 207.19 feet, S. 63° 00' 55" E. 105.47 feet, S. 14° 33' 36" E. 138.26 feet,

S. 58° 38' 18" E. 214.05 feet, S. 19° 35' 46" E. 150.04 feet, S. 39° 59' 21" W. 91.93 feet, S. 13° 43' 48" E. 100.61 feet, S. 2° 33' 31" W. 125.95 feet, S. 11° 18' 57" W. 77.57 feet, S. 48° 34' 39" W. 68.50 feet, S. 48° 27' 37" W. 68.22 feet, S. 34° 58' 20" W. 62.96 feet, S. 34° 57' 13" W. 82.51 feet, S. 86° 17' 27" W. 69.47 feet to an iron stake, cornering; thence S. 2° 57' 52" W. 54.99 feet to an iron stake, cornering; thence S. 58° 52' 09" W. 110.83 feet to an iron stake in the eastern right-of-way line of Iron Horse Road, the point and place and BEGINNING, and being a 13.15 acre parcel as shown on plat entitled "Map of Property of Garry C. Gardner, St. Matthews Twp., Wake County, N.C." dated May 16, 1986 and prepared by Jarvis Associates, P.A., Consulting Engineers-Planners-Surveyors, Raleigh, N.C., reference thereto being made for greater certainty of description.

THAT WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the real property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described real property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Cobblestone II Townhomes Association, its successors and assigns.

Section 2. "Properties" or "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of members or designated classes of members of the Association, including Limited Common Area and Recreational Facilities. The Common Area, as contemplated herein, consists of all of the Property designated as "Common Area" and "Private Drive and Parking Area" on any recorded plat of the Properties, including all water lines and sewer lines located outside City of Raleigh ("City") sanitary

sewer easements or outside City rights-of-way (but not within individual lots).

Section 4. "Limited Common Area" shall mean those portions of the Common Area that serve only a limited number of lots and which may include, but specifically is not limited to, driveways and walkways, parking areas serving only specified lots, and such other similar areas as may be designated by the Association. The Declarant may designate Limited Common Areas prior to annexation.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties on which such lot appears, with the exception of the Common Area and Limited Common Area and Recreational Facilities.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. "Declarant" shall mean and refer to Garry Gardner Investment Corporation, its successors and assigns, to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose. Reference to the Declarant shall be made in the third person singular when pronouns referring to Declarant are used.

Section 9. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 10. "Building" shall mean and refer to a multi-unit structure containing townhomes constructed on a lot.

Section 11. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 12. "Common Expenses" shall mean and include:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses for maintenance of the townhomes as provided in this Declaration;
- (c) Expenses of administration, maintenance, repair or replacement of the Common Areas;
- (d) Expenses declared to be common expenses by the provisions of the Declaration or the Bylaws;

(e) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase;

(f) Ad valorem taxes and public assessments charged lawfully and levied against Common Areas;

(g) The expense of the maintenance of private drainage and utility easements and facilities located therein which are within the boundaries of the Properties, cross Common Areas of the Properties and serve both the Properties and lands adjacent thereto, if applicable;

(h) Expenses for maintenance and operation of "Recreational Facilities";

(i) Expenses agreed by the members to be common expenses of the Association; and

(j) Unpaid assessments resulting from the purchase of a townhome at a foreclosure sale (such assessment shall be collectible from all members of the Association, including the purchaser at the foreclosure sale, his successors and assigns).

Section 13. "Townhome" shall mean and refer to an attached single family dwelling constructed upon a lot within the Property and constituting a part of a building.

Section 14. "Cobblestone II Townhomes" shall mean those townhomes described herein as the Properties.

Section 15. "Recreational Facilities" shall mean and refer to the real property described on Exhibit B attached to the Declaration and incorporated herein by reference (hereinafter the "Exhibit B property"), together with the bathhouse and swimming pool and any other improvements located thereon, which property and improvements thereon shall be owned by the Cobblestone II Townhomes Association for the common use and enjoyment of the Owners and such other persons as may be mentioned in Article IV hereof, if use by such other persons mentioned in Article IV hereof may be allowed by the City of Raleigh.

Section 16. "Cobblestone Subdivision" shall mean and refer to all of that property being developed for single family detached residences on that real property conveyed to Garry C. Gardner by deeds recorded in Book 3435, Page 891, and Book 3514, Page 628, Wake County Registry.

Section 17. "Cobblestone Townhomes Subdivision" shall mean and refer to all of that property being developed for townhomes, other than apartments, on that real property conveyed to Garry C. Gardner by deeds recorded in Book 3435, Page 891 and Book 3514, Page 628, Wake County Registry.

Section 18. "Developer" shall mean and refer to Garry C. Gardner and wife, Sue F. Gardner, their heirs, successors and assigns.

ARTICLE II ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional Property shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any.

Section 2. If prior to December 31, 1996, the Declarant should develop any part or all of the additional lands within the boundaries of the property described on Exhibit A attached hereto and made a part hereof, such additional lands may be annexed to the Properties without the assent of Class A members. Inclusion of property in Exhibit A shall not require Declarant to annex said property or to use said property in a fashion consistent with the property contained herein unless so annexed.

Section 3. Annexation of additional Properties shall be accomplished by recording in the Wake County Registry a Declaration of Annexation, duly executed by the Declarant if the Declarant has the right to annex pursuant to Section 2 above, and by the Association if pursuant to Section 1 above, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and in the case of annexation by the Declarant, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except that prior written consent of the Federal Housing Administration (FHA), Veterans Administration (VA) or the City of Raleigh shall be given, if required by its regulations or ordinances.

Section 4. Subsequent to recordation of the Declaration of Annexation by the Declarant, but prior to the conveyance of the first lot in the annexed area, the Declarant shall deliver to the Association one or more deeds conveying any Common Area within the lands annexed as set forth in Article VI, Section 3 of this Declaration.

ARTICLE III MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a lot in this Subdivision.

ARTICLE IV USE AND OPERATION OF RECREATIONAL FACILITIES

Section 1. Owners' Easements of Enjoyment and Access.
Except as limited by Section 2 of this Article IV, every owner shall have a right and easement of enjoyment in and access to, from, and over the Recreational Facilities, which right and easement shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) The right of the Cobblestone II Townhomes Association to charge reasonable admission and other fees for the use of the Recreational Facilities and to limit the use of the Recreational Facilities to owners who occupy a residence on the Property and to their families, tenants, guests, and other persons as provided in Section 2 of this Article IV;

(b) The right of the Cobblestone II Townhomes Association to suspend the voting rights and rights of an Owner to use of the Recreational Facilities for any period during which any assessment against Owner's lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Cobblestone II Townhomes Association related to use of the Recreational Facilities;

(c) The right of the Cobblestone II Townhomes Association to dedicate or transfer all or any part of the Property owned by the Association to any public agency or authority for such purposes and subject to such conditions as may be agreed upon by the Members. Notwithstanding anything herein to the contrary, the Exhibit B Property shall be preserved to the perpetual benefit of the Owners or other persons mentioned in Section 2 hereof of this Article IV or the public in general and shall not be conveyed except to the City of Raleigh or to another non-profit corporation for the aforementioned purposes. No such dedication or transfer shall be effective unless the members entitled to at least three-fourth (3/4) of the votes appurtenant to Class A and Class B lots agree to such dedication or transfer and signify their agreement by a signed and recorded document, provided that this sub-section shall not preclude the Board of Directors of Cobblestone II Townhomes Association from granting easements for the installation and maintenance of sewage, utilities (including CATV), and drainage facilities upon, over, under and across the property owned by the Cobblestone II Townhomes Association on which Recreational Facilities are located without the assent of the members when such easements, in the opinion of said Board, are necessary for the convenient use and enjoyment of the property; and

(d) The right of the Cobblestone II Townhomes Association, with the assent of members entitled to at least two-thirds (2/3) of the votes appurtenant to the Class A and the Class B lots, to mortgage, pledge, deed in trust, or otherwise hypothecate any and all of its real and personal property as security for money borrowed or debts incurred, subject to the property rights of the Owners and other persons as set forth herein, provided, however, that the rights of such mortgagee shall be subordinate to the rights of the members hereunder.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Property as their principal residence in Wake County, North Carolina.

(b) Tenants. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a residence within the Property, or a portion of said residence, as their principal residence in Wake County, North Carolina.

(c) Guests. The Recreational Facilities may be utilized by guests of Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

(d) Use by Others. Subject to the provisions of Article XVIII hereunder, if it is determined by members entitled to cast two-thirds (2/3) of the votes of the entire Class A membership and two thirds (2/3) of the entire Class B membership, that the Recreational Facilities can accommodate non-members, the Board may sell annual memberships to such non-members for such sum and upon such terms and conditions as the Board of Directors may prescribe.

Section 3. Conveyance of Title to the Cobblestone II Townhomes Association. Declarant covenants, for itself, its successors and assigns, that it will convey the Exhibit B Property to the Cobblestone II Townhomes Association prior to the conveyance of the first lot to an Owner. Declarant reserves the right, but does not covenant, to construct a swimming pool, bathhouse, and/or such other improvements on said property as it, in its sole discretion, deems advisable and reserves an easement to, from, over and across said property for the purpose of constructing said improvements. Any improvements placed on the Exhibit B Property shall become the property of the Cobblestone II Townhomes Association as soon as such improvements are complete. The conveyance by Declarant to the Cobblestone II Townhomes Association for the Recreational Facilities set forth above, shall be free and clear of all encumbrances and liens, except utility and drainage easements of record, as shown on the recorded plat of Cobblestone Townhomes Subdivision.

Section 4. Easements for Governmental Access. An easement is hereby established over the Recreational Facilities for the benefit of applicable governmental agencies for setting, removing, and reading water meters, maintaining and replacing water and drainage facilities; fire fighting; law enforcement; garbage collection; and the delivery of mail.

Section 5. Accounting. Subject to the provisions of Article XVIII hereof, the Board of Directors shall cause to be maintained a separate set of accounts for the Recreational Facilities showing the costs and expenses incurred in operation and maintenance of the Recreational Facilities, the amount of reserves on hand for improvement or replacement of capital

structures, accrued debts and income, including the dues of non-members as set forth in Article IV, Section 2 above. The Board of Directors shall determine what portion of the annual assessment paid by members of the Association are to be used for the maintenance and operation of the Recreational Facilities, and the accounts shall reflect this determination.

ARTICLE V VOTING RIGHTS

Section 1. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners, as defined in Article III, with the exception of the Declarant. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. Fractional voting shall not be allowed, as to any one vote, by joint owners of a lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Article III, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) When the total number of votes appurtenant to the Class A lots equals the total number of votes appurtenant to the Class B lots; provided, however, that all lots owned by Declarant shall revert to Class B lots and shall be reinstated with all rights, privileges, and responsibilities of such Class if, after the conversion of Class B lots to Class A lots, additional lots within the Properties are formed by the recording in the Wake County Public Registry of a new map of townhomes, thus making Declarant the owner, by virtue of the newly-recorded lots and of other lots owned by Declarant of a sufficient number of Class B lots to cast a majority of votes (it being hereby stipulated that the conversion and re-conversion shall occur automatically as often as the foregoing facts shall occur); or

(b) December 31, 1991.

When the Class B lots cease to exist and are converted to Class A lots, Declarant shall have the same voting rights as other Owners of Class A lots.

Section 2. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

ARTICLE VI PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area which included the right of ingress and egress over the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws and with the assent of members entitled to cast two-thirds (2/3) of the votes of the entire Class A membership and two-thirds (2/3) of the entire Class B membership, if any, to borrow money for the purpose of improving the Common Area and Recreational Facilities, and in aid thereof to mortgage said property unless prohibited by law, and the rights of such mortgagee in said properties shall be subordinate to the rights of the members hereunder;

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no conveyance of Limited Common Area shall deprive any Member of the full use thereof. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than 30 days nor more than 60 days in advance;

(c) The right of the individual members to the exclusive use of parking spaces as provided in this Article;

(d) The right of the Association to limit the number of guests, if any, that Association members may bring to the Recreational Facilities, or allow to use the Common Area;

(e) The right of the Association to formulate, publish, amend and enforce rules and regulations as provided in Article XII.

Section 2. Designation of Use. Any Member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and Recreational Facilities to the members of his family, his tenants, or contract purchasers who reside on the Property. Any Member may allow, in accordance with the Bylaws, this Article VI, and any rules adopted by the Board of Directors, his guests to use the Common Area.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey

fee simple title to the Common Area shown on the aforementioned map recorded at Book of Maps _____, Page _____, Wake County Registry, to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot, except utility and drainage easements, greenway easements to the City of Raleigh, and easements to governmental authorities. Similarly, the Declarant will convey to the Association Common Areas which are parts of Cobblestone II Townhomes as those portions are annexed in the future until all Common Areas, as shown on plats approved by the City of Raleigh, have been conveyed to the Association.

Section 4. Parking Rights.

(a) Assigned parking spaces. Ownership of each lot shall entitle the Owner(s) thereof to the use of at least two automobile parking spaces, both of which shall be specifically assigned initially to said Owner by the Declarant, together with the right of ingress and egress in and upon said parking area. The Board of Directors of the Association shall have the authority acting in its sole discretion to re-assign said parking spaces from time to time as it may determine is in the best interest of the Members.

(b) Visitor Parking. Parking spaces designated for the exclusive use of visitors to the Property shall not be used by any Owner for the parking of his vehicles, but may be used by persons visiting Owners for periods not to exceed one week in time.

(c) Recreational Vehicles. No campers, trucks in excess of one-half ton, vans or recreational vehicles may be parked or kept within the Properties, except at locations specifically designated by the Association for such parking. The Association may make reasonable charges for parking of such vehicles in designated areas and may in its sole discretion refuse to allow any such parking within the confines of the Properties. No trailers, boats or tractors may be parked or kept within the Properties except for maintenance equipment owned by the Association.

(d) Rules and Regulations Regarding Parking. The Board of Directors of the Cobblestone II Townhomes Association may make such reasonable rules and regulations as it may elect with respect to the parking of vehicles as aforesaid and may amend and vary the requirements of (b) and (c) above without the consent of the Members of the Association.

Section 5. Antennas. The Association may provide one or more antennas or satellite dishes for the convenience of the members and the cost of this may be included in annual or special assessments. No antenna or satellite dish shall be erected or placed on any lot without prior approval of the Association. Nothing contained herein shall require the erection of such antennas by Declarant or the Association.

Section 6. Dumpsters. No dumpsters shall, at any time, be placed on the Properties, unless required by lawful authority or the Association.

Section 7. Common Area Taxes. The Association shall be responsible for, and shall cause to be paid out of annual assessments, ad valorem taxes and public improvement assessments levied against the Common Areas.

Section 8. Fences. No Owner shall fence, enclose or screen any portion of his lot without the prior approval of the Board of Directors of the Association.

ARTICLE VII COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments; Lien Shall be a Charge on the Land. The Declarant hereby covenants, and every other owner of any Lot by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed of other conveyance) is deemed to covenant and agree to pay to the Association;

(a) Annual assessments or charges which are common expenses;

(b) Special assessments for purchase and reconstruction of townhomes as hereinafter provided;

(c) Special assessments for purchase, construction or reconstruction of Recreational Facilities, or other appurtenances to the Common Area as may be duly approved.

Notwithstanding any provisions herein to the contrary, but subject to the limitations hereinafter set forth, the assessment for each vacant lot, i.e., a lot which is owned by Declarant or Declarant's contractor, Garry C. Gardner, Inc., shall be twenty-five percent of the usual assessment of a lot.

Such assessments shall 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 lot and improvements against which each such assessment is made. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the lot at the time the assessment fell due. All assessments shall be shared equally by the owners of each Lot, except as otherwise provided in this section.

(Explanatory Note - As a matter of information to future members of this Association, the Declarant wishes to make it known that it is highly probable that a variety of dwellings with a variety of exteriors will be constructed and that whatever exteriors are constructed will be for the purpose of achieving harmony of design and textures, while at the same time avoiding monotony. In such event, some dwellings may entail more expense for exterior maintenance than others. However, the construction

of the variety will be for the enhancement of property values of all townhomes in the Properties. Therefore, no difference is made in each section of townhomes in the amount of annual assessment on account of any disparity in the cost of exterior maintenance or the replacement of roofs on account of the different types of construction.)

Section 2. Purpose of Assessments. The assessments levied by the Association on lot Owners shall be used exclusively for promoting the recreation, health, safety, and welfare of the residents of Cobblestone II Townhomes Subdivision; enforcing these covenants and the rules of the Association; paying common expenses; improving and maintaining the Property located within Cobblestone II Townhomes Subdivision and the townhomes situated thereon; providing the services and facilities for the purpose of and related to the use and enjoyment of the Common Area and facilities located in Cobblestone II Townhomes Subdivision and for maintenance and operation of Recreational Facilities, Common Areas and related areas that may be built regardless of the section in which they may be built.

Section 3. Amount of Assessment.

(a) Initial Assessment. To and including December 31, 1986, the maximum initial annual assessment for the Cobblestone II Townhomes Subdivision shall not be in excess of \$660.00 per Lot, the exact amount of which shall be determined from time to time as provided in Subsection (d) of this Section 3.

(b) Increase by Association. From and after December 31, 1986, the annual assessment applicable to each Townhome section, effective for any year, may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, by a percentage which may not exceed ten percent (10%) per year above the maximum initial assessment.

(c) Increase by Members. From and after December 31, 1986, the annual assessment for Cobblestone II Townhomes Subdivision may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of members owning lots in Cobblestone II Townhomes Subdivision who are voting in person or by proxy, at a meeting duly called for such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members owning lots in Cobblestone II Townhomes Subdivision not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) Criteria for Establishing Annual Assessment. In establishing the annual assessment for the Cobblestone II Townhomes Subdivision, for any assessment year, the Board of Directors shall consider only the current costs and expenses, any accrued debts and reserves for future needs necessary to maintain the structures and Common Area included in the Cobblestone II Townhomes Subdivision.

(e) The Board of Directors may decrease the annual assessment from time to time if, in its opinion, such decrease is prudent.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment on the members of the Association owning lots in the Cobblestone II Townhomes Subdivision, applicable to that year only, for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area of Cobblestone II Townhomes Subdivision, including the necessary fixtures and personal property related thereto. Provided, however, that before any such assessment under this section shall be effective it shall have the assent of two-thirds (2/3) of the votes of each class of members owning lots who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The amount of the proposed assessment need not be stated. The effective date of special assessment increases related to the Recreational Facilities, if any, shall coincide as near as practically possible, with the renewal date for non-member users of the Recreational Facilities in order to equalize the financial burden on all users of said Recreational Facilities.

Section 5. Accounting. Subject to the provisions of Article XVIII hereof, the Board of Directors shall maintain a separate set of accounts for the Cobblestone II Townhomes Subdivision Common Areas, and a separate set of account for the Recreational Facilities and related areas. Each set of accounts shall reflect current costs and expenses, any accrued debts, reserves for future needs, special assessments for capital improvements, income from assessments, and the portion of the annual assessments credited to the maintenance and operation of the Recreational Facilities as directed by Article IV of this Declaration.

Section 6. Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association, within thirty (30) days following such destruction, of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. For the purposes of this section "substantially destroyed" shall mean that the costs of replacement or repair equal at least fifty percent (50%) of the appraised value of the improvements on the lot before they were damaged.

(a) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall not be suspended. In the event a townhome is damaged or destroyed, or the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense all debris from the lot, so that it shall be placed in a neat, clean, and safe condition and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the townhome and its lot until paid by the owner, unless the lot is thereafter acquired by the Association.

(b) Application of Declaration and Bylaws. Any townhome which has been destroyed in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the Bylaws of the Association.

Section 7. Uniform Rate of Assessment. Except as provided in Article VII, Section 1, both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis as determined by the Board.

Section 8. Quorum for any Action Authorized under Sections 3, 4, and 6. At the first meeting called, as provided in Sections 3, 4, and 6 of this Article, the presence at the meeting of members or of proxies of each class of membership entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth in Sections 3, 4, and 6, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the next preceding meeting.

Section 9. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided herein for a Lot shall be paid in equal monthly installments and the payment of such shall commence on the first day of the month following the conveyance of the Common Area. All lots in subsequently annexed sections shall be subject to assessments commencing the first day of the first month following annexation. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association or the duly authorized agent of the Association setting forth whether the assessments on a specified lot have

been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 10. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or portion thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date, the same shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum. The Association may bring an action against the owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. If any law permits the filing of a lien and the foreclosure of such lien, or other similar action, as a method of enforcement of the Association's right to collect assessments, the Association may use such remedy. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Area or abandonment of his lot.

Section 11. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein on any lot shall be subordinate to the lien of any first mortgage and ad valorem taxes on such lot. The sale of a lot to a bona fide purchaser for value or the transfer of a lot shall not affect the assessment lien provided, however, that 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 became due prior to such sales or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VIII EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each townhome subject to assessment, as follows: Stain and/or paint the exterior of townhomes, replace, repair and care for roofs, walks, trees, shrubs, grass and other such exterior improvements. Such exterior maintenance shall not include glass surfaces or fences installed pursuant to Article VI, Section 8.

Any Owner whose lot contains a fence, enclosure or screen along any portion of his lot (whether permitted with the prior approval of the Board or architectural committee, or otherwise) may plant trees, shrubs, flowers, and grass in the fenced or enclosed portion as he elects, and he shall maintain the fence, enclosure and the enclosed portion, at his own expense, provided that such maintenance shall not hinder the Association in performing its maintenance duties as to the townhome, the remaining yard spaces, or the limited Common Area. No such maintenance by an Owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any such Owner fails to maintain his yard in a neat and orderly manner, the Association may revoke the Owner's maintenance rights for a period not to exceed one year and the Association shall perform maintenance during the revocation period. The Owner shall not plant any vegetation in front of his townhome except with the prior written approval of the Board or architectural committee.

In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each lot at all reasonable times to perform maintenance as provided in this Article.

In the event that the need for maintenance or repair of a lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or his family, tenants, contract purchasers, guests, invitees or contractors, or is caused by fire, lightning, windstorm, hail, explosion, riot attending a strike, civil commotion, aircraft, vehicles, or smoke, as the foregoing are defined and explained in North Carolina standard fire and extended coverage insurance policies, or for the purpose of correcting, repairing or alleviating any emergency condition provided for in Article XIII, Section 5, (but only if such would normally be an expense of the lot owner), the cost of such maintenance, replacement, or repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE IX INTERIOR MAINTENANCE

Each Owner shall maintain, repair, and replace at his expense all improvement on his lot which shall need repair including patios, fencing and decks located on the lot, and all bathroom and kitchen fixtures, light fixtures, or other electrical or plumbing equipment, pipes and fittings serving an Owner's unit which are located in a party wall, if any. Further, each Owner shall repair, maintain and replace at his own expense when necessary the heating and air conditioning system servicing his dwelling, whether located on his lot or in the townhome Common Area adjacent to the lot.

ARTICLE X
PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhomes upon the property and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion of such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts of omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Certification by Adjoining Property Owner that No Contribution is Due. If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property owner has a right of contribution as provided in this Article X, request of the adjoining property owner or property owners a certificate that no contribution exists, whereupon it shall be the duty of each adjoining property owner to make such certification immediately upon request without charge; provided, however, that where the adjoining property owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 7. Easement and Right of Entry for Repair, Maintenance, and Reconstruction. Every owner shall have an easement and right of entry upon the lot of any other owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a party wall and those improvements

belonging to one lot which encroach on an adjoining lot or Common Area. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the owner shall restore the adjoining lot or lots to as near the same condition as that which prevailed prior to the commencement of the work as it reasonably practicable.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall under the provisions of this Article, such dispute shall be settled by arbitration as provided under the laws of the State of North Carolina as they now are or are hereafter amended.

ARTICLE XI ARCHITECTURAL CONTROL AND INSPECTION

No site preparation or initial construction, erection, or installation of any improvement, including, but not limited to, residences, outbuildings, fences, walls, screens (whether by plants or structures) and other structures, shall be undertaken upon the Properties unless the plans and specifications therefor, showing the nature, kind, shape, height, materials, and location of the proposed improvements shall have been submitted to the Declarant or his agent and expressly approved in writing. No subsequent alteration or modification of any existing improvements nor construction, erection, or installation of additional improvements may be undertaken on any of the Properties without prior review and express written approval of the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board.

Whether or not a proposed modification or alteration to an existing structure is compatible with surrounding structures shall be considered in determining whether to approve or disapprove the request; however, compatibility with surrounding structures shall not preclude the denial of the request if other factors, as determined by the ruling body, make it appear that the request should be denied.

In general, the construction or planting of fences, walls, screens, and other structures will not be permitted if, in the opinion of the Declarant, Board, or Architectural Committee, as applicable, such construction or planting constitutes an unreasonable obstruction of the view of another owner.

In the event that the Declarant or the Association, as the case may be, fails to approve or disapprove the site or design or any proposed improvements within thirty (30) days after plans and specifications therefor have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully met, provided that the plans and specifications required to be submitted shall not be deemed to have been received by the Declarant or the Association

if they contain erroneous data or fail to present adequate information upon which the Declarant or the Association, as the case may be, can arrive at a decision.

The Declarant and/or the Association (as applicable) shall have the right, at its election, but shall not be required, to enter upon any of the Properties during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE XII USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each lot and the Common Area, including the Recreational Facilities. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions which shall be maintained in a place convenient to the owners and available to them for inspection during normal business hours.

Section 2. Use of Property. Each building, the townhomes therein, and the Common Area and facilities shall be for the following uses and subject to the following restrictions in addition to those set forth in the Bylaws:

(a) Land Use. All buildings and the Common Area and facilities shall be used for residential and related common purposes. Each townhome shall be used as a single-family residence and for no other purpose, except that the Declarant may use one or more townhomes for offices and/or model townhomes for sales purposes, consistent with the Raleigh City Code.

(b) Insurance Matters. Nothing shall be kept and no activity shall be carried on in any building or townhome or on the Common Area and facilities which will increase the rate of insurance, applicable to residential use, for the Property or the contents thereof. No owner shall do or keep anything, nor cause or allow anything to be done or kept, in his townhome or on the Common Area and facilities which will result in the cancellation of insurance on any portion of the Property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Area and facilities.

(c) Compliance with Laws. No immoral, improper, offensive, or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating

to any portion of the Property, shall be complied with, by and at the sole expense of the owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

(d) Alteration or Impairment. Nothing shall be done in or to any townhome or in, to, or upon any of the Common Area and Recreational Facilities which will impair the structural integrity of any building, townhome, or portion of the Common Area and Recreational Facilities or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

(e) Business Use Prohibited. No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted in any townhome, except that the Declarant or its agents and builders may use any unsold townhome for sales or display purposes.

(f) Signage. No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any townhome, building, or any portion of the Common Area and facilities, except as allowed by the Association pursuant to its Bylaws and as required by the Raleigh City Code; provided, however, that the Declarant, Owner, builders, realtors and any mortgagee who may become the owner of any unit, or their respective agents, may place "For Sale" or "For Rent" signs on any unsold or unoccupied townhomes and in suitable places on the Common Area; provided, however, that during the development of the Property and the marketing of townhomes, the Declarant, builders and realtors may maintain a sales office and may erect and display such signs as the Declarant deems appropriate as aids to such development and marketing, provided that such signs do not violate any applicable laws.

(g) Alteration of Common Area. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area and Recreational Facilities except at the direction or with the express written consent of the Association.

(h) Use of Townhome Common Area. The Common Area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the townhomes, subject to any rules or regulations that may be adopted by the Association pursuant to its Bylaws.

(i) Nuisance. No noxious or offensive activity shall be conducted upon any lot or any dwelling nor should anything be done thereon or therein which may be or may become an annoyance or nuisance to the neighborhood.

(j) Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats, or other household pets may be kept or maintained, provided they are properly curbed and leashed and provided further that they are not kept or maintained for commercial purposes.

(k) Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any lot unless and until permission for the same has been granted by the Association, or its designated agent or representative.

(l) Access to Lot. The Cobblestone II Townhome Association, its agents, or employees, shall have access to all lots from time to time upon reasonable working hours upon oral or written notice to the Owner, as may be necessary for the maintenance, repair, or replacement of any portion of the townhome Common Area or facilities situated upon such lot which serves another Owner's lot. The Association or its agent shall also have access to each lot at all times without notice as may be necessary to make emergency repairs to prevent damage to the townhome Common Area or another lot.

(m) Dwelling Specifications. No dwelling shall be constructed or permitted to remain on any attached townhome lot having an area of the main structure, exclusive of open porches and decks, of less than 925 square feet for a one-story dwelling nor less than 1196 square feet for a dwelling of more than one story.

(n) Garbage Disposal. All garbage shall be stored within the residence of each owner or in the storage facilities, if any, provided for said residents at the time same is constructed. No owner may change or supplement the garbage disposal facilities provided for such owner's residence on the date of completion of the construction thereof, unless the Board of Directors of the Association shall first approve in writing the change or addition to the method of storage. It is provided, however, that if the public health authorities, or other public agencies, shall require a specific method of garbage disposal, nothing herein contained shall prevent the compliance by owners with obligatory public rules and regulations.

(o) Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any lot or in any other unenclosed area (including patios) within the property.

(p) Yard Sales. No yard sale shall be conducted upon the premises at any time whatsoever.

ARTICLE XIII EASEMENTS

Section 1. Walks, Drives, Parking Area, and Utilities. All of the Property, including lots and Common Area, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas line, telephone and electric power lines, television antenna lines, and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant, and the Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2. Easements Appurtenant to Lots. All private streets shall be subject to an easement in favor of every lot to which they are adjacent or which they are designated to serve and shall be deemed appurtenant to each such lot, whereby the owner of each such lot shall be entitled to use them as a means of ingress, egress and regress and such other uses as shall have been designated. Such easement shall be superior to the lien of every mortgage or deed of trust.

Section 3. Encroachments. All lots and the Common Area shall be subject to easements for the encroachment of initial improvements constructed on adjacent lots by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every lot shall be subject to an easement for entry and encroachment by the Declarant and builders for the purpose of correcting any problems that may arise regarding grading, drainage or easements thereon. The Declarant and/or builder, upon making entry for such purpose, shall restore the affected lot or lots to as near the original condition as practicable.

Section 4. Structural Support. Every portion of a townhome which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other townhomes within the building.

Section 5. Emergencies. Every lot and townhome shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any lot or within any townhome and that endangers any building or portion of the Common Area.

Section 6. Easement for Governmental Agencies. An easement is hereby established over the Common Area for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 7. Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any townhome is located closer than five (5) feet from its lot line, the owner thereof shall have a perpetual access easement over the adjoining lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his townhome. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion

of the work, the owner shall restore the adjoining lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

Section 8. Scenic Easement. The Association shall maintain existing trees, shrubbery, grass and vegetation in the Common Area in a neat and orderly fashion and in accordance with customary rules of good husbandry; subject to acts of God or other matters beyond the Association's control. Such vegetation shall be subject to a scenic easement for the use, benefit and enjoyment of each lot in Cobblestone Subdivision which adjoins the Properties but is not subject to this Declaration.

ARTICLE XIV RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders.

"Institutional Lender", as the term is used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other reputable mortgage lenders and insurers of first mortgages. So long as any Institutional Lender shall hold any mortgage upon any lot, or shall be the owner of any lot, such Institutional Lender shall have the following rights:

(a) To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by a Certified Public Accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement and Report to be furnished by April 15 of each calendar year.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and Bylaws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meeting.

(c) To be given notice of default in the payment of assessments by an owner of a lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing to the Association.

(d) To inspect the books and records of the Association during normal business hours.

(e) To be given notice by the Association of any substantial damage to any part of the Common Areas.

(f) To be given notice by the Association if any portion of the Common Area is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender desires the benefits of the provisions of this Section, such lender shall serve written notice of such fact upon the Association by registered mail or

certified mail addressed to the Association and sent to its address stated herein identifying the lot upon which any such Institutional Lender holds a lien.

ARTICLE XV GENERAL PROVISIONS

Section 1. Providing for Traffic Flow. It shall be the responsibility of the Association to maintain uninterrupted traffic flow along all private streets within the Properties. If it is necessary for "no parking" signs to be erected in order to accomplish this, this shall be done at the expense of the Association as a common expense. Further, if the Association deems it necessary, the Association may adopt a towing regulation and shall employ persons to tow cars of unauthorized users of the Parking Area, which expenses shall be deemed a common expense to the extent they are not collected from said unauthorized users. The Association may designate one or more persons to sign on behalf of the Association such towing orders as are deemed necessary.

Notwithstanding anything herein to the contrary, in no case shall the City be responsible for failing to provide any emergency or regular fire, police, or other public service to the Properties or the Owners or occupants thereof when such failure is due to the lack of access to such areas due to inadequate design, or construction, blocking of access routes or any other factor within the control of the Declarant, Association or Owners.

Section 2. Enforcement. The Association, or any owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by 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 3. Insurance. The Board of Directors shall procure and maintain adequate liability and hazard insurance on property owned by the Association.

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

Section 5. FHA/VA Approval. Notwithstanding any provision in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of this subdivision for Federal Housing Administration or Veterans Administration approval (but not otherwise), the following actions will require the prior approval of Federal Housing Administration or the Veterans Administration: Annexation of

additional properties, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Covenants to Run With Land. The covenants, conditions, and restrictions of this Declaration shall run with the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 7. Amendments. The covenants, conditions and restrictions contained herein shall be a lien on the land hereinbefore described, and such additional land as may be properly incorporated herein without regard to the fact that they are not specifically mentioned in instruments of conveyance. This Declaration may be amended by an instrument signed by the owners of ninety percent (90%) of all Lots. All amendments shall be certified as an official act of the Association and shall forthwith be recorded in the Wake County Registry. All amendments shall become effective upon recordation.

Section 8. Certification of Amendment. If any amendment to these Covenants, Conditions and Restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days, do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any lot to be examined);

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY
OF AMENDMENT TO COVENANTS, CONDITIONS
AND RESTRICTIONS OF COBBLESTONE II
TOWNHOMES, INC.

By authority of its Board of Directors
Cobblestone II Townhomes Association, Inc. hereby
certifies that the foregoing instrument has been duly
executed by the Owners of ninety percent (90%) of the Lots
of Cobblestone II Townhomes and is, therefore, a valid
amendment to the existing covenants, conditions and
restrictions of Cobblestone II Townhomes.

Cobblestone II Townhomes Association, Inc.

By: _____
President

Attest:

Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Wake County Registry.

All amendments shall be effective from the date of recordation in the Wake County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of this Association. When any instrument purporting to amend the Covenants, Conditions and Restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any lots in Cobblestone II Townhomes Subdivision.

Notwithstanding the foregoing, no amendment for which approval of the City Attorney is needed shall be effective unless approved by the City Attorney of Raleigh (so long as this is required by the Raleigh City Code); provided, however, that if any amendment is submitted to said City Attorney and is neither approved nor disapproved within twenty (20) days from the date of submission, it shall be conclusively presumed that the City Attorney has approved it.

Section 9. Responsibility for Maintenance of Private Streets and Driveways. The maintenance responsibility for the private streets and driveways as shown on the aforesaid recorded map shall rest with the Association pursuant to the provisions of the Raleigh City Code §10-3074, as amended, which section provides substantially in part that in no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police, or public service to the property and/or occupants when the failure is due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Declarant, the Association or occupants. Nothing contained herein shall impose upon the City of Raleigh an obligation to provide fire, police, or other public service to the property and/or occupants unless and until the subject property is annexed into the corporate limits of the City of Raleigh.

ARTICLE XVI PUMP STATION

Developer has installed, or is in the process of installing, a pump station and related facilities for the transfer of sewage away from the subject property. Developer covenants with each lot owner taking property subject to this Declaration that Developer will maintain the pump station and related facilities until said owners are able to hook onto sewer facilities provided by the City of Raleigh or Wake County, as the case may be. Developer further covenants that the use of this pump station and related facilities and the requirement for maintenance thereof, shall

cease at the time that facilities provided by the City of Raleigh or Wake County, as the case may be, are available for owners of the property. Developer joins in this instrument for the purpose of subjecting themselves to the covenants contained in this Article.

ARTICLE XVII ELECTRICAL SERVICE

Declarant reserves the right to subject the above-described property to a contract with Carolina Power & Light 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 Carolina Power & Light Company by the owner of each lot within said Property.

ARTICLE XVIII SPECIAL USE PERMIT

Special Use Permit for Use of Recreational Facilities. As a condition precedent to the use of the Recreational Facilities as provided in Article IV, Section 2(d), a special use permit must be granted by the City of Raleigh's Board of Adjustment under Raleigh City Code Section 10-2073(c) (27) to allow membership fees to be charged for the use of the Recreational Facilities located in a residential zoning district. Declarant covenants that a special use permit will be applied for, seeking approval for such special use. In the event that the special use permit is not granted, all references to use and accounting related to said use of non-owners of the property encompassed in this Declaration, or which may be later annexed as herein provided, shall be deemed null and void.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have executed this instrument this the 7th day of July, 1986.

Garry Gardner Investment Corporation

By: Garry C. Gardner (SEAL)
Garry C. Gardner, President

ATTEST:

Garry C. Gardner, Jr., Secretary

NORTH CAROLINA

WAKE COUNTY

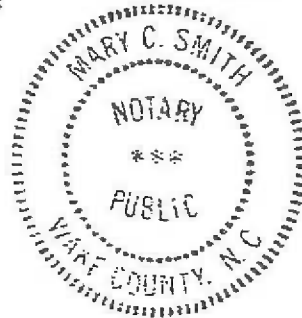
I, a Notary Public, certify that C. P. Garner, Jr. personally appeared before me this date and acknowledged that he is secretary of Garry Gardner Investment Corporation, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by himself as its Secretary.

Witness by hand and official seal, this 2 day of July, 1986.

Mary C. Smith
Notary Public

My commission expires: May 6, 1991

(SEAL)



NORTH CAROLINA

WAKE COUNTY

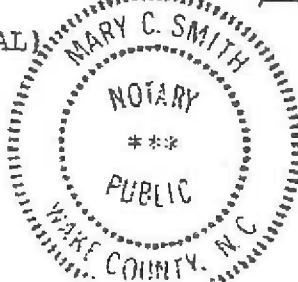
I, a Notary Public, hereby certify that Garry C. Gardner and wife, Sue F. Gardner, personally appeared before me this date and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this the 8 day of July, 1986.

Mary C. Smith
Notary Public

My commission expires: May 6, 1991

(SEAL)



Page 28

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate is of

Mary C. Smith

Notary Public is
(are) certified to be correct. This instrument and this certificate are duly registered at the date and time
and in the book and page shown on the first page hereof

KENNETH C. WILKINS, Register of Deeds

By

Kenneth C. Wilkins
Asst / Deputy Register of Deeds