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PRESENTED
FOR
REGISTRATION

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SS OCT 30 AM 11:13

KENNETH C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

OLDE RALEIGH TOWNHOMES

THIS DECLARATION, made on the date hereinafter set forth by The Barton Corporation, a North Carolina corporation, with its principal office located at Raleigh, Wake County, North Carolina, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in or near the City of Raleigh, County of Wake, State of North Carolina, which is more particularly described on Exhibit "A" attached hereto;

WHEREAS, Olde Raleigh Villas is a cluster unit development consisting of the Olde Raleigh Villa Owners Association, Inc. and other sub-associations including the Olde Raleigh Townhome Owners Association, Inc.; and

WHEREAS, the members of the Olde Raleigh Townhome Owners Association, Inc., shall be responsible for paying the Townhome Common Expenses of the Olde Raleigh Townhome Owners Association, Inc. as well as sharing the Townhome Common Expenses of the Olde Raleigh Villa Owners Association, Inc. with members of the other sub-associations.

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Olde Raleigh Townhome Owners Association, Inc., a North Carolina corporation, its successors and assigns.

Section 2. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 3. "Building" shall mean and refer to a multi-unit structure containing townhomes, constructed or erected on the Property.

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Section 4. "Townhome Common Elements" shall mean all real property owned by the Association for the common use and enjoyment of the Owners or members or designated classes of members of the Association, including but not limited to Limited Townhome Common Elements and private streets, sewer lines and water lines located outside any public street, as may be designated on any subdivision map of the Property or by the Association. The Townhome Common Elements to be owned by the Association at the time of the conveyance of the first Lot is all of that Property other than the Lots.

Section 5. "Townhome 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 Townhome Common Elements and Limited Townhome Common Elements;
- (d) Expenses declared to be Townhome Common Expenses by the provisions of this Declaration or the Bylaws;
- (e) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase, or as the Association may deem appropriate to purchase;
- (f) Ad valorem taxes and public assessment charges lawfully levied against Townhome Common Elements;
- (g) The expense of the maintenance of private drainage and utility easements and facilities located therein which are within the boundaries of the Property, cross Townhome Common Elements of the Property and serve both the Property and lands adjacent thereto; and,
- ✓(h) Expenses for maintenance of roads, streets, rights of way and any amenities as provided in this Declaration;
- ✓(i) The expense of maintenance of any roads, streets, easements, amenities, taxes or any other expense item associated with any Townhome Common Element not located on the Property, but permitted to be used by the members of the Association by any adjoining landowner, association or other entity pursuant to any cross-easement or agreement by the Association with the adjoining owner.
- (j) Expenses for maintenance of security devices or personnel; and
- (k) Any other expenses determined by the Board or approved by the members to be Townhome Common Expenses of the Association.

Section 6. "Declarant" shall mean and refer to The Barton Corporation, its successors and assigns, to whom the rights of Declarant hereunder may be expressly transferred, in whole or in part, and subject to such terms and conditions as Declarant may impose.

Section 7. "Limited Townhome Common Element" shall mean those portions of the Townhome Common Elements that serve only a single Lot or a limited number of Lots, and which may include, but specifically is not limited to, driveways, walkways, parking areas or

areas serving only specified Lots, and such other similar areas as may be designated by a subdivision map of the Property or the Association.

Section 8. "Living Unit" shall mean and refer to any Lot on which a dwelling unit has been fully constructed and made ready for occupancy as a residence, including without limitation, completion of the final floor covering, interior paint and wallpaper and all appliances, for which a Certificate of Occupancy or Compliance has been issued, and owned by anyone other than the original builder thereof unless occupied as a residence.

Section 9. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, as such maps may be from time to time amended, with the exception of the Townhome Common Elements.

Section 10. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 11. "Owner" or "Lot 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 Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 12. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee or other legal entity.

Section 13. "Property" shall mean and refer to that certain real property hereinbefore described on Exhibit "A", and such additions thereto as may hereafter be brought within the jurisdiction of the Association as this Declaration may provide.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of use and enjoyment in and to the Townhome Common Elements together with and including the right of access, ingress and egress, both pedestrian and vehicular, on and over the drives, walkways and parking areas of the Townhome Common Elements, all of which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) Subject to the ordinances of the City of Raleigh, North Carolina, the right of the Association to charge reasonable admission and other fees for the use of any recreational or other similar facility situated upon the Townhome Common Elements;

(b) the right of the Association to suspend the voting rights and the right to use the recreational or other Townhome Common Element facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate, sell, lease or transfer all or any part of the Townhome Common Elements, or any interest therein, to any public agency, authority, or utility, for such purposes and subject to such conditions as may be agreed upon by the members. Notwithstanding the foregoing, the Association shall have a right to participate in an equal exchange of open space as permitted by local government

ordinances. No such dedication, sale or transfer shall be effective unless it has been approved by two-thirds (2/3) of each class of members and an instrument of dedication, sale, lease, or transfer properly executed by the Association has been recorded. On such instrument the Secretary of the Association shall certify that two-thirds (2/3) of each class of members have approved the dedication, sale, lease or transfer and that certificate may be relied upon by any third party without inquiry and shall be conclusive as to any grantee, its successors or assigns; provided, however, conveyances for general utility purposes as specified herein may be made by the Association without consent of the members;

(d) the right of the Association to limit the number of guests of members;

(e) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Townhome Common Elements and facilities and in aid thereof to mortgage the Townhome Common Elements, and the rights of such mortgage in the Townhome Common Elements shall be subordinate to the rights of the homeowners hereunder;

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

(g) the right of the Association in accordance with its Articles of Incorporation or Bylaws to impose rules and regulations for the use and enjoyment of the Townhome Common Elements and improvements thereon, which rules and regulations may further restrict the use of the Townhome Common Elements and to create Limited Townhome Common Elements.

(h) the right of Owners of Lots on additional lands annexed to the Property initially, or subsequently, to the easements of enjoyment and rights of ingress, egress and access, as specified above, to the initial Property and all lands included in subsequent phases.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of use and enjoyment to the Townhome Common Elements and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

Section 3. Title to the Townhome Common Elements. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Townhome Common Elements located within the Property to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot, except encumbrances of utility, service, access, storm drainage and other similar service or utility easements. Similarly, the Declarant or other person annexing land will convey to the Association Townhome Common Elements which are a portion of any additional property as the same is annexed in the future at the time of conveyance of the first Lot located on that additional property.

Section 4. Parking Rights. Ownership of each lot shall entitle the Owner or Owners thereof to the use of not less than two automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking areas. The Association shall permanently assign two vehicular parking space for each Lot, such space to be as near the Lot to which it is assigned as is reasonably possible. No boats, trailers, campers, motorhomes, trucks or tractors shall be parked on the Property or on the right of way of any streets adjoining the Property by any Lot Owner, its family members,

tenants or contract purchasers, except as may be permitted by Rules and Regulations to be parked in a closed garage.

Section 5. TV Antennas, Cablevision, Music. The Association may provide one or more central television or radio antennas for the convenience of the members and may supply cablevision and piped-in music, and the cost of these may be included in annual or special assessments. The Association may regulate or prohibit the erection of television, radio or other antennas, dishes or disks on individual Lots.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every record Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members; however, the vote for such Lot shall be exercised as they among themselves determine, or as set forth in the Bylaws, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting is prohibited.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned, including Lots later added pursuant to annexation of additional property as set forth in this Declaration. The Class B membership shall cease and be converted to Class A membership with one vote for each Lot owned on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; but provided, that the Class B membership shall be reinstated if thereafter, and before the time stated in Subparagraph (b) below, such additional lands are annexed to the Property without the assent of Class A members on account of the development of such additional lands by the Declarant, all as provided for in Article VII below, or

(b) ten (10) years from the date of conveyance of the first Lot by Declarant.

Section 3. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and the Articles and Bylaws of the Association and according to the provisions of Article II, Section 1(b) herein.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot ✓

by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which are Townhome Common Expenses, and (2) special assessments for extraordinary maintenance and capital improvements, (3) special assessments for purchase and reconstruction of townhomes as hereinafter defined; and (4) for payment to the appropriate governmental taxing authority, a pro rata share of assessments for public improvement to the Townhome Common Elements and public roads if the Association shall default in payment thereof, all as hereinafter provided. The annual and special assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

The Association shall also have the authority, through the Board of Directors to establish, fix and levy a special assessment on any Lot or Living Unit to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this Declaration which breach shall require the expenditure of time and money or both, by the Association for repair or remedy.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the amount of such assessment shall be in default and become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the paying of Townhome Common Expenses to promote the recreation, health, safety, and welfare of the residents of the Property and in particular, but not limited to, for the acquisition, improvement and maintenance of Property, services, amenities and facilities, for the exterior maintenance of the Buildings and for the use and enjoyment of the Townhome Common Elements, including but not limited to, the cost of repairs, replacements and additions, the cost of maintenance of private streets and lighting on private streets, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Townhome Common Elements, the procurement and maintenance of insurance in accordance with the Declaration and Bylaws or as deemed appropriate by the Board, the payment of common antenna service, the employment of counsel, accountants and other professionals for the Association when necessary, and such other needs as may arise.

Section 3. Amount of Assessment.

(a) Initial Maximum Assessment. To and including December 31, 1996, the maximum monthly assessment shall not exceed One Hundred and No/100 Dollars (\$100.00) per Living Unit.

(b) Increase by Association. From and after December 31, 1996, the assessment effective for any month 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 the greater of ten (10%) percent or the percentage increase reflected in the U. S. City Average, Consumer Price Index - United States and selected areas for urban wage earners and clerical workers, all items most recent index

and percentage changes from selected dates, (published by the U.S. Bureau of Labor Statistics, United States Department of Labor, Washington, D.C.), or such other Index as may succeed the Consumer Price Index, for that twelve-month period ending the immediately preceding October 1.

(c) Increase by Members. From and after December 31, 1996, the monthly assessment 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 who are voting in person or by proxy, at a meeting duly called for such purpose. 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 Monthly Assessment. In establishing the monthly assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of ten (10%) percent or the sums derived by application of the Consumer Price Index formula provided in Subsection (b) without the consent of members required by Subsection (c) of this Section 3.

(e) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum.

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 applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Townhome Common Elements, any extraordinary maintenance, and in connection with exterior maintenance, including fixtures and personal property related thereto and any property for which the Association is responsible, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, except that the Board without a vote by the Members may approve one special assessment every three (3) years not to exceed \$500.00.

Section 5. Replacement Reserve. Out of the Townhome Common Expenses assessment, the Board shall create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Townhome Common Elements and any Limited Townhome Common Elements which the Association may be obligated to maintain.

Section 6. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast forty percent (40%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all Lots and Living Units.

Section 8. Date of Commencement of Monthly Assessments: Due Dates. The monthly assessments provided for herein shall commence as to all Lots or Living Units on the first day of the month following the conveyance of the Lot or Living Unit from the Declarant to the Consumer-occupant. 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 shall, upon demand, and for a reasonable charge if it deems appropriate, furnish a certificate signed by an officer 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 issuance.

Section 9. Two Months Initial Working Capital. In addition to the regular assessments to be charged and paid hereunder, each Lot Owner shall, at the time of the initial sale of each Lot by Declarant to that Lot Owner, pay to the Association a sum equal to two (2) months assessment on that Lot as additional working capital of the Association. These amounts need not be segregated but may be commingled with regular assessment funds. This working capital amount shall be paid by the Lot Owner notwithstanding the fact that Declarant may have made prior regular assessment payments to the Association on the Lot being sold pursuant to the provisions of the first sentence hereunder.

Section 10. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date at the rate of twelve (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Townhome Common Elements or abandonment of his Lot.

The lien herein granted unto the Association shall be enforceable pursuant to Article 2A of Chapter 45 of the General Statutes from and after the time of recording a Claim of Lien in the Office of the Clerk of Superior Court in the County in which the Property is located in the manner provided therefore by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Lot encumbered thereby, the name of the record owner, the amount due and date when due. The claim of lien shall be recordable any time after thirty (30) days after the due date of the assessment or any installment thereof and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include all assessments which are due and payable when the claim of lien is recorded, plus interest, costs, reasonable attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

Section 11. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to such mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale 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 any portion of the Property 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.

Section 13. Foreclosure of liens for unpaid Townhome Common Expenses. In any action brought by the Board to foreclose on a Lot because of unpaid Townhome Common Expenses, the Lot Owner shall be required to pay a reasonable rental for the use of his Lot, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all Lot Owners, or on behalf of any one or more individual Lot Owners, if so instructed, shall have the power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage, convey, or otherwise deal with the same, subject, however, to applicable restrictions of record. A suit to recover money judgment for unpaid Townhome Common Expenses may be maintainable without foreclosing or waiving the lien securing the same.

Section 14. Responsibility for Maintenance of Private Streets and Driveways. The maintenance responsibility of the private streets and driveways as shown on the subdivision map recorded shall rest with the Association pursuant to the provisions of the Raleigh City Code Section 10-3074, 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 other 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 Owners.

In no case, shall the City or the State be responsible for maintaining any private street. Such responsibility rests with the Association and occupants; in that, such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

ARTICLE V

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 and all reconstruction or extensions of such walls shall constitute party walls, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support in below-ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repairs 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 to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Easement to Adjoining Lot. The Owner of any Lot may construct, reconstruct, repair, or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such Owner shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

Section 5. 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 6. Right to Contribution Not Run with Land. The right of any Owner to contribution from any other Owner under this Article shall be contractual hereunder and shall not be appurtenant to the land and shall not pass to such Owner's successors in title.

Section 7. 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 Owner has a right of contribution as provided in this Article V, request of the adjoining Owner a certificate that no contribution exists, whereupon it shall be the duty of each adjoining Owner to make such certification immediately upon request without charge; provided, however, that where the adjoining Lot Owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VI

ARCHITECTURAL CONTROL

No site preparation (including, but not limited to, grading, elevation work, sloping or tree work) or initial construction, erection or installation of any improvements, including but not limited to, buildings, fences, signs, walls, screens, plantings or other structure shall be commenced, erected, placed, altered or maintained upon the Property or any Lot, nor shall any exterior addition to, or change, or alteration therein be made to any improvement by any Owner, other than Declarant, until the plans and specifications showing the nature, kind, shape, height, materials, exterior design, colors, siding, location and elevations of the proposed improvements 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, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required; and this Article will be deemed to have been fully complied with; provided that plans and specifications that contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding the foregoing.

Upon request the Board shall provide any Owner with a letter stating that any such work plans and specifications have been approved and the same may be relied upon by third parties.

Refusal of approval of such plans, location or specifications may be based upon any grounds, including purely aesthetic and environmental, that in the sole discretion of the Board or Committee, it shall deem sufficient. The Association shall not be responsible for any defects in the plans and specifications submitted to it or in any structure erected according to such plans and specifications.

The Association shall have the right, at its election, but shall not be required, to enter upon any of the Property 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.

Any reference to "Association" in this Article shall mean the Board or the Architectural Committee, if vested with approval by the Board.

ARTICLE VII

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Approval of Annexation. Annexation of additional property, except as provided in Section 2 of this Article VII, 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, present in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purposes of the meeting. The presence of members or of proxies entitled to cast forty percent (40%) of the votes of each class of 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 above and the required quorum shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. Annexation by Declarant. If within twenty (20) years of the date of conveyance by Declarant of the first Lot, the Declarant should develop additional land within the boundaries of that property described on Exhibit "B" attached hereto, such land may be annexed by the Declarant without the consent of members; and, in doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of the members in order to subject such additional lands to the terms of this Declaration and the jurisdiction of the Association.

Section 3. Recording Annexation Documents. Annexation of additional lands shall be accomplished by recording in the Office of the Register of Deeds in the county in which the Property is located, 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 Property on the date of recordation of the Declaration of Annexation, and in the case of an 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 any local governmental authority if required by its ordinances.

Section 4. Annexed Townhome Common Elements. Subsequent to recordation of the Declaration of Annexation by the Declarant or any other persons annexing land in accordance with this Article, and prior to the conveyance of the first Lot therein, the Declarant or any other person annexing land in accordance with this Article shall in accordance with Article II, Section 3, deliver to the Association one or more deeds conveying any Townhome Common Elements within the lands annexed as such Townhome Common Elements is developed.

ARTICLE VIII

EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance by Association. In addition to maintenance of the Townhome Common Elements, the Association shall provide exterior maintenance upon each Living Unit which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, mailboxes, fences installed by Declarant or the Association, exterior post lights (excluding electricity therefor), and other exterior improvements. Such exterior maintenance shall not include glass surfaces, or screens for windows and doors, or any improvements contained within courtyards or areas secured by the owner or the repair or reconstruction of any improvements on any lot, the cost of which repair or reconstruction would be covered by casualty insurance, whether or not a policy of casualty insurance is in effect. Further, the Owner of any lot may at his election plant trees, shrubs, flowers and grass in his rear yard and shall also maintain his rear yard provided that such maintenance by the Owner does not hinder the Association in performing its maintenance of the exterior of the dwelling and the remaining yard spaces. No such maintenance by a Lot 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 rear 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 at the expense of the Owner. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

(As a matter of information to future members of this Association, the Declarant wishes to make it known that it is a part of the original plan of development to construct a variety of dwellings with a variety of exteriors for the good of the entire subdivision. Some dwellings will require far more maintenance than others because of the types of exterior exposures. Nevertheless, in order to avoid monotony and in order to achieve a harmony of design and textures, all of those connected with the conception, design, construction and financing of this subdivision as originally planned, are in accord in their belief that all members of the Association will be benefited by the variety of exteriors and, therefore, the Association should provide exterior maintenance and make a uniform rate of charge without regard to the actual cost of maintenance of each dwelling.)

Section 2. Damage by Owner. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or tenants, guests, contractors, or invitees, or contract purchasers the cost of such maintenance or repairs shall be added to, and become a part of, the assessment to which such Lot is subject.

Section 3. Inspection Rights Reserved. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association, its agents, employees or

contractors, the right to unobstructed access over and upon each Lot or Living Unit at all reasonable times for inspection and to perform maintenance as provided in this Article.

Section 4. Casualty Loss Not Included. Maintenance and repairs under this Article arise from normal usage and weathering and do not include maintenance and repairs made necessary by fire or other casualty or damage.

ARTICLE IX

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space of each Lot and the Townhome Common Elements. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Property. No portion of the Property (except for temporary office of the Declarant and/or model townhouses used by Declarant) shall be used except for single-family residential purposes and for purposes incidental or accessory thereto.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be, or may become, a nuisance or annoyance to the neighborhood.

Section 4. 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 that they are not kept or maintained for commercial purposes and are controlled in accordance with applicable governmental ordinances and are not a nuisance to other Owners.

Section 5. Insurance. Nothing shall be kept, and no activity shall be conducted, on the Property 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 Townhome Common Elements 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 Townhome Common Elements.

Section 6. Offensive Behavior. 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, order, 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.

Section 7. Structural Integrity. Nothing shall be done in or to any Building or in, to, or upon any of the Townhome Common Elements which will impair the structural integrity of any building, or portion of the Townhome Common Elements or which would impair or alter the exterior of any Building or portion thereof, except in the manner provided in this Declaration.

Section 8. Business. No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any part of the Property, except that the Declarant or its agents may use any unsold townhome for sales or display purposes.

Section 9. Signs. 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 Building, or any portion of the Townhome Common Elements, except as allowed by the Association pursuant to its Bylaws or regulations or as required by local governmental authority; provided, however, that the Declarant and any mortgagee who may become the Owner of any Lot, or their respective agents, may place "For Sale" or "For Rent" signs on any unsold or unoccupied townhomes and in suitable places on the Townhome Common Elements provided, however, that during the development of the Property and the marketing of townhomes, the Declarant 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.

Section 10. Alterations. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Townhome Common Elements except at the direction or with the express written consent of the Association.

Section 11. Townhome Common Elements Use. The Townhome Common Elements 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.

Section 12. Screens. No Owner shall utilize window screens on the front of any townhome.

Section 13. Parking. No boats, trailers, campers, motorhomes, trucks or tractors shall be parked on the Property or on any right of way of any streets adjoining the Property by any Lot Owners, its family members, tenants or contract purchasers, except as may be permitted by Rules and Regulations to be parked in a closed garage.

Section 14. Leases. No Living Unit may be leased for a period of less than six (6) months.

ARTICLE X

EASEMENTS

Section 1. Utility Easements. All of the Property, including Lots and Townhome Common Elements, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power line and other public utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the Property to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Townhome Common Elements conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property without approval of the membership as provided in the Articles of Incorporation and this Declaration.

Section 2. Adjoining Areas. Each Owner is hereby declared to have an easement, and the same is hereby granted by the Declarant, over all adjoining Lots for the purpose of

accommodating any encroachment due to engineering errors, errors in original construction, or additional settlement or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachment, settlement or shifting; provided however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

Section 3. Unintentional Encroachments. In the event that any building on a Lot shall encroach upon any Townhome Common Elements or upon any other Lot for any reason not caused by the purposeful or negligent act of the Owner or agents or such Owner, then an easement appurtenant to such Lot shall exist for the continuance and maintenance of such encroachment upon the Townhome Common Elements or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Townhome Common Elements shall encroach upon any Lot, then an easement shall exist for the continuance and maintenance of such encroachment of the Townhome Common Elements onto any such Lot for so long as such encroachment shall naturally exist.

Section 4. Overhanging Roofs and Eaves. Each Lot and its Owner within the Properties is hereby declared to have an easement, and the same is hereby granted by the Declarant, over each adjoining Lot and/or the Townhome Common Elements, as the case may be, for over-hanging roofs and eaves and the maintenance thereof.

Section 5. Easement for the Benefit of Governmental Authorities. An easement is hereby established for the benefit of the City of Raleigh, or other governmental agency, over all Townhome Common Elements for the setting, removing and reading of water meters (which shall be separate for each Living Unit), maintaining and replacing water, sewage and drainage facilities, for police protection, fire fighting and garbage collection, postal services, and the rendering of such other services as are appropriate and necessary for the use and enjoyment of the Property. In no case shall the City of Raleigh or other responsible agency, be responsible for failing to provide any emergency or regular fire, police, or other public service to the Property or to any of its occupants when such failure is due to the lack of access to such area due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Declarant, the Association, the Owners or occupants. All conveyances of any portion of the Property shall be subject to these limitations on the City's or other agency's responsibilities.

Section 6. Easement for Benefit of Utility Company. The Declarant reserves the right to subject the Property, including the Townhome Common Elements, to a contract with Carolina Power and Light Company for the installation of underground electric lines, cables and connector posts or for the installation of street lighting, either or both of which, may require an initial payment or a continuing monthly payment to the utility by the owner of each Lot.

Section 7. Priority of Easements. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Lots, and the Townhome Common Elements, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the Property or any portion thereof.

Section 8. Declarant Easement. 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 for a period not to exceed eighteen (18) months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected lot or lots to as near the original condition as practicable.

Section 9. 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 10. 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 11. Maintenance Easement. The Association reserves an easement over and across every Lot for the purpose of performing the maintenance requirements of the Association as prescribed herein.

Section 12. Easements for Repairs. Each lot owner shall have a perpetual access easement over the adjoining lot and Townhome Common Elements 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 and Townhome Common Elements to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable. This easement is required by the Raleigh City Code.

ARTICLE XI

INSURANCE

Section 1. Insurance to be Maintained by the Association. The following insurance coverage shall be maintained in full force and effect by the Association:

(a) Public liability and property damage insurance in such amounts and in such forms as shall be required by the Association, but public liability shall be an amount of at least \$1,000,000 for each occurrence.

(b) All liability insurance shall contain cross-liability endorsements to cover liability of the Owners as a group to an individual Owner.

(c) Fidelity bond coverage covering those that shall be responsible or shall handle funds of the Association.

(d) Such other insurance coverage as it may determine to be desirable and necessary, including fire and hazard insurance covering all buildings located on the Property as specified in Section 4, if determined to be better served by the Association procuring such insurance.

Section 2. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and charged ratably to Owners as an assessment according to the applicable provisions of this Declaration.

Section 3. Insurance Beneficiaries. All such insurance policies shall be purchased by the Association for the benefit of the Association and the Owners.

Section 4. Insurance to be Maintained by the Owners. Every Owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full replacement value of his Living Unit, including the value of excavations and foundations. An Owner shall exhibit to the Board, upon request, evidence that such insurance is in effect. If any Owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the Owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the Owner and shall constitute a lien against his Lot until paid as a result of enforcement by the Association or otherwise.

The Association may, at its election, procure and pay for such insurance on all buildings, improvements and Living Units.

Casualty coverage shall afford protection against:

- (A) Loss or damage to property by fire or other hazards covered by a standard extended coverage endorsement; and
- (B) Such other risks as from time to time shall be customarily covered with respect to buildings and improvements similar in construction, location and use as the buildings and improvements to be insured, including, but not limited to, vandalism and malicious mischief.

Such insurance shall be issued with an insurer licensed to do business in North Carolina and holding a rating of "A" or better by Best's Insurance Reports, and such policy must provide that the insurer will not cancel, reduce or substitute coverage without first giving the Association and any mortgagee named in the policy thirty (30) days prior written notice thereof.

ARTICLE XII

REPAIR, RESTORATION OR RECONSTRUCTION OF CASUALTY DAMAGE

Section 1. Repair and Restoration. Except as otherwise herein provided, damage to or destruction of Living Units or Lots shall be promptly repaired, restored or reconstructed by the affected Owners, such repair and restoration or reconstruction, insofar as possible, to be in accordance with the original plans and specifications of the original building. In the event that the Owners of damaged Living Units and Lots default in the obligation to promptly repair and restore or reconstruct as herein provided, the Association may (but shall be under no obligation to) repair and restore or reconstruct the damaged Living Unit or Lot. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association and its agents the right to unobstructed access over and upon each Lot at all reasonable times to perform repair and restoration or reconstruction as provided in this Article. In the event of action by the Association as herein permitted, the Owners of damaged Living Units and Lots shall be liable for assessment for the entire cost of such repair and restoration or reconstruction and subject to exercise of the enforcement remedies herein provided in the event of failure of timely payment of the assessment.

ARTICLE XIII

RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders. "Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, savings banks, insurance companies, Veterans Administration, Federal Housing Administration, Federal National Mortgage Association and other reputable mortgage lenders, guarantors and insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any Lot, or shall be the Owner of any Lot, such Institutional Lender or Institutional Lenders shall have the following rights:

- A. To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement and Report to be furnished within 120 days of the end 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 meetings.
- C. To be given notice of default in the payment of assessments by any Owner of a Lot of sixty (60) days or more encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.
- D. To inspect the books and records of the Association and the Declaration, Bylaws and any Rules and Regulations during normal business hours and to obtain copies thereof.
- E. To be given notice by the Association of any substantial damage to any part of the Townhome Common Elements.
- F. To be given notice by the Association if any portion of the Townhome Common Elements, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.
- G. To be given notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- H. Any proposal requiring consent of the mortgage holders.

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, or to the address of the Property, identifying the Lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held

by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. 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 2. 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 3. General Amendments. The covenants and restrictions of this Declaration shall run with and bind 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. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Except as provided herein, this Declaration may not be revoked or amended without the express written consent of the Raleigh City Attorney or his designee; the failure to obtain such consent renders any amendment or revocation void ab initio.

Section 4. Responsibility for Maintenance of Private Streets and Driveways. The maintenance responsibility of the private streets and driveways as shown on the subdivision map recorded shall rest with the Association. In no case shall any governmental authority having jurisdiction over the Property be responsible for failing to provide any emergency or regular fire, police, or other 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 Owners.

In no case, shall the City or the State be responsible for maintaining any private street. Such responsibility rests with the Association and occupants; in that, such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

Section 5 Amendments Permitted Without Membership Approval. The following amendments may be effected by the Declarant, or the Board, as the case may be, without consent of the members:

- (A) Prior to the sale of the first Lot, this Declaration may be amended by the Declarant.
- (B) Declarant may amend this Declaration by annexation of additional lands as specified in Article VII, Section 2 herein.
- (C) The Declarant, so long as it shall retain control of the Association, shall have the right to amend this Declaration to conform to the requirements of any law or

governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

- (D) The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the Property, or any portion thereof, for tax-exempt status.

Section 6. Governmental Authority Amendments. No amendment which would change or delete any provision herein shall become effective until submitted to the Raleigh City Attorney or Deputy City Attorney; provided, however, if that authority fails to approve or disapprove such amendment within thirty (30) days after the same has been submitted to it, such approval shall not be required and this covenant shall be deemed to have been fully complied with.

Section 7. FHA/VA Approval. As long as there is a Class B membership, and if Declarant determines to qualify this Property for Federal Housing Administration or Veterans Administration approval the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional property, dedication of Townhome Common Elements, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 8. Recordation. No amendment shall be effective until recorded in the County in which the Property is situate.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 22nd day of October, 1996.



THE BARTON CORPORATION, a North Carolina corporation

By: [Signature]
President

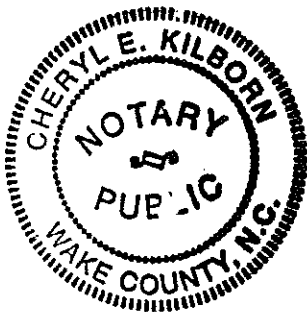
Patricia M. MacNair
Secretary

STATE OF NORTH CAROLINA :

COUNTY OF Wake :

I, the undersigned Notary Public of the County and State aforesaid, certify that Patricia M. MacNair personally came before me this day and acknowledged that she is Secretary of THE BARTON 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, attested by her self as its _____ Secretary, and sealed with its corporate seal.

Witness my hand and official stamp or seal, this 22nd day of October, 1996



Cheryl E. Kilborn
Notary Public
My Commission Expires: 4/18/2001

[Signature]

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of _____

Cheryl E. Kilborn

Notar(y)(ies) 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: Audra S. Richardson
Asst/Deputy Register of Deeds

BK 7203PG0848

EXHIBIT A

BEING ALL of that 6.9812 acre tract shown on that map entitled "Property of Olde Raleigh Villas Townhomes" by John A. Edwards & Company, dated July 25, 1996 and recorded in Book of Maps 1996, page 1399 and re-recorded in Book of Maps 1996, page 1424 Wake County Registry.