

STATE OF NORTH CAROLINA
COUNTY OF WAKE

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR DEERFIELD SQUARE

THIS DECLARATION, made on the date hereinafter set forth
by DEERFIELD SQUARE ASSOCIATES, INC., hereinafter referred to as
"Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in
Neuse Township, County of Wake, State of North Carolina, which
is more particularly described as follows:

Beginning at a point in the eastern right of way
line of Falls of Neuse Road, said point being the
corner of the V & G Day Care Center, Inc. property
recorded in Deed Book 2676, Page 617, Wake County
Registry, running thence North 42° 35' 43" East to
a point in the western right of way of Staghorn Lane;
thence in a southerly direction with the arc of a
circular curve to the left having a radius of
794.66 feet an arc distance of 209.39 feet to a
point, said point being a common corner of the
property of C. L. Medlin, now or formerly, thence
with Medlin's line South 27° 30' 03" West 406.12
feet to a point; thence North 80° 28' 57" West
282.61 feet to a point in the eastern right of way
line of Falls of Neuse Road; thence along the
eastern right of way line of Falls of Neuse Road
North 19° 38' 17" West 96.7 feet to the point and
place of beginning and being all of Lot Number 3A
as shown in Book of Maps 1977, Page 633, Wake County
Registry.

WITNESSED BY ME, J. M. L. L.
DEERFIELD SQUARE ASSOCIATES, INC.

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

NOW, THEREFORE, Declarant hereby declares that all of the properties 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 properties 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 Deerfield Square Homeowners Association, Inc., its successors and assigns.

Section 2. "Owners" 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 3. "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 4. "Common Area" shall mean all real property owned by the Deerfield Square Homeowners Association, Inc., and the easements granted thereto for the common use and enjoyment of the owners. The common area to be owned by the Association shall be described as follows:

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

Section 6. "Lot in Use" shall mean and refer to any lot on which a dwelling unit has been fully constructed and occupied as a dwelling unit and it shall also mean any lot which has been conveyed by the Declarant to a subsequent purchaser for a period of one year, but which does not have a dwelling unit constructed thereon and occupied. In no event shall it mean a lot owned by the Declarant on which no dwelling unit has been constructed. For the purpose of this section, a unit shall be considered occupied once the same has once been occupied initially.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association. There shall be two kinds of membership in the Association.

A. "Class A Members" shall be all those owners as defined in Article III herein, with the exception of the Declarant.

B. "Class B Member" shall be the Declarant as defined herein.

Section 8. "Declarant" shall mean and refer to Deerfield Square Associates, Inc., its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development or if such successors or assigns should acquire more than one lot, whether developed or undeveloped, pursuant to foreclosure or a deed in lieu of foreclosure ("successors" includes any lender with respect to loans obtained by Deerfield Square Associates, Inc., to develop the Property.)

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners Easement of Enjoyment: Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot subject to the following provisions:

A. Admission and Other Fees: The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area.

B. Suspension of Use of Common Area: The right of the Association to suspend the voting rights and the right to use of any recreational facilities by any owner for any period during which any assessment against his lot remains unpaid and for a period not to exceed sixty (60) days for the infraction of its published rules and regulations; provided, however, that the voting rights of Declarant and the right to use the recreational facilities by Declarant shall not be suspended except for the non-payment of an assessment.

C. Dedication and Transfer of Common Area: The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, utility, or non-profit corporation

for such purposes, and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded in the Wake County Registry.

D. Guests: The right of the Association to limit the number of guests of members.

E. Borrowing for Improvements: The right of the Association, in accordance with its articles and by-laws, to borrow money for the purpose of improving the common area and facilities and in aid thereof to mortgage said properties and the right of such mortgagee of said properties shall be subordinate to the rights of the owners established hereunder.

F. Parking: The right of individual owners to the exclusive use of parking spaces as provided in this Declaration.

G. Use of Recreational Facilities: The right of the Association, through its Board of Directors, to determine the time and manner of use of the recreational facilities by the members.

Section 2. Delegation of Use: Any owner may delegate, in accordance with the by-laws, his right of enjoyment to the common area and facilities to the members of his family, his tenants, contract purchasers, or guests, who reside on the property, subject to the provisions of Article II.

Section 3. Reciprocal Easements: Whenever building lines, patio lines, private walkways or plantings encroach upon

the common area, the owner of the affected lot hereby grants a perpetual easement for the use of that portion of the lot which creates an encroachment to the Association.

Section 4. Parking Rights: Ownership of each single family attached townhouse lot shall entitle the owner or owners thereof to the use of not more than two (2) 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 lot. The Association shall permanently assign one of said parking spaces for each townhouse lot as near the dwelling to which it is assigned as is reasonably possible. The Association may regulate the parking of boats, trailers, and other such items on the common area. No boats or trailers shall be parked within the right of way of any public street in or adjacent to Deerfield Square.

Section 5. Title to the Common Area: Declarant hereby reserves the right to establish, during a period of five years from the filing of this Declaration, additional areas of parking as Declarant, in its discretion, may determine to be needed. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title in the common area to the Association, free and clear of all encumbrances and liens, except utility and drainage easements and easements of enjoyment to which the owners of each lot are entitled to share, prior to the conveyance of the first lot. The Association and the owners thereof agree that said Common Area shall not be subject to partition or division except as provided in Article X, Section 6.

Section 6. Television Antennas and Piped-In Music: The Association may provide one or more central television antennas for the convenience of the members and may supply piped-in music. The cost of these may be included in annual or special assessments applicable to Townhouse lots. The Association may regulate or prohibit the erection of television antennas on Townhouse lots.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS

Section 1. 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 assessments or which is specifically exempted from assessment either by the terms of this declaration or by the terms of appropriate governmental laws, ordinances, or regulations, or will become subject 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 an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to, or will become subject to assessment by the Association. Ownership of said 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.

Section 2. The Association shall have two classes of voting membership. Declarant may, however, be a Class A member upon the termination of Class B membership.

Class A: Class A members shall be all owners with the exception of the Declarant and shall be entitled to one (1) vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote of such lots shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any lot.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to four votes for each lot owned. The Class B membership shall cease and be converted to Class A membership upon either of the following events, whichever occurs first:

A. When the total votes outstanding in Class A membership exceed 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, additional lands are annexed to the properties without the assent of Class A members for the development of such additional lands by the Declarant, all as provided in Article IV, Section I herein; or

B. On _____, 1985.

C. Upon the surrender of all Class B memberships by the holder thereof or cancellation by the Association.

ARTICLE IV

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. After the development of the initial twenty-seven (27) units, annexation of additional properties 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, as provided in Article X, Section 6.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each lot in use owned within the properties, hereby covenants, and each owner of any lot in use by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

- (1) Annual assessment or charges; and
- (2) Special assessments for capital improvements.

Such assessments are to be established and collected as hereinafter provided. All assessments relating to the Common Area shall be shared equally by the owners of each lot without regard to whether or not the lot is in use. The annual and special assessments, together with interest costs and reasonable attorneys fees, shall be a charge upon the land and shall be a continuing lien upon the property against which each such assessment is made. All assessments which relate only to the exterior maintenance of the Townhouse lots shall be shared equally by the owners of each townhouse lot is use, except as provided herein. Special assessments for capital improvement shall, except as provided herein, be shared equally by the owners of each lot without regard as to whether or not said lot is in use. The annual and special assessments, together with such interest thereon and the cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, cost and reasonable attorneys fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the beautification of the properties, the recreation, health, safety and welfare of the residents in the properties, and for the improvement and maintenance of the Common Area including but not limited to the payment of taxes, liability insurance and all assessments for the public improvement of the common area, and easements appurtenant thereto, and the enforcement of these covenants and the rules of the Association and, in particular, for the improvement and maintenance of the properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the common area and of those homes situated upon the property on which the Association is obligated to perform maintenance.

Section 3. Maximum Annual Assessments: Until January 1 of the year immediately following the conveyance of the first lot to the owner, the maximum annual assessment shall be \$200.00 per townhouse lot.

A. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased each year without a vote of the membership in conformance with twice the rise of the consumer price index (published by the Department of Labor, Washington, D. C.), or such index as may succeed the consumer price index for the preceding month of July.

B. From and after January 1, 1981, the maximum annual assessment may be increased above that established by the Consumer Price Index formula aforesaid by a vote of the members for the next succeeding five years, and at the end of each such period of five years, for each succeeding period of five years, provided that any such change shall have the assent of the members as provided in Article X, Section 6. Limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation of which the Association is authorized to participate under its Articles of Incorporation.

C. After consideration of the current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

D. As long as Deerfield Square Associates, Inc., or its successors or assigns, has a majority of the total votes of the Class A and Class B votes, Deerfield Square Associates, Inc. will pay all expenses for the maintenance and operation of the common areas to the extent that annual assessments paid by the owners of lots in Deerfield Square are inadequate for this purpose. Whereby at such time as the control of the Homeowners Association is no longer possessed by Deerfield Square Associates, Inc., Deerfield Square Associates, Inc. shall have no further debt for maintenance and operation of the common area pursuant to the terms of this section.

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 or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto; and the cost of any purchase of an individual owner's property and the costs of repairing and/or rebuilding any such property purchased by the Association to the same condition as formerly; provided that any such assessment shall be approved as provided in Article X, Section 8; provided that any such assessment shall be approved as provided in Article X, Section 6.

Section 5. Uniform Rate of Assessment: Both annual and special assessments related to the common area must be fixed at a uniform rate for all lots in Deerfield Square and may be collected on a monthly basis. Both annual and special assessments relating to the maintenance of the exterior of townhouses must be fixed at uniform rates for all townhouse lots in use and may be collected on a monthly basis, except as to an assessment provided for by Article VII.

Section 6. Date of Commencement of Annual Assessment

Due Dates: The annual assessments provided for herein shall be commenced as to all lots in use in Deerfield Square on the first day of the month following the conveyance of the common areas to the Association. 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 in use 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 date shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid as to third parties acting in reliance on said statement.

Section 7. Effect of Non-Payment of Assessments:

Remedies of the Association: Any assessments which are not paid when due shall be delinquent. The Association shall have the option to declare the outstanding balance of any assessment due and payable if any installment thereof shall become delinquent as defined herein. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight (8%) percent per annum and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property. Interest, cost, and reasonable attorneys fees of any such action shall be added to the amount

of such assessment. Each such owner, by his acceptance of a deed to a lot hereby expressly vests in the Deerfield Square Homeowners Association, Inc., or its agents or assigns, the right and power to bring all actions against such owner personally liable for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property and such owner hereby expressly grants to the Association a power of sale in connection with foreclosure of said lien. The lien provided for in this action shall be in favor of the Association and shall be for the benefit of all other lot owners. The Association acting on behalf of the lot owners, shall have the power to bid in an interest foreclosed at foreclosure and to acquire and hold, lease, mortgage and convey the same and to subordinate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding the non-payment of the owner's portion of the premium. No owner may waive or otherwise escape liability for assessments provided for herein by non-use of the common area or abandonment of his lot.

Section 8. Subordination of the Lien to Mortgages:

The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to the foreclosure of any mortgage or of deed of trust or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer; provided that the registered agent of Deerfield Square Homeowners Association, Inc., has been notified of said foreclosure prior to the date thereof. No sale or transfer shall relieve any such lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 9. Exempt Property: The following property, subject to this declaration, shall be exempt from the assessment created herein:

A. All properties dedicated to and accepted by a local public authority.

B. The Common Area.

C. All property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments except as provided herein in Article V.

Section 10. Insurance Assessments: The Board of Directors or its duly authorized agent may have the authority to and shall obtain insurance for all the buildings owned by the Association against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard and shall also obtain a broad-form public liability policy covering all common areas and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be a common expense. All such insurance coverage shall be written in the name of the Association as Trustee for each of the lot owners in equal proportions. It shall be the responsibility of each owner at his own expense to obtain hazard insurance in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction to his dwelling from any hazard, and such hazard insurance shall

be with a company and in an amount and in a form which is acceptable to the Board of Directors of the Association. The hazard insurance policy to be taken out by each owner shall include a loss payable clause listing the Association as an additional insured. Each owner shall have to satisfy the Board of Directors of the Association that at all times his property is covered by the required hazard insurance. In the event of damage or destruction by fire or other casualty to the property of an individual owner, the owner shall, with the concurrence of the Mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the property in as good condition as formerly. In the event the insurance proceeds are insufficient to pay all of the costs of repairing and/or rebuilding to the same conditions as formerly, the Board of Directors shall have the power to purchase the property and to repair and rebuild the same and to levy a special assessment against all members of the Association to pay the purchase price and to pay for the costs of repairing and/or rebuilding to the same condition as formerly; provided, however, that the Board of Directors' power to levy a special assessment for these purposes is subject to the prior approval of the Association given pursuant to the voting requirements of Article X, Section 6. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the Mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by the Federal

Deposit Insurance Corporation or other Federal Government agency, with a provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractor, or they may negotiate with any contractor who shall be required to provide a full performance and payment bond for the repair and reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all of the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all members of the Association as established by Article V, Section 1, above to make up any deficiency for repairs or rebuilding of the common area.

ARTICLE VI.

PARTY WALLS

Section 1. General Rules of Law to Apply: Each wall which is built as a part of the original construction in the townhouse section of the homes upon the properties 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 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 thereof make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, subject, 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 negligence or willful acts or omissions.

Section 4. The owner of any townhouse lot may construct, reconstruct, 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 or before the commencement of such construction as is reasonably practicable.

Section 5. Weatherproofing: Notwithstanding any other provisions of this Article, an owner who, by his negligence 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. The Right to Contribution Runs with the 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 owners' 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 property owner has a right of contribution as provided in this Article, request of the adjoining property owner or property owners or any one of them, a certification that no right of contribution exists. Whereupon it shall be the duty of each adjoining property owner to make such certification immediately upon request and 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. In the event a property owner refuses or neglects to make a certification within one week after being requested to do so, it shall be deemed a waiver to proceed against the adjoining property owner.

ARTICLE VII.

EXTERIOR MAINTENANCE

In addition to maintenance of the common area, the Association shall provide exterior maintenance for each townhouse lot which is subject to assessment hereunder as follows: Paint, repair, replace, care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. In order to enable the Association to accomplish the foregoing, it is hereby reserved to the Association the right to unobstructed access over and upon each townhouse lot and each townhouse at all reasonable times to perform maintenance as provided in this Article. The owner

of any townhouse may, at his election, plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions of all of his rear yard, provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a townhouse 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 (1) year. The owner of a townhouse lot shall not plant any vegetation in the front yard except with the prior written approval of the Association.

(As a matter of information for future members of this Association, the developer wishes to make it known that it is a part of the original plan of the development to construct a variety of townhouses with a variety of exteriors for the good of the entire subdivision. Some townhouses will require far more maintenance than others because of the type of exterior exposures. Nevertheless, in order to avoid monotony and in order to achieve a harmony of design and textures, all of those persons 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 townhouse lot under construction thereon.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the owner, his family, guests, or invitees or is caused by fire, lightning, thunderstorm, hail, explosion, riot, attending a strike, civil

commotion, aircrafts, vehicles and smoke as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage Insurance Policy, the cost of such maintenance or repair shall be added to and become a part of the assessment to which such lot is subject.

The Association shall establish regulations governing the procedures for exterior maintenance. In the event any owner desires to expend a sum greater than that sum authorized by the Association, he shall advance, prior to the commencement of work, an amount necessary to cover the additional expenses and a lien shall be established against his lot for any deficiency.

ARTICLE VIII.

EASEMENTS

Section 1. Each townhouse lot and the property included in the common area shall be subject to an easement for encroachments, created by construction, settling, and overhangings as designed or constructed by the Declarant. A valid easement for such encroachments and for the maintenance of same so long as it stands, shall and does exist. In the event the multi-family structure containing two or more townhouses is partially or totally destroyed and then rebuilt, the owners of the townhouses so affected agree that minor encroachments of part of the adjacent townhouse units or common areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement upon, across, over, and under all of said property for ingress and egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to water, sewer, gas, telephones, and electricity and a master television antenna system. By virtue of this easement, it shall be expressly

permissible for the providing electrical and/or telephone company to erect and maintain the necessary underground equipment and other necessary equipment on said property, and to affix and maintain electrical and/or telephone wire, circuits, and conduits on, above, across and under the roofs and exterior walls of said townhouses, and detached single family dwellings. An easement is further granted to all police, fire protection, ambulance, and all similar persons to enter upon the streets and common area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company elected by the Association to enter in or to cross over the common area provided for herein. Notwithstanding, anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as initially programed and approved by the Declarant or thereafter approved by the Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable documents, Declarant will have the right and authority to grant such easement on said property without conflicting with the terms hereof. The easement provided for in this Article shall in no way affect other recorded easements on said premises.

Section 3. Underground Electrical Services:

A. Underground, single-phase electrical service shall be available to all residential townhouses on the aforesaid lots and to the recreational buildings, if any, to be constructed on the common area. The metering equipment shall be located on the exterior surface of

the wall at a point to be designated by the utility company. The utility company furnishing the service shall have a two foot priority easement along and centered on the underground electrical power service conductors installed from the utility's company easement to the designated point of service on the townhouse structures.

B. For so long as such underground service is maintained, the electric service to each townhouse and the recreational building, if any, shall be uniform exclusively of the type known as single phase 120-140 volt three wire 60 cycle alternating current.

C. Easements for the underground service may be crossed by the driveways and walkways, provided the Declarant or builder makes prior arrangements with the utility company furnishing electrical service. Such easements for the underground service shall be kept clear of all other improvements including buildings, patios and/or other pavings other than crossing walkways or driveways and neither Declarant nor any such utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, and other improvements of the owner located on land covered by said easements.

D. An easement is hereby established for the benefit of the City of Raleigh over all common area and over an area five (5) feet behind the curb line of any street or roadway in Deerfield Square Subdivision hereby or hereafter established for the setting, removal, and reading of water meters, the maintenance and replacement of water, sewage, and drainage facilities and the collection of garbage.

ARTICLE IX.

ARCHITECTURAL CONTROL AND USE RESTRICTIONS

Section 1. The real property described herein is hereby made subject to the protective covenants and restrictions hereby declared for the purpose of insuring the best use and most appropriate development and improvement of each building site in this subdivision; to protect the owners of the building sites against such improper use of surrounding building sites as will depreciate the value of the property of each; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper and unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on building sites; to secure and maintain proper set backs from streets and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvements in said property and thereby to enhance the values of investments made by the purchasers of building sites therein.

Section 2. Each lot as set forth herein and as approved by the appropriate municipal authority, shall constitute a residential building site (hereinafter called "Building Site") and shall be used for residential purposes only. The lay of the lots as shown on the recorded plat shall be substantially adhered to; provided, however, that with the prior written approval of the Declarant, its successors and assigns, or the Architectural Committee, hereinafter referred to as the "Architectural Committee" the size and shape of any building site may be altered; provided that no building site or group of building sites may be resubdivided so as to produce a greater number of building sites than that allowed by the applicable zoning laws in force at the time of said change.

More than one lot may be used as one building site provided the location of any structure permitted thereon is approved in writing by the Architectural Committee or the Declarant. Except as provided in this paragraph, no structure shall be erected, altered, placed, or permitted to remain on any building site other than one attached single family dwelling, not to exceed three stories in height. All structures shall comply with the applicable zoning restrictions of the City of Raleigh. Such efficiency apartment may not be constructed unless said main dwelling is first constructed or unless they are constructed at the same time.

Section 3. No residential structure, which has a minimum area of less than 1200 square feet of heated area for a two story structure and split level structure and 900 square feet of heated area for a one story structure, exclusive of porches, basement and garage, shall be erected or placed on any building site.

Section 4. No building, wall, fence, or other structure shall be commenced, erected, or maintained upon the properties, nor shall any exterior addition to or alteration therein be made nor shall any repair be made thereto, nor shall any building, wall, fence or other structure be rebuilt after destruction by any hazard until the plans and specifications, showing the nature, kind, space, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant or 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 or Declarant 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.

Section 5. Said property is hereby restricted to residential dwellings for residential use. All buildings and structures erected upon said property shall be of new construction and no building or structures other than townhouse

buildings, being single-family townhouses, joined by a common exterior roof and foundation shall be constructed. No structures of a temporary character, trailer, basements, tent, shack, garage, barn or other out-building shall be used on any portion of said property at any time as a residence, either temporarily or permanently.

Section 6. Each lot shall be conveyed as a separately designated and legally described freehold estate, subject to the terms, conditions and provisions hereof.

Section 7. Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of said townhouses to maintain during the period of construction and sale of said townhouses, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of said townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 8. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on said lots, except that dogs, cats, or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose.

Section 9. No advertising signs, except one of not more than five (5) feet square, for rent, or for sale signs per parcel, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on said property, nor shall said property be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any townhouse or detached single-family dwelling or the resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of said property, however, the foregoing covenants shall not apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its agents and assigns, during the construction and sales period, and of Deerfield Square Homeowners Association, Inc., a non-profit corporation, incorporated or to be incorporated under the laws

of the State of North Carolina, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

Section 10. All clothes lines, equipment, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhouses or detached single-family dwelling. All garbage, trash, or rubbish shall be regularly removed from the premises and shall not be allowed to accumulate therein. All clothes lines shall be confined to patio areas.

Section 11. No planting or gardening shall be done and no fences, hedges, or walls shall be erected or maintained upon said property except such as are installed in accordance with initial construction of the buildings located thereon by Declarant or as approved by the Association's Board of Directors or their designated representatives. Except for the right of ingress and egress, the owners of said townhouse lots are hereby prohibited and restricted from using any of said property outside of the exterior building lines and patio, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all the owners of townhouses, Deerfield Square Homeowners Association, Inc., and is necessary for the protection of the homeowners.

Section 12. Maintenance, upkeep, and repairs of any patio, screens and screen doors, exterior doors and window fixtures and other hardware shall be the sole responsibility of the individual owner of the lot appurtenant thereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the common areas and all exterior and roofs of the townhouses, including, but not limited to, recreation and parking areas and walks shall be taken by the Board of Directors or by its duly delegated representatives.

Section 13. All fixtures and equipment installed within a townhouse, commencing at a point where the utility lines, pipes, wires, conducts, or systems within the exterior walls of townhouses, shall be maintained and kept in repair by the owner thereof. An owner shall do no act, nor any work that will impair the structural soundness or integrity of another townhouse, nor impair any easement or hereditament, nor do any act or allow any condition to exist which will adversely affect the other townhouses or their owners.

Section 14. Without the prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed, or permitted upon any portion of the improvements to be located upon the property, nor shall any structure situated upon the property other than an area for a master antenna system, should any such master antenna system or systems be utilized and require any such exterior antenna.

Section 15. No action shall at any time be taken by the Association or its Board of Directors, which in any manner would discriminate against any owner or owners in favor of any of the owners or the Homeowners Association.

Section 16. The Board of Directors of the Association shall have the power to formulate, publish, and enforce other reasonable rules and regulations concerning the use and enjoyment of the front yard space of each lot and of the common area.

Section 17. Quiet and Enjoyment: No obnoxious or offensive activity shall be carried on upon the properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

ARTICLE X.

GENERAL PROVISIONS

Section 1. Enforcement: The Association or any owner shall have the right to enforce, by a proceeding at law or in

equity, all restrictions, conditions, covenants and reservations, liens and charges now or hereinafter imposed by the provisions of this declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability: Invalidation of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Exchange of Common Areas for Other Portions of Property: Notwithstanding any provision herein to the contrary, it is expressly provided that the Association may convey to the Declarant any portion of the Common Area theretofore conveyed to the Association in exchange for other portions of the Properties conveyed by the Declarant to the Association provided that all conveyances are approved by appropriate municipal authority. Upon such conveyance, the area thus conveyed to the Declarant shall cease to be common area and shall cease to be subject to the provisions of these covenants relating to the Common Areas, but the area thus conveyed to the Association shall become Common Area and subject to the provisions of these covenants relating to Common Areas.

Section 4. Amendment: The covenants, conditions, and restrictions of this Declaration shall run with the land, and shall inure to the benefit of and be enforceable by the Association or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of forty (40) years from the date this Declaration is recorded, after which time, said covenants shall automatically be extended for successive periods of ten (10) years. The covenants, conditions and restrictions of this Declaration may be amended during the first forty (40) years by an instrument signed by not less than the owners of seventy-five (75%) percent of the lots and thereafter by an instrument signed by not less than the owners of sixty (60%) percent of the lots.

Section 5. Arbitration: In the event of any dispute arising concerning a party wall or other provisions of this Declaration, such dispute shall be settled by arbitration as provided by the laws of North Carolina relating to arbitration as then existing, or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of said committee.

Section 6. Voting: Any vote pursuant to this section shall be at a meeting duly called, written notice of which shall be sent to all members stating the purpose of such meeting, not less than fifteen (15), nor more than thirty (30) days in advance of the meeting. The presence of members or of proxies duly notarized, entitled to cast sixty percent (60%) 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 requirements set forth above. The required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 7. 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 the 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 these were executed.
The following form of certification is suggested:

"CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF DEERFIELD SQUARE
SUBDIVISION

By authority of its Board of Directors, Deerfield
Square Homeowners Association, Inc. hereby certifies
that the foregoing instrument has been duly executed
by the owners of _____ percent of the lots of
Deerfield Square and is therefore a valid amendment
to existing covenants, conditions and restrictions
of Deerfield Square, Inc.

DEERFIELD SQUARE ASSOCIATES, 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
recording in the Wake County Registry; provided, however,
that no such instrument 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 lot in Deerfield Square.
All amendments shall be approved as set forth in Article X, Section 10.

Section 8. The Declarant's Right to Amend Declaration
with Approval of Veterans Administration or Department of Housing
and Urban Development: In the event that the Declarant shall
seek to obtain approval of these covenants and the plan of
development of the properties in order that the lots and improve-
ments constructed thereon will be eligible for loans approved or

guaranteed by the Veterans Administration, hereinafter called VA, or the Department of Housing and Urban Development, hereinafter called HUD or Federal National Mortgage Association, hereinafter called FNMA-Fannie Mae, it is likely that HUD, VA or Fannie Mae will all require changes in this declaration in order to make the lots and improvements thereon eligible for VA, HUD or Fannie Mae loans. In such event, Declarant, without the consent or approval of any owner shall have the right to amend this declaration, evidence of approval of VA, HUD and/or Fannie Mae shall be attached to such amendment and recorded.

Section 9. Right of Declarant to Amend Declaration:

Declarant hereby retains the right to amend this Declaration in Article IX, providing for architectural control and use restrictions, except that Declarant shall not make any amendment allowing the placement of more than one dwelling per lot or any amendment which would allow any use of a lot except for residential purposes or for use as part of the common area.

Section 10. All amendments to this declaration must be approved by the Office of the City Attorney. In the event said approval has not been made within thirty (30) days after being submitted to the City Attorney, said amendment shall be deemed approved.

Section 11. In no case shall the City be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants 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 developer, homeowners association, or occupants.

Section 12. Each member agrees to keep the Deerfield Square Homeowners Association, Inc., informed of his address at any time and any notice sent or delivered to said address shall be sufficient and each new member agrees to provide the Association with evidence of his ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as to the ownership of each lot.

Section 13. Gender and Grammar. The singular, wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make provisions hereby apply to either corporations or individuals, man or wife, shall in all cases be assumed as though in each case fully expressed.

ARTICLE XI

UNDERGROUND UTILITIES AND STREET LIGHTING

Declarant reserves the right to subject the real property described hereinabove to a contract with Carolina Power & Light Company for the installation of underground electric cables and the installation of street lighting, either or both of which may require a continuous monthly charge to the owner of each building lot. Upon acceptance of a deed to a lot, each owner agrees to pay to Carolina Power and Light Company the continuing monthly payment therefor as approved by the North Carolina Utilities Commission, or other appropriate government authorities. Declarant reserves the right to contract on behalf of each lot with Carolina Power and Light Company, or its successors and assigns, for street lighting service. Upon acceptance of a deed to a lot, each owner agrees to pay to Carolina Power and Light Company the continuing monthly payment therefor as approved by the North Carolina Utilities Commission, or its successor or other appropriate governmental authority.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument this 21st day of December, 1979, by authority of its Board of Directors.

DEERFIELD SQUARE ASSOCIATES, INC.

By: [Signature]
President

ATTEST:

[Signature]
Secretary

NORTH CAROLINA

WAKE COUNTY

I, W. Tom Harris, Jr., a Notary Public in and for said County and State, do hereby certify that Alan Garrison personally came before me this day and acknowledged that he is Asst. Secretary of DEERFIELD SQUARE ASSOCIATES, INC., a 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 herself as its Asst. Secretary.

WITNESS my hand and notarial seal or stamp, this 21st day of December, 1979.

My Commission expires:
My Commission Expires April 3, 1983

W. Tom Harris, Jr.
NOTARY PUBLIC

NORTH CAROLINA—WAKE COUNTY

The foregoing certificate of W. Tom Harris, Jr.

Notary Public is
certified to be correct. This instrument was presented for registration and recorded in this
office in Book 2799 Page 71 at 2:55 o'clock P.M.
This 21 day of Jan, 1980.
By W. B. McKenzie, Jr.
Deputy Register of Deeds