

NORTH CAROLINA

WAKE COUNTY

OAK PARK VILLAGE ASSOCIATES
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth
by OAK PARK VILLAGE ASSOCIATES, a general partnership organized
under the laws of North Carolina, hereinafter referred to as
"DECLARANT";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property
near the City of Raleigh, County of Wake, State of North Carolina,
which is more particularly described as:

BEGINNING at an iron stake in the east line of Dura-
leigh Road, said stake marking the northwest corner
of the Independent Baptist Church property; runs
thence with the eastern right-of-way line of Dura-
leigh Road (also known as S.R. 1664) North 01° 03'
45" West 168.76 feet to an iron stake in the said
right-of-way line; thence continuing with said right-
of-way line North 0° 32' 45" West 160.35 feet to an
iron stake; thence continuing with said right-of-way
line North 0° 3' 15" East 178.30 feet to an iron
stake; thence with said right-of-way line 62.83 feet
as the same curves to the right (radius of curve of
40 feet) to an iron stake in the southern right-of-
way line of Deep Hollow Drive; thence continuing with
the south line of Deep Hollow Drive the following
courses and distances: 107.80 feet along a curve
having a radius of 382.35 feet to the left to an iron
stake; thence North 73° 54' 0" East 169.70 feet to an
iron stake; thence 161.79 feet along a curve having a
radius of 255.95 feet to the right to an iron stake;
thence South 69° 53' 0" East 74.87 feet to an iron
stake marking the northwest corner of The Hollows
Apartments property; thence leaving the southern
right-of-way line of Deep Hollow Drive and running
South 03° 32' 30" West 560.47 feet with the West line
of The Hollows Apartments property to an iron stake;
thence South 85° 45' 45" East 1111.47 feet to an
iron stake; runs thence South 06° 47' 0" West 174.70
feet to an iron stake; runs thence North 81° 35' 15"
West 1106.33 feet to an iron stake; runs thence North
81° 35' 15" West 509.37 feet with the North line of
the Independent Baptist Church to an iron stake in
the Eastern right-of-way line of Dura Leigh Road, the
point and place of BEGINNING and being all of the
property shown on plat entitled "Oak Park West Town-
house Development, Raleigh, Wake Co., N.C." prepared
by Glenn D. Ward & Associates, Civil Engineers, dated
September 26, 1984 and recorded in Book of Maps 1984,
Page 1532, Wake County Registry. Said tract contains
10.975 acres.

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,

PRESENTED
FOR
REGISTRATION
OCT 19 2 37 PM '84
KENNETH C. WICKINS
REGISTER OF DEEDS
WAKE COUNTY

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 Oak Park West Townhouse Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot or unit 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. Only lot owners may be members of the Association.

Section 3. "Properties" shall mean and refer to that certain real property ~~10.975-acre tract~~ 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 Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

All of the property described hereinabove with the exception of the land included within Blocks 1, 2, 3, 4, 5; 6, 7, 8, 9, 10, 11, 12 and 13, all as shown on said plat of Oak Park West Townhouse Development, recorded in Book of Maps 1984, Page 1532, Wake County Registry.

Said common area shall be subject to easements for drainage and utilities and to easements and dedicated rights-of-way for ingress and egress.

Additional lands may be added to the Common Area by amendment of this declaration, or by dedication on a recorded plat.

Section 5. "Lot" or "Unit" 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. Each lot is laid out to contain an individual dwelling unit.

Section 6. "Block" shall mean the plots of land within said development which are designed for a separate building. Each Block will contain several lots, each of which in turn will contain a single dwelling unit.

Section 7. "Declarant" shall mean and refer to Oak Park Village Associates and also to its successors or assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 8 "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements 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) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(b) the right of the Association to suspend the voting rights and right to use of the recreation facilities 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 or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed 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. Upon dedication of any such areas, the Association shall give notice to the Planning Department of the City of Raleigh.

(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 By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;

(f) the right of the individual members to the exclusive use of some of the parking spaces, as provided in this Article.

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, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors or assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot, except utility easements, and other dedicated easements.

Section 4. Parking Rights. Ownership of each lot shall entitle the owner or owners thereof to the use of not more 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 one vehicular parking space for each dwelling, such space to be 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 owner, family member of an owner, tenant or invitee shall park any boat or trailer within the right of way of any public street in or adjacent to Oak Park West Townhouses.

Section 5. TV Antennas and Pipe-In Music. The Association may provide one or more central television antennas for the convenience of the members and may supply 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 antennas and television satellite reception dishes on individual lots.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot 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. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. No fractional voting shall be permitted.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership 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.

(b) on January 1, 1990.

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 Properties, 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, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, 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 interest, costs and reasonable attorney's 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 for the delinquent assessments 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 to promote the recreation, health, safety, and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose

and related to the exterior maintenance of the residences situated upon the Properties or for the use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public improvements assessed against the Common Area, the maintenance and operation of all water and sewer lines in the Common Area that connect with lines that serve the owners, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1 of the second year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Eighty and no/100 (\$480.00) per Lot, or Forty and no/100 (\$40.00) per month.

VOIDED BY 241 AMMEND.

✓(a) From and after January 1 of the second year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year by not more than five percent ^{10%} ~~(5%)~~ of the maximum assessment for the previous year without a vote of the membership.

✓(b) From and after January 1 of the second year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above Five Percent by a vote 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. The 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 under its Articles of Incorporation.

✓(c) The Board of Directors may fix the annual 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, repair or replacement of a capital improvement upon the Common Area, including water and sewer lines, fixtures and personal property related

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.

Section 5. 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 Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) 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 sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. 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, 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 its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of nine percent (9%) per annum. The Association may

bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. 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 first mortgage and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to first 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 assessment thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization are exempt from assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

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 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, provided such restoration conforms to the Building Code of the City of Raleigh. 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. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations or 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 neglect 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 Runs With Land. The right of any Owner to contribute from any other Owner under this Article shall be appurtenant to the Land and shall 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 property owner has a right of contribution as provided in this Article V, request of the adjoining property owner or property owners a certificate that no contribution exists, whereupon it shall be the duty of each adjoining property owner to make such certification immediately upon request 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.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall...

each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of 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.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: Paint, repair, replace and care for roofs, gutters, downspouts, exterior building maintenance shall not include glass surfaces. Further, the owner of any Lot may at his election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or 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 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. The Owner shall not plant any vegetation in the front yard except with the prior written

approval of the Association.

Section 2. (As a matter of information to future members of the Association, the developer 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 and areas 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 3. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, his tenants, or guests, or invitees, or contractors engaged by the Owner, 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 4. The Association shall assume responsibility for the maintenance and repair of all water and sewer lines that serve more than one owner in the subdivision, from the point where such lines enter the common area or the streets or driveways within the subdivision to the individual meters for water lines, and to the point where the sewer lines separate into individual service lines for the owners. Each individual owner shall be solely responsible for the maintenance and upkeep of his individual water and sewer service lines and meters.

Section 5. The Association shall be solely responsible for the cleaning, maintenance and upkeep of the parking areas within the subdivision.

ARTICLE VIII

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 front yard space of each Lot and the Common Areas.

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

Section 3. Quiet 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.

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.

Section 5. Dwelling Specifications. No dwelling shall be constructed or permitted to remain on any lot having an area of the main structure, exclusive of open porches and decks, of less than 1140 square feet for a one-story dwelling nor less than 1160 square feet for a dwelling of more than one-story.

ARTICLE IX - EASEMENTS

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

(2) All of the Properties, including Lots and Common Areas, 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 Properties to this Declaration; and the Association shall have the power

and authority to grant and establish upon, over, under and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties.

(3) All lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

(4) The owner of each lot shall have a perpetual access easement over the 5-feet of any adjoining lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his townhouse. such repair, maintenance or reconstruction shall be doen expeditiously and, upon completion of the work, the owner shall restore the adjoining lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

ARTICLE X

ADDITIONS

The Declarant reserves the right to include within this Declaration by the recording of an appropriate amendment thereto all of the adjoining land and units shown on the Master Plan of Oak Park West Townhouse Development filed with the City of Raleigh Planning Department. The owners of all lots on any subsequent phase of the Oak Park Townhouses shall have full rights to the use and enjoyment of the Common areas of all phases. such amendment shall be effective without the approval of the membership, or of any other person or entity, as required by Article XII, Section 3.

ARTICLE XI
SEWER SYSTEM

1. The Declarant shall construct the waste water collection system, and waste water treatment and/or disposal facilities in accordance with the permit and plans and specifications hereafter issued and approved by the North Carolina Environmental Management Commission; and shall thereafter properly operate and maintain such systems and facilities in accordance with applicable permit provisions and law until each system and facilities have been transferred to the Association.

2. The Declarant shall not transfer ownership of the waste water collection system, or the waste water treatment and/or disposal facilities to the Association until they have been inspected and a permit issued to the Association by the North Carolina Environmental Management Commission.

3. When the Association comes into legal existence, the Declarant who will be the sole member of the Association, will cause the Association to join in the execution of this agreement before any unit is conveyed to any person, firm or corporation that will become a member of the Association, to assure that the Association will be bound by this agreement to the same extent as if the Association were presently existing and executing this agreement with the Declarant and the North Carolina Environmental Management Commission. After causing the Association to execute this agreement, the Declarant will return to the North Carolina Environmental Management Commission an executed copy of this agreement. The Association, thereafter will apply for reissuance of the permit to the Association for operation of the system.

4. The Association, after transfer of ownership of the waste water collection system, and waste water treatment and/or disposal facilities to it by the Declarant, shall thereafter properly maintain and operate the waste water collection system and waste water treatment or disposal facilities and appurtenances thereto in conformity with law and the provisions of the permit for construction, operation, repair, and maintenance of the system and facilities hereafter issued by the North Carolina Environmental Management Commission; and in order to provide the necessary funds to carry out such construction, operation, repair and maintenance, the

Association shall levy and collect the assessments provided for in its By-Law, including special or additional assessments, and in the event that the sum realized by the levy of such assessments shall not be adequate to maintain and operate the system and facilities as required by law and permit provision, the Association shall take such action as is necessary to secure funds adequate for such purposes.

5. In order to assure that there shall be funds readily available to repair or re-construct the waste water collection system, waste water treatment and/or disposal facilities, in the event of severe damages or destruction, the Association shall create, maintain and use the contingency funds as provided in its By-Laws. The Association in its duly filed By-Laws, shall identify the entire wastewater treatment, collection and disposal system as a common area which will receive the highest priority for expenditures by the Association except for Federal, State and local taxes and Insurance.

6. If a waste water collection system or waste water treatment and/or disposal facility provided by and City, Town, Village, County water and sewer authorities, or other unit of government shall hereinafter become available to serve the Oak Park West Townhouse Homeowners Association properties, the owner of the waste water collection system, and waste water treatment and/or disposal facilities or any portion thereof, serving the townhouses, whether it be the Association or the Declarant, shall take such action as is necessary to cause the existing and future waste waters of the townhouse to be accepted and discharged into said governmental systems; and shall convey or transfer as much of the townhouse waste water collection system and waste water treatment and/or disposal facilities and such necessary easements as the governmental unit may require as a condition of accepting the townhouses waste water.

7. The Association, recognizing that it would be contrary to the public interest and the public interest and the public health, safety and welfare to enter into voluntary dissolution without having made adequate provision for the continued proper maintenance, repair and operation of its waste water collection

system and waste water treatment and/or disposal facilities, shall not enter into voluntary dissolution without first having transferred its system and facilities to some person, corporation or other entity acceptable to and approved by the North Carolina Environmental Management Commission by the issuance of a permit.

8. The Association shall not transfer, convey, assign or otherwise relinquish or release its responsibility for the operation and maintenance of its waste water collection system and waste water treatment and/or disposal facilities until it has first secured the written approval of the North Carolina Environmental Management Commission.

ARTICLE XII

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. Amendment. 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 an instrument signed by not less than ninety (90) percent of the lot owners, and thereafter by an instrument signed by not less than seventy-five (75) percent of the lot owners. No amendment shall become effective without

having been submitted to the City Attorney of the City of Raleigh and approved by said department. If said Department fails to act thereon within thirty (30) days, then such amendment shall become effective at the expiration of such time. Any amendment must be recorded in the Office of the Register of Deeds of Wake County.

Section 4. FHA/VA APPROVAL. As long as there is a Class B membership in the Association, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, Dedication of Common Areas, and Amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 5. Section 10-3074(b) of the city Code of the City of Raleigh provides as follows:

"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."

In accordance with the above provisions of section 10-3074(b) and the provisions of subparagraph (c) of the City Code of the City of Raleigh, the Association shall have authority to restrict parking of motor vehicles within property affected by these covenants and shall also have authority to repair the streets within said property.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed by its General Partners, all on this 16 day of October, 1984.

OAK PARK VILLAGE ASSOCIATES

BY: John M. Connell (SEAL)
JOHN M. CONNELL, General Partner

BY: Richard D. Sessoms (SEAL)
RICHARD D. SESSOMS, General Partner

NORTH CAROLINA

WAKE COUNTY

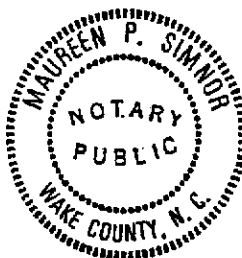
I, the undersigned Notary Public, in and for the aforesaid County and State, certify that JOHN M. CONNELL and RICHARD D. SESSOMS, each personally appeared before me this day and acknowledged that he is a general partner in OAK PARK VILLAGE ASSOCIATES, a general partnership, and that he signed the foregoing Declaration on behalf of said partnership.

WITNESS my hand and notarial seal this 16 day of October, 1984.

Maureen P. Simnor
NOTARY PUBLIC

My Commission Expires:

9-26-89



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of

Maureen P. Simnor

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

Amey W. Hay
Asst. / Deputy Register of Deeds

NORTH CAROLINA
WAKE COUNTY

FIRST AMENDMENT TO THE DECLARATION
OF COVENANTS OF OAK PARK WEST TOWN-
HOUSE DEVELOPMENT

THIS FIRST AMENDMENT TO THE DECLARATION OF OAK PARK WEST
TOWNHOUSE DEVELOPMENT, made and entered into this 1st day of
November, 1984 by OAK PARK VILLAGE ASSOCIATES, a North Carolina
General Partnership, hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of a tract of land designated
as the Oak Park West Townhouse Development, and has subjected
the same to Declaration of Covenants, Conditions and Restrictions
recorded in Book 3369, Page 597, Wake County Registry; and

WHEREAS, the Declarant is the sole owner of all of the units
described in said Declaration of Covenants, Conditions and Restrictions
and now desires to amend said Declaration of Covenants, Conditions
and Restrictions;

NOW, THEREFORE, the Declarant, pursuant to the authority
contained in Article XII, Section 3 of the Declaration, as recorded
in Book 3369, Page 597 et seq., Wake County Registry, does hereby
declare:

Article VIII, Section 5 as the same appears in Book 3369,
Page 609, Wake County Registry is hereby amended by deleting the
same, and inserting in lieu thereof the following:

"Section 5. Dwelling Specifications. No dwelling
shall be constructed or permitted to remain on any
lot having an area of the main structure, exclusive
of open porches and decks, of less than 1100 square
feet for a one-story dwelling nor less than 1160
square feet for a dwelling of more than one-story."

The Amendment shall be effective upon the recording hereof
in the Wake County Registry.

IN TESTIMONY WHEREOF, the Declarant has executed this First
Amendment to said Declaration on the day and year first above written.

OAK PARK VILLAGE ASSOCIATES

BY: John M. Connell
JOHN M. CONNELL, General Partner

BY: Richard D. Sessoms
RICHARD D. SESSOMS, General Partner

NORTH CAROLINA

WAKE COUNTY

I, the undersigned Notary Public, in and for the aforesaid County and State, certify that JOHN M. CONNELL and RICHARD D. SESSOMS, each personally appeared before me this day and acknowledged that he is a general partner in OAK PARK VILLAGE ASSOCIATES, a general partnership, and that he signed the foregoing Declaration on behalf of said partnership.

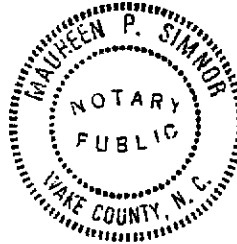
WITNESS my hand and notarial seal this 1st day of November, 1984.

Margaret P. Simonds

NOTARY PUBLIC

My Commission Expires:

9-26-89



NORTH CAROLINA
WAKE COUNTY

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SECOND AMENDMENT TO THE DECLARATION
OF COVENANTS OF OAK PARK WEST
TOWNHOUSE DEVELOPMENT

THIS SECOND AMENDMENT TO THE DECLARATION OF OAK PARK WEST TOWNHOUSE DEVELOPMENT, made and entered into this _____ day of March, 1985, by OAK PARK VILLAGE ASSOCIATES, a North Carolina General Partnership, hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of a tract of land designated as the Oak Park West Townhouse Development, and has subjected the same to Declaration of Covenants, Conditions and Restrictions recorded in Book 3369, Page 597, Wake County Registry; and

WHEREAS, said Declaration has previously been amended by instrument recorded in Book 3377, Page 627, Wake County Registry; and

WHEREAS, the Declarant is the sole owner of all of the units described in said Declaration of Covenants, Conditions and Restrictions and now desires to amend said Declaration of Covenants, Conditions and Restrictions;

NOW, THEREFORE, the Declarant, pursuant to the authority contained in Article XII, Section 3 of the Declaration, as recorded in Book 3369, Page 597, et. seq., Wake County Registry, does hereby declare:

Section 5 of Article 1 as the same appears in Book 3369; on Page 598 is hereby amended by the addition of the following additional paragraph:

" A "lot in use" shall mean any lot on which a dwelling unit has been constructed including installation of final floor covering and appliances, and completion of interior painting, or for which a certificate of occupancy has been issued by the City of Raleigh. All vacant lots or lots on which a dwelling unit is still under construction shall be "lots not in use".

Section 3 of Article IV as the same appears in Book 3369, on page 603 is hereby rewritten to read as follows:

"Until January 1, 1986, the maximum monthly assessment for each lot in use shall be forty dollars (\$40.00).

(a) From and after January 1, 1986 the Board of Directors may increase the maximum annual assessment for each lot in use effective January 1 of each year by not more than 10% of the annual assessment for the previous year without a vote of the membership. The annual assessment rate for 1985 shall be twelve times the monthly assessment.

(b) From and after January 1, 1986, the maximum annual assessment may be increased above 10% of the annual assessment for the previous year only by a vote 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. This limitation shall not apply to any change in the maximum and in the basis of assessments undertaken as an incident to a merger or consolidation under its Articles of Incorporation.

(c) The Board of Directors shall have authority to fix the annual assessment at an amount less than the maximum provided in paragraphs (a) and (b) above.

(d) The monthly and annual assessment for lots not in use shall be 25% of the rate of assessments for lots in use."

Section 6 of Article IV as the same appears in Book 3369, on page 604 is hereby rewritten to read as follows:

"Section 6. Rate of Assessments. Annual assessments for all lots in use shall be fixed at a uniform rate. Annual assessments for lots not in use shall be 25% of the rate for lots in use. Special assessments shall be uniform for all lots in use and for lots not in use. Both annual and special assessments may be collected on a monthly basis."

The foregoing Amendment to the Declaration of Covenants, Conditions and Restrictions for the Oak Park West Townhouse Development has been approved by the City Attorney of the City of Raleigh and shall be effective upon being recorded in the Wake County Registry.

IN TESTIMONY WHEREOF, Oak Park Village Associates has executed this Amendment on the day and year first above written.

OAK PARK VILLAGE ASSOCIATES

BY: _____
PARTNER

BY: _____
PARTNER

NORTH CAROLINA

WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that JOHN M. CONNELL and RICHARD D. SESSOMS, Partners of Oak Park Village Associates personally appeared before me this day and acknowledged the execution of the foregoing instrument. WITNESS my hand and official stamp or seal, this _____ day of _____, 1985.

My Commission Expires:

NOTARY PUBLIC