NORTH CAROLINA

WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by LAWRENCE DEVELOPMENT CORPORATION, hereinafter referred to as "Declarant".

WITNESSETH:

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

BEGINNING at a point in the southern right-of-way line of Foxwood Drive, said point being the northwestern corner of the property of John H. Banks; running thence with the Banks' line South 18° 12' West a distance of 566.57 feet to a point, said point being the southwestern corner of the Banks' property, and in the line of the property of the Catholic Dioceses of North Carolina; running thence with the Catholic Dioceses' line North 85° 25' West a distance of 436.79 feet to a point, said point being the southeastern corner of Woodridge, Section 6; running thence with the Woodridge Section 6 line the following courses and distances: North 01° 50' East a distance of 165.62 feet to a point in the southern right-of-way line of Springview Trail; thence across Springview Trail North 36° 05' East a distance of 60.56 feet to a point in the Northern right-of-way line of Springview Trail; running thence North 01° 50' East a distance of 130 feet to a point; running thence North 20° 44' West a distance of 181.23 feet to a point, said point being a common corner of Woodridge Section 6 and Woodridge Section 1; running thence with the line of Woodridge Section 1 the following courses and distances: North 43° 08' (East) a distance of 80 feet to a point; running thence North 05° 48' East a distance of 122 feet to a point, said point being in the southern right-of-way line of Foxwood Drive; running thence southeasterly with said southern right-of-way line of Foxwood Drive the following courses and distances: South 84° 12' East a distance of 197 feet to a point; thence along an arc having a radius of 433.16 feet a distance of 195.17 feet to a point; running thence South 58° 23' East a distance of 155 feet to a point; continuing with said right-of-way line along an arc having a radius of 351.29 feet a distance of 59.80 feet to the point and place of BEGINNING; all according to a plat of "Garner Townes", as the same is shown in Map Book 1974, Volume 11, Page 139, Wake County Registry (and formerly shown as Tracts A and F, Woodridge Section 8, Map Book 1972, Volume 4, Page 484, Wake County Registry).

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 Garner Townes Homeowners Association, a North Carolina non-profit corporation, 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 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. "Properties" 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 Association for the common use and enjoyment of the owners, as the same is shown and dedicated on the recorded subdivision plat of the properties recorded in the office of the Register of Deeds of Wake County, North Carolina, previously referred to herein.

Section 5. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision plat of the property specifically referred to hereinabove and all improvements located thereon; but excepting the Common Area and areas dedicated to any public agency, authority, or utility.

Section 6. "Declarant" shall mean and refer to Lawrence Development Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II
HOMEOWNERS ASSOCIATION

Section 1. Existence. The Association shall be organized and shall be in legal existence prior to the sale of any Lot.

Section 2. Conveyance of Common Area. The Declarant covenants that prior to the conveyance of the first Lot to any Owner, it will convey fee simple title to the Common Area to the Association free and clear of all encumbrances and liens except utility easements and ad valorem taxes for the year in which such conveyance is made.

Section 3. Insurance and Taxes. In addition to any other duties stated hereinafter and/or in the Charter and By-Laws of the Association, the Association shall be responsible for the procurement of and payment of premiums for liability insurance and for the payment of ad valorem taxes on the common area.

ARTICLE III
PROPERTY RIGHTS

Section 1. Owner' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area and for access, ingress, egress from and to public street and walkways 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 Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational 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 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.

(d) 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.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws of the Association, 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. Parking. Ownership of each Lot shall entitle the Owner thereof to the use of 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 area. The Association shall permanently assign one (1) vehicle parking space for each dwelling. The Association may regulate and/or prohibit the parking of boats, trailers, campers, and other items upon the Common Area.

Section 4. TV Antennas. The Association may provide for one or more central TV antennas and/or cablevision and the cost of these may be included in annual or special assessments. In any event, the Association may regulate or prohibit individual TV antennas and/or cablevision.

ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS

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

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

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any lot, all such persons shall be members.

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.

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 the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on June 30, 1976.

ARTICLE V
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, and costs and reasonable attorneys' fees incurred in the collection thereof, 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, and costs and reasonable attorneys' fees incurred in the collection thereof, 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 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 in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Dollars ($300.00) per Lot. Provided, however, that so long as there is Class B membership, the maximum annual assessment on all unoccupied lots owned by Class B members shall be 1/2 of the maximum annual assessments on lots owned by Class A members.

(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 not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) 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 above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(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 fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 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 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 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 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 owned by members of the same class, 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.

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 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot of said Owner and interest, costs, and reasonable attorney fees shall be added to the amount of such assessment. 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. The lien of the assessments provided for herein shall be subordinate 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 mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties

owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessment created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

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 Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VII
EXTERIOR MAINTENANCE

Section 1. In addition to maintenance upon 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 surfaces, trees, shrubs, grass, and all exterior surfaces, but excluding glass surfaces.

Section 2. Any Owner may give written notice of his intention to plant vegetation in his rear yard patio area and his intention to maintain his rear yard patio area. Upon the giving of such notice, the Association shall have no further responsibility for the maintenance of such rear yard patio area so long as the Owner maintains the same in a manner not adverse to adjoining Owners. However, such maintenance by the Owner will not reduce the amount of any annual or special assessment applicable to such lot.

Section 3. All vegetation shall be selected and planted on the Common Area initially by the Declarant, and thereafter by the Association; except that any Owner may plant vegetation in the Common Area immediately adjacent to his Lot upon the condition that such owner, his successors and assigns, will be responsible for the maintenance of such vegetation.

Section 4. In the event the need for maintenance or repairs is caused through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which the Lot of such Owner is subject.

ARTICLE VIII
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 shall be built in accordance with the North Carolina State Building Code and shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion 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. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX
USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area.

Section 2. Uses. No portion of the properties shall be used except for residential purposes and for purposes incidental or accessory thereto, except that the Declarant may maintain a sales office upon such properties only for the purpose of selling lots and activities directly related thereto until June 30, 1975. No building shall be erected, altered, placed or permitted to remain on any Lot other than one single family townhouse dwelling not to exceed two and one-half stories in height. No noxious or offensive activity shall be carried on upon the Properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

ARTICLE X
EASEMENTS

Section 1. All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking area, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines 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.

Section 2. 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, downspouts and walls.

ARTICLE XI

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 wise 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 by a written instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by a written instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Within 30 days after receipt of such written amendment, the Board of Directors of the Association shall verify that such amendment has been executed by the Owners of the required numbers of lots. In so doing, the Board may rely upon its list of members of the Association and shall not be required to cause a title examination to be performed on any Lot. Upon such verification, the Board shall attach its certification to that effect to the amendment, and shall cause the amendment to be executed on behalf of the Association by its President and attested by its Secretary and recorded in the Wake County Registry. Such amendment shall be effective upon the recording and proper indexing thereof, and it shall be conclusively presumed to be a valid amendment to these Covenants and Restrictions.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 28th day of March, 1974.

LAWRENCE DEVELOPMENT CORPORATION
(Declarant)

By: Joseph T. Freeman
Joseph T. Freeman, President

SEAL

ATTEST:

Asst. Secretary

NORTH CAROLINA

WAKE COUNTY

I, H.S. WATKINS, a Notary Public, certify that E.D. GASKINS JR personally came before me this day and acknowledged that he is ASST Secretary of Lawrence Development Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by himself as its ASST Secretary.

Witness my hand and official seal, this the 28TH day of MARCH, 1974.

H.S. Watkins
Notary Public

My Commission Expires:

1-5-77

NORTH CAROLINA—WAKE COUNTY

The foregoing certificate _____ of H.S. Watkins.

_____

_____

_____ Notar(y)(ies) Public is (are) certified to be correct. This instrument was presented for registration and recorded in this office in Book 2233, Page 694.

This 1 day of April, 1974, at 11:15 o'clock A M.

J. A. ROWLAND, Register of Deeds.

By Mary S. Peoples
Deputy Register of Deeds