

DECLARATION
OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS
JUNIPER CREEK VILLAGE

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS made this 22nd day of July, 1985, by Pinehurst Enterprises, Inc., hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property near the Village of Pinehurst in Moore County, North Carolina, and more particularly described on Schedule A attached hereto, and desires to create thereon an exclusive residential community of single-family detached townhouses to be named JUNIPER CREEK VILLAGE; and

WHEREAS, Declarant desires to insure the attractiveness of the townhouse community and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the townhouse community and to provide for the maintenance and upkeep of the exterior of all townhouse units and the Common Area, as hereinafter defined; and to this end desires to subject the real property described on Schedule A attached hereto, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the townhouse community and to insure the residents' enjoyment of the specific rights, privileges and easements in the Common Area, as hereinafter defined, and to provide for the maintenance and upkeep of the exterior of all townhouse units and the Common Area, to create an organization to which will be delegated, and assigned the powers of owning, maintaining and administering the Common Area and the exterior of the townhouse units, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant, has or will cause to be incorporated under North Carolina law; JUNIPER CREEK TOWNHOMES ASSOCIATION, as a non-profit corporation for the purpose of exercising and performing the aforesaid functions;

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property described on Schedule A attached/hereto and incorporated herein by reference, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and

liens set forth In this Declaration which shall run with the real property and be binding on all parties owning any right, title or Interest in said real property or any part thereof, their heirs, Successors and assigns, and shall Inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1, "Association" shall mean and refer to JUNIPER CREEK TOWNHOMES ASSOCIATION, a North Carolina non-profit corporation, its successors and assigns, .

Section 2. "Common Area" shall mean all real property (including the Improvements thereto) owned by the Association for the common use and enjoyment of the Owners, A description of the Common Area to be owned by the Association, at the time of the conveyance of he first Lot is attached hereto as Schedule B.

Section 3, "Declarant" shall mean and refer to Pinehurst Enterprises, Inc. and any successor In title to Pinehurst Enterprises, Inc.

Section 1, "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing; on any recorded subdivision mop of the Properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association, .'. .

Section 6, "Owner" shall mean and refer to the record owner, whether one or more persons or entitles, 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 7. "Properties" shall mean and refer to the "Existing Property" described In Article II, Section 1 hereof,

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE JUNIPER CREEK TOWNHOMES ASSOCIATION

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located in Mineral Springs and McNeill Townships, Moore County; North Carolina, and Is more particularly described In the description attached hereto as Schedule A.

Section 2, Additions to Existing Property. Additional land may be bought within the scheme of ' this declaration and the jurisdiction of the Association In the following manner:

(a) Additional land, owned by the Declarant and part of the property conveyed to Declarant In Deed Book 487, Page 200 and described more specifically In Schedule C attached hereto and Incorporated by reference, but not within the area described In Schedule A, may be annexed to the existing property by the Declarant, In future stages of development, with the consent of the Association or Its members, provided that sold annexations must occur within ten (10) years after the filing of this Instrument.

(b) The additions authorized under subsection (a) above shall be made by filing of record a plat of .the next page of a phase or a plat of the next phase or phases, in the Office of the Register of Deeds with the respect to the additional properties which shall extend the scheme of this declaration and the jurisdiction of the Association to such properties and . thereby subject such additions to the •benefits, agreements, restrictions, and obligations set forth herein, including, but not limited to, assessments as herein determined to pay for the Association's expenses.

(c) Portions of the property described in Schedule C for which plat additional pages of phases or phases of Juniper Creek Village are not filed, shall not be brought within the scheme of this declaration.

ARTICLE 111 PROPERTY RIGHTS

Section 1, Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, including an easement and full and mutual right of use of, for the purpose of access, ingress and egress, over such portions of the Common Area designated for such purposes, all of 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 sixty days for any infraction of Its published rules and regulations;

(c) the right of the Association to grant utility, drainage and other easements of the type and for the purposes set forth in Article XI.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association (a copy of which is attached as Schedule D), 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 Rights.

(a) Assigned Parking Spaces. Ownership of each Lot shall entitle the Owner(s) thereof to the use of two automobile parking spaces, together with the right of Ingress and egress In and upon said parking area. The Board of Directors of the' Association shall have the authority acting in its sole discretion to allocate said parking spaces from time to time as it may 'determine to be. in the best interest of the Members.

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

(c) Recreational Vehicles. No trailers, boats, tractors, campers, trucks, vans, or recreational vehicles may be parked or kept within the Properties,

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 voting rights of the membership shall be appurtenant to the ownership of the Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Each Class A Lot shall entitle the Owner(s) of said Lot one (1) vote. When more than one person owns an interest (other than a leasehold or a security interest) in any Lot, all such persons shall be members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any one Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been converted to Class A Lots as provided in (1) or (2) below. The Declarant shall be entitled to three (3) votes for each Class B Lot owned by it. The Class B Lots shall cease to exist as such and shall be converted to Class A Lots:

- (1) When the total number of votes appurtenant to the Class A Lots equal the total number of votes appurtenant to the Class B Lots, or
 - (2) On December 31, 1995,
- whichever is earlier,

ARTICLE V COVENANT FOR MAINTENANCE
ASSESSMENTS

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. Any such assessment or charge, 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 or charge, 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 delinquent assessments or charges shall not pass to his successors In title unless expressly assumed by them,

Section 2, Purpose of Assessments. The assessments or charges levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and in particular for the maintenance, repair and reconstruction of the exterior of townhouse units and maintenance of the common streets and parking areas and for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed against the Common Area, 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. In addition, expenditures by the Association for the landscaping, planting and maintenance of areas with Lots, but lying outside of residence buildings and enclosed patio areas, shall be deemed expenditures for the recreation, health, safety and welfare of the residents of the Properties and are hereby authorized,

Section 3, Maximum Annual Assessment. Until January 1 of the calendar year following the conveyance of the first Lot/the maximum annual assessment shall be \$1,000.00 per Class A Lot and \$200.00 per Class B Lot.

The maximum annual assessments may be increased from time to time (Class A and B Lots increased proportionately), after January 1 of the calendar year following the conveyance of the first Lot to an Owner, without a vote of the membership, to an amount necessary to continue the current services provided by the Juniper Creek Townhomes Association.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, said maximum annual assessments may be increased without limitation if such increase is approved by Members entitled to no less than two-thirds (2/3) of the votes (appurtenant to each Class of Lots) represented in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessments (Class A and Class B Lots shall be in the same proportion as above) at amounts 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 same assent of the Members as provided in Section 3(b) of this Article.

Section 5. Assessment Rate. Both annual and special assessments must be fixed at a uniform rate for all Lots within each Class and may be collected on a monthly basis.

Section 6. 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 Sections 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 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots with completed Units as shown on a recorded plat on the first day of the month following the conveyance to the Association of the Common Area. As additional Units are completed and are granted certificates of occupancy, the annual assessments provided for herein shall commence, as of the date of Issuance of such certificates of occupancy. 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 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 eight percent (8%) per annum or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, whichever is greater. In addition, to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Association to defray the costs of late payment. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property and interest, late payment fee, costs and reasonable attorney's fees of such action or foreclosure 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 granted to a bank, trust company, Insurance company or other recognized lending Institution, or deed of trust on a Lot or any mortgage or deed of trust to the Declarant. 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, but the liens provided for herein shall continue to be subordinate *io* the lien of any mortgage or deed of trust as above provided, . .

ARTICLE VI

EASEMENTS AND ASSESSMENTS FOR USE OF STREETS AND FACILITIES

OWNED AND MAINTAINED BY DECLARANT

Section 1. Declarant hereby grants to each Owner the right to use roads, streets, alleys, sidewalks, parks, Common Areas, and common facilities which Declarant owns and maintains in and around Pinehurst, North Carolina.

Section 2. Each Owner or Purchaser of a Lot shown on the plat of Juniper Creek Village shall, by acceptance of a deed thereto or by the signing of a contract or an agreement to purchase the same, whether from Declarant or a subsequent Owner or Purchaser of such Lot, covenant, agree and bind himself, his heirs, personal representatives, successors and assigns to pay an annual assessment determined as hereinafter provided, to Declarant or its successors or assigns, for the maintenance and care of the roads, streets, alleys, sidewalks, parks, common areas and common facilities owned by Declarant in and around Pinehurst, North Carolina, to which Lot Owners have a right of use or access, and for fire and police protection, if any, and for such other services as may be made available to Lot Owners or Purchasers by Declarant.

Section 3. The assessment shall be effective on the first day of the month following the conveyance of a Lot to an Owner, The annual assessment as aforesaid shall be an amount not to exceed a sum equal to one and one half percent (11%) of the taxable (assessed) value of the Lot, improvements thereon and personal property located thereon, all as fixed or determined from time to time by the constituted authorities for the County and State taxation in Moore County, North Carolina. For the first year of the assessment, the assessment shall be prorated for any partial year.

Section 4. Said assessment shall be in the same amount as assessed to other Owners in other Units assessed for like services by the Declarant.

Section 5. Any assessment as aforesaid not paid when due shall bear interest at the rate of eight percent (8%) per annum until paid and shall have the collection cost thereof, including a reasonable attorney's fee, if any, added thereto.

Section 6. The obligation to pay the aforesaid assessment, interest and costs, shall constitute a lien upon and an obligation running with the land.

Section 7. The lien provided for herein shall be enforceable by appropriate legal proceedings, in the manner provided by law. No proceedings for enforcement of any such lien or liens shall be commenced except upon the expiration of four (4) months from and after the date the assessment giving rise to such lien becomes due and payable.

Section 8. Liens of first mortgages and/or first trust deeds placed upon any Lot for the purpose of constructing a residence or other Improvement thereon and recorded in accordance with the laws of the State of North Carolina, shall be, from the date of such recordation, superior to any and all liens provided for in this Article. Declarant may, if requested, execute Instruments to subordinate any and all liens provided for herein to such liens of first mortgages and/or first trust deeds.. ^

Section 9. Declarant may, at its option, by appropriate written instrument recorded in accordance with the laws of the State of North Carolina, subordinate any and all liens provided for herein to the liens of other mortgages, deeds of trust and/or other encumbrances.

Section 10. The assessments, contained herein shall cease at such time as these services are no longer provided by Declarant.

ARTICLE VII

'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 of any kind whatsoever.

ARTICLE VIII

EXTERIOR MAINTENANCE

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 of walks, roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, and other exterior Improvements, including grass and other vegetation in those portions of each Lot lying outside of the residence building, and patio. Such exterior maintenance shall not include glass, Surfaces, and each Owner shall be required to maintain his own glass, and his own patio, deck and fence. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

In the event that the need for maintenance, repair, or replacement is caused through the willful or negligent act of the Owner, his family, guests, or Invitees, the cost of such maintenance, replacement, or repairs incurred by the Association, shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE IX

INTERIOR MAINTENANCE

Each Owner shall maintain, repair, and replace at his expense all Interior portions of the Improvements on his Lot which shall need repair, including patios, fencing and decks located on the Lot, if any, and all bathroom and kitchen fixtures, light fixtures or other electrical or plumbing equipment, pipes and fittings serving an Owner's unit which are located in a party wall, if any. Further, each Owner shall repair, maintain and replace

at his own expense when necessary the heating and air conditioning systems servicing his dwelling, whether located on his Lot or in the Common Area adjacent to the .Lot,

ARTICLE X

PARTY WALLS

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

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

Section 3, Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion 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 Landy 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 XI

USE RESTRICTIONS

Section 1. Land Use. All Lots shall be used for residential purposes only and common recreational purposes auxiliary thereto and for no other purpose. Only one family may occupy a Lot as a principal residence at any. one time. Declarant may maintain a sales office, models and construction office in one or more .townhouse units until all such units to be located on the Properties have been sold.

Section 2. Nuisance. No noxious or offensive activity shall be conducted upon any Lot or in any dwelling nor shall anything be done thereon or therein which may be or may become an annoyance or nuisance to the neighborhood.

Section 3, Animals. No animals, livestock, or poultry of any kind in shall be kept or maintained on any Lot op In any dwelling except that dogs,

cats or other household pets may be kept or maintained provided they are not kept or maintained for commercial purposes.

Section 4, Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot unless and until permission for the same has been granted by the Association, or Its designated agent or representative.

Section 5, Use of Common Area. The Common Area shall not be used In any manner- except as shall be approved or specifically permitted by the Association.

Section 6. Access to Lot. The Association, its agents or employees, shall have access to all Lots from time to time during reasonable working hours, upon oral or written notice to the Owner, as may be necessary for the maintenance, repair or replacement of any portion of the Common Area, or facilities situate upon such Lot which serve another Owner's Lot. The Association or Its agent shall also have access to each Lot at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Area or another Lot.

Section 7. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot or in any other unenclosed area (including¹ patios) within the Properties.

Section 8. Signs. No signs or other advertising devices shall be displayed upon any Lot which are visible from the exterior of the dwelling thereon or on the Common Area, or in the facilities thereon, without prior written permission of the Association. Declarant, however, may post temporary for¹ sale signs on the Properties until such time as all units owned by Declarant have been sold.

Section 9. Garbage Disposal. All garbage shall be stored within the residence of each Owner, No Owner may change or supplement the garbage disposal facilities (if any) provided for such Owner's residence on the date of completion of construction thereof unless the Board of Directors of the Association shall first approve in writing the change or addition to the method of storage. It is provided, however, that if the public health authorities, or other public agency, shall require a specific method of garbage disposal, nothing herein contained shall prevent the compliance by Owners with obligatory public rules and regulations.

Section 10. Regulations. Reasonable regulations governing the use of the Common Area and external appearance of* the units may be made and amended from time to time by the Board of Directors of the Association; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the Owners before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Association upon request.

Section 11. Fences and Boundary Planting. No wall, fence or boundary planting shall be constructed, grown or maintained along the portion of the Common Area abutting on a golf course.

Section 12. Hazardous Activities. Nothing shall .be done or kept in any unit or in the Common Area which will increase the rate of insurance on the Common Area or any other unit without the prior-written consent of the

Board of Directors. No Owner shall permit anything to be done or kept in his unit or in the Common Area which would result in the cancellation or insurance on any unit or/any part of the Common Area, or which would be in violation of any law.

ARTICLE XII
EASEMENTS

The Association may reserve and grant easements for the installation and maintenance of driveways, walkways, parking areas, water lines, telephone and electric power lines, sanitary sewer and storm drainage facilities and for other utility installations over the Properties as provided in Article III, Section 1(c) of this instrument. Within any such easements, no structure, planting, or other material shall be placed or permitted to remain which may interfere with the Installation of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. In addition, the Association shall have the continuing right and easement to maintain all sewer and water lines located on the Lots, including the right to go into townhouse units and disturb the structure and floors thereof In order to maintain those lines located within or under said units.

Declarant reserves for itself, its successors and assigns, the right of access, ingress and egress, over the Common Areas and roads for the purpose of construction, completion, and alteration of residences on lots within the platted areas of Juniper Creek Village. In addition, Declarant reserves for itself, its successors and assigns, an easement for the purpose of access, ingress and egress, over the road known as Barton Hills Trail, or its extension, for the benefit of. property shown In Schedule C should it not become platted as part of Juniper Creek Village.

Every portion of a Lot and each single-family attached townhouse constructed thereon and contributing to the support of an abutting townhouse shall be burdened with an easement of support for the benefit of such abutting townhouse. Further, all attachments to the exterior walls of a townhouse which are a part thereof but which protrude beyond the delineated boundaries of the Lot upon which the dwelling is located, and which were constructed in conformity with the plans and specifications, shall be deemed to be included within said delineated boundaries and/there is hereby reserved an easement to permit the construction, of and continued existence of any such protruding attachment./

Each Owner of a Lot with a fence, concrete walk or concrete patio which encroaches on the Common Area owned by the Association shall have an easement over that portion of the Common Area affected by the encroaching fence, walk or patio for the purpose of using said portion of the Common Area for his own benefit and for the purpose of maintaining the encroaching structure in good condition and repair. In the event of a fence encroachment, it shall be the Owner's responsibility to maintain the encroaching fence in good condition and repair and also to maintain that portion of the Common Area located within the encroaching fence (i.e., that

portion of the Common Area between the Owner's Lot and said fence). In the event of an encroachment by a concrete patio or walk, It shall be the Owner's responsibility to maintain the encroaching patio or walk in good condition and repair.

Each Owner shall secure and maintain in full force and effect at such Owner's expense, one or more insurance policies insuring Owner's Lot and the Improvements thereon for the full replacement value thereof against loss or damage from all hazards and risks normally covered by a standard "Extended Coverage" Insurance policy, including fire and lightning, vandalism and malicious mischief,

Each Owner, at Owner's expense, shall secure and maintain in full force and effect comprehensive personal liability Insurance for damage to person or property of others occurring on Owner's Lot, any other Lot, or upon the Common Area, in an amount not less than the amount designated by the Association. Owner shall provide the Association with satisfactory evidence that such insurance as herein required is in full force and effect and the Association, will be given thirty (30) days' notice prior to the expiration or cancellation of any Owner's Insurance coverage. In the event Owner fails or refuses to maintain such Insurance coverage as herein required, the Association may, but shall not be obligated to, through its agent or representative, secure and maintain such insurance coverage for Owner benefit, and the cost or expense thereof shall be deemed a special assessment levied by the Association against Owner and Owner's Lot in accordance with the other provisions of this Declaration, and Owner covenants and agrees to pay to the Association such special assessment upon demand,

This Insurance provision may be modified or amended to substitute one comprehensive Insurance policy covering all Units provided the approval of a majority of the Owners is obtained and approval by 75% of the Owners and holders of first deeds of trust on the Lots is obtained. Such approvals shall be in writing but need not be acknowledged and shall be attached to an amendment to this Declaration which amendment shall be executed only by the Association and recorded in the Moore County Public Registry.

.ARTICLE XIV

FINANCING PROVISIONS

Section 1. Approval of Owners and Holders of First Deeds of Trust. Unless at least seventy-five percent (75%) of the Owners and holders of first deeds of trust on Lots located within the property described in Schedule have given their prior written approval, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause.

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner,

(c) By act or omission .change, waive or abandon any plan of regulation, or enforcement thereof pertaining to the architectural design or the exterior appearance of residences located on Lots, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the subdivision.

(d) Failure to maintain fire and extended coverage Insurance on insurable improvements in the Common Area on a current replacement cost basis in an amount not .less than one hundred percent (100%) of the full insurable value (excluding footings and foundations).

(e) Use the proceeds of any hazard insurance-policy covering losses to any part of the Common Area for other than the repair, replacement or reconstruction of the damaged improvements.

Section 2. Books and Records. Any owner and holder of a first deed of trust on any Lot will have the right to examine the books and records of the Association during any reasonable business hours.

Section 3. Payment of -Taxes and Insurance Premiums. The Owners and holders of first deeds of trust on Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Area and may pay overdue premiums on hazard insurance policies or secure hew hazard insurance coverage upon the lapse of a policy for property owned by the Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XV

CONDEMNATION

Section 1, Partial Taking Without Direct Effect on Lots. If part of the Properties shall be taken or condemned by any authority having the power of eminent domain, such that no .Lot is taken, all compensation and damages for and on account of the taking of *the* Common Properties, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors of the Association in trust for all Owners and their mortgagee according to the loss or damages to their respective interests In such Common Properties. The Association, acting through the Board of Directors, shall have the right to act *tit)* behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and; compensation affecting the Common Properties, without limitation on the right of the Owners to represent their own Interests. Such proceeds shall be used to restore the Common Properties with the excess, if any, paid to the Owners pro rata. Nothing herein Is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or personal improvements therein, exclusive of damages relating to Common Properties. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by. Its terms includes an

award for reduction in value of Lots without such allocation, the award shall be divided between affected Owners and the Board of Directors as their Interest may appear by arbitration in accordance with the rules of the American Arbitration Association.

Section 2, Partial or Total Taking Directly Affecting Lots. If part or all of the Properties shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific easements assigned to any Lot) is taken, the Association shall have the right to act on behalf of the Owners with respect to Common Properties as provided in Section 1 of this Article and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All compensation and damages for and on account of the taking of any one or more of the Lots, or personal Improvements therein, shall be paid to the Owners of the affected Lots and their mortgagees, as their Interests may appear.

Section 3. Notice to Mortgagee. A notice of any eminent domain or condemnation proceeding shall be sent to holders of all first mortgages.

ARTICLE XVI

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-five (25) 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-five (25) year period by an instrument signed by the Owners of not less than sixty-six and two-thirds percent (66 2/3%) of the Lots, and thereafter by an instrument signed by the Owners of not less than fifty-one percent (51%) of the Lots. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the Declarant by virtue of the provisions of Article I, Section 3 of the aforesaid Declaration of Covenants, Conditions, and Restrictions, has caused this Instrument to be executed by its officers thereunto duly authorized and its corporate seal to be hereunto affixed, all the day and year first above written.

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BY: Edward E. Colma

Edward P. Whalen
Asst. Secretary