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BOOK 1775 PAGE 749

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Prepared by and Held for: Kristoff Law Offices

NORTH CAROLINA
JOHNSTON COUNTY

PROTECTIVE COVENANTS
BENNINGTON PLACE

THIS DECLARATION, made and entered into this 17 day of December, 1998 by Four Oaks Bank & Trust Company, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of that certain tract or parcel of land more particularly described as all of the Lots in Bennington Place Subdivision, Plat Book 53, Page 234, Johnston County Registry, and

WHEREAS, Declarant desires to create on the above-described real property a planned development community to be known as BENNINGTON PLACE SUBDIVISION, and to provide for the preservation of values, for the maintenance of the common facilities and services, and for a vehicle for the administration and enforcement of covenants and restrictions; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of North Carolina, a non-profit corporation, HOMEOWNERS ASSOCIATION OF BENNINGTON PLACE SUBDIVISION, INC., for the purpose of exercising the aforesaid functions and those functions which are hereinafter more fully set forth; and

WHEREAS, Declarant will convey the aforesaid real property subject to those certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth.

NOW, THEREFORE, Declarant does hereby declare that all of the real property referred to 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 above-described real property, or any part thereof, their heirs, successors and assigns, for the term of these covenants as set forth below, and shall inure to the benefit of each holder thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Homeowners Association of Bennington Place, Inc., a 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: "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 4: "Bylaws" means the Bylaws of the Association as they now or hereafter exist.

Section 5: "Common Area" shall mean all real property owned by the Association, along with facilities and improvements thereon (including, without limitation, private streets, water, sewer or other utility lines within the Common Area), for the common use and enjoyment of all members of the Association.

The Association will not own any common area at the time of the conveyance of the first lot.

Section 6. "Property" or "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association.

Section 7. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 8. "Declarant" shall mean and refer to Four Oaks Bank & Trust Company, its successors and assigns to whom the rights of Declarant are expressly transferred, or if such successors or assigns should acquire more than one undeveloped Lot or undeveloped acreage for the purpose of development or one otherwise denominated a "Declarant" hereby.

Section 9: "Member" shall mean and refer to every person who is a member of the Association.

Section 10. "Person" shall mean and refer to any individual, corporation, partnership, association (not the Association as defined in Section 1 of this Article), trustee or other legal entity.

ARTICLE II EXISTING PROPERTY AND ADDITIONS

Section 1: Existing Property. All of the real property hereinabove described shall sometimes be referred to herein as the "Existing Property". The Declarant intends to develop the Existing Property in accordance with a Master Plan prepared in its Planning Department and placed on display in its Receipt and Sales Office, and other areas. The Declarant reserves the right to review and modify the Master Plan at its sole option from time to time based upon its continuing research and design program. The Master Plan shall not bind the Declarant, its successors and assigns, to adhere to the Master Plan in the development of the land shown thereon.

Subject to its right to modify the Master Plan as stated herein, the Declarant shall convey to the Association certain properties designated on the Master Plan as Properties which may be transferred to the Association, as, in the reasonable exercise of its discretion, its so chooses

without regard to the relative location of such portions or sections within the overall plan. Once conveyed to the Association, these properties shall become Common Properties. The Declarant shall not be required to follow any predetermined sequence or order of improvements and development; and, it may bring with the plan of these covenants additional lands, and develop the same before completing the development of the Existing Property. Other than as stated in this paragraph, the Declarant shall have full power to add to, subtract from, or make changes in the Master Plan regardless of the fact that such actions may alter the relative maximum potential voting strength of the various types of membership of the Association.

Sections 2: Additions to Existing Property. Additional lands may become subject to, but not limited to, this Declaration in the following manner:

- (a) Additions. During the period of development, which shall by definition extend from date of this Declaration to January 1, 2008, the Declarant its successors and assigns shall have the right, without further consent of the Association, by Supplementary Declaration, to bring within the plan and operation of this Declaration additional property. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times.

The additions authorized under this and the succeeding subsections shall be made by recording a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property. The Supplementary Declaration may contain such complimentary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient in the sole judgment of the Declarant, to reflect the different character, or any, or the added properties and as are not inconsistent with the plan of this Declaration, but such modifications shall have no effect upon the Property described above, or upon any other additions to the Properties.

- (b) Other Additions. Upon approval in writing of the Association pursuant to a simple majority of the vote of those present at a duly called meeting, the owner of any property who desires to add such property to the plan and operation of this Declaration and to subject it to the jurisdiction of the Association, shall record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient which are not inconsistent with the plan of this Declaration, but such modifications shall have no effect upon the real property described above.

- (c) Merger. Upon merger or consolidation of the Association with another association, as provided for in the Bylaws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Existing Property, together with the Covenants and Restrictions established upon any other properties, as one plan. No merger or consolidation shall effect any revocation, within the Existing Property, including,

without limitation, the maximum limits on assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association, or Institutional Lender.

(d) Name. Additional lands which become subject to this Declaration under the provisions of this Section may in the future be referred to as part of BENNINGTON PLACE SUBDIVISION. Also, the name BENNINGTON PLACE SUBDIVISION may be used by the Declarant to refer to other nearby properties not subject to this Declaration.

ARTICLE III 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 to 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 (60) days for any infraction of its published rules and regulations;
- (c) The right of the Association to take such steps as are reasonable necessary to protect the above-described properties against foreclosures;
- (d) The right of the Association to formulate, publish and enforce rules and regulations as provided herein;
- (e) The right of the Association, in accordance with its Articles and Bylaws, to borrow money from any lender for the purpose of improving and/or maintaining the common area and facilitates, and providing services authorized herein and in aid thereof to mortgage said properties, provided, however, that any such mortgage is with the prior consent of two-thirds (2/3) of the votes of each class of members of the Association entitled to be voted, which consent may be evidenced by a petition or by an affirmative vote of such two-thirds (2/3) by Members voting in person or by proxy at a duly called meeting of the Association;
- (f) The right of the Association, acting through its Board, to exchange Common Area pursuant to Article X, Section 11 of this Declaration, providing such exchange is agreed to by two-thirds (2/3) of each class of members as evidenced by a written instrument;
- (g) 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 agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded. The instrument affecting such dedication, transfer, conveyance, exchange or mortgage shall be sufficient is executed by appropriate officers of the Association containing a recital that the provisions regarding assent of two-thirds (2/3) of each class of members as evidenced by a written instrument has been complied with.

Section 2. Delegation of Use.

Any Owner may delegate, in accordance with the Bylaws, 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 Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title, at no cost to the Association, and subject to (i) this Declaration of Covenants and Restrictions, (ii) all other restrictions and limitations of record at the time of conveyance, (iii) any restrictions, conditions or determinations as to the purposes and uses of the conveyed properties as stipulated in said Deed, those common properties described in ARTICLE I, except such common properties as are required to be deeded to any governmental agency as designated in the Master Plan, to the Association, free and clear of all liens and encumbrances, at the time of or prior to the conveyance of the first lot in each respective parcel, except utility, drainage and access easements and easements to governmental authorities.

Similarly, the Declarant will convey to the Association, Common Area which are part of Bennington Place Subdivision as those portions are annexed in the future.

ARTICLE IV
MEMBERSHIP

Every Owner of a Lot which is subject to assessment and the original Developer, Four Oaks Bank & Trust Company, 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.

ARTICLE V
VOTING RIGHTS

Section 1. The Association shall have two classes of voting memberships:

Class A. Class A member(s) shall be all Owners, with the exception of 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 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 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 (but provided that the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (2) below, additional lands are annexed to the Properties without the assent of Class A members as provided for in this Declaration, if such additional lands would cause the total outstanding votes for Class B membership to exceed the total votes outstanding for Class membership); or

(b) on January 1, 2008.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations 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 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; enforcing these covenants and the rules of the Association; and providing services and facilities as provided for herein.

Section 3. Maximum Annual Assessment.

Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment shall be One Hundred Twenty Dollars (\$120.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) 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 ten percent (10%) 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 Association is required to set the annual assessment high enough to enable the Association to establish and maintain an adequate reserve fund out of the annual assessments for the periodic maintenance, repair and replacement of improvements to the common areas. In establishing the annual assessment for any assessment year, the Board of Directors shall set the annual assessment high enough to cover all current expenses of the Association, any accrued debts and reserves for future needs.

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 & 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 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 upon its occupancy by a resident thereof. 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 eight percent (8%) 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 provide 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 provide 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. Working Capital Fund. Simultaneously with the closing of the sale of each unit for residential purposes, the purchaser shall remit to the Association one-sixth (1/6) of the full annual assessment then in effect to be held as a working capital fund. The purpose of this fund is to ensure that the Association Board will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payment of regular assessments.

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 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 Review Board 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.

It is the intent of this Declaration that all buildings and structures within the Properties shall be constructed of attractive exterior materials of high quality. In its review of submissions, the Architectural Review Board shall evaluate the construction standards and building materials for all proposed construction on the Lots to ensure that they are in conformance with such objectives. Accessory buildings, enclosures, appurtenant structures to, or extrusions from any building or structure on any lot shall be of similar or compatible materials, design and construction. Exterior finishes once approved shall not be altered without the express consent of the Architectural Review Board.

ARTICLE VIII FUNCTIONS OF THE ASSOCIATION

Section 1. Ownership and Maintenance of Properties. The Association shall be authorized to own and/or maintain Common Properties, equipment, furnishings and improvements devoted to the following uses:

- (a) For roads, roadway medians, roadway islands and parkways along said roads or roadways, cul-de-sac islands and neighborhood or other area entrances (including signs) through the Properties;
- (b) For sidewalks, walking paths or trails, bicycle paths, pedestrian underpasses, and bridle paths through the Properties;
- (c) For transportation facilities through the Properties other than privately owned automobiles, e.g. buses, electric vehicles, etc.;
- (d) For security and fire protection services including security stations, guardhouses, police equipment, fire stations and fire fighting equipment and buildings used in maintenance functions;
- (e) For emergency healthcare including ambulances, rescue squad facilities, emergency care medical facilities and the equipment necessary to operate such facilities;
- (f) For providing any of the services which the Association is authorized to offer under this Declaration;
- (g) For purposes set out in deeds by which the Common Properties are conveyed to the Association;
- (h) For indoor and outdoor recreational and community facilities, including, but not limited to, tennis courts, platform tennis courts, handball courts, squash courts, basketball courts, swimming pools and any showers, locker room or other club facilities associated with such uses, putting greens, playgrounds, ball fields, spectator viewing pavilions, gazebos, picnic shelters, picnic tables, parks, walking trails, bike trails, boardwalks, decks, wildlife conservancies and feeding stations, nature interpretive areas, amphitheaters, community meeting facilities and all restroom facilities, parking lots, boat facilities, parking lots, boat

storage, service buildings and concession-type food services associated with all such uses;

(i) For water and sewage facilities and any other utilities, if not adequately provided by a private utility, Johnston County or the Town of Clayton;

(j) For the cleaning, landscaping and maintenance of all roadway medians and islands, parking along said roadways, cul-de-sac islands and neighborhood and other area entrances (including signs).

Sections 2. Services. The Association shall be authorized, but not required except as specified in Section 3, to provide the following services:

(a) Cleaning and maintenance of all roads, roadways, parkways, lakes, parks, sidewalks, walking trails, bike trails, Common Properties and also all public properties which are located within or in a reasonable proximity to the Properties such that their deterioration would affect the appearance of the Properties as a whole;

(b) Landscaping and beautification of roads, roadways, parkways, lakes, parks, sidewalks, walking paths, bike trails and Common Properties;

(c) Transportation facilities other than privately owned automobiles, e.g. buses, electric vehicles, ferry boats, etc.;

(d) Lighting of roads, signs, landscaping, sidewalks, walking paths, bike trails, parking lots and any recreational and community facilities located within the properties;

(e) Police protection and security, including, but not limited to, the employment of police and security guards, maintenance of electronics and other security devices and control centers for the protection of persons and property within the properties, and assistance in the apprehension and prosecution of persons who violate the laws of the State of North Carolina, Johnston County and Town of Clayton, North Carolina, within the Properties;

(f) Fire protection and prevention;

(g) Garbage and trash collection and disposal;

(h) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;

(i) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations under the terms of this document;

(j) To take any and all actions necessary to enforce all Covenants and Restrictions affecting the properties and to perform any of the functions or services delegated to the Association in any Covenants or Restrictions applicable to the properties;

(k) To set up and operate and Architectural Review Board of the purposes outlined herein;

- (l) To provide day care and child care services;
- (m) To conduct instructional, recreational, sports, crafts, social and cultural programs of interest to Members, their families and guests;
- (n) To provide legal and scientific resources for the improvement of air and water quality within the Properties;
- (o) To provide safety equipment for storm emergencies;
- (p) To support the operation of transportation services between key points of the properties and the airports, other public transportation terminals and public centers serving the area surrounding the Properties;
- (q) To construct improvements on Common Properties for use for any of the purposes authorized by this Article, or as may be required to provide any of the services authorized in this Article;
- (r) To provide administrative services, including, but not limited to, legal, accounting and financial; and communication services, including, but not limited to, community newsletters and newspapers to inform Members of activities, notices of meetings, referendums and other issues and events of community interest;
- (s) To provide liability and hazard insurance covering improvements and activities on the Common Properties;
- (t) To provide water, sewage and any necessary utility services not provided by a public body, private utility or the Declarant;
- (u) To construct mailboxes, signs and other standard features for use throughout the Properties;
- (v) To provide and or all of the above listed services to another association of owners of real property under a contract, the terms of which must be approved by the Board of Directors.

Section 3. Minimum List of Functions and Services. The "Minimum List of Functions and Services" shall establish and define the minimum level of functions and services which the Association must furnish or cause to be furnished to its Members. So long as the Declarant is engaged in the development of Properties which are subject to the terms of this Declaration, the Association shall not reduce the level of functions and services its furnishes to its Members below such minimum level without the proper written consent of declarant. The Minimum List of Functions and Services" is as follows:

- (a) The Association shall provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation of the Association and the Bylaws of the Association, including, but not limited to, legal, accounting, financial and communications services;
- (b) The Association shall administer and enforce the Covenants and Restrictions established in this Declaration, including, but not limited to, the following:

- (i) The Association shall set assessments, levy cash assessments, notify the Members of such assessments and collect such assessments;
 - (ii) The Association shall prepare accurate indexes of Members, Property Classifications, Votes, Assessments, the Cumulative Maximum Number of Residential Lots and Family Dwelling Units Authorized in the Properties and the Maximum Regular Assessment;
 - (iii) The Association shall operate and Architectural Review Board;
 - (iv) The Association shall maintain and operate all Common Properties;
 - (v) The Association shall hold Annual Meetings, Special Meetings and Referendums as required, hold elections for the Board of Directors as required, and give Members "proper notice" as required;
 - (vi) The Association shall prepare Annual Statements and Annual Budgets and shall make the financial books of the Association available for inspection by Members at reasonable times.
- (c) The Association shall provide appropriate liability and hazard insurance coverage for improvements and activities on all Common Properties;
- (d) The Association shall provide appropriate directors' and officers' legal liability insurance, and indemnify persons pursuant to the provisions of the Bylaws of the Association;
- (e) The Association shall keep and complete record of all its acts and corporate affairs;
- (f) The Association shall (except where such services are adequately provided by governmental agencies) provide regular cleanup of all roads, roadways, roadway medians, roadways islands, parkways, cul-de-sac islands, neighborhood and other entrances, greenways, open space and walking trails throughout the Properties, including, but not limited to, mowing grass on all roadsides, cul-de-sac and roadway islands, entrances, parks, greenways and walking trails; sweeping all roads; landscape maintenance on all roadsides, cul-de-sac and roadways islands, entrances, parks, greenways and walking trails; pickup and disposal of trash;

Section 4. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association, which loans shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with prior consent of two-thirds (2/3) of each class of the members of the Association, which consent may be evidenced by petition of by affirmative vote of said two-thirds (2/3) of the Association. Provided that if ingress or egress to any residence is through the common area, any conveyance or encumbrance of such are is subject to the lot owner's easement.

Section 5. Review Board. The Architectural Review Board shall be composed of at least three (3) but not more than nine (9) members, all of whom shall be appointed by the Board of Directors of the Association. At least one (1) member of the Association other than the Declarant shall be a Member of the Architectural Review Board at all times.

Section 6. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from Declarant and/or the Association contemplated under this Declaration, Declarant and/or the Association shall not be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any review, acceptances, inspections, permissions, consent or required approvals, whether given, granted or withheld.

Section 7. Management and Contract Rights of the Association. Declarant may enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance and management of the property. However, no such contract shall be binding upon the Association except through express adoption or ratification of the terms and conditions of such contract. Any contract or lease entered into by declarant or by the Association while the Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract without justification or penalty after transfer of management by the Declarant to the Association.

ARTICLE IX RIGHTS OF FIRST MORTGAGEES

Any institutional holder of a first mortgage on a Lot will, upon request in writing to the Association, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings, (c) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or lot securing its mortgage, (d) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage, (e) receive written notice of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (f) receive written notice of any proposed action that requires the consent a specified percentage of mortgage holders, (g) be furnished with a copy of any insurance policy owned by the Association and (h) be furnished with at least one copy of the annual Financial Statement and Report of the Association. The Association may require the payment of expenses incurred in preparing copies and mailing of documents furnished to first mortgage holders pursuant to this Article.

ARTICLE X 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 not affect any other provision which shall remain in full force and effect.

Section 3. Duration and 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 an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Land Use and Building Type. No lot shall be used except for residential purposes, except that nothing herein shall preclude the use of any lot for a utility purpose for the benefit of this subdivision or access by the Declarant or its successors in interest, except that if any lot is purchased from the Declarant by an individual lot owner or builder, then said lot must be used for residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height and a private garage for not more than three (3) cars, and (with the approval of the Architectural Review Board) an accessory building or structure for storage or other appropriate use, not in excess of two hundred fifty (250) square feet in area. No lot shall be further subdivided without the express written consent of Declarant herein.

Section 5. Dwelling Size. No residential structure which has an area less than one thousand two hundred (1200) finished, heated square feet, exclusive of porches, breezeways, steps and garages, shall be erected, placed or permitted to remain on any lot. Any multi-story house shall have at least 600 square feet of heated area on the first floor, with a total of at least 1,200 square feet of heated living area overall. The Architectural Review Board shall have the right to allow a 10% deviation from this requirement.

Section 6. Setbacks. No building shall be located on any lot nearer to the front, side or rear lot lines than is required by the Town of Clayton Regulations for Cluster Developments or other applicable zoning authority. No portion of any building shall be permitted to encroach upon another lot.

Section 7. Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plats referenced hereinabove and over the front ten (10) feet of each lot, and ten (10) feet along each side lot line, unless shown in excess of such distances on the recorded plats referenced above, in which case said plats shall control. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Section 8. Nuisances. No noxious or offensive trade activity shall be carried on upon any

lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No signs or billboards shall be displayed, stored or regularly located on any lot in the subdivision, except real estate signs not to exceed two square feet, and no commercial trucks or tractors may be parked on or adjacent to any lot in the subdivision. No business activity or trade of any kind whatsoever, which shall include, but not be limited to, the use of any residence as a doctor's office, professional office of any kind, fraternity house, rooming or boarding house, antique or gift shop, hair salon or body shop shall be carried on upon any lot in the subdivision. The use of all-terrain vehicles, including, but not limited to, three-wheelers, four-wheelers, golf carts, dirt bikes and go-carts, in the subdivision is expressly prohibited hereby. The use of firearms in the subdivision is expressly prohibited hereby.

Section 9. Temporary Structures. Except as hereinbefore set forth, no trailer, tent, shack, barn or other out-building, except a private garage for not more than three (3) cars, or an out-building not more than two hundred fifty (250) square feet in size, shall be erected or placed on any lot covered by these covenants. Except with the prior consent of the Architectural Review Board, no detached garage shall at any time be used for human habitation, either temporarily or permanently.

Section 10. Fences. No fence or fencing-type barrier of any kind shall be placed, erected, allowed or maintained upon any portion in the subdivision, including any lot, without the prior consent of the Architectural Review Board. The Architectural Review Board may issue guidelines detailing acceptable fence styles or specifications, but in no event shall hog-wire or chicken-wire be approved nor shall any chain-link fencing be allowed in view from any street within the subdivision.

Section 11. Storage Sheds. A storage shed may be permitted at the rear of each Lot upon approval of the Architectural Review Board after the plans and specifications or a photograph and a plot plan showing the proposed location have been submitted for approval.

Section 12. Appearance. Each lot owner shall keep his or her lot free from tall grass, undergrowth, dead trees, trash and rubbish, and properly maintained so as to present an attractive appearance within the subdivision. In the event a lot owner does not properly maintain his or her lot as provided above in the opinion of the Declarant and/or Architectural Review Board, then Declarant, or its successors in interest, at its option, may have the lot cleaned to Declarant's or Architectural Review Board's satisfaction, and the costs thus incurred shall be the responsibility of the lot owner. The costs of clean-up, if expended by the Declarant or its successors in interest, shall be a continuing lien upon the lot until the sums due and payable are paid in full. Location of satellite television receivers must be approved in writing by the Architectural Review Board, but in no event shall any receiver be visible from any road within the subdivision, except with special consent from Declarant. Screening for satellite television receivers are subject to approval by the Architectural Review Board. Communication towers are expressly prohibited. All primary fuel storage tanks must be placed underground, or be placed behind the main dwelling, out of view from any street. Home curtain foundation walls are expressly prohibited unless approval for the same is first obtained, in writing, from the Architectural Review Board. No inoperable motor vehicles, or those motor vehicles not registered with a Department of Motor Vehicles, may be parked on any lot if visible from any road within the subdivision. At the option of the Declarant and/or the Architectural Review Board, silt fences may be required to be erected during the period of construction of any structure to be located on any lot, to prevent erosion or other damage to adjoining lots. Construction and maintenance of same shall be borne by the lot owner. In the event an owner does not construct such a fence after being requested to do so by the Declarant and/or

Architectural Review Board, then Declarant, or its successors in interest, at its option, may have the fence erected, and the costs thus incurred shall be the responsibility of the lot owner. The costs of construction of such fence or fences, if expended by the Declarant or its successors in interest, shall be a continuing lien upon the property until the sums due and payable are paid in full. Any residential dwelling situated upon a lot that originates with a title is expressly prohibited. Above ground swimming pools are prohibited. It has been determined that it is in the best interest of the Subdivision that all mailboxes be uniform in style and appearance. Therefore, all mailboxes are to be initially installed by the Builder and can be purchased through the Declarant. Any changes or replacements must be approved by the Architectural Review Committee. No storage shed shall be placed upon any lot in violation of any setbacks established by local Regulations.

Section 13. Animals. No animals, swine or fowl of any kind, other than ordinary household pets, shall be kept or maintained on any lot in the subdivision. Dogs must be contained within their owner's lots, or on leashes. Incessant barking or other offensive activities by household pets shall be considered noxious and offensive activities and shall not be permitted.

Section 14. Parking. Adequate off-street parking shall be provided by the owner of each lot for the parking of automobiles owned by such owner, and owners of lots shall not be permitted to park their automobiles on the streets in the subdivision. Owners of lots shall not be permitted to park all-terrain vehicles, boats, trailers, campers, commercial vehicles and other similar property on the streets in the subdivision, and such property shall not be permitted to be parked in the front yard, or in view from the street, except with special written consent from Declarant.

Section 15. Waiver. In order to execute the intent of this Declaration and to provide flexibility, the Architectural Review Board is hereby granted the authority by a two-thirds (2/3) vote of its membership to waive any specific restriction as to any Lot or Lots, provided, that this Waiver shall not apply where a note of the Members of the Association is required.

Section 16. 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.

Section 17. Easement to Governmental Agencies, Public/Private Utility Agencies. An easement is hereby established for municipal, state agencies or public or private utilities serving Bennington Place, their agents and employees over all common properties hereby or hereafter established for setting, removing and reading utility meters, maintaining and replacing utility or drainage connections and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

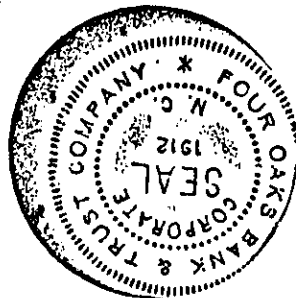
The Association shall have the power and authority to grant and to establish in, over, upon and across the common area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the property.

IN TESTIMONY WHEREOF, the Declarant has hereunto set its hand and seal the day and year first above-written.

FOUR OAKS BANK & TRUST COMPANY

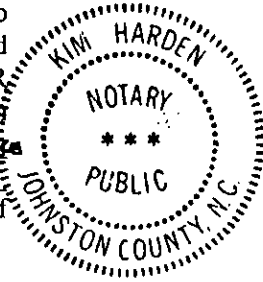
By: [Signature] [Signature]
SEN. VICE-PRESIDENT

Attest: [Signature]



STATE OF NORTH CAROLINA
COUNTY OF Johnston

I, the undersigned notary public, in and for the County and State aforesaid, do hereby certify that CLIFTON L. PAINTER appeared before me, and acknowledged that he or she is the ASST. secretary of FOUR OAKS BANK & TRUST COMPANY, and that by authority duly given and as an act of the corporation the foregoing instrument was signed in its name by its SEN. VICE President, sealed with its corporate seal and attested by him or her as its ASST. secretary. Witness my hand and notarial stamp or seal on this the 17th day of December, 1998.



Kim Harden
NOTARY PUBLIC

My commission expires: 1-30-2000

State of North Carolina-Johnston County
The foregoing certificate(s) of Kim Harden
Notary (Notaries) Public is (are) certified to be correct.
This instrument was presented for registration and recorded
in Book 1775 Page 749
This December 17, 1998 at 1:40 PM
Phyllis N Wall By Cling W. Archer
Register of Deeds Deputy Register of Deeds