

Wright & Osborne Properties, a North Carolina General Partnership with its principal place of business in Eden, Rockingham County, North Carolina, hereinafter referred to as "Developer," does hereby make, declare and establish this Declaration of Condominium as and for the plan of dwelling ownership of Carolyn Court Condominium, being the property and improvements hereinafter described.

I.

**ESTABLISHMENT OF CONDOMINIUM**

Developer is the owner of the fee simple title to that certain real property situate in Leaksville Township, Rockingham County, North Carolina, which property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, and on which property there have been constructed four (4) two-story buildings containing a total of thirty-two (32) townhouse style condominium living units and their supporting facilities, areas designated for at least sixty-four (64) parking spaces and other appurtenant improvements. There are no basements. The buildings are of wood frame construction with brick veneer and wood siding. Detailed information on construction is contained in Exhibit "B" to this Declaration. Developer does hereby submit the above described property and improvements to condominium ownership under the provisions of Chapter 47A of the General Statutes of North Carolina (Unit Ownership Act), and hereby declares the same to be a condominium to be known and identified as "Carolyn Court Condominium." Hereinafter in this Declaration of Condominium, Carolyn Court Condominium is also referred to as "Condominium."

II.

**SURVEY AND DESCRIPTION OF IMPROVEMENTS**

Annexed hereto and expressly made a part hereof as Exhibit "B," consisting of three (3) pages, is a survey of the land and graphic descriptions and plans of the improvements constituting the Condominium, identifying the Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined, and their respective locations and approximate dimensions. Each Condominium Unit is identified by specific numerical designation on said Exhibit "B," and no Condominium Unit bears the same designation as any other Condominium Unit.

III.

**DEFINITIONS**

The Condominium consists of Condominium Units and Common Areas and Facilities, as said terms are hereinafter defined.

- A. Condominium Units as the term is used herein shall mean and comprise the thirty-two (32) separate numerically identified Dwelling Units which are designated in Exhibit "B" to this Declaration of Condominium, excluding, however, all spaces and improvements lying:
1. Beneath the subflooring material of all floors (for ground floors poured concrete shall be considered to be subflooring

- material);
2. Beneath the interior surfacing material (sheet rock) of all perimeter walls, interior bearing walls and/or bearing partitions;
  3. Above the interior surfacing material (sheet rock) of the ceilings;

and further excluding all pipes, ducts, wires, conduits and other facilities for the furnishing of utilities and other services to Condominium Units and Common Areas and Facilities up to and including the point of entry of such pipes, ducts, wires and conduits through the interior surfacing material for walls and ceilings and subflooring surfacing material for floors. All pipes, ducts, wires, conduits and other such facilities shall become a part of the respective Condominium Units at such point of entry. All exterior doors, window frames, panes and screens shall be part of the respective Condominium Units, provided, however, that the exterior decoration and painting of the exterior surface of such doors and window frames shall be the responsibility of the Association, as hereinafter defined. As shown on Exhibit "B" there are storage rooms located to the rear of each Condominium Unit. Such storage rooms are a part of the respective Units as shown and bear the same numerical designation on Exhibit "B" as the Unit of which they are a part.

- B. Common Areas and Facilities, sometimes referred to herein as "Common Property," shall mean and comprise all of the real property, improvements and facilities of the Condominium other than the Condominium Units and all personal property held and maintained for the use and enjoyment of all the Owners of Condominium Units.
- C. Certain portions of the Common Areas and Facilities are reserved for the use of a particular Condominium Unit to the exclusion of other Units and are designated as "Limited Common Areas and Facilities." Limited Common Areas and Facilities and the Condominium Units to which they are reserved are as follows:
  1. The concrete patios located immediately to the rear of the Condominium Units and interior access to which can be had only through the Units. Use of such patios shall be limited to the Unit Owner or occupant whose Unit affords interior access. These patios bear the same designation on Exhibit B as the Unit to which they are attached.
  2. The fences dividing the patios of certain of the Units as shown on Exhibit "B" are reserved for use in connection with the patios to which they are adjacent. Maintenance and painting of the fences shall be the responsibility of the Association, as hereinafter defined.
  3. The wooden deck and second patio area adjacent to Unit A-1. Use of these areas shall be limited to the owner of Unit A-1 who shall also be responsible for their maintenance.

The terms "Association of Unit Owners," "Building," "Common Areas and Facilities" (sometimes herein referred to as "Common Property"), "Common Expenses," "Common Profit," "Condominium," "Declaration," "Majority" or "Majority of Unit Owners," "Person," "Property," "Recordation," "Unit" or "Condominium Unit," "Unit Designation," and "Unit Owner," unless it is

plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in Section 3 of Chapter 47A of the General Statutes of North Carolina, known as the Unit Ownership Act, as that statute exists as of the date of the filing of this Declaration.

#### IV.

#### **OWNERSHIP OF CONDOMINIUM UNITS AND APPURTENANT INTEREST IN COMMON PROPERTY**

Each Condominium Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit shall also own, as an appurtenance to the ownership of each said Condominium Unit, an undivided interest in the Common Property. The undivided interest appurtenant to each Condominium Unit shall be as set out in Exhibit "C" attached hereto and made a part hereof. The proportional interest in the Common Property that is appurtenant to each Condominium Unit has been determined by a ratio formulated upon the approximate relation that the fair market value of each Unit at the date of the Declaration bears to the then aggregate fair market value of all of the Units having an interest in the Common Property. The fair market value of each Unit and the aggregate fair market value of all the Units has been determined by the Developer, and this determination shall be binding upon all Unit Owners. The percentage of undivided interest in the Common Property assigned to each Condominium Unit shall not be changed except with the unanimous consent of all of the Owners of all of the Condominium Units and with the consent of all of the Institutional Lenders, as defined in Article XXIX hereof, holding first mortgages or deeds of trust on the Condominium Units.

#### V.

#### **RESTRICTION AGAINST FURTHER SUBDIVIDING OF CONDOMINIUM UNITS; SEPARATE CONVEYANCE OF APPURTENANT COMMON PROPERTY PROHIBITED**

No Condominium Unit may be divided or subdivided into a smaller Unit or Units than as shown on Exhibit "B" hereto, nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit. The undivided interest in the Common Property declared to be an appurtenance to each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Property appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Condominium Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon a Condominium Unit shall be null, void and of no effect insofar as the same purports to affect any interest in a Condominium Unit and its appurtenant undivided interest in Common Property, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Condominium Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Condominium Unit, which describes said Condominium Unit by the numerical designation assigned thereto in Exhibit "B" without limitation or

exception, shall be deemed and construed to affect the entire Condominium Unit and its appurtenant undivided interest in the Common Property. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant undivided interest in the Common Property by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

## VI.

### **THE CONDOMINIUM SUBJECT TO RESTRICTIONS**

The Condominium Units, Common Property and Limited Common Areas shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein governing the use of said Condominium Units, Common Property and Limited Common Areas and setting forth the obligations and responsibilities incident to ownership of each Condominium Unit and its appurtenant undivided interest in the Common Property, and said Condominium Units, Common Property and Limited Common Areas are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium.

## VII.

### **PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON PROPERTY**

The Common Property shall be, and the same is hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Owners of Condominium Units in the Condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said Owners of Condominium Units. Notwithstanding anything above provided in this Article, Carolyn Court Association, Inc., hereinafter identified, shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Condominium Unit, his family, guests and invitees, may be entitled to use the Common Property, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof and to establish rules and regulations concerning the use of any recreation area.

## VIII.

### **EASEMENT FOR UNINTENTIONAL AND NON- NEGLIGENT ENCROACHMENTS**

In the event that any Condominium Unit shall encroach upon any Common Property, or any other Condominium Unit or Units, for any reason not caused by the purposeful or negligent act of the Condominium Unit Owner, or agents of such Owner, then an easement appurtenant to such Condominium Unit shall exist for the continuance of such encroachment upon the Common Property or upon a Condominium Unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Property shall encroach upon any Condominium Unit, then an easement shall exist for the continuance of such encroachment of the Common Property upon any Condominium Unit for so long as such encroachment shall naturally exist. If any Condominium Unit or Common Property shall be partially or totally

destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit and/or Common Property in accordance with Article XXII hereof, there exist encroachments of portions of the Common Property upon any Condominium Unit, or of any Condominium Unit upon any other Condominium Unit or upon any portion of the Common Property, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain

## **IX.**

### **RESTRAINT UPON SEPARATION AND PARTITION OF COMMON PROPERTY**

Recognizing that the proper use of a Condominium Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Property in common with the Owners of all other Condominium Units, and that it is in the interest of all Owners that the ownership of the Common Property be retained in common by the Owners, it is hereby declared that the proportional undivided interest in the Common Property appurtenant to each Condominium Unit shall remain undivided and no Unit owner shall bring or have any right to bring any action for partition or division.

## **X.**

### **ADMINISTRATION OF THE CONDOMINIUM BY CAROLYN COURT ASSOCIATION, INC.**

To efficiently and effectively provide for the administration of the Condominium by the Owners of the Condominium Units, a nonprofit North Carolina corporation known and designated as Carolyn Court Association, Inc. has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and By-Laws. A true copy of said Articles of Incorporation and By-Laws are annexed hereto and expressly made a part hereof as Exhibits "D" and "E" respectively. The Owner or Owners of each Condominium Unit shall automatically become members of said corporation upon his, their or its acquisition of an ownership interest in title to any Condominium Unit and its a appurtenant undivided interest in Common Property, and the membership of such Owner or Owners shall terminate automatically upon such Owner or Owners being divested of such ownership interest in the title to such Condominium Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Condominium Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation or to any of the rights or privileges of such membership. In the administration of the operation and management of the Condominium, Carolyn Court Association, Inc. shall have and is hereby granted the authority and power to enforce the provisions of this Declaration of Condominium, to levy and to collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Condominium Units and Common Property as the Board of Directors of said Association may deem to be in the best interests of the Association. Carolyn Court Association, Inc. is hereinafter referred to as " Association."

## **XI.**

### **RESIDENTIAL USE RESTRICTIONS APPLICABLE TO CONDOMINIUM UNITS**

Each Condominium Unit is hereby restricted to residential use by the Owner thereof, his immediate family, guests, invitees and lessees. No Owner of any Condominium Unit shall permit the use of his Unit for transient hotel or commercial purposes. Corporate or partnership members, other than the Developer, shall permit the use of a Condominium Unit owned by it only by its principal officers, directors or partners, or other guests or lessees. Such corporate or partnership member shall annually sign and deliver to the Association a written statement designating the name of the party (or parties) entitled to use such Condominium Unit, together with a written covenant of such party in favor of the Association whereby the party agrees to comply with the terms and provisions of this Declaration of Condominium and with the rules and regulations which may be promulgated by the Association from time to time and acknowledging that the party's right to use such Condominium Unit shall exist only so long as the corporation or partnership shall continue to be a member of the Association. Upon demand by the Association to any corporate or partnership member to remove a party for failure to comply with the terms and provisions of the Declaration of Condominium and/or the rules and regulations of the Association or for any other reason, the corporate or partnership member shall forthwith cause such party to be removed, failing which, the Association, as agent of the Owner, may take such action as it may deem appropriate to accomplish such removal, and all such action by the Association shall be at the cost and expense of the Owner who shall reimburse the Association therefor upon demand, together with such attorneys' fees as the Association may have incurred in the process of removal.

## **XII.**

### **USE OF COMMON PROPERTY SUBJECT TO RULES OF ASSOCIATION**

The use of Common Property, including the Limited Common Areas and Facilities, by the Owner or Owners of all Condominium Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established by the Association.

## **XIII.**

### **THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES: RESTRICTION AGAINST NUISANCES**

No immoral, improper, offensive or unlawful use shall be made of any Condominium Unit or of the Common Property, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Owner of any Condominium Unit shall permit or suffer anything to be done or kept in his Condominium Unit, or on the Common Property, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice

which shall create and constitute a nuisance to any other Owner of a Condominium Unit, or which interferes with the peaceful possession and proper use of any other Condominium Unit or the Common Property.

#### **XIV.**

##### **RIGHT OF ENTRY INTO CONDOMINIUM UNITS IN EMERGENCIES**

In case of any emergency originating in or threatening any Condominium Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the Managing Agent, shall have the right to enter such Condominium Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

#### **XV.**

##### **RIGHT OF ENTRY FOR MAINTENANCE OF COMMON PROPERTY**

Whenever it may be necessary to enter any Condominium Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Property, the Owner of each Condominium Unit shall permit other Owners or their representatives, or the duly constituted and authorized Agent of the Association, to enter such Condominium Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice.

#### **XVI.**

##### **LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY CONDOMINIUM UNITS; NO RIGHT TO ALTER COMMON PROPERTY**

No Owner of a Condominium Unit shall permit any structural modification or alteration to be made to such Condominium Unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in their sole discretion, that such structural modifications or alterations would adversely affect or in any manner endanger the Condominium in part or in its entirety.

The Association, through the Board of Directors (or its Architectural Control Committee), shall regulate the external design, appearance, use, location and maintenance of the Condominium and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. No Owner shall cause any improvements, alterations, repairs or changes to be made on the exterior of the Condominium (including painting or other decoration, the installation of electrical wiring, television or radio antennae or any other objects or devices which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No Unit Owner shall cause any object to be fixed to the Common Property or to any Limited Common Area (including the location or construction of fences and the planting or growing of flowers, trees, shrubs or any other vegetation) or in any manner change the appearance of the Common Property or Limited

Common Area without the written consent of the Association being first had and obtained.

Any Unit Owner desiring to make any improvement, alteration or change described above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Board of Directors which shall evaluate such plans and specifications in light of the purpose of this Article as set forth above. As a condition to the granting of approval of any request made under this Article, the Association may require that the Unit Owner requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Unit Owner, and any subsequent Owner of the Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth in Article XXIV, and subject to the lien rights described in said Article.

#### **XVII.**

#### **RIGHT OF ASSOCIATION TO ALTER AND IMPROVE COMMON PROPERTY AND ASSESSMENT THEREFOR**

The Association shall have the right to make or cause to be made such alterations or improvements to the Common Property which do not materially prejudice the rights of the Owner of any Condominium Unit in the use and enjoyment of his Condominium Unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association, and the cost of such alterations or improvements shall be Common Expenses to be assessed and collected from all of the Owners of Condominium Units. However, where any alterations and improvements are exclusively or substantially for the benefit of the Owner or Owners of certain Condominium Unit or Units requesting the same, then the cost of making, maintaining, repairing and insuring such alterations or improvements shall be assessed against and collected solely from the Owner or Owners of the Condominium Unit or Units exclusively or substantially benefitted, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Association.

#### **XVIII.**

#### **MAINTENANCE AND REPAIR BY OWNERS OF CONDOMINIUM UNITS**

Every Owner shall perform promptly all maintenance and repair work within his Condominium Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Condominium Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment (wherever located), stoves, refrigerators, fans or other appliances or equipment, including any utility fixtures and/or their connections required to provide heat, air conditioning, water, light, power, telephone, sewage and sanitary service to his Condominium Unit. Such Owner shall further be



responsible and liable for the maintenance, repair and replacement of the exterior surfaces of any and all walls, ceilings and floors within his Unit including painting, decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in his Condominium Unit. Whenever the maintenance, repair and replacement of any item for which the Owner of a Condominium Unit is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that the Owner of such Condominium Unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. The Owner of a Condominium Unit who has exclusive use of any Limited Common Area (including the exterior water faucet serving the patio) shall maintain such at his own expense. All exterior doors, glass doors, window frames, panes and screens are a part of the respective Condominium Units and, except for painting as described in Article III, shall be maintained by the respective Unit Owners.

#### **XIX.**

#### **MAINTENANCE AND REPAIR OF COMMON PROPERTY BY THE ASSOCIATION**

The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Property, including those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing (except for the exterior water faucets serving the patios), wiring and other facilities located in the Common Property for the furnishing of utility and other services to the Condominium Units and said Common Property, and should any incidental damage be caused to any Condominium Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Property, the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Condominium Unit Owner, his immediate family, guests or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

#### **XX.**

#### **INSURANCE, AUTHORITY TO PURCHASE**

Insurance policies upon the Property (other than title insurance) shall be purchased by the Association in the name of the Managing Agent or Board of

Directors of the Association, as Trustees for the Condominium Unit Owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the Condominium Units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against Condominium Unit Owners, the Association and their respective servants, agents and guests. Each Condominium Unit Owner may obtain insurance, at his own expense, affording coverage upon his Condominium Unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

## **XXI.**

### **INSURANCE COVERAGE TO BE MAINTAINED: USE AND DISTRIBUTION OF INSURANCE PROCEEDS**

- A. The following insurance coverage shall be maintained in full force and effect by the Association covering the operation and management of the Condominium, meaning the Condominium Units and Common Property, to-wit:
1. Casualty insurance covering the buildings and all improvements upon the land and all personal property included within the Property described in Exhibit "A" hereto, except such personal property as may be owned by the Condominium Unit Owners, shall be procured in an amount equal to the maximum insurable replacement value thereof (exclusive of excavation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage; and provided that such policies may be written on a co-insurance basis of not less than ninety percent (90%). By way of illustration and not of limitation, such casualty insurance shall cover fixtures, installations or additions, or equal replacements thereof, comprising a part of the building within each individual Condominium Unit (as that term is defined in Article III hereof) in accordance with the original condominium plans and specifications. In determining the amount of coverage for such fixtures, installations or additions, the Board of Directors of Carolyn Court Association shall annually set the standard allowance for such items as carpeting, bathroom and kitchen cabinets, wall covering, vinyl floor covering, ceramic tile, kitchen appliances, bookshelves, etc., which were included in the original condominium plans and specifications. By way of illustration and not of limitation such casualty insurance shall not cover furniture, furnishings or other household or personal property owned by, used by or in the care, custody, or control of a Condominium Unit Owner (whether located within or without the Unit), or fixtures, installations or additions that are placed in an individual Condominium Unit by the Owner thereof at his expense. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief.
  2. Public liability and property damage insurance in such amounts and in such forms as shall be required by the Association, including but

not limiting the same to legal liability, hired automobile, non-owned automobile and off-premises employee coverages.

3. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Condominium Unit Owners as a group to a Condominium Unit Owner.
- B. Premiums upon insurance policies purchased by the Association shall be paid by the Association as Common Expenses to be assessed and collected from all of the Owners of Condominium Units.
- C. All insurance policies purchased by the Association shall be for the benefit of the Association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of the Association, the Condominium Unit Owners and their respective mortgagees in the following shares:
  1. Proceeds on account of damage to Common Property: in undivided shares for each Condominium Unit Owner and his mortgagee, if any, which shares as to each Condominium Unit are shown on Exhibit "C" attached hereto.
  2. Proceeds on account of damages to Condominium Units shall be held in the following undivided shares:
    - a. Partial destruction when the Condominium is to be restored: for the Owners of damaged Condominium Units in proportion to the costs of repairing the damage suffered by each damaged Condominium Unit.
    - b. Total destruction of the Condominium or where the Condominium is not to be restored: for all Condominium Unit Owners, the share of each being set forth in Exhibit "C."
- D. In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.
- E. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial Condominium Unit Owners in the following manner:
  1. If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Condominium Unit Owners, all remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.
  2. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Condominium Unit Owners, remittances to Condominium Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Condominium Unit and may be enforced by him.

## **XXII.**

### **RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE; DAMAGE TO COMMON PROPERTY; DAMAGE TO CONDOMINIUM UNITS**

- A. If any part of the Common Property shall be damaged by casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:
1. Partial destruction shall be deemed to mean destruction which renders less than two-thirds ( $2/3$ ) of the Condominium Units untenable. In the event of partial destruction, the Common Property shall be reconstructed or repaired unless this Declaration is terminated by the unanimous vote of all of the Condominium Unit Owners at a meeting of the members of the Association called and held prior to commencement of such reconstruction or repair.
  2. Total destruction shall be deemed to mean destruction which renders two-thirds ( $2/3$ ) or more of the Condominium Units untenable. In the event of total destruction, the Common Property shall not be reconstructed or repaired if, at a meeting which shall be called within thirty (30) days after the occurrence of the casualty, or if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such adjustment, Condominium Unit Owners who in the aggregate own three fourths ( $3/4$ ) or more of the Condominium Units vote against reconstruction or repair.
  3. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein.
- B. If the damage is only to those parts of one or more Condominium Units for which the responsibility for maintenance and repair is that of the Condominium Unit Owner, then the Condominium Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association as follows:
1. Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors deems necessary or appropriate. When the damage is to both Common Property and Condominium Units, the insurance proceeds shall be applied first to the costs of repairing the Common Property and the balance to the Condominium Units.
- C. Each Condominium Unit Owner shall be deemed to have delegated to the Board of Directors of the Association his right to adjust with insurance companies all losses under policies purchased by the Association, except in any case where the damage is restricted to one Condominium Unit.

## **XXIII.**

### **ASSOCIATION TO MAINTAIN REGISTER OF OWNERS AND MORTGAGEES**

The Association shall at all times maintain a Register setting forth the names of the Owners of all of the Condominium Units. In the event of the

sale or transfer of any Condominium Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Condominium Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Condominium Unit. Further, the Owner of each Condominium Unit shall notify the Association of the names of the parties holding any mortgage or mortgages on any Condominium Unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any Condominium Unit may, if he so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any Condominium Unit and, upon receipt of such notice, the Association shall register in its records all pertinent information relating thereto.

#### **XXIV.**

##### **ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT**

The Association is given the authority to administer the operation and management of the Condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the Owners of all Condominium Units. To properly administer the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Owners of Condominium Units, costs and expenses which are sometimes herein referred to as "Common Expense." To provide the funds necessary for such proper operation, management and capital improvement, the Association has heretofore been granted the right to make, levy and collect assessments against the Unit Owners and their Condominium Units. In furtherance of this grant of authority to Association to make, levy and collect assessments to pay the costs and expenses for the operation, management of and capital improvements to the Condominium, the following provisions shall be operative and binding upon the Owners of all Condominium Units.

- A. All assessments levied against the Unit Owners and their Condominium Units shall be uniform and, unless specifically otherwise provided for in this Declaration of Condominium, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Condominium Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Condominium Units as the undivided interest in Common Property appurtenant to each Condominium Unit bears to the total undivided interest in Common Property appurtenant to all Condominium Units. Should the Association be the Owner of a Condominium Unit or Units, the assessment which would otherwise be due and payable to the Association by the Owner of such Unit or Units, reduced by the amount of income which may be derived from the leasing of such Unit or Units by the Association, shall be apportioned and assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based upon their proportionate interests in Common Property exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.
- B. Assessments provided for herein shall be payable in annual, quarterly or monthly installments, or in such other installments and at such

times as may be determined by the Board of Directors of the Association. Such assessments shall commence for each Unit on the first day of the first month following the recordation of this Declaration in the Rockingham County Public Registry.

- C. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, and the budget shall take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with paragraph "D" hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies of said Budget shall be delivered to each Owner of a Condominium Unit and the assessment for said year shall be established based upon such Budget, although the delivery of a copy of said Budget to each Owner shall not affect the liability of any Owner for such assessment. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary.
- D. The Board of Directors of the Association, in establishing the Annual Budget for operation, management and maintenance of the Condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Property, which Capital Improvement and Replacement Fund (Capital Improvement Fund) shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property, as well as the replacement of portions of the Common Property. The amount to be allocated to the Capital Improvement Fund may be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Property. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his proportionate interest in the Common Property as shown on Exhibit "C" and the Association shall annually notify each Unit Owner of the amount of his balance in the Capital Improvement Account. However, such balance shall not be subject to withdrawal by a Unit Owner.
- E. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by

the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration of Condominium, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid unto the Association by any Owner of a Condominium Unit, the same may be comingled with monies paid to the Association by the other Owners of Condominium Units. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Property, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Condominium Unit. When the Owner of a Condominium Unit shall cease to be a member of the Association by reason of his divestment of ownership of such Condominium Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

- F. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to Association. All monies owing to Association shall be due and payable at the main office of Association in the State of North Carolina.
- G. The Owner or Owners of each Condominium Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Condominium Unit while such party or parties are Owner or Owners of a Condominium Unit. In the event that any Unit Owner or Owners are in default in payment of any assessment or installment thereof owed to the Association, such Unit Owner or Owners shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorneys' fee, whether suit be brought or not.
- H. No Owner of a Condominium Unit may exempt himself from liability for any assessment levied against him or his Condominium Unit by waiver of the use of enjoyment of any of the Common Property, or by abandonment of the Condominium Unit or in any other way.
- I. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and management results in benefit to all of the Owners of Condominium Units, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the

investment of each Unit Owner, the Association is hereby granted a lien upon each Condominium Unit and its appurtenant undivided interest in Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each such Condominium Unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorneys' fee, which may be incurred by the Association in enforcing this lien upon said Condominium Unit and its appurtenant undivided interest in Common Property. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Owner of any Condominium Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a Receiver for said Condominium Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the highest rate allowed by law on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Condominium Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights.

- J. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Public Records of Rockingham County, North Carolina, which claim shall state the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien provided for herein shall be subordinate to the lien of any mortgage or deed of trust and any person, firm or corporation acquiring title to any Condominium Unit and its appurtenant undivided interest in Common Property by virtue of any foreclosure, deed in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Condominium Unit and its appurtenant undivided interest in Common Property subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Condominium Unit by foreclosure,



deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all Condominium Units as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

- K. Whenever any Condominium Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Unit Owner, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.
- L. The Association may install, at its own expense, individual water and sewer meters for each Unit. Each Owner hereby grants to the Association, its agents, successors and or assigns, an easement for entry into the Unit for installation, repair, maintenance, or removal of these meters. If so installed, the Association may contract with a third party to read the meters to determine water or sewer service usage for each Unit, and to bill Unit Owners monthly for their individual water or sewer service usage. This third party shall be considered an agent of the Association for the purposes described herein. The water and/or sewer bill for each Unit shall be collectible as an assessment in accordance with the provisions of the Declaration and Bylaws for the Association. The individual water and sewer meters shall be located within the individual Units but the meters themselves shall be considered parts of the Common Areas and Facilities. The Board of Directors shall be entitled to adopt additional rules and regulations concerning the individual water and sewer meters, usage readings, and billing practices for water and sewer usage, and shall be responsible for their repair, replacement or maintenance in the same manner as for other portions of the Common Areas and Facilities.
- M. Any common expense or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited, and shall be collectible in accordance with the provisions of the Declaration and Bylaws for the Association.

(L and M adopted 12/1/2019)

In the event that a Condominium Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the Owner of said Condominium Unit and such Condominium Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the rent, proceeds of such purchase or mortgage proceeds shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase or mortgage proceeds to the Owner of any Condominium Unit who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Condominium Unit, the Purchaser thereof shall be jointly and severally liable with Seller for all unpaid assessments against Seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the Purchaser to recover from Seller the amounts paid by Purchaser therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to Association.

#### **XXV.**

#### **COMMON SURPLUS**

"Common Surplus," meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits and revenues from whatever source) over amount of the Common Expense, shall be owned by the Owners of all Condominium Units in the same proportion that the undivided interest in Common Property appurtenant to each Owner's Condominium Unit bears to the total of all undivided interest in Common Property appurtenant to all Condominium Units; provided, however, that said Common Surplus shall be held by the Association in the manner prescribed in, and subject to, the terms, provisions and conditions of this Declaration imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance indemnity herein provided, or upon termination of the Condominium any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then Owners of Condominium Units in accordance with their percentage interest in Common Surplus as declared herein.

#### **XXVI.**

#### **TERMINATION**

The Condominium shall be terminated, if at all, in the following manner:

- A. The termination of the Condominium may be effected only by the unanimous agreement of all Condominium unit Owners expressed in an instrument to that effect duly recorded; and, provided, that the holders of all liens affecting any of the Condominium Units consent thereunto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the Property as provided in subparagraph "C" below. The termination shall become effective when such agreement has been recorded in the public records of Rockingham County, North Carolina.
- B. If it is determined in the manner elsewhere provided that the Condominium shall not be reconstructed after casualty, the Condominium plan of ownership shall be terminated and the Declaration of

Condominium revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of the Association certifying as to the facts effecting the termination, which Certificate shall become effective upon being recorded in the public records of Rockingham County, North Carolina.

- C. After termination of the Condominium, the Condominium Unit Owners shall own the Property as tenants in common in undivided shares and the holders of mortgages and liens against the Condominium Unit or Units formerly owned by such Condominium Unit Owners shall have mortgages and liens upon the respective undivided shares of the Condominium Unit Owners. The undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the Common Area and Facilities previously owned by each Unit Owner. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the Unit Owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a Common Expense.
- D. Following termination, the property may be partitioned sold upon the application of any Condominium Unit Owner. Following a termination, if the Board of Directors determines by not less than a three-fourths (3/4) vote to accept an offer for the sale of the property, each Condominium Unit Owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and in such form as the Board of Directors directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.
- E. The members of the Board of Directors, acting collectively as agent for all Condominium Unit Owners, shall continue to have such powers as in this Article are granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.

## XXVII.

### **AMENDMENT OF DECLARATION OF CONDOMINIUM**

- A. This Declaration of Condominium may be amended in the following manner: An Amendment or Amendments to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the Condominium Units, whether meeting as members or by instrument in writing signed by them. Upon any Amendment or Amendments to this Declaration of Condominium being proposed by said Board of Directors or members, such proposed Amendment or Amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed Amendment or Amendments. It shall be the duty of the Secretary to give to each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed

not less than ten (10) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the post- age thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the Amendment or Amendments proposed must be approved by an affirmative vote of seventy-five percent (75%) of the members owning Units in the Condominium in order for such Amendment or Amendments to become effective. Thereupon such Amendment or Amendments of this Declaration of Condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such Amendment or Amendments, so certified and executed with the same formalities as a Deed, shall be recorded in the Public Records of Rockingham County, North Carolina, within ten (10) days from the date on which the same became effective, such Amendment or Amendments to specifically refer to the recording date identifying the Declaration of Condominium. Thereafter, a copy of said Amendment or Amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to the Owners of all Condominium Units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such Amendment or Amendments. At any meeting held to consider such Amendment or Amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

- B. No alteration in the percentage of ownership in Common Property appurtenant to each Condominium Unit, or alteration of the basis for sharing Common Expenses and other apportionment of assessments which may be levied by the Association in accordance with the provisions hereof, or alteration of basis of ownership of Common Surplus, shall be made without the prior written consent of all of the Owners of all Condominium Units and all of the Institutional Lenders holding first mortgages or first deeds of trust on the Condominium Units.
- C. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of an Institutional Lender or Institutional Lenders shall be made without prior written consent of all Institutional Lenders holding mortgages on Condominium Units in the Condominium being first had and obtained.
- D. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Developer shall be made without the written consent of said party being first had and obtained.

#### **XXVIII.**

#### **REMEDIES IN EVENT OF DEFAULT**

The Owner or Owners of each Condominium Unit shall be governed by and

shall comply with the provisions of this Declaration of Condominium, and the Articles of Incorporation and By-Laws of the Association, as any of the same are now constituted or as they may be amended from time to time. A default by the Owner of any Condominium Unit shall entitle the Association or the Owner of other Condominium Units to the following relief:

- A. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.
- B. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Condominium Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.
- C. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court, but in no event shall any Unit Owner be entitled to such attorneys' fees.
- D. The failure of the Association or any Unit Owner to enforce any right, Provision, covenant or condition which may be granted by this Declaration of Condominium or the other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.
- E. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Condominium Unit, pursuant to any terms, provisions, covenants or conditions of the Declaration of Condominium or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.
- F. The failure of Developer to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration of Condominium or other above mentioned document shall not constitute a waiver of the right of Developer to thereafter enforce such right, provision, covenant or condition in the future.

- G. The failure of an Institutional Lender or Institutional Lenders, as said term is herein defined, to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by this Declaration of Condominium or other above- mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

## **XXIX.**

### **RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS**

"Institutional Lender" or "Institutional Lenders," as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, or other firms or entities customarily affording loans secured by first liens on residences. So long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any Condominium Unit or Units, or shall be the owner of any Condominium Unit or Units, such Institutional Lender or Institutional Lenders shall have the following rights:

- A. To approve the company or companies with whom casualty insurance is placed.
- B. To examine, at reasonable times and upon reasonable notice, the books and records of the Association and to be furnished at least one copy of the annual financial statement and report of the Association, prepared by a certified public accountant designated by the Association, such financial statement and report to be furnished by April 15 of each calendar year.
- C. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering: (1) any proposed Amendment to this Declaration of Condominium, or the Articles of Incorporation and By-Laws of the Association; (2) the proposed termination or abandonment of the Condominium; (3) the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association. Such notice shall state the nature of the Amendment or action being proposed.
- D. To be given notice of default by any Owner owning a Condominium Unit encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing.
- E. To be given notice of any condemnation of the Common Areas or any portion thereof.
- F. To receive notice of any substantial damage to the Common Area. Whenever any Institutional Lender or Institutional Lenders desire the provisions of this Article to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein, identifying the Condominium Unit or Units

upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Condominium Units owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender or Institutional Lenders.

**XXX.**

**RIGHT OF DEVELOPER TO REPRESENTATION ON BOARD OF DIRECTORS OF THE ASSOCIATION**

So long as Developer owns three (3) or more Condominium Units in the Condominium, but in any event, no longer than December 31, 1982, Developer shall have the right to designate and select a majority of the persons who shall serve as members of each Board of Directors of the Association.

In the event of dissolution of Developer at a time when it is the Owner of a Condominium Unit, then the rights of the Developer shall pass to and may be exercised by its successors receiving ownership of any such Condominium Unit in dissolution.

Whenever Developer shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association, and Developer shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or Directors so removed for the remainder of the unexpired term of any Director or Directors so removed. Any Director designated and selected by Developer need not be a resident in the Condominium. However, Developer shall be responsible for the payment of any assessments which may be levied by the Association against any Condominium Unit or Units owned by the said Developer, and for complying with the remaining terms and provisions hereof in the same manner as any other Owner of a Condominium Unit or Units.

**XXXI.**

**SEVERABILITY**

In the event that any of the terms, provisions or covenants of this Declaration of Condominium are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

**XXXII.**

**LIBERAL CONSTRUCTION**

The provisions of this Declaration of Condominium shall be liberally construed to effectuate its purpose of creating a uniform plan of

Condominium ownership. Throughout this Declaration wherever appropriate the singular shall include the plural and the masculine gender shall include the feminine or neuter. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

**XXXIII.**

**DECLARATION OF CONDOMINIUM BINDING ON ASSIGNS, AND SUBSEQUENT OWNERS**

The restrictions and burdens imposed by the covenants of this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Condominium Unit and its appurtenant undivided interest in Common Property. This Declaration of Condominium shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become Owners of Condominium Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

**XXXIV.**

**AGENT FOR SERVICE OF PROCESS**

The following named individual is designated as the person to receive service of process for the Association: Peter F. Osborne, 107 W. Stadium Drive, Eden, North Carolina 27288.

IN WITNESS WHEREOF, Wright & Osborne Properties has caused these presents to be executed in its name by both its General Partners, this 5th day of April, 1981.

WRIGHT & OSBORNE PROPERTIES,  
A North Carolina General Partnership

BY: \_\_\_\_\_  
Homer Wright, Jr.  
General Partner

By: \_\_\_\_\_  
Peter F. Osborne  
General Partner



STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, do hereby certify that HOMER E. WRIGHT, JR: and PETER F. OSBORNE personally came before me this day and acknowledged that they are all of the General Partners of WRIGHT & OSBORNE PROPERTIES, a North Carolina General Partnership, and are the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said partnership and that they executed the same as an act of such partnership.

WITNESS my hand and official seal this the day \_\_\_\_\_ of 19\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

**EXHIBIT "A"**

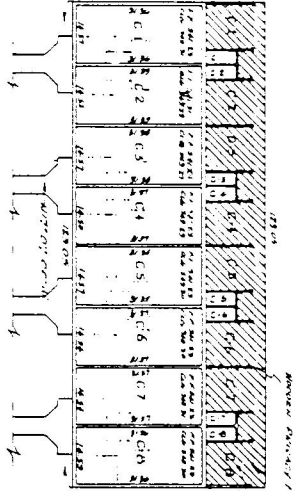
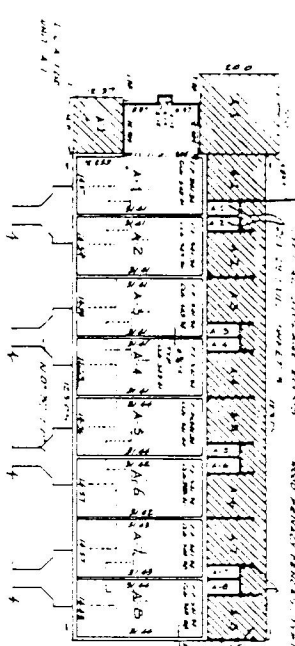
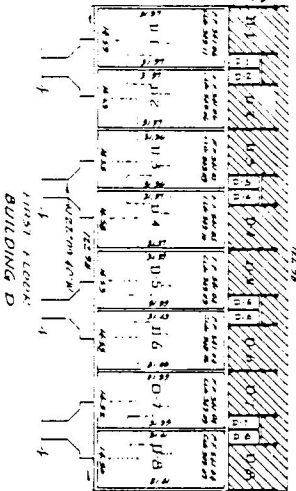
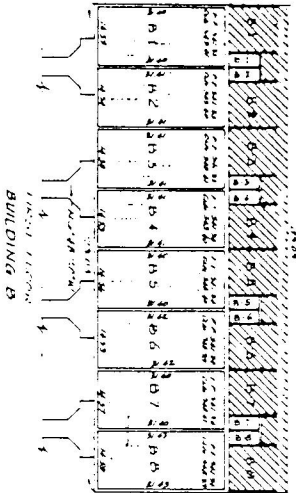
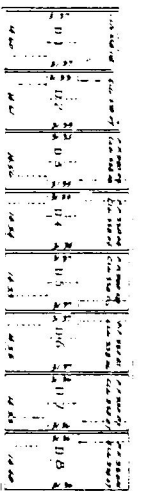
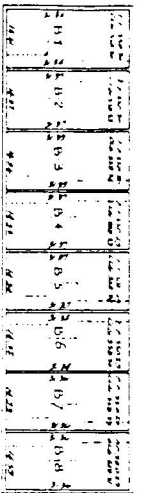
**TO**

**DECLARATION OF CONDOMINIUM ESTABLISHING CAROLYN COURT CONDOMINIUM**

TRACT ONE: BEGINNING at an iron pin in the center line of a ditch, said iron pin being located at the northeast corner of that tract conveyed to Fair Funeral Home, Inc. by deed recorded in Book 665, Page 954, Office of the Register of Deeds of Rockingham County, North Carolina, and the southeast corner of those parcels or tracts conveyed to J. B. Edwards by deed recorded in Book 683, Page 186, Rockingham County Registry; thence from said beginning point, South  $81^{\circ} 40' 00''$  West 278.04 feet to an iron pin, the southwest corner of that tract described in the deed recorded in Book 683, Page 186; thence North  $22^{\circ} 00' 00''$  West 205.83 feet to a point; thence North  $12^{\circ} 08'$  West 177.85 feet to a point; thence North  $03^{\circ} 14' 00''$  West 352.51 feet to an iron pin in the center line of a ditch, the northwest corner of that tract described in Book 683, Page 186; thence with the center line of said ditch, North  $78^{\circ} 58'$  East 212.61 feet to an iron pin; thence South  $36^{\circ} 16' 00''$  East 42.74 feet to an iron pin; thence with the center line of the ditch, the following courses and distances: South  $02^{\circ} 27' 00''$  East 167.66 feet to a point; South  $00^{\circ} 27' 00''$  West 101.0 feet to a point; South  $08^{\circ} 05' 00''$  East 174.09 feet to a point; South  $30^{\circ} 55' 00''$  East 281.75 feet to the point and place of Beginning, and being all of Parcels 1, 2, 3 and 4, as shown on a survey for J. B. Edwards and Ruth P. Edwards by Shanks & Wilmarth, Engineers and Surveyors, dated January 7, 1972.

TRACT TWO: BEGINNING at a point located North  $22^{\circ} 00'$  West 66.90 feet from the northwest corner of that .97-acre parcel of land designated "Parcel 4" devised to H. C. Pace, III, Trustee, under the Will of J. Bransford Edwards; thence from said beginning point, South  $81^{\circ} 40'$  West 333.14 feet to a point in the eastern margin of Highland Park Drive; thence with the eastern margin of Highland Park Drive, North  $03^{\circ} 06'$  West 50.21 feet to a point; thence North  $81^{\circ} 40'$  East 325.24 feet to a point in the western line of Parcel 3 as shewn on a map of survey of Parcels 1, 2, 3 and 4 for J. B. Edwards and Ruth P. Edwards made by Shanks & Wilmarth, Engineers and Surveyors, dated January 7, 1972; thence South  $12^{\circ} 08'$  East 50.11 feet to the point and place of Beginning.





# CAROLYN COURT CONDOMINIUM

## WRIGHT & OSBORNE PROPERTIES

UNITS A1-A8; B1-B4; C1-C6; AND D1-D8

SCALE 1"=20'

APRIL 6, 1981

I, the undersigned, do hereby certify that the attached plans fully depict the layout, floor and ceiling elevations, unit numbers and dimensions of the units as built.

Witness my hand and seal this 18th day of April, 1981.

\_\_\_\_\_  
J. L. WRIGHT  
J. L. WRIGHT & OSBORNE, INC.

- LEGEND
- FINISHED FLOOR ELEVATION
- Ceiling Elevation
- UNITED COMMON AREA
- INTERIOR WALLS
- WOOD PANEL FENCE
- A-1 TYPICAL UNIT DESIGNATION

NOTES:

- Dimensions of units shown herein are to 3/16" unless otherwise noted.
- Thickness of walls shown are to 3/16" unless otherwise noted.
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EXHIBIT "C"

TO

DECLARATION OF CONDOMINIUM ESTABLISHING  
CAROLYN COURT CONDOMINIUM

Each of the thirty-two (32) Condominium Units has appurtenant thereto an undivided interest in the Common Areas and Facilities equal to 3.125 percent of the total of 100.00 percent.