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PREPARED BY AND MAIL TO
Burns, Day & Presnell, P. A.
P. O. Box 10867, Raleigh, NC 27605

RUTH C. GARRETT
REGISTER OF DEEDS
DURHAM COUNTY, N.C.

NORTH CAROLINA
DURHAM COUNTY

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
CHOWNINGS PLACE TOWNHOMES SECTION ONE

THIS DECLARATION, made on this 28th day of August, 1996 by HOMES BY HUFF & CO., INC., a North Carolina corporation, hereinafter referred to as the "Declarant;"

WITNESSETH: THAT WHEREAS, the Declarant is the owner of certain property lying within Durham County, North Carolina, more particularly described as Chownings Place Townhomes, Section One as shown on a map recorded in Plat Book 136, Page 76, Durham County Registry; and

WHEREAS, said property is subject to a Declaration of Covenants of Hope Valley Farms, recorded in Book 1462, Page 912 and Book 2077, Page 20, Durham County Registry, (referred to herein as the "Hope Valley Farms Declaration").

WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

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ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Chownings Place Townhome Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" shall mean and refer to that certain real property described in Exhibit A-1 attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association and the easements granted thereto for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be described in deeds to the Association and designated as such on each recorded map of the Property.

Section 5. "Lot" shall mean and refer to any plot of land containing a single townhome described by a metes and bounds description shown upon any recorded subdivision map of the Property with the exception of the Common Area.

Section 6. "Lot in Use" shall mean any Lot owned by any person other than Declarant and as to those Lots owned by Declarant, any Lot on which a dwelling unit has been fully constructed and for which a certificate of occupancy has been issued by the appropriate governmental agency. In no event shall it mean a Lot owned by the Declarant on which no dwelling unit has been constructed.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association. There shall be two classes of voting membership in the Association.

A. "Class A Members" shall be all those Owners as defined in Article III herein, with the exception of the Declarant. Declarant may, however, be a Class A member upon termination of Class B membership.

B. "Class B Member" shall be the Declarant as defined herein.

Section 8. "Declarant" shall mean and refer to Homes By Huff & Co., Inc., a North Carolina Corporation, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development or if such successors or assigns should acquire more than one Lot, whether developed or undeveloped, pursuant to foreclosure or a deed

in lieu of foreclosure.

Section 9. "Additional Properties" shall mean all or any portion of the real property located within a one (1) mile radius of the boundaries of the Property (as such is constituted as of the date of recording of this Declaration).

Section 10. "Person" means any individual, corporation, partnership, association, trustee, or other legal entity.

Section 11. "Building" means a multi-unit residential structure, constructed or erected on the Property.

Section 12. "Board of Directors" or "Board" mean those persons elected or appointed and acting collectively as the Directors of the Association.

Section 13. "Common Expenses" means:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of administration, maintenance, repair or replacement of the Common Area;
- (c) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;
- (d) Expenses agreed by the members to be Common Expenses of the Association;
- (e) Expenses for maintenance of the townhomes private streets, if any, as provided in this Declaration;
- (f) Hazard, liability or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase;
- (g) Ad valorem taxes and public assessment charges lawfully levied against Common Areas; and,
- (h) Unpaid assessments resulting from the purchase of a townhome at a foreclosure sale (such assessment shall be collectible from all members of the Association, including the purchaser at the foreclosure sale, his successors and assigns).

Section 14. "Amenities" means the facilities, if any, constructed, erected or installed on the Common Areas.

Section 15. "Hope Valley Farms Association" means Hope Valley Farms Community Association, Inc., its successors and assigns.

Section 16. "Hope Valley Farms Declaration" means that Declaration of Covenants recorded in Book 1462, Page 912, Durham County Registry, as amended.

Section 17. "Declaration" means this Declaration of Covenants, Conditions and Restrictions.

Section 18. "Townhome" means a dwelling or place of residence constructed upon a Lot within the Property and constituting a part of a Building.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment: Every Owner shall have a right and easement of enjoyment in and to the Common Area including specifically an easement for access, ingress and egress from and to public streets and walkways and an easement for parking which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

A. Admission and Other Fees: The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area.

B. Suspension of Use of Common Area: The right of the Association to suspend the voting rights and the right to use any recreational facilities owned by the Association by any Owner, his family, guests, etc., for any period during which any assessment against his Lot remains unpaid. The right to use the recreational facilities may also be suspended for a period, not to exceed one hundred twenty (120) days, for the infraction of its published rules and regulations; provided; however, that if said infraction is continuing in nature, said suspension may be enforced until such infraction is cured.

C. Dedication and Transfer of Common Area: The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, utility, or non-profit corporation for recreational purposes, and subject to such conditions as may be agreed to by the Members, and provided that said dedication or transfer shall be approved by the appropriate municipal authority and shall also be approved as provided in Article X, Section 10. No such dedication or transfer shall be effective unless any instrument signed by two-thirds (2/3) of each Class of Members agreeing to such dedication or transfer has been recorded in the Durham County Registry. Any such dedication or transfer shall be made subject to every Owner's easement for access, ingress and egress to public streets and walkways.

D. Guests: The right of the Association to limit the number of guests of Members.

E. Borrowing for Improvements: The right of the Association, in accordance with its articles and by-laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said properties and the right of such mortgage of said properties shall be subordinate to the rights of the Owners established hereunder.

F. Parking: The right of individual Owners to the exclusive use of parking spaces as provided in this declaration with an easement of ingress and egress to and from said parking area.

G. Use of Recreational Facilities: The right of the Association, through its Board of Directors, to determine the time and manner of use of recreational facilities, if any, by the Members.

Section 2. Delegation of Use: Any Owner may delegate, in accordance with the by-laws, his

right of enjoyment to the Common Area and facilities to the members of his family, his tenants, contract purchasers, or guests, who reside on the property, subject to the provisions of Article II.

Section 3. Encroachment Easements: Whenever building lines, patio lines, private walkways or plantings encroach upon the Common Area, the Association hereby grants a perpetual easement for the use of that portion of the Lot which creates an encroachment to the Owner.

Section 4. Parking Rights: Ownership of each single family attached townhome Lot shall entitle the Owner or Owners thereof to the use of not more than two (2) designated automobile parking spaces for each Lot, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking lot. The Association shall permanently assign said parking spaces for each townhome Lot as near the dwelling to which it is assigned as is reasonably possible. Declarant hereby reserves the right to establish, during a period of five (5) years from the filing of the Declaration, additional areas of parking as Declarant, in its discretion, may determine to be needed.

Section 5. Title the Common Area: The Declarant hereby covenants for itself, its heirs, successors and assigns, that it will convey fee simple title in the Common Area to the Association, free and clear of all encumbrances and liens, except utility, greenway and drainage easements and easement of enjoyment to which the Owners of each Lot are entitled to share, prior to the conveyance of the first Lot. Title to Common Areas annexed pursuant to Article IV shall be conveyed subject to these Declarations.

Section 6. Television Antennas and Piped-In Music: The Association may provide one or more central television antennas for the convenience of the Members and may supply piped-in music. The costs of these may be included in annual or special assessments applicable to townhome Lots. The Association may regulate or prohibit the erection of television antennas, satellite dishes and related equipment on any Lots.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every person or entity who is a record Owner of a fee or undivided fee in any Lot which is subject by covenants of record to assessments, or which is specifically exempted from assessment either by the terms of this declaration or by the terms of appropriate governmental laws, ordinances, or regulation, or will become subject to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to, or will become subject to assessment by the Association. Ownership of said Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot in this subdivision.

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

Class A: Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. Declarant may, however, be a Class A member upon

the termination of Class B membership. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote of such Lots shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon either of the following events, whichever occurs first:

A. When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (B) below, additional lands are annexed to the Property without the assent of Class A Members for the development of such additional lands by the Declarant, all as provided in Article IV, Section 1, herein; or

B. On December 31, 2001.

C. Upon the surrender of all Class B memberships by the holder thereof or cancellation by the Association.

ARTICLE IV ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Notwithstanding anything to the contrary herein, prior to December 31, 2001, Declarant, its successors or assigns, may, without the consent of the Class A membership, annex Additional Properties by subjecting the same to the provisions of this Declaration. After December 31, 2001, annexation of Additional Properties shall require the assent of two-thirds (2/3) of the Class A membership, if any, and two-thirds (2/3) of the Class B membership, if any, as provided in the Declaration. Upon annexation said area shall be used only for residential purposes and shall be subject to this Declaration and all Owners shall automatically become Members of the Association.

The submission of such Additional Properties to the provisions of this Declaration may be accomplished by an amendment to this Declaration executed by Declarant or Association, as required with the same formalities as this instrument. Such amendment must refer to the volume and page in which this instrument is recorded and must describe the Additional Properties being submitted to this Declaration. Such amendment shall become effective upon the recordation of same. No annexation of Additional Properties shall become effective until approved by the appropriate department of the City of Durham.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association.

(1) Annual assessment or charges; and

(2) Special assessments for extraordinary maintenance and capital improvements.

Such assessments are to be established and collected as hereinafter provided. All assessments relating to the Common Area shall be shared equally by the Owners of each Lot in Use. Special assessments for capital improvements shall, except as provided herein, be shared equally by the Owners of each Lot without regard as to whether or not said Lot is a Lot in Use. The annual and special assessments, together with such interest thereon and the cost of collection thereof, including reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon such until paid in full. Each such assessment, together with such interest, and costs of collection, including reasonable attorney 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 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 for the purpose of promoting the beautification of the Property, the recreation, health, safety and welfare of the residents in the Property, and for the improvement and maintenance of the Common Area and exterior maintenance of the Townhomes pursuant to Article VIII. Such shall include, but not be limited to, the payment of taxes, liability insurance and all assessments for the public improvements of the Common Area and easements appurtenant thereto, the enforcement of these covenants and the rules of the Association and, in particular, for the improvement and maintenance of the Property, private streets, drives and parking areas, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and of those Townhomes situated upon the Property on which the Association is obligated to perform maintenance. The Association shall be required to maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area out of the assessments levied.

Section 3. Maximum Annual Assessments:

A. Until December 31, 1996, the maximum annual assessment shall be \$100.00 per month per Lot in Use.

B. Thereafter, annual assessments shall be established by the Association through its Board of Directors pursuant to Section 6 of this Article.

C. As long as Declarant or its successors or assigns, has a majority of the total vote of the Class A and Class B votes, Declarant, its successors or assigns, will advance all expenses for the maintenance and operation of the Common Area to the extent that annual assessments paid by the Owners are inadequate for this purpose. Such advance shall be to the Association and on terms generally available to Declarant from its lending institution. At such time as the majority of the total votes of Class A and Class B votes are no longer possessed by Declarant, its successors or assigns, it shall have no further obligation for maintenance and operation of the Common Area pursuant to the terms of this section. Declarant, its successors and assigns, shall be responsible for the payment of homeowner dues and charges pursuant to other sections of this Article.

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, unexpected repair, or replacement of a described capital improvement upon the Common Area; including, the necessary fixtures and personal property related to such capital improvements, the private drives located on the Property (which the Association shall maintain), and the costs of any purchase of an individual Owner's property and the costs of repairing and/or rebuilding any such property purchased by the Association to the same condition as formerly. 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. Uniform Rate of Assessment: Both annual and special assessments related to the Common Area must be fixed at a uniform rate for all Lots and/or Lots in Use (as appropriate) and may be collected on a monthly basis. Provided, however, that the Association shall also have the authority, through the Board of Directors, to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from Owner's breach of any of the provisions of this Declaration or as provided for by Article VII.

Section 6. Date of Commencement of Annual Assessment Due Dates: The annual assessments provided for herein shall commence as to all Lots in Use on the first day of the month following the conveyance of the Common Area to the Association. 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 in Use 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 at least fifteen (15) days in advance of each annual assessment period. The due date shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid as to third parties acting in reliance on said statement.

Section 7. Effect of Non-Payment of Assessment Remedies of the Association: Any assessments which are not paid when due shall be delinquent. The Association shall have the option to declare the outstanding balance of any assessment due and payable if any installment thereof shall become delinquent as defined herein. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. Interest, costs, and reasonable attorney fees of any such action shall be added to the amount of such assessment. Each such Owner, by this acceptance of a deed to a Lot hereby expressly vests in the Association, its agents or assigns, the right and power to bring all actions against such Owner personally liable for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property and such Owner hereby expressly grants to the Association a power of sale in connection with foreclosure of said lien. The lien provided for in this action shall be in favor of the Association acting on behalf of the Owners, which shall have the power to bid in an interest foreclosed at foreclosure and to acquire and hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgage: The lien of the assessments provided for

herein shall be subordinated to the lien of the first mortgage on the Lots. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to the foreclosure of any mortgage or of deed of trust or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer; provided that the Association and Declarant have been notified of said foreclosure prior to the date thereof. Such unpaid assessments extinguished by the foreclosure sale shall be deemed to be common assessments collected from all Owners, including the purchaser at foreclosure, his successors and assigns. No sale or transfer shall relieve any such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 9. Exempt Property: The following property, subject to this Declaration, shall be exempt from the assessment created herein:

A. All properties dedicated to and accepted by a local public authority.

B. The Common Area.

C. All property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments except as otherwise provided herein.

Section 10. Insurance Assessments. The Board of Directors or its duly authorized agent may have the authority to and shall obtain insurance for all the buildings owned by the Association against loss or damage by fire or other hazards in an amount sufficient to cover the fully replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard and shall also obtain a broad-form public liability policy covering all Common Area and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be a common expense. All such insurance coverage shall be written in the name of the Association as Trustee for each of the Owners in equal proportions. It shall be the responsibility of each Owner at his own expense to obtain hazard insurance in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction to his dwelling from any hazard, and such hazard insurance shall be with a company and in an amount and in a form which is acceptable to the Board of Directors of the Association. The hazard insurance policy to be taken out by each Owner shall include a loss payable clause listing the Association as an additional insured. Each Owner shall have to satisfy the Board of Directors of the Association that at all times his property is covered by the required hazard insurance. In the event of damage or destruction by fire or other casualty to the property of an Owner, the Owner, shall, with the concurrence of the Mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the property in as good condition as formerly. In the event the insurance proceeds are insufficient to pay all of the costs of repairing any/or rebuilding to the same condition as formerly, the Board of Directors shall have the power to purchase the property and to repair and rebuild the same and to levy a special assessment against all Members to pay the purchase price and to pay for the costs of repairing and/or rebuilding to the same condition as formerly; provided, however, that the Board of Directors' power to levy a special assessment for these purposes is subject to the prior approval of the Association given pursuant to the voting requirements of Article X, Section 6. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the Mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the property

to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by the Federal Deposit Insurance Corporation or other Federal Government Agency, with a provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractor, or they may negotiate with any contractor who may be required to provide a full performance and payment bond or letter of credit for the repair and reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all of the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Members as established by Article V, Section 1, above to make up any deficiency for repairs or rebuilding of the Common Area.

Section 11. Two Months Assessments To Be Collected At Closing. At the closing of each sale by the Declarant of a Lot a sum shall be collected from the purchaser equal to the total regular annual assessment applicable to such Lot for the succeeding two months and such sum shall be contributed to the general operating fund of the Association to be used in the manner specified for annual assessments. This contribution shall not be considered an advance against assessments to become due.

ARTICLE VI
PARTY WALL.

Section 1. General Rules of Law to Apply: Each wall which is built as a part of the original construction of the townhome upon the Property and placed on the dividing line between the Lots and all reconstruction or extensions of such walls shall constitute party walls. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support, in-below ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

Section 3. Destruction by Fire or other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereof make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; subject, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

Section 4. Construction or Reconstruction. The Owner may construct or reconstruct a party wall subject to and within the limitations of architectural control and other limitations of these covenants with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such Owner shall restore the adjoining Lot to as near the same condition which prevailed on or before the commencement of such construction as is reasonably practicable.

Section 5. Weatherproofing: Notwithstanding any other provisions of this Article, an Owner who, by his negligence or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6. The Right to Contribution Runs with the Land: The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owners' successors in title.

Section 7. Certification by Adjoining Property Owner that No Contribution is Due: If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining owner has a right of contribution as provided in this Article, request that the adjoining owner or owners or any one of them, provide a certification that no right of contribution exists. Whereupon it shall be the duty of each adjoining owner to make such certification immediately upon request and without charge; provided, however, that where the adjoining owner claims a right of contribution, the certification shall contain a recital of the amount claimed. In the event an adjoining owner refuses or neglects to provide such certification, it shall be deemed a waiver to proceed against such Owner or his successors for such contribution.

ARTICLE VII
EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance for each Lot which is subject to assessment hereunder as follows: Paint, repair and replace exterior building surfaces, care of roofs, gutters, downspouts, trees, shrubs, grass, walks, driveways within the Common Area only, and all other exterior improvements initially installed by Declarant. Such exterior maintenance shall not include glass surfaces or exterior lighting attached to or wired to the townhome. In order to enable the Association to accomplish the foregoing, it is hereby reserved to the Association the right to unobstructed access over and upon each Lot and each townhome at all reasonable times to perform maintenance as provided in this Article. The Owner may, at his election, plant flowers and grass in his rear yard and may also maintain portions or all of his rear yard, provided that such maintenance by the Owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. In such event, such Owner shall maintain such plantings or other maintenance. No such maintenance by an Owner shall reduce the assessment payable by him to the Association. Notwithstanding the above, any plantings or maintenance outside the patio or deck area must receive the prior written approval of the Association. If, in the opinion of the Association, any such Owner fails to maintain his rear yard in a neat and orderly manner, the Association may perform such maintenance and assess Owner for the costs of such. The Owner shall not place any furniture, construct or place any structure, or plant any vegetation in the front yard except with the prior written approval of the Association.

(As a matter of information for future Members of this Association, the developer wishes to make it known that it is a part of the original plan of the development to construct a variety of townhomes with a variety of exteriors for the good of the entire subdivision. Some townhomes will require far more maintenance than others because of the type of exterior exposures. Nevertheless, in order to avoid monotony and in order to achieve a harmony of design and textures, all of those persons connected with the conception, design, construction, and financing of this subdivision as originally planned are in accord in their belief that all Members of the Association will be benefited by the variety of exteriors and therefore the Association should provide exterior maintenance and make a uniform rate of charge without regard to actual cost of maintenance of each townhome under construction thereon.)

In the event that the need for maintenance or repair is caused through the willful or negligent act

of the Owner, his family guests, tenants or employees or invitees or is caused by fire, lightning, thunderstorm, hail, explosion, riot, attending a strike, civil commotion, aircrafts, vehicles and smoke as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage Insurance policy, the cost of such maintenance or repair shall be added to and become a part of the assessment to which such Lot is subject.

The Association shall establish regulations governing the procedure for exterior maintenance. In the event any Owner desires to expend a sum greater than that sum authorized by the Association, he shall advance, prior to the commencement of work, an amount necessary to cover the additional expenses and a lien shall be established against his Lot for any deficiency.

ARTICLE VIII EASEMENTS

Section 1. Encroachment. Each Lot and the property included in the Common Area shall be subject to an easement for encroachments, created by construction, settling, and overhangings as designed or constructed by the Declarant. A valid easement for such encroachments and for the maintenance of same so long as it stands, shall and does exist. In the event the multi-family structure containing two or more townhomes is partially or totally destroyed and then rebuilt, the Owners of the townhomes so affected agree that minor encroachments of part of the adjacent townhome units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. Easements for Utilities and Governmental Agencies. There is hereby created a blanket easement upon, across, over, and under all of the Common Area for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to water, sewer, gas, telephones, electricity, and a master antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical, telephone, gas or cablevision company to erect and maintain the necessary underground equipment and other necessary equipment on said Common Area and to affix and maintain electrical and/or telephone wires, circuits, and conduits on, above, across attached single family dwellings. An easement is further granted to all police, fire protection, garbage, mail delivery, ambulance, and all similar persons to enter upon the streets and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company elected by the Association to enter in or to cross over the Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated in the Common Area except as initially planned and approved by the Declarant or thereafter approved by the Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provide request a specific easement by separate recordable documents, Declarant (the Association) will have the right and authority to grant such easement on said property without conflicting with the terms hereof. The easement provided for in this Article shall in no way affect other recorded easements on said premises.

Section 3. Easement and Right of Entry for Repair, Maintenance and Reconstruction: If any dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair,

maintenance or reconstruction of his townhome. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

Section 4. Underground Electrical Services:

A. Underground, single-phase electrical service shall be available to all townhomes on the aforesaid Lots and to the recreational buildings, if any, to be constructed on the Common Area. The metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utility company furnishing the service shall have a two foot priority easement along and centering on the underground electrical power service conductors installed from the utility's company easement to the designated point of service on the townhome structures.

B. For so long as such underground service is maintained, the electric service to each townhome and the recreational building, if any, shall be uniform exclusively of the type known as single phase 120-140 volt three wire 60 cycle alternating current.

C. Easements for the underground service may be crossed by the driveways and walkways, provided the Declarant or builder makes prior arrangements with the utility company furnishing such service. Such easements for the underground service shall be kept clear of all other improvements including buildings, patios and/or pavings, other than crossing walkways or driveways, and neither Declarant nor any such utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, and other improvements of the Owner located on land covered by said easements.

D. The developer reserves the right to subject the real property in this subdivision to a contract with Duke Power Company for the installation of underground electric cables which may require an initial contribution and/or the installation of street lighting, which will require a continuing monthly payment to Duke Power Company by the Owner of each Lot.

Section 5. An easement is hereby established for the benefit of the City of Durham over all Common Area and over an area five feet behind the curb line of any street or roadway in the Property hereby or hereafter established for the setting, removal, and reading of water meters, the maintenance and replacement of water, sewage, and drainage facilities and the collection of garbage.

**ARTICLE IX
ARCHITECTURAL CONTROL AND USE RESTRICTIONS**

Section 1. The Property is hereby made subject to the protective covenants and restrictions hereby declared for the purpose of insuring the best use and most appropriate development and improvement of each building site in this subdivision; to protect the Owners against such improper use of surrounding building sites as will depreciate the value of the Property; to preserve, so far as practicable, the natural beauty of said Property; to guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper and unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said Property; to encourage and secure the erection of attractive homes hereon, with appropriate locations thereof on building sites; to secure and

maintain proper set backs from streets and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvements in said Property and thereby to enhance the values of investments made by the purchasers of building sites therein.

Section 2. Each Lot, as approved by the appropriate municipal authority, shall constitute a residential building site (hereinafter called "Building Site") and shall be used for residential purposes only. The lay of the Lots as shown on the recorded plat shall be substantially adhered to; provided, however, that with the prior written approval of the Declarant, its successors and assigns, or the Association's Board of Directors (or the Architectural Committee appointed by it) and the appropriate municipal authority the size and shape of any Building Site may be altered; provided that no Building Site or group of Building Sites may be resubdivided so as to produce a greater number of Building Sites than that allowed by the applicable zoning or subdivision laws in force at the time of said change. More than one Lot may be used as one Building Site provided the location of any structure permitted thereon is approved in writing by the Architectural Committee or the Declarant, its successors or assigns, and said Lot is recombined as provided in N.C. General Statute 160A-376(1). Except as provided in this paragraph, no structure shall be erected, altered, placed, or permitted to remain on any Building Site other than one attached single family dwelling, not to exceed three stories in height. All structures shall comply with the applicable zoning restrictions of the City of Durham.

Section 3. No building, wall, fence, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any repair be made thereto, nor shall any building, wall, fence or other structure be rebuilt after destruction by any hazard until the plans and specifications, showing the nature, kind, space, 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 Declarant or the Board of Directors of the Association or its Architectural Committee. In the event said Board or its designated committee or Declarant fails to approve or disapprove such design and location within seventy-five (75) 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.

Section 4. Said Property is hereby restricted solely to residential dwellings for residential use. All buildings and structures erected upon said Lots shall be of new construction and no building or structures, other than townhome buildings, being single-family townhomes, joined by a common exterior roof and foundation, shall be constructed. Provided, that the recreation amenities, if any, put in by the Declarant or by the Association shall be considered a permitted use. No structures of a temporary character, manufactured home, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any portion of said Property at any time as a residence, either temporarily or permanently.

Section 5. Each Lot shall be conveyed as a separately designated and legally described freehold estate, subject to the terms, conditions and provisions hereof.

Section 6. Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of said townhomes to maintain during the period of construction and sale of said townhomes, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of said townhomes, including but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 7. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on said Lots, except that dogs, cats, or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose.

Section 8. No "For Sale" signs, (except as otherwise specifically authorized by the Association) advertising signs or rent signs, bill boards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, and in no event in the Common Area, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any townhome or the resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of said property, however, the foregoing covenants shall not apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its agent and assigns, during the construction and sales period, and Chownings Place Townhomes Association, Inc., a non-profit corporation, incorporated or to be incorporated under the laws of the State of North Carolina, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

Section 9. All clothes line, equipment, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhomes or detached single-family dwelling. All garbage, trash, or rubbish shall be regularly removed from the premises and shall not be allowed to accumulate therein. All clothes lines shall be confined to deck or patio areas.

Section 10. No fences, hedges, or walls shall be erected or maintained upon said Property except such as are installed in accordance with initial construction of the buildings located thereon by Declarant or thereafter by the Association. Except for the right of ingress and egress, the Owners of said Lots are hereby prohibited and restricted from using any of said Property outside of the exterior building lines, deck and patio areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all the Owners and the Association, and is necessary for the protection of the Owners.

Section 11. Maintenance, upkeep, and repairs of any patio, deck, porch decking, screens and screen doors, exterior doors, and windows and window fixtures and other hardware shall be the sole responsibility of the individual Owner of the Lot appurtenant thereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Areas and all exterior and roofs of the townhomes, including, but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representatives.

Section 12. All fixtures and equipment installed within a townhome commencing at a point where the utility lines, pipes, wires, conduits, or systems are within the exterior walls of townhomes, including the courtyards, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act, nor any work that will impair the structural soundness or integrity of another townhome, nor impair any easement or hereditament, nor do any act or allow any condition to exist which will adversely affect the other townhomes or their Owners. All water and sewer lines located outside the exterior walls and/or within the Common Area shall be maintained by the Association.

Section 13. Without the prior written approval and the authorization of the Board of Directors,

no exterior television or radio antennas, or solar panels or other utility devices, of any sort shall be placed, allowed or permitted upon any portion of the exterior of the improvements to be located upon the Property; other than a master antenna system provided by the Association, should any such master antenna system or systems be utilized and require any such exterior antenna.

Section 14. No action shall at any time be taken by the Association or its Board of Directors, which in any manner would discriminate against any Owner in favor of any of the other Owners.

Section 15. No boats, recreation vehicles, or trailers of any Owner or member of his family, his tenants, guest or contract purchasers shall be parked on any Lot within public view or within the Common Area, or within the right-of-way of any street in or adjacent to the Property. All boats, recreation vehicles, or trailers shall be stored either within the Owner's garage or other facilities not located on the Property.

Section 16. Quiet and Enjoyment: No obnoxious or offensive activity shall be carried on upon the Property or improvements thereon, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

Section 17. In addition to those restrictions contained in Article IX, the Board of Directors of the Association shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the use and enjoyment of the front yard space of each Lot and of the Common Area.

ARTICLE X GENERAL PROVISIONS

Section 1. Enforcement: The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants and reservations, liens and charges now or hereinafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability: Invalidation of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Amendment: The covenants, conditions and restrictions of the Declarations shall run with the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time, said covenants shall automatically be extended for successive periods of ten (10) years. Except as specifically otherwise provided herein, the covenants, conditions and restrictions of this Declaration may be amended as provided in Article X during the first twenty (20) years by an instrument signed by not less than the Owners of ninety percent (90%) of the Lots and thereafter by an instrument signed by not less than the Owners of seventy-five percent (75%) of the Lots.

Section 4. Disputes: In the event of any dispute arising concerning a party wall or other

provisions of this Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of said committee.

Section 5. Voting: voting by Members of the Association shall be in accordance with the applicable provisions set forth in the Association's By-Laws.

Section 6. Certificate of Amendments. If any amendment to these covenants, conditions, and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days, do the following:

A. Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots (for this purpose, the Board may rely on its roster of Members, and shall not be required to cause the title to any Lot to be examined).

B. Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that these were executed. The following form of certification is suggested:

"CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS OF CHOWNINGS PLACE TOWNHOME ASSOCIATION, INC.

By authority of its Board of Directors, Chownings Place Townhome Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of _____ percent of the Lots of Chownings Place Townhomes and is therefore a valid amendment to existing covenants, conditions and restrictions of Chownings Place Townhomes.

CHOWNINGS PLACE TOWNHOME ASSOCIATION, INC.

BY: _____
PRESIDENT

ATTEST:

Secretary "

C. Immediately and within the thirty (30) day period, aforesaid, cause the amendment to be recorded in the Durham County Registry.

All amendments shall be effective from the date of recordation in the Durham County Registry; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association. When any instrument purporting to amend the covenants, conditions, and restrictions has been certified by the Board of Directors, recorded and indexed as provided in this section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lot in Chownings Place Townhomes. All amendments shall be approved as set forth in Article X, Section 10, as required.

Section 7. Amendment Approval. All amendments to this Declaration and/or revocation of this Declaration must be approved by the City of Durham, appropriate City Office, if so required. In the event said amendment has not been approved or disapproved within thirty (30) days after being submitted to the City of Durham, approval will not be required and it shall be deemed that this provision has been fully complied with.

Section 8. Liability Exemptions. In no case shall the City of Durham be responsible for failing to provide any emergency or regular fire, police or other public service to the Property or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Declarant, Association, Owners or townhome occupants.

Section 9. Address. Each Member agrees to keep Association informed of his address at any time and any notice sent or delivered to said address shall be sufficient. Each new Member agrees to provide the Association with evidence of his Ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as to the Ownership of each Lot.

Section 10. VA/HUD Approval: As long as there is a Class B membership, the following actions will require prior approval of the Veterans Administration referred to herein as VA and/or the Department of Housing and Urban Affairs referred to herein as HUD: Annexation of Additional Properties, dedication or withdrawal of land from dedication of Common Area, or an Amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 11. Gender and Grammar: The singular, wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make provisions hereby apply to either corporations or individuals, man or wife, shall in all cases be assumed as though in each case fully expressed.

ARTICLE XI UNDERGROUND UTILITIES

Declarant reserves the right to subject the Property to a contract with Public Service Company of North Carolina, Inc. and/or Duke Power Company for the installation of underground utility service and the installation of street lighting.

Declarant further reserves the right to connect to each unit necessary water and sewer service which may require a continuous monthly charge to the Owner of the Lot. Upon acceptance of a deed to the Lot each Owner agrees to pay said continuing monthly charge, if any.

ARTICLE XII OWNER RESPONSIBILITY

Anything contained herein to the contrary notwithstanding, an Owner shall be responsible and liable for any and all violations of these Declarations by his Employees, tenants, guests and invitees.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, this day first above written.

HOMES BY HUFF & CO., INC.

BY: [Signature]
Vice PRESIDENT

ATTEST:
[Signature]
Asst. SECRETARY
NORTH CAROLINA
Wake COUNTY

I, a Notary Public for the County and State aforesaid, certify that Greg L. Hinshaw personally appeared before me this day and acknowledged that he is Asst. Secretary of Homes By Huff & Co., Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its corporate name by its President, sealed with its corporate seal, and attested by as its Secretary, all by order of its Board of Directors.

WITNESS my hand and notarial seal, this 28th day of August, 1996.

[Signature]
Notary Public

NOTARY PUBLIC
Commission expires: 2-21-01

State of North Carolina-Durham County
The foregoing certificate(s) of [Signature]

A Notary (Notaries) Public for the Designated Governments units is (are) certified to be correct.

This the 3 day of Sept, A.D. 1996
Ruth C. Garrett [Signature]
Register of Deeds By: Assistant, Deputy Register of Deeds

BOOK 2233 PAGE 37

EXHIBIT A-1

Being all of Section One, Chownings Place Townhomes as shown on plat recorded in Plat Book 136, Page 76, Durham County Registry.