

Prepared by and return to: Donna K. Blumberg, Smith Helms  
Mulliss & Moore, P.O. Box 21927, Greensboro, North Carolina 27420

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DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WELLINGTON

THIS DECLARATION is made on the date hereinafter set forth by Westminster Homes, Inc., a North Carolina corporation having an office in Guilford County, North Carolina, hereinafter referred to as "Declarant."

WITNESSETH:

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

ALL of the land shown on the plat entitled "Wellington Subdivision, Section 1, Map 1 of 2" and the plat entitled "Wellington Subdivision, Section 1, Map 2 of 2" which plats appear of record in the Office of the Register of Deeds of Guilford County, North Carolina, in Plat Book 109, Page 135 and Plat Book 109, Page 136, respectively.

WHEREAS, it is the intent of the Declarant hereby to cause the above-described property to be subjected to this Declaration of Covenants, Conditions and Restrictions.

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

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to Wellington Homeowners Association of Guilford County, Inc., its successors and assigns.

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North Carolina - Guilford County  
The certificate (s) of \_\_\_\_\_

*Nancy L. Houston*

A Notary (Notaries) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time shown herein.

KATHERINE LEE PAYNE, REGISTER OF DEEDS  
*Katherine Lee Payne*  
Assistant/Deputy Register of Deeds

716214

RECORDED  
KATHERINE LEE PAYNE  
REGISTER OF DEEDS  
GUILFORD COUNTY, NC

BOOK: 4124  
PAGE(S): 0228 TO 0249

10/06/1993 14:16:43

10/06/93  
1 MISC DOCUMENT 716214 6.00  
21 MISC DOC ADDN PGS 42.00  
1 PROBATE FEE 2.00

~~owner, and that none of more persons or entities, but if the same~~  
title to any Lot which is a part of the Properties, as herein-  
after defined, including contract sellers, but excluding those  
having such interest merely as security for the performance of an  
obligation.

SECTION 3. "Properties" shall mean and refer to that cer-  
tain real property hereinabove described, and such additions  
thereto as may hereafter be brought within the jurisdiction of  
the Association.

SECTION 4. "Common Area" shall mean all real property owned  
by the Association for the common use and enjoyment of the  
Owners. The Common Area to be owned by the Association at the  
time of the conveyance of the first Lot is described as follows:

All of that land designated "Common Area" or "Open  
Space" as shown on the plat entitled "Wellington  
Subdivision, Section 1 Map 1 of 2" and the plat  
entitled "Wellington Subdivision, Section 1, Map 2 of  
2" which plat appear of record in the Office of the  
Register of Deeds of Guilford County, North Carolina,  
in Plat Book 109, Page 135 and Plat Book 109, Page  
136, respectively; provided, however, that any land  
designated as "Open Space" which is dedicated to public  
use on such plat and which is accepted for maintenance  
purposes by a public authority shall not be part of the  
Common Area.

Declarant reserves the right, in its sole discretion, to convey  
from time to time additional property to the Association, which  
property may include all or any portion of the Properties,  
including any additional land annexed by Declarant pursuant to  
Article X, Section 4 hereof and the Association shall accept any  
such conveyance of additional property and thereafter such  
additional property shall be held and maintained by the  
Association as Common Area.

Improvements, which may include, but shall not be limited  
to, roadways, retention or detention ponds or erosion control  
devices, may be located on such additional Common Area. The  
Association shall maintain any retention or detention ponds and  
any erosion control devices located on the Common Area described  
above or on any other Common Area hereafter conveyed to the  
Association by Declarant that are required to be maintained by  
the governmental office(s) having jurisdiction for watershed  
protection as directed by such governmental office(s). In the  
event the Association is dissolved or otherwise defaults on its  
obligation to maintain any such pond or erosion control devise,  
Declarant, for each Lot owned within the Properties, hereby  
covenants, and each Owner for any Lot, by acceptance of a deed  
therefor, whether or not it shall be so expressed in such deed,

is deemed to covenant and agree to pay a pro rata share of the cost of the maintenance of such pond or erosion control devise.

A fifty (50) foot Colonial Pipeline Gas Easement crosses portions of the Common Area (as shown on the recorded plats of the Properties) and other property that hereafter may be annexed to and made a part of the Properties. The Association shall accept Declarant's conveyance of any such property and shall hold and maintain such property as Common Area. The use of such Common Area by the Association and its members shall be governed by an Encroachment Agreement dated January 6, 1993 by and between Colonial Pipeline Company and Declarant, a copy of which is attached to and made a part of the Bylaws of the Association or by any subsequent agreements with Colonial Pipeline Company, its successors or assigns.

Declarant does not contemplate the construction of any recreational improvements or amenities within the Common Area (e.g. swimming pool, tennis courts, clubhouse, etc.).

SECTION 5. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 6. "Declarant" shall mean and refer to Westminster Homes, Inc., as well as its successors and assigns, if Declarant shall make an express conveyance of its rights as developer hereunder to such successor or assign.

SECTION 7. "Lot" shall mean and refer to any separately numbered plot of land shown upon any now or subsequently recorded subdivision map of the Properties with the exception of Common Area. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant and to thereby create additional Lots, eliminate existing Lots or create additional Common Area; provided, however, in no event shall Wellington contain a greater number of Lots than the number from time to time permitted by, nor shall any Lot within the Properties contain fewer square feet than the minimum number of square feet from time to time required by, the Guilford County Technical Review Committee or other appropriate governmental authority. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by Declarant of such a revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

SECTION 8. "FHA" shall mean and refer to the Federal Housing Administration of the Department of Housing and Urban

Development and "VA" shall mean and refer to the Veterans Administration.

## ARTICLE II

### PROPERTY RIGHTS

SECTION 1. OWNERS EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to permit the use of and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights by an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer to any public agency, authority or utility non-exclusive easements on, over and upon all or any part of the Common Area for purposes of providing service to the Common Area or the Lots subject to such conditions as may be agreed to by the Association's Board of Directors; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded;

(d) the right of the Association, with the consent of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members, to dedicate to any public agency, authority or utility fee title to, or to transfer to any third party, all or any part of the Common Area for such purposes and subject to such conditions as may be agreed to by the Members consenting to such dedication or transfer;

(e) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;

(f) the right of the Association to borrow money for the purpose of improving the Common Area and facilities thereon and, with the assent of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred (any such mortgage shall be effective if it is executed on behalf of the Association by its duly authorized officers and recites that the requisite consent of Members has been obtained and documented in the Minute Book of the Association); and

(g) subject to the prior written consent of FHA or VA, in the event FHA or VA insured loans have been obtained secured by Lots, the right of the Association to exchange portions of Common Area with the Declarant for substantially equal areas of the Properties for the purpose of eliminating unintentional conveyances of Common Areas or unintentional encroachments of improvements onto portions of the Common Areas or for the purpose of enhancing the utility of the Common Areas to be retained by the Association.

SECTION 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 3. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and By-Laws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing. Other than the foregoing there is no restriction on the right of any Owner to lease his Lot.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

SECTION 1. The voting Members of the Association shall be the Class A Members and the Class B Members defined below.

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

Class A The Class A Members shall be every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, except Declarant during the period Declarant is a Class B Member as defined below. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Such membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

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Class B The Class B Members shall be the Declarant and Declarant shall be entitled to three (3) votes for each lot it owns shown on the Plan for "Wellington" approved by the Guilford County Technical Review Committee or other appropriate local authority, as that Plan is from time to time amended and approved. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; however, the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (b) below, the Plan for "Wellington" is amended to add additional lots sufficient to give the Class B membership a total number of votes (with the Class B membership entitled to three (3) votes for each lot owned) to exceed those of the Class A membership and the amended Plans are approved by the Guilford County Technical Review Committee or other appropriate local authority; or,

(ii) eight (8) years from the date this Declaration is recorded in the Office of the Register of Deeds, Guilford County, North Carolina.

#### ARTICLE IV

#### COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay: (a) to the Association: (i) annual assessments or charges; (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of ad valorem taxes levied against the Common Area; and (ii) a pro rata share of assessments for public improvements to or for the benefit of the Common Area if the Association shall default in the payment of either or both for a period of six (6) months. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

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SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area; the maintenance of water and sewer mains in and upon the Common Area; the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in dedicated rights-of-way within the Properties), drives and parking areas within the Common Area; the procurement and maintenance of insurance in accordance with the By-Laws; the maintenance of dams and ponds, including retention or detention ponds, or other bodies of water, if any, located within the Common Area; the maintenance of entranceways, landscaping and lighting of Common Area, road medians and islands and entranceways; the cost of operating, maintaining and repairing any street lights erected by the Association or the Declarant in the rights-of-way of streets (whether public or private) or in any other easement provided therefor within the Properties; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area and those other portions of the Properties which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense.

(c) 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 Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom 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 member-

ship interest therein, except as an appurtenance to his Lot. When any Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund 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 properties.

SECTION 3. MAXIMUM ANNUAL ASSESSMENT. Until December 31 of the year of the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Two Hundred Forty and No/100 Dollars (\$240.00) per Lot, and may be collected in monthly installments of Twenty (\$20.00) per Lot.

(a) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed ten percent (10%) of the maximum annual assessment of the previous year.

(b) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter may be increased without limit by a vote of the Members entitled to cast at least 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.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, subject to the provisions of Section 6 of this Article.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the Members entitled to cast at least 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. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of



Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence as to a Lot on the first day of the month following occupancy of the residence constructed on that Lot for residential purposes. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. In the event the Board of Directors shall fail to fix the amount of annual assessments described above, the assessment fixed for the immediately preceding year shall continue in effect until a new assessment amount is fixed. Upon adoption by the Board of the budget and annual assessments amount, the Board shall deliver copies of same to every Owner subject thereto; provided, however, that failure to deliver a copy of the budget and annual assessments amount shall not affect the liability of Owners for assessments. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of Deeds of Trust, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Area or abandonment of his Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

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SECTION 9. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

SECTION 11. EXEMPT PROPERTY. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

#### ARTICLE V

#### ARCHITECTURAL CONTROL

SECTION 1. IMPROVEMENTS. No building, fence, wall or other structure or planting or landscaping shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein, including, without limitation, any plantings or landscaping, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by an architectural committee

composed of three (3) or more representatives appointed by the Board (the "Architectural Control Committee"). Notwithstanding the foregoing, landscaping improvements consisting of plant materials native to the area and commonly used in residential landscaping which do not interfere with the sight lines of motorists at intersections of the streets and/or driveways located within the Property shall not require approval by the Board of Directors or the Architectural Control Committee. Further, nothing herein contained shall prevent or interfere with the right of Declarant to improve and develop the Properties, including the Lots, so long as said development follows the general plan of development of the Properties previously approved by Guilford County. Accordingly, Declarant need not seek or obtain the approval of the Architectural Control Committee for improvements erected on the Properties by or at the direction of Declarant. In addition, for so long as Declarant owns any Lot or any of the land described on Schedule "A" attached hereto and incorporated herein by reference, Declarant may approve any plans and specifications rejected by the Board of Directors or the Architectural Control Committee for the construction of initial improvements on any Lot provided the initial improvements approved by Declarant comport with the general scheme of development approved by Guilford County. Such approval by Declarant shall operate and have the same effect as approval by the Board of Directors or the Architectural Control Committee.

## SECTION 2. PROCEDURES.

(a) Any person desiring to make any improvement, alteration or change described in Section 1 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 of the Association or the Architectural Control Committee which shall evaluate such plans and specification in light of the purposes of this Article.

(b) Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specification, as approved, shall be deposited for permanent record with the Architectural Control Committee and a copy of such plans and specification bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specification shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specification relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specification, as approved, and any conditions attached to any such approval.

(c) Neither Declarant, nor any other member of the Association's Board of Directors or Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specification approved by them, nor for any structural defects in any work done according to such plans and specifications. Further, neither Declarant, nor any member of the Association's Board of Directors or Architectural Control Committee, shall be liable in damages to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specification or the exercise of any other power or right provided for in this Declaration. Every Person who submits plans or specifications for approval agrees, by submission of such plans and specifications, and every owner of any Lot agrees, that he or she will not bring any action or suit against Declarant, or any member of the Association's Board of Directors or Architectural Control Committee, to recover any such damage.

#### ARTICLE VI

##### EXTERIOR MAINTENANCE

The Association shall maintain the Common Area. Each Owner shall be responsible for the exterior maintenance of his or her dwelling and Lot, as follows: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, driveways, walks and other exterior improvements. In the event that the Owner neglects or fails to maintain his or her Lot and/or the exterior of his or her dwelling in a manner consistent with other Lots and dwellings in Wellington, the Association shall provide such exterior maintenance provided above. Provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself or herself. The determination as to whether an Owner has neglected or failed to maintain his or her Lot and/or dwelling in a manner consistent with other Lots and dwellings in Wellington shall be made by the Board of Directors of the Association, in its sole discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

In the event the Association performs such exterior maintenance, repair or replacement, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VII

RESTRICTIONS

SECTION 1. LAND USE AND BUILDING TYPE. No Lot shall be used except for single-family residential purposes; provided, however, Declarant may use any Lot owned by Declarant as a temporary sales office and/or model for the purposes of carrying on business related to the development, improvement and sale of property in Wellington.

SECTION 2. DWELLING SPECIFICATIONS. No dwelling shall be erected or allowed to remain on a Lot if the ground area of the main structure, exclusive of unheated areas, open porches, decks and garages, shall be less than one thousand (1,000) square feet for a one-story dwelling, nor less than five hundred (500) square feet for a dwelling of more than one story, including "split-level" dwellings.

SECTION 3. NUISANCE. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood including, without limitation, the storing or parking of inoperative motor vehicles or the maintenance of or repair to motor vehicles except within completely enclosed garages constructed in conformity with these covenants and applicable laws and ordinances.

SECTION 4. ANIMALS. No animals, livestock or poultry of any kind shall be kept or maintained on the Common Area or on any Lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the State of North Carolina, Guilford County relating thereto; and (ii) such rules and regulations pertaining thereto as the Board of Directors may adopt from time to time.

SECTION 5. OUTSIDE ANTENNAS. No outside radio or television antennas or discs and no free standing transmission or receiving towers or satellite dishes or disks shall be erected on the Common Area or on any Lot or dwelling within the Properties without the prior written permission for the same has been granted by the Board of Directors of the Association or the Architectural Control Committee.

SECTION 6. PARKING. Each Lot shall contain sufficient off-street paved parking space for at least two (2) automobiles. No automobiles, trucks, motorcycles, recreational vehicles or boats shall be parked on any street within the Properties for a period in excess of 24 hours. No boats, trailers, vans, recreational vehicles, campers and other equipment or vehicles, except for operative automobiles, non-commercial trucks and passenger vehicle mini-vans, shall be parked or stored in any area on a Lot except inside an enclosed building or behind screening approved



by the Architectural Control Committee. No recreational vehicles, campers or other like equipment or vehicles shall be located or installed on any Lot to be used as a residence. Commercial vehicles shall not be parked or stored on any street or Lot within the Properties; provided, however, the foregoing shall not be construed to prevent the temporary, nonrecurrent parking of such vehicle on a Lot for a period not to exceed 24 hours or during any period the Lot is being serviced by such vehicle.

SECTION 7. RESUBDIVISION OF LOT, STREETS, FENCES, WALLS AND SIGNS. No Lot shall be resubdivided into a lot smaller than or different from the Lot shown on the recorded plat, except with the written consent of Declarant. No street shall be laid out or opened across or through any Lot. Except for fences erected by the Association in easements reserved for such purpose, no fence shall be erected or allowed to remain on any Lot nearer to any street abutting the front of such Lot than the front building line of the dwelling on such Lot. In the event of an irregular building line, no fences or walls shall be constructed nearer to the street than that portion of the wall farthest from the street. In the case of a Lot having frontage on two streets, in addition to the foregoing requirement, no fences or walls shall be erected or allowed to remain nearer to the side street than the building line of the wall of the residence closest to such side street. In the event of any question concerning the interpretation of this provision, the interpretation of the Architectural Control Committee shall be conclusive and binding on all parties. Any metal fencing allowed by the Architectural Control Committee shall be suitably screened where visible from a street. No billboards or signs shall be erected or allowed to remain on any Lot except as allowed by the Architectural Control Committee.

SECTION 8. BUILDING SETBACK. No building shall be located on any Lot nearer to the front or rear Lot line, or to any side Lot line, than shall be permitted under the applicable subdivision ordinances in effect at the time such building is to be constructed or as permitted by the Guilford County Board of Adjustment pursuant to a variance of such ordinance.

SECTION 9. SIGNS. No sign shall be placed or allowed to remain on any lot except for ONE (1) "For Sale" sign, or one other temporary sign to advertise a yard sale or other temporary activity on the Lot and such other temporary sign shall not be permitted to remain on any Lot for more than SEVENTY TWO (72) consecutive hours. No sign deemed by the Association, the Architectural Committee or Declarant to be a nuisance or a detriment to Wellington shall be permitted to be erected or to remain on any Lot.

SECTION 10. MOBILE HOMES, MANUFACTURED HOMES, ETC. No mobile home, manufactured home, modular home, trailer, or other like structure shall be located or installed on any Lot. As used in this Section, mobile home, manufactured home or modular home

shall mean a structure, assembled in whole or in part in a location other than on the Lot itself, transportable in one or more sections, any section of which, during transport, is four (4) feet or more in width and ten (10) feet or more in length, which may or may not be built on a permanent chassis and which is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

SECTION 11. WAIVER OF MINOR VIOLATIONS. Both the Declarant and the Board of Directors of the Association shall have the right to waive a minor violation of, and allow a minor variance from, the restrictions contained in Sections 2 and 8 of this Article, where the same resulted unintentionally or without gross carelessness on the part of any Owner (including, without limitation, Declarant) and/or is not materially harmful to the Properties. If such waiver is granted in writing, then thereafter any matter so waived shall no longer be deemed a violation of these covenants.

#### ARTICLE VIII

#### EASEMENTS

SECTION 1. UTILITIES. Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on recorded plats. In addition, Declarant reserves an additional easement and right-of-way for installation and maintenance of utilities (including cable television service) and drainage facilities over the rear ten (10) feet of any Lot and over each side five (5) feet of any Lot; provided, however, that Declarant may, in its sole discretion, waive its right to such additional easement along rear and side Lot lines, in connection with any planned and approved "zero lot line" residence to be constructed on any Lot. Any such waiver shall be by written instrument executed and recorded by Declarant. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of the appropriate governmental entity (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over all Common Area as may be reasonably necessary for the setting, removal and reading of water meters, and the maintenance and replacement of water, sewer and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Area such additional easements as are necessary or desirable for the providing of service or utilities to the Common Area or Lots.

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SECTION 2. SIGNS. The Association may maintain within the Common Area subdivision signs and landscaping and lighting surrounding same. The costs of all such maintenance, repair and replacement of such signs, landscaping and lighting shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. In addition, easements for the maintenance of subdivision signs and landscaping and lighting surrounding same are reserved as indicated on recorded plats. Declarant hereby grants, gives and conveys to the Association a perpetual, non-exclusive easement over the portions of Lots designated as "sign easements" on the plats, to maintain, repair and replace the subdivision signs which may be located thereon, and the lighting fixtures and landscaping surrounding same. The costs of all such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. In addition to the easement granted above as to the portion of Lots designated "sign easement," Declarant hereby gives, grants and conveys to the Association the right of ingress, egress and regress over other portions of such Lots as shall be reasonably necessary to effectuate the purposes stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or a part of the Property.

SECTION 3. EASEMENT RESERVED BY DECLARANT. Declarant hereby reserves such easements on, across and over the Common Area as shall be reasonably necessary for the exercise by Declarant of any right herein reserved, including, without limitation, Declarant's right, should Declarant elect, to annex the Additional Property, as hereinafter defined.

SECTION 4. DRAINAGE EASEMENTS. In order to implement effective and adequate erosion control, the Association shall have the right to enter upon any portion of the Properties before and after improvements have been constructed thereon for the purpose of performing any grading or constructing and maintaining erosion prevention devices; provided, however, no such activities shall interfere with any permanent improvements constructed on the Properties.

SECTION 5. COLONIAL PIPELINE GAS EASEMENT. A fifty (50) foot Colonial Pipeline Gas Easement crosses portions of the Properties (as shown on the recorded plats of the Properties) and other property that hereafter may be annexed to and made a part of the Properties. The use of any portion of the Properties (Lots as well as Common Area) on which the Colonial Pipeline Gas Easement is located shall be governed by an Encroachment Agreement dated January 6, 1993 by and between Colonial Pipeline Company and Declarant, a copy of which is attached to and made a part of the Bylaws of the Association or by any subsequent agreement with Colonial Pipeline Company, its successors or assigns.

ARTICLE IX

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS.

"Institutional Lender" as the term is 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, and eligible insurers and governmental guarantors.

SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Board of Directors of the Association, such financial statement or report to be furnished by April 15 of each calendar year.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions or the Articles of Incorporation or By-Laws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.

(c) To receive notice of any condemnation or casualty loss affecting the Common Areas or any portion thereof.

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Areas, other than those specific rights vested in the Association under Article II hereof.

(f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing.

SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

## ARTICLE X

### GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation or By-Laws of the Association. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

SECTION 2. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

SECTION 3. AMENDMENT. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or amended as hereinafter provided. This Declaration may be terminated or amended during the first twenty year period with the consent of the Owners entitled to cast at least ninety percent (90%) of the votes of the Association and thereafter with the consent of the Owners entitled to cast at least seventy-five percent (75%) of the votes of the Association; provided, however, this Declaration may not be terminated without Declarant's consent for so long as Declarant owns any Lot or may annex Additional Property pursuant to the provisions hereinafter set forth, no amendment purporting to revoke or curtail any right herein conferred to Declarant shall be effective unless executed by Declarant, no amendment purporting to amend any provision requiring a class vote shall be effective unless approved by at least ninety percent (90%) (or, after the first twenty year period, seventy-five percent (75%)) of the votes in each class of members of the Association, and no amendment relating to the maintenance or ownership of any permanent detention or retention pond shall be effective unless



reviewed and approved by the governmental office having jurisdiction for watershed protection. Any amendment must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the amendment on behalf of the Association that the requisite Owner approval has been obtained and is evidenced by written acknowledgement(s) signed by the Owners approving the amendment and made a part of the Minute Book of the Association; and (3) be properly recorded in the Office of the Register of Deeds, Guilford County, North Carolina. For the purpose of this section, additions to existing property by Declarant pursuant to Section 4 of this Article shall not constitute an "amendment." In the event this Declaration is terminated in accordance with the provisions hereinabove provided, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay a pro rata share of the cost of the maintenance of all permanent retention or detention ponds.

#### SECTION 4. ANNEXATION.

(a) Except as provided in Subsection (b) of this Section 4, Article X, additional residential property and Common Area may be annexed to the Properties only with the consent of the Members entitled to cast two-thirds (2/3) of the votes of each class.

(b) Additional land within the area described in the metes and bounds description attached hereto as Schedule "A" and incorporated herein by reference, together with any other property located adjacent to the Properties (collectively, the "Additional Property") may be annexed by the Declarant without the consent of Members within eight (8) years of the date of this instrument, provided that, in the event FHA or VA insured loans have been obtained to purchase Lots, FHA and VA determine that the annexation is in accord with the general plan from time to time approved by them. For the purpose of determining whether property is adjacent to the Properties, the rights of way of public roads and utilities, as well as rivers and streams, shall be deemed not to separate otherwise adjacent property. Declarant shall have no obligation of any kind to annex any or all of the Additional Property and, should Declarant elect to annex all or any portion of the Additional Property, Declarant shall have no obligation of any kind to annex the Additional Property in any particular sequential order. Should Declarant elect to annex all or any portion of the Additional Property and accordingly to

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subject such property to the terms and conditions of this Declaration, Declarant reserves the right to alter the restrictions contained in Sections 2 and 8 of Article VIII of this Declaration with regard to all or any part of the Additional Property annexed by Declarant. With regard to any portion of the Additional Property not annexed by Declarant, Declarant makes no representations with regard to the use of such property or the exterior appearance, design, size or intended purpose of any improvements now or hereafter erected on such property.

SECTION 5. FHA/VA APPROVAL. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration provided that FHA or VA loans have been obtained to purchase Lots: dedication of Common Area and amendment of this Declaration of Covenants, Conditions and Restrictions.

SECTION 6. AMPLIFICATION. The Provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything contained in the Articles of Incorporation or Bylaws of the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed in its name and corporate seal hereto affixed as of the 24<sup>th</sup> day of Sept,



Westminster Homes, Inc., a North Carolina corporation

By:

[Signature]  
Ex. Vice President

[Signature]  
Secretary

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NORTH CAROLINA

Guilford COUNTY

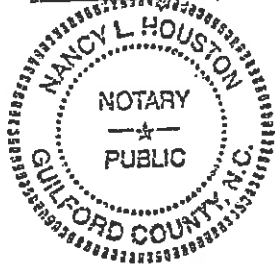
I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_  
Ellen S Roberts personally appeared before me this day and  
acknowledged that \_\_\_\_\_ is the Assistant Secretary of  
Westminster Homes, Inc., a North Carolina corporation, and that  
by authority duly given, and as the act of the corporation, the  
foregoing instrument was signed in its name by its Executive Vice  
President, sealed with its corporate seal, and attested by  
herself as its Assistant Secretary.

WITNESS my hand and official seal this 24<sup>th</sup> day of  
Sept, 1993

Nancy L. Houston  
Notary Public

My Commission Expires:

May 2, 1998



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SCHEDULE A

Lying and being in Guilford County, Jamestown Township, North Carolina, and being more particularly described as follows:

Beginning at an existing iron pin at the northwest corner of the intersection of the Guilford College-Jamestown Road and Gardner Lane, thence with the northern margin of Gardner Lane, North 88 deg. 41 min. 49 sec. West 259.51 feet to a new iron pin; thence a curve to the left having a radius of 1,697.02 feet and a chord bearing and distance of South 87 deg. 33 min. 55 sec. West 221.25 feet to a new iron pin; thence continuing with the northern margin of Gardner Lane, South 83 deg. 49 min. 40 sec. West 101.25 feet to an existing iron pin; thence along the line of P. J. Gardner, North 00 deg. 15 min. 31 sec. West 312.49 feet to an existing iron pin; thence continuing along the line of Gardner South 89 deg. 45 min. 15 sec. West 647.71 feet to an existing iron pin; thence still with the line of Gardner, South 01 deg. 41 min. 01 sec. West 369.00 feet to an existing iron pin at the northeast corner of Lot 74, Block F, of Section 11 of Cedarwood Subdivision, as per plat in Plat Book 41 at Page 41, Guilford County Registry; thence along the northern line of said Cedarwood Subdivision, North 84 deg. 02 min. 22 sec. West 804.90 feet to a point; thence North 84 deg. 07 min. 28 sec. West 140.65 feet to a point; thence still with the northern line of Cedarwood Subdivision, North 86 deg. 44 min. 33 sec. West 1139.66 feet to an existing concrete monument; thence with the line of Cedarwood Section 3, North 16 deg. 12 min. 47 sec. East 303.00 feet to an existing concrete monument; thence still with Cedarwood Section 3 North 62 deg. 29 min. 44 sec. West 189.84 feet to an existing iron pin; thence North 41 deg. 11 min. 27 sec. West 171.72 feet to an existing concrete monument; thence North 82 deg. 27 min. 24 sec. West 293.51 feet to an existing concrete monument; thence North 50 deg. 19 min. 11 sec. West 58.80 feet to an existing iron pin; thence still with the line of Cedarwood, Section 3, North 10 deg. 51 min. 16 sec. West 298.96 feet to an existing iron pin; thence North 10 deg. 46 min. 28 sec. East 205.72 feet to an existing iron pin; thence North 72 deg. 56 min. 36 sec. East 549.31 feet to a new iron pin in the line of Jamesford Meadows Subdivision, Phase II, Map 3; thence along the line of Jamesford Meadows Subdivision, South 85 deg. 13 min. 28 sec. East 933.24 feet to an existing iron pin; thence South 17 deg. 42 min. 26 sec. East 449.09 feet to an iron pin; thence South 85 deg. 18 min. 58 sec. East 1495.40 feet to an existing iron pin; thence South 10 deg. 58 min. 52 sec. West 241.60 feet to an existing iron pin; thence South 78 deg. 15 min. 56 sec. East 524.46 feet to an existing iron pin; thence South 78 deg. 34 min. 15 sec. East 186.99 feet to an existing iron pin; thence South 79 deg. 35 min. 51 sec. East 200.09 feet to an existing iron pin in the western margin of Guilford College-Jamestown Road; thence along the western margin of said road, South 11 deg. 06 min. 55 sec. West 317.33 feet to the point and place of beginning.

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