

**DECLARARION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR COLUMBIA PLACE**

**Table of Contents**

I. STATUTORY PROVISIONS AND DEFINITIONS **p. 2**

1. Properties
2. Association
3. Lot
4. Owner
5. Common Areas
6. Declarant **p. 3**
7. Member

II. PROPERTY RIGHTS **p. 3**

1. Owners' Easements of Enjoyment
2. Owners' Parking Entitlements **p. 4**
3. Delegation of Use **p. 5**
4. Conveyance of Common Areas

III. MEMBERSHIP AND VOTING RIGHTS **p. 5**

1. Definition of Membership
2. Classes of Voting Rights **p. 6**

IV. COVENANT FOR ASSESSMENTS **p. 6**

1. Lien and Personal Obligation
2. Purpose of Assessments **p. 7**
3. Maximum Annual Assessment **p. 8**
4. Special Assessments
5. Notice and Quorum **p. 9**
6. Uniform Rule
7. Date of Annual Assessment
8. Effect of Nonpayment of Assessments **p. 10**
9. Subordination of Lien to Mortgages
10. Reserve Fund

V. INSURANCE AND ASSESSMENTS **p.11**

1. Premiums
2. Insurance for Buildings Owned by Association
3. Public Liability Insurance
4. Master Policy
5. Imposition of Special Assessments **p. 12**
6. Association as Loss Payee
7. Joint Repair
8. Owners' Insurance

VI. ARCHITECTURAL CONTROL **p. 12**

VII. PARTY WALLS, ROOFS, FOUNDATIONS AND FOUNDATION WALLS **p. 13**

1. General Rules of Law to Apply
2. Sharing of Repair
3. Destruction by Fire or other Casualty **p.14**
4. Easement for Construction
5. Weatherproofing
6. Right of Contribution
7. Certification that no Contribution is Due

8. Arbitration **p. 15**
- VIII. EXTERIOR MAINTENANCE **p. 15**
  1. Granting of Easement
  2. Maintenance of Recreation Area & Storm water Detention Basins **p.16**
  3. Restrictions on Owner's Plantings
  4. Repairs Needed due to Owner Negligence
- IX. EASEMENTS **p.17**
  1. Utilities
  2. Driveways and Parking Areas
  3. Encroachments **p. 18**
- X. USE RESTRICTIONS **p.18**
  1. Rules and Regulations
  2. Use of Property
  3. Setback Lines
  4. Quiet Enjoyment **p. 19**
  5. Signs
  6. Use of Common Areas
  7. Items Requiring Approval
  8. Minimum Square Footage
  9. Tree Removal
  10. Violations
- XI. EASEMENTS FOR CONSTRUCTION PURPOSES **p. 20**
- XII. GENERAL PROVISIONS **p.20**
  1. Enforcement
  2. Severability **p. 21**
  3. Amendment
  4. FHA/VA Approval **p. 22**
  5. Mortgagee's Rights
  6. Additional Rights and Duties of Association **p. 23**
  7. Reserve Account
  8. Reserved Rights of Lot Owners **p. 24**
  9. Contracts

Filed 03 Jan 1995 at 04:45:54 PM  
Book 1316 Page 418-452  
Betty June Hayes  
Register of Deeds  
Orange County, NC

[Book 1316 Page 418]

Prepared by and return to:  
Beemer, Savery & Hadler, P.A.,  
P.O. Drawer 3150,  
Chapel Hill, N.C., 27515.

NORTH CAROLINA  
ORANGE COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COLUMBIA PLACE

THIS DECLARATION, made and entered into this the 17th-day of November, 1994, by CAPKOV WEATHERHILL POINTE CORP., a North Carolina corporation, party of the first part, hereby referred to as Declarant, whose address is 5011 South Alston Avenue, Durham, North Carolina, 27713.

WITNESSETH:

Whereas, Declarant is the owner of the following described real property located in the Town of Chapel Hill, Chapel Hill Township, Orange County, more particularly described as:

Being all of Lots 1-31, COLUMBIA PLACE, Chapel Hill Township, Orange County, per plat and survey thereof recorded in Plat Book 73 , Page 2 , Orange County Registry, with parcels of Open Space shown thereon, and to all Lots subdivided therefrom as Lot 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 10A, 10B, 11A, 11B, 12A, 12B, 13A, 13B, 14A, 14B, 15A, 15B, 16A, 16B, 17A, 17B, 18A, 18B, 19A, 19B, 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 24A, 24B, 25A, 25B, 26A, 26B, 27A, 27B, 28A, 28B, 29A, 29B, 30A, 30B, 31A, and 31B.

AND WHEREAS, Declarant intends to construct a townhouse home on each primary numbered Lot with the centerline of the party wall of each townhouse home being the property line for said Lot; intends to then subdivide the Lot into a Lot A and a Lot B, identifying each adjacent A and B set with the same numerical prefix; and lastly intends in total to convey 62 townhouse home Lots from said property subject to the Covenants, Conditions and Restrictions contained in this Declaration.

NOW, THEREFORE, Declarant declares that all the property in the townhouse development known as COLUMBIA PLACE shall be held, sold, and conveyed subject to the following restrictions, covenants and conditions.

Preamble:

The purpose of this instrument is to protect the value, desirability and attractiveness of the aforesaid real property; to insure the best use and the most appropriate development and improvements of each Lot located therein; to protect the owner of each Lot against such improper use of surrounding Lots as will

depreciate the value of said owner's property; to preserve, as far as practicable, the natural beauty of said property; to guard against the erection of poorly designed or proportioned structures and/or structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; and to enhance, as far as is practical, the value of investments made by owners of Lot therein. To that end, Declarant herein creates a Homeowners' Association and vests it with certain powers and authority consistent with the intentions expressed in this Preamble. Lastly, said restrictions, covenants and conditions shall be appurtenant to and run with the land and shall be binding on all parties having any right, title or interest in the described real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE ONE: Definitions.

Section 1: "Properties" shall mean and refer to that certain real property known collectively as Columbia Place as shown on Plat Book 73 , Page 2 , Orange County Registry, brought within the jurisdiction of the "Association" subject to this Declaration.

Section 2: "Association" shall mean and refer to the Columbia Place Homeowners' Association, Inc., its successors and assigns.

Section 3: "Lot" shall mean and refer to any plot of land as shown on any recorded subdivision map of the "Properties" excluding the aforesaid Common Areas lands. In particular, Lot shall mean and refer to either an A Lot or a B Lot.

Section 4: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any A or B Lot which is a part of the "Properties," including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5: "Common Areas" shall mean and refer to all real property (including any improvements thereto) owned in fee simple by the Association or for which the Association shall have been

granted by Declarant easement rights for the common use and enjoyment of all the Owners of Lots in Columbia Place, subject to this Declaration and By-Laws. For Columbia Place, this shall mean and refer to the recreation area, the open space area, and that portion of Lot 2 identified as the "signage and landscaping easement", all as shown on the aforesaid recorded plat of Columbia Place.

Section 6: "Declarant" shall mean and refer to Capkov Weatherhill Pointe Corp., its successors and assigns. In the event Capkov Weatherhill Pointe-Corp., for any reason, should cease to exist, then Declarant shall mean any entity which purchases or otherwise acquires Capkov Weatherhill Pointe Corp.'s remaining interests in and to the development known as Columbia Place.

Section 7: "Member" shall mean and refer to any person or entity entitled to membership in the Association as provided for herein. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to an assessment by the Association. The Owner of a Lot shall become a member of the Association merely by virtue of being an Owner of a Lot. In the event of multiple ownership of any given Lot, each Owner shall be a member of the Association but only one vote total shall be accorded to each Lot.

ARTICLE TWO: Property Rights.

Section 1: Owners' Easements of Enjoyment: Each Owner of a Lot in Columbia Place shall have a right and easement of enjoyment in common with every other Lot Owner in Columbia Place in and to Common Areas lands. The Owner of each Lot in Columbia Place shall have an exclusive right and private easement of enjoyment in common only with the Owner of the Lot with whom a party wall is shared. Such rights shall be appurtenant to the land and shall pass with the title to every Lot, subject to the following provisions:

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

(b) The right of the Association to suspend the voting rights and the right of access to and through the Common Areas if such access is intended for recreational purposes and the right to the use of the recreational facilities located on Common Areas by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3 of each class of members has been recorded.

(d) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas and facilities, and in aid thereof to mortgage said property, and the rights of such mortgagees in said properties shall be subordinate to the rights of the homeowners hereunder. This right shall be deemed a "material change" within the context of Article Eleven, Section 3(b) hereof.

Section 2: Ownership of each Lot shall entitle the owner or owners thereof to the use of not more than two automobile parking spaces, which shall be as near and as convenient to the front door of each Lot as reasonably possible, together with the right of ingress, egress and regress in and upon said parking areas. The parking of boats, trailers, motor homes, commercial vehicles of any type except delivery vehicles while in the process of making deliveries is expressly prohibited. The Board of Directors of the Association shall have the power and authority to regulate parking (such authority to include, but not necessarily be limited to bringing legal action against and collect reasonable attorney's fees from a Lot owner who willfully or negligently fails to abide by the provisions herein contained) and no Lot owners under any circumstances will be allowed to

leave his vehicle parked and unattended if the location of that vehicle in any manner, fashion or form blocks or impedes the rights of ingress., egress and regress of any other Lot owner in the subdivision, particularly the Lot owner who shares the same numerical prefix. Declarant, for itself, its successors and assigns, hereby gives and grants unto each Lot owner in Columbia Place an easement of ingress, regress and egress over, across and through the Common Areas of Columbia Place.

Section 3: Delegation of Use: Subject to this Declaration and By-Laws, a Lot owner may delegate his right of enjoyment to Common Areas and facilities to his heirs and assigns, members of his family, invitees, agents, licensees, guests, tenants, or contract purchasers who reside on the property.

Section 4: Conveyance of Common Areas: Declarant shall, prior to the conveyance of the first Lot in Columbia Place, convey fee simple title to the Common Areas to the Homeowners Association, as well as easement rights in Lot 2 ("signage and landscape easement" as shown on the aforesaid recorded plat) subject to Declarant's reserved easement rights during construction as set forth herein but free and clear of all encumbrances except for street or road rights of way, sidewalks, parking areas and utility easements. Subject to Declarant's reserved easement rights, the Association, from and after the sale and conveyance of three-quarters of the Lots in Columbia Place, shall be solely responsible for maintaining and insuring the Common Areas. So long as Declarant remains the record owner of any Lot within the Properties, Declarant expressly reserves the right to alter and restructure existing Lot lines provided Declarant shall not increase or decrease the number of existing buildable Lots.

ARTICLE THREE: Membership and Voting Rights.

Section 1: Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. By way of illustration, the record owner of Lot 15A shall be entitled to one vote; the record

Owner of Lot 15B shall be entitled to one vote and there will be sixty-two (62) lots, each with a vote.

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 vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote-be cast with respect to any Lot.

Class B - The Class B member(s) shall be the Declarant and shall be entitled to four (4) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership exceeds the total votes of outstanding in the Class B membership, or
- (b) December 31, 1999.

ARTICLE FOUR: Covenant for 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 of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) an Annual Assessment, and (2) a Special Assessment for capital improvements, both such assessments to be established and collected as hereinafter provided. The Annual Assessment, and as applicable, the Special Assessment, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the

assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them. For each Lot owned by Declarant, whether vacant or in any stage of construction, but not yet conveyed, Declarant shall pay to the Association one-eighth (1/8) of the Annual Assessment on a monthly basis. Declarant shall not be liable for any Special Assessment.

Section 2: Purpose of Assessments.

(a) The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents of the Properties.

(b) In addition, the assessments as collected shall be spent for general maintenance, which shall include, but not necessarily be limited to, general lawn and shrubbery care, including, but not limited to, fertilization and pruning, mowing, trimming and re-seeding of grass and lawn areas, replacement of mulch around lots, and such other items as sweeping sidewalks and driveways free of the leaves, snow and debris, cleaning gutters, lighting, landscaping maintenance of entry areas including annuals and perennial flowers and shrubbery therein. This maintenance responsibility shall be conducted by the Association on both the individual Lots as well as the Common Areas of Columbia Place.

(c) By way of further example and again not by way of limitation, the Board of Directors of the Association, being responsible for procuring adequate fire and extended casualty insurance on all the buildings and general liability insurance on all the Common Areas of Columbia Place, shall defray the cost of the same from the Annual Assessment.

(d) The Annual Assessment shall also be used to pay for the electricity lighting Common Areas lands and the streets serving Columbia Place.

(e) Declarant intends, during construction, to do all plantings for the subdivision solely at Declarant's cost; subject, however, to the provision, that once the plantings have

been done, maintenance and replacement costs for all such plantings shall then be the financial responsibility of the Association to be paid from this Assessment.

(f) By way of further information regarding the assessment, each Lot Owner should note that due to differing amounts of exposure to the elements and other factors, some Lots may require more maintenance than other Lots. It is in the best interest of the Association and all the Lot Owners individually that all Lots be properly maintained and that the Association be required to provide such maintenance. Lastly, it should be noted that money spent, particularly by and through a special assessment on any given Lot, enhances the value of all Lots within the Properties, some of which may require special assessments for capital maintenance at some date in the future when other Lots within the Properties do not have this same need or requirement.

Section 3: Maximum Annual Assessment. Until January 1, 1997, the Maximum Annual Assessment shall be Seven Hundred Eighty (\$780.00) dollars per Lot, payable at the rate of Sixty-five (\$65.00) dollars per month.

Maximum Monthly Assessment (as amended June 2, 1999): \$95 through 12/99; \$105 for 2000; \$115 for 2001; \$126 for 2002; \$139 for 2003; and \$153 for 2004; thereafter increase annually by 1 percent.

(a) From and after January 1, 1997, the maximum Annual Assessment may be increased each year, without a vote of the Lot Owners, in an amount equal to but not greater than the increase in the Consumer Price Index (as published by the United States Department of Labor) for the preceding calendar year.

(b) From and after January 1, 1997, the maximum Annual Assessment may be increased above that total increase established by the Consumer Price Index for the preceding calendar year only by a vote of two-thirds (2/3) of all the Lot Owners 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 any amount not in excess of the maximum.

Section 4: Special Assessments for Capital Improvements. In addition to the Annual Assessment authorized above, the

Association may levy, in any assesment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon Common Areas lands, including fixture and personal property related thereto, and for maintenance, repair or replacement of siding and roofing for each townhouse building; provided however, that except for the particular situation as set forth in Article Five, Section 5, any such special assessment must have the assent of two-thirds (2/3) of the votes of all the Lot Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5: Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Lot Owners not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Lot Owners or of the 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 quota at the subsequent meeting shall be one-half (1/2) of the require quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6: Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7: Date of Commencement of Annual Assessment: Due Dates. The Annual Assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Areas including those Lots owned by the Declarant but not yet conveyed to an Owner. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount

of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a ,specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8: Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10.0%) percent per annum, plus a one-time late payment penalty of Ten (\$10) Dollars. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 9: Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien, However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer except that such an extinguished lien may be reallocated and assessed to all of the Lots as a common expense. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10: In addition to the above, the assessment provided for herein shall be allocated in part to a reserve fund which shall be established by the Board of Directors. Said reserve, funded by and through the Annual Assessment collected monthly, shall be

used for periodic maintenance, repair and replacement of the dwelling units themselves and/or Common Areas maintenance, repair and improvements. This reserve fund shall be in supplemented by the working capital or reserve fund created herein to be funded with the sale and conveyance of each Lot within the Properties as set forth in Article Twelve, Section 7 herein.

Article Five: Insurance and Assessments:

Section 1: The premiums for all insurance policies shall be deemed a common expense and shall be paid as part of the Annual Assessment, collected monthly, for each Lot in Columbia Place.

Section 2: The Board of Directors shall have the authority to and shall obtain insurance for all buildings owned by the Association against loss or damage by fire or other hazards in an amount equal to the maximum insurable replacement value (100% of current replacement costs) as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage such that the coverage will be sufficient to cover the costs of all repair or reconstruction work necessitated by damage or destruction from any insurable hazard.

Section 3: The Board of Directors shall have the authority to and shall also obtain a broad form public liability policy covering all Common Areas and all damage or injury to person or property caused by thenegligence of the Association or any of its agents.

Section 4: The Board of Directors shall have the authority to and shall obtain insurance for all buildings owned by individual Lot Owners against loss or damage by fire, extended casualty or other hazards in an amount equal to the maximum insurable replacement value (100% of current replacement costs) as determined annually by the Board with the assistance of the insurance company providing such coverage such that the insurance coverage will be sufficient to cover the full replacement cost of any repair or reconstruction work necessitated by damage or destruction from any insurable hazard. This master or blanket policy shall insure against damage to the roof, party wall, foundations, supports, and basic structure of the building. In the event of any

conflict between the terms and conditions set forth herein and the terms and conditions of any policy of hazard insurance duly obtained by and through the responsible actions of the Board of Directors, then the terms and conditions of the actual policy shall control.

Section 5: In the context of Article Five, Sections 2 through 5, if the proceeds of the hazard insurance are insufficient to defray the estimated costs of reconstruction and/or repair, the Board of Directors shall have the authority to impose one or more special assessments in an amount sufficient to provide funds for such reconstruction or repair against all the individual Lot owners prorate without the requirements of an affirmative vote of the Lot Owners.

Section 6: All insurance policies required as set forth herein will be obtained in the name of the Association and will designate not only the individual Lot Owner and said Owner's mortgagees but also the Columbia Place Homeowners' Association, Inc., through its Board of Directors, as a loss payee, all as their interests may appear.

Section 7: In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of a Lot Owner designating the Association as a loss payee, the Board of Directors and the individual Lot Owner or Owners shall upon receipt of the insurance proceeds, contract jointly to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly.

Section 8: Each individual Lot Owner shall be solely and exclusively responsible for obtaining insurance coverage for said Owner's personal possessions and personal general liability insurance.

ARTICLE SIX: Architectural Control.

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind,

shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event the Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed fully complied with. All such requests shall be sent by certified mail to the Declarant, or to Board of Directors, to the Architectural Control Committee, as the case may be, at the last known address of the party to whom the request is being sent. As to all construction within the Properties, this approval process will remain the sole responsibility of Declarant so long as Declarant owns one or more Lots in Columbia Place, or until such time as Declarant, in writing, transfer this responsibility to the Board of Directors of the Association or any Architectural Control Committee established by the Board.

ARTICLE SEVEN: Party Walls, Roofs, Foundations and Foundation

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

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

use and benefit. If repair is necessitated by the occurrence of a casualty for which the Association had insurance, then such costs as are set forth herein shall be the responsibility of the Board of Directors.

Section 3: Destruction by Fire or other Casualty. If a party wall, roof, foundation or foundation wall is destroyed or damaged by fire or other casualty, any Owner who has used the structure may restore it, and if the other owners thereafter make use of the structure, they shall contribute to the cost of restoration thereof in proportion to such use; without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4: Easement for Construction. The Owner of any Lot may construct, reconstruct or extend a party wall, roof, foundation or foundation wall in any direction (subject to and within the limitations of architectural control and other limitations of this Declaration) 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 it before the commencement of such construction as is reasonably practicable.

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

Section 6: Right of Contribution Runs with 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 Owner's successors intitle.

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 property Owner is owed any money under any right of contribution as provided for hereunder, request the adjoining property Owner or property Owners to certify that no money is then due under any right of contribution. It shall be the duty of each adjoining property Owner to make such certification immediately upon request and without charge; provided, however, that where the adjoining property owner claims an amount of money due under a right of contribution the certification shall contain a recital of the amount so claimed. Section 8: Arbitration. In the event of any dispute arising concerning a party wall or other external improvements covered by this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE EIGHT: Exterior Maintenance.

Section 1: As set forth in the Preamble as well as in Article Four, Section 2(c), the Board of Directors of the Columbia Place Homeowners Association shall be responsible for maintenance and upkeep of the Common Areas of Columbia Place as well as the exterior maintenance of each lot within the Properties. To that end, each Lot Owner herein grants to the Columbia Place Homeowners Association, its successors and assigns, agents, employees and licensees, an exclusive easement to come upon said Lot at reasonable times for the sole and exclusive purpose of doing such exterior maintenance as set forth in Article Four, Section 2(c). In addition to those matters set forth in Article Four, Section 2, from the Annual Assessment or any duly voted upon Special Assessment, the Association shall provide funds for each Lot for necessary repairing and replacing roofs, gutters, downspouts, re-painting and/or re-staining original exterior surfaces and all other original structural exterior improvements, excluding the replacement of glass surfaces, screens, awnings, HVAC or ventilation equipment, walks, driveways or foundations, and any maintenance to approved structural additions to the initial dwelling unless this maintenance has been affirmatively

assumed by the Board of Directors in writing at the time the structural addition was approved.

Section 2: Declarant and, subsequent to when Declarant has turned over the affairs of Columbia Place to the Homeowners' Association, the Association shall be responsible for maintenance of the recreation area and stormwater detention basins serving Columbia Place. In the event either or both entities fail to do so, Declarant, for itself, its successors and assigns, including the Columbia Place Homeowners' Association, herein gives and grants to the Town of Chapel Hill the right and authority to promulgate necessary rules and regulations and/or to enter onto the recreation area and/or stormwater detention basins of Columbia Place in order to enforce the maintenance of same if either or both are not adequately maintained to Town standards by either Declarant or the Association, including the authority to assess the costs for such maintenance against each Lot in Columbia Place and to collect any unpaid assessments through procedures provided by North Carolina General Statutes Chapter 160A, Article 10, or other methods allowed by law; provided, however, that this provision shall not obligate the Town of Chapel Hill to assume any responsibility for the recreation areas and/or stormwater detention basins.

Section 3: The Owner of any Lot may, at his election, plant harmonious trees, shrubs, vegetable or flower gardens and grass in the Lot's rear yard space; provided, however, that such plantings and voluntary Owner maintenance does not hinder the Association in performing its maintenance tasks as set forth above. All plantings in the Lot's front yard shall be subject to the same conditions as set forth herein and must first be approved in writing by the Architectural Control Committee unless said plantings are annuals and/or perennial flowers.

Section 4: In the event that the need for maintenance or repair is caused by or through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the

assessment to which such Lot is subject. It is specifically contemplated that such maintenance as provided for herein shall arise from normal usage and weathering and does not include maintenance made necessary by fire or other casualty.

ARTICLE NINE: Easements

Section 1: All of the Properties, including all Lots and Common Areas, shall be subject to such easements for water lines, sanitary sewer lines, storm drainage facilities, gas lines, cable TV, telephone and electric power lines and other public utilities as shall be or shall have been granted by the Declarant or by its predecessors in title. No TV antennae shall be permitted in Columbia Place. Declarant, while It retains fee simple title to at least one Lot in Columbia Place, or the Associations's Board of Directors shall have the power and authority to grant and establish upon, over, under and across the Common Areas as conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property as well as its proper maintenance or operation.

Section 2: Each A and B Lot with the same numerical prefix shall be served by one paved concrete driveway and one paved concrete parking area, consisting of at least four (4) parking spaces, to be constructed by Declarant. By way of illustration only, Lot 15A and Lot 15B shall be served by one driveway and one parking area for the exclusive and mutual use and enjoyment of the owners of both Lot 15A and 15B. To that end, therefore, the Owner of a Lot in Columbia Place will have in common with the owner of the adjacent Lot with the same numerical prefix an easement for ingress-egress-regress purposes over any driveway and parking area serving the two adjacent Lots with the same numerical prefix and over any designated walkways from said parking area to the entryway of the dwelling on each Lot Owner's Lot. By acceptance of a conveyance of a Lot in Columbia Place, each Lot Owner covenants with the Owner of the adjacent Lot with the same numerical prefix not to interfere with or otherwise impede that Lot Owner's free and unfettered use and enjoyment of the ingress-

egress-regress easement areas.

Section 3: All Lots shall be subject to easements for encroachment of initial improvements constructed on adjacent Lots or on the Common Areas to the extent that such initial improvements actually encroach, including, but not limited to, such items as overhanging eaves, gutters and downspouts, steps, porches and walls. The centerline of the party wall of each dwelling shall be the common lot line between the Lots which share the same numerical prefix.

ARTICLE TEN: Use Restriction

Section 1: Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space of each Lot and the Common Areas.

Section 2: Use of Property. No portion of the Property (except for temporary office of the Declarant and/or a model townhouse used by Declarant for sale's purposes) shall be used except for residential purposes and related incidental purposes. ."Single- family residential" purposes may include "light-housekeeping" apartments containing no more than one bedroom. Specifically, no Lot may be stripped of its topsoil and trees or permitted to go to waste by being excavated, neglected or having trash or refuse thrown, dropped or dumped on it.

Section 3: Setback Lines: Consistent with Town of Chapel Hill current R-3 zoning, no building or other improvement permanent in nature shall be constructed within twenty-four (24) feet of the front line of each Lot; within eight feet (8) of the side line of each Lot (other than the side line upon which the dwelling is constructed) and with a eleven (11) foot solar setback. The location of the front door shall, for any corner lot, determine which property line constitutes the front property line. minor violations of these setback requirements not to exceed ten (10%) percent of the stated distance may be waived by Declarant or by the Architectural Control Committee and any encroachment into the setback areas done by Declarant during initial construction on

any Lot shall be waived so long as said violation does not exceed twenty (20%) percent of the stated setback distance and so long as said violation does not conflict with or violate any applicable governmental regulation or ordinance.

Section 4: Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be or become a nuisance or annoyance to the neighborhood. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, that this shall not be construed to prohibit temporary deposits of trash, rubbish, and other such for pickup by governmental or other similar garbage/trash removal services.

Section 5: Signs. No signs of any kind except those advertising an individual Lot "For Sale" or "For Rent" and those signs used by the Declarant in the advertising of the Property, shall be displayed for public view in and about the premises.

Section 6: Use of Common Areas. No planting or gardening shall be done upon or in any Common Areas lands except as authorized by the Board of Directors of the Association.

Section 7: Items to be Approved by Association: Without the prior approval of the Board of Directors as to location, style, type, size and composition, no antennae, aerials, pole towers, solar collectors or similar structures, no fuel tanks or any similar type of storage receptacle, no mailboxes or newspaper containers and no temporary structures such as shed, mobile homes, trailers or tents may be placed on any Lot or the Common Areas. Declarant, their heirs or assigns, may place one or more construction trailers on any Lot or the Common Areas during construction provided the same are removed within a reasonable period of time after construction in that area has been completed. No travel trailers or recreational vehicles shall be at any time used as a residence either temporarily or permanently.

Section 8: No Lot A or Lot B shall contain a living unit with

less than 1,000 square feet of heated space.

Section 9: All trees located on a Lot over four (4) inches in diameter at a height of twenty-four (24) inches above the surface of the land and all redbud, dogwood and beech trees of every size shall be retained, unless Declarant or the Architectural Control Committee shall have given consent in writing to their removal; provided that all dead or diseased trees, shrubs, bushes or other vegetation shall be cut and promptly removed from any Lot by the Association in the performance of its maintenance duties as soon as the Declarant or Architectural Control Committee has determined that such are dead.

Section 10: Violation of any of these provisions shall subject the violating Lot owner to legal action, in law or in equity, filed against him by either the Board of Directors of the Association or any Lot owner in Columbia Place. Such legal action, if successful, shall provide for the payment of reasonable attorney's fees in addition to remedies in law or in equity.

ARTICLE ELEVEN: Easements for Construction Purposes

The Declarant, or its duly authorized agents, shall have full rights of ingress and ingress to and through, over and about the Common Areas during such period of time as the Declarant is engaged in any construction or improvement work on or within the Property described herein or any additional property which may, subject to the provisions of this Declaration, be annexed to the Property. Declarant shall further have an easement for the purposes of storage of materials, vehicles, tools, equipment and so forth which are being utilized in such development or construction. No Lot Owner, his guests, licensees, clients or invitees shall in any way interfere or hamper Declarant, its employees, successors, agents or assigns in connection with construction.

ARTICLE TWELVE: General Provisions

Section 1: Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity,

all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. In the event of any contradiction, real or apparent, between the Articles of Incorporation and the By-Laws, the ByLaws shall control and in the event of any contradiction, real or apparent, between the By-Laws and this Declaration, then the terms and conditions of this Declaration shall control.

Section 3: Amendment. [REMOVED BY 3-29-99 AMENDMENT]

Section 4: FHA/VA Approval. [REMOVED BY 3-29-99 AMENDMENT]

Section 5: Mortgagee's Rights. A first mortgagee, or the insurer or guarantor of a first mortgage shall be entitled, upon written request, to receive copies of this Declaration, the By-Laws, Rules and Regulations, and Articles of Incorporation of Columbia Place; entitled to inspect the books and records of the

Association during normal business hours or under other reasonable circumstances; entitled to receive at no additional cost the annual audited financial statement within ninety (90) days following the end of the fiscal year; entitled to receive written notices of meetings of the Association and to designate a representative to attend all such meetings; entitled to receive timely notice of any substantial damage to or destruction of a townhouse or any part of the common area and facilities; entitled to receive notice if any townhouse Lot or any part of the common area and facilities are subjected to a condemnation or eminent domain proceeding or are otherwise sought to be acquired by a condemning authority; entitled to receive notice of any sixty (60) days delinquency in the payment of assessments or charges of any Owner of any townhouse Lot upon which that mortgagee, insurer or guarantor holds a mortgage; entitled to receive notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and entitled to receive notice of any proposed action which requires the consent of a specified percentage of mortgage holders.

Section 6: Additional Rights and Duties of Association. The Association shall have a reasonable right of entry upon any townhouse Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance of Columbia Place. The Association shall maintain in effect at all times casualty and liability insurance and fidelity bond coverage as is consistent with Federal National Mortgage Association guidelines, including a One Million (\$1,000,000.00) Dollar liability policy covering all the Common Areas.

Section 7: Working Capital or Additional Reserve Account. Upon the sale and conveyance of a Lot by and from Declarant, the third party purchaser thereof shall transfer to the Association a sum of money equal to two monthly assessments to create or be added to the Association's working capital or reserve account. Such funds shall not be deemed an advanced payment of the regular Annual Assessment.

Section 8: Reserved Rights of Lot Owners. No Lot Owner shall be subject to a restraint imposed by the Association upon his right to sell, transfer, or otherwise convey his Lot. Under no circumstances shall the Association have a right of first refusal upon the sale and conveyance of any townhouse Lot. No townhouse Lot Owner shall be subject to any restraint imposed by the Association upon his right to mortgage his Lot with whomever or whatever institution and upon those terms and conditions the Lot Owner is willing to accept. Each Lot Owner is entitled, as set forth in Article X. Section 5 above, to likewise inspect the books and records and other related documents of the Association during normal business hours or under other reasonable circumstances.

Section 9: Contracts. Any contract, lease or agreement entered into by the Association on its own behalf or by Declarant on behalf of the Association must be terminable by either party without cause upon not more than ninety (90) days notice to the other party and with cause upon not more than thirty (30) days notice to the other party. If so terminated, no termination fee shall be required to be paid to the party so terminated. This provision shall include, but not be limited to, contracts for professional management of the project.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed in its corporate name, with its corporate seal affixed, by order of its Board of Directors, on the day and year first above written.

Capkov Weatherhill Pointe Corp., Declarant

By: Scott Kovens, President

Attest: Eric B. Chupp, Secretary  
corporate seal

NORTH CAROLINA - COUNTY OF Orange

I, Charles G. Beemer, a notary public in and for said county and state do hereby certify that Eric B. Chupp personally came before me this day and acknowledged that he is Secretary of Weatherhill Pointe Corp., a North Carolina corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by its Secretary.

Witness my hand and notarial seal, this the 17th day of November, 1994.  
My commission expires: 8/25/96