

# BYLAWS OF GHENT SQUARE COMMUNITY ASSOCIATION

## ARTICLE I. NAME AND LOCATION

The name of the corporation is GHENT SQUARE COMMUNITY ASSOCIATION, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 1640 Virginia National Bank Building, Norfolk, Virginia 23510, but meetings of Members and Directors may be held at such places within the State of Virginia as may be designated by the Board of Directors.

## ARTICLE II. DEFINITIONS

**Section 1.** "Association" shall mean and refer to GHENT SQUARE COMMUNITY ASSOCIATION, its successors and assigns.

**Section 2.** "Properties" shall mean and refer to that certain real property described in the Declaration (hereinafter defined), and any annexations thereto.

**Section 3.** "Common Areas" shall mean all real property owned by the Association for the common use and enjoyment of all or any of the Members' of the Association and so designated in the Declaration (hereinafter defined). As used in the context of these Bylaws, the term "Common Area" shall be deemed to include and embrace the term "Common Area Easement," where applicable.

**Section 4.** "Site" shall mean and refer to the numbered and/or lettered lots or sites on the real property or a similarly designated condominium housing unit shown on recorded plats of the Properties and which, is a part of the Properties, save and except the Common Area, the Common Area Easements and the Parcels.

**Section 5.** "Member" shall mean and refer to every person or entity who holds a membership in the Association.

**Section 6.** "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Site or Parcel which is a part of the Properties, excluding those having such interest merely as security for the performance of an obligation.

**Section 7.** "Assessable Unit" shall mean and refer to each and every Site (including condominium units) which has been conveyed by the Declarant to an Owner, and on which has been constructed a dwelling unit certified for occupancy by the City of Norfolk or as "completed" by the Declarant.

**Section 8.** "Declarant" shall mean and refer to the Norfolk Redevelopment and Housing Authority, a political subdivision of the Commonwealth of Virginia, its successors and assigns.

**Section 9.** "Supplementary Declaration" shall mean any declaration of covenants, conditions and restrictions which may be recorded subsequent to the recordation of the Declaration which extends the provisions of the Declaration to real property in the City of Norfolk, Virginia, other than that real property described on page 1 of the Declaration, or makes additional covenants, conditions and restrictions applicable to any of the Properties or portions thereof.

**Section 10.** "Parcel" shall mean and refer to any platted parcel of land within the Properties shown on any plat recorded on October 3, 1975, or thereafter which has not been subdivided into Sites, Common Area or Common Area Easements, including each portion of the Properties designated as "Parcel (Number and/or Letter)" on any aforesaid plat of the Properties or any portion thereof recorded by the Declarant.

**Section 11.** "Declaration" shall mean and refer to the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS applicable to the Properties, recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Deed Book 1354, at Page 731.

**Section 12.** "Parcel Committee" shall mean and refer to those Members appointed or elected to represent the interests of the Owners of the Sites within a particular Parcel or group of Parcels at any meeting or meetings of the Association or the Board of Directors of the Association.

## ARTICLE III. MEMBERSHIP

Every person entity who is a record Owner of a fee or undivided fee interest in any Site or Parcel shall be a Member of the

Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Site or Parcel within the Properties. Ownership of such Site or Parcel shall be the sole qualification for membership.

#### **ARTICLE IV. PROPERTY RIGHTS, RIGHTS OF ENJOYMENT**

Each natural person Member who shall be in good standing shall be entitled to the use and enjoyment of the Common Area, or portions thereof, and the facilities thereon as provided in the Declaration. Any such Member may delegate 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 Properties. Such member shall notify the Secretary of the Association, at least ten (10) days prior to the use of the Common Area and facilities, in writing, of the name or names of any such delegate(s).

The Board of Directors may from time to time establish or disestablish a non-voting recreational affiliation available to residents of "Ghent" (defined for this purpose as the residential area of the City of Norfolk generally bounded on the east by Granby Street, on the north by 21st Street, on the south by Brooke Avenue<sup>1</sup>, and on the west by the Norfolk Southern Rail Yard<sup>1</sup>) providing to such recreational affiliates the right to use and enjoy the Common Area and facilities of the Association, or portions thereof, on such terms, for such period of time, and according to such rules, regulations and fees as may be promulgated by the Board of Directors.

#### **ARTICLE V. BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE**

**Section 1. Number.** The affairs of the Association shall be managed by a Board of Directors (hereinafter "Board"), who need not be Members. The initial Board of seven (7) Directors will serve until the first Annual Meeting; the number of Directors shall be seven (7). As long as the Class B membership (as defined in the Articles of Incorporation and the Declaration exists, the Board shall consist of Directors appointed by the Class B Member to serve at the pleasure of the Class B Member, and Directors elected by the Class A Members. Upon termination of the Class B membership, all Directors shall be elected by the Class A Members.

**Section 2. Composition.** The apportionment of the Board between appointed and elected Directors shall be as follows:

At the first Annual Meeting of Members, five Directors shall be appointed by the Class B Member and one (1) Director elected for a term of one (1) year and one (1) Director elected for a term of two (2) years by the Class A Members. Thereafter, elected Directors shall be elected by the Class A Members for two (2) year terms. In the event the Association has fewer than ten (10) Members on the date of the first or any subsequent Annual Meeting, all Directors for the Association's forthcoming year of operation shall be appointed by the Class B Member.

Six (6) weeks prior to subsequent Annual Meetings the Board shall determine the number of Directors to be elected by the Class A Members at the next Annual Meeting so that the number of elected director seats shall be equivalent to one (1) seat for each seventy (70) Class A votes outstanding and entitled to be voted as of sixty (60) days prior to the Annual Meeting date, but in no event shall the number of elected director seats be less than two (2) or more than five (5) so long as the Class B membership exists, unless the Association has fewer than ten (10) Members in which case there shall be no elected Directors, as provided above. The remainder of the Directors shall be appointed by the Class B Member.

**Section 3. Method of Nomination.** Candidates for election to the Board shall file a petition of candidacy, signed by not less than ten (10) Members, with the Elections Committee at least four (4) weeks before the Annual Meeting. The Elections Committee shall mail or otherwise provide to all Members a ballot containing the name of all bona fide candidates for elective seats who have so filed not less than ten (10) days before the Annual Meeting.

**Section 4. Method of Election.** Election shall be by secret written ballot or proxy at the Annual Meeting or by ballot or proxy delivered to the Chairman of the Elections Committee prior to the start of the Annual Meeting. The Members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles of Incorporation. Cumulative voting is not permitted. Those persons receiving the largest number of votes shall be elected.

**Section 5. Resignation and Removal.** The unexcused absence of an elected Director from three (3) consecutive regular meetings of the Board shall be deemed a resignation. Any elected Director may be removed from the Board, with or without

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<sup>1</sup> Affiliate member boundaries, amended and approved in July 1995 by the GSCA Board of Directors

cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of an elected Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

**Section 6. Compensation.** No Director shall receive compensation for any service he may render to the Association in his capacity as a Director. Any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 7. Action Taken Without a Meeting.** The Board shall have the right to take any action in the absence of a meeting which the Directors could take at a meeting by obtaining the written approval of all Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## ARTICLE VI. MEETINGS OF DIRECTORS

**Section 1. Regular Meetings.** Regular meetings of the Board of Directors shall be held monthly with or without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 2. Special Meeting.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any three (3) Directors, after not less than three (3) days' notice in writing to each Director.

**Section 3. Quorum.** A majority of the Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**Section 4. Executive Sessions.** All meetings of the Directors shall be open to observers, except that the Presiding Officer may call the Directors into executive session to discuss personnel matters or to hold hearings on infractions of published rules and/or regulations. Any action taken by the Board in executive session shall be recorded in the records of the Association's corporate affairs.

## ARTICLE VII. ELECTIONS COMMITTEE

**Section 1. Composition.** The Elections Committee shall consist of a chairman, who shall be a member of the Board, and two or more other persons who are Members of the Association or members of the Board. The Elections Committee shall be appointed by the Board prior to each annual meeting of the Board, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting.

## ARTICLE VIII. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 1. Powers.** The Board of Directors shall have the power to:

- (a) appoint and remove officers of the Association and establish their compensation, if any;
- (b) adopt and publish rules, regulations and reasonable fees governing the use of the Common Area and facilities, and the personal conduct of the Members, associate members and their guests there on, and to establish penalties, within the limits set out in the Declaration and the Articles of incorporation, for the infraction thereof;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

**Section 2. Duties.** It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement, including a detailed financial statement, thereof at the regular Annual Meeting of said Members or at any special meeting, when such statement is requested in writing by one-fourth (1/4) of the Class A Members (as defined in the Declaration and Articles of incorporation) who are entitled to vote;
- (b) supervise all officers of the Association and see that their duties are properly performed;
- (c) as more fully provided herein and in the Declaration,

- (1) fix the amount of the Annual assessment against each Site at least thirty (30) days in advance of each Annual assessment period, as provided in ARTICLE VI of the Declaration; and
  - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period;
  - (3) enforce the collection of assessments as more particularly set forth in ARTICLE VI. Section 10 of the Declaration.
- (d) issue, or cause an appropriate office to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain liability, hazard or other insurance for the protection of the Association and its Property;
- (f) cause all officers and employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) prepare, or cause to be prepared, on an annual basis, for each forthcoming fiscal year (as defined in ARTICLE XVII hereof), a complete, itemized and detailed operating budget of such fiscal year, which budget shall:
- (1) be submitted to the Board for approval, and as approved (with or without modification by the Board), be adopted by resolution of the Board prior to each Annual Meeting of the Members, and as so adopted by the Board;
  - (2) be presented to the Members at such Annual Meeting, provided, however, that a copy of such budget shall be sent to each Member at least 30 days prior to such meeting, together with such resolution of the Board, and shall be approved and adopted or disapproved and rejected by the Class B Member, if any, and a majority of the Class A Members present in person or by proxy, as shall constitute a quorum in accordance with the provisions of Section 4 of ARTICLE X hereof; and
- (h) cause the Common Area, the Common Area Easements and facilities thereon to be maintained, and to that end, the Board of Directors shall secure the services of such independent contractor(s) and/or employ such persons as shall demonstrate and possess all of the suitable skills, experience, equipment and resources for the maintenance of the Common Area, the Common Area Easements and facilities thereon in a professional and attractive manner and the maintenance of all landscaped areas in a healthy condition and neat appearance:
- (i) adopt and publish rules and regulations governing the use of the Common Area and facilities;
  - (j) fix, levy and collect fees or charges to be paid by recreational affiliates and to be paid for the reservation or rental of the Common Area facilities or portions thereof;
  - (k) designate depositories for Association funds and designate those officers, agents and/or employees who shall have authority to withdraw funds from Association accounts on behalf of the Association;
  - (l) set aside adequate reserve funds for operation of the Association and the maintenance, repair and replacement of improvements constructed on Common Areas and Common Area Easements;
  - (m) exercise its powers and duties in good faith and in the best interest of the Association, and to this end to avoid conflicts of interest.

## ARTICLE IX. COMMITTEES

**Section 1.** The Board of Directors shall appoint an Election Committee, as provided in these Bylaws. In addition, the Board shall appoint other committees as deemed appropriate in carrying out its purposes, such as (but not limited to):

- (a) **A Recreation Committee** which shall advise the Board of Directors on all matters pertaining to the recreation program and activities of the Association and shall perform such other functions as the Board, in its discretion, determines;
- (b) **A Maintenance Committee** which shall advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the Common Area, the Common Area Easements and/or facilities located thereon, and shall perform such other functions as the Board, in its discretion, determines; provided, however, that the duties and responsibilities delegated to this committee by the Board shall in no way relieve the Board of its ultimate responsibility for the maintenance, repair and improvement of the Common Area and Common Area Easements as is imposed upon the Board under the provisions of Section 2 (h) of ARTICLE VIII hereof.
- (c) **A Public Relations Committee** which shall inform the Members of all activities and functions of the Association, and shall, after consulting with the Board, make such public releases and announcements as are in the best interest of the Association; and
- (d) **A Finance Committee** which shall supervise the annual audit of the Association's books and prepare the annual budget and statement of income and expenditures to be presented to the membership at its regular Annual Meeting, as provided in ARTICLE XI, Section 8 (d). The Treasurer shall be an ex officio member of the Finance Committee.

**Section 2.** It shall be the duty of each committee to receive complaints from Members on any matter involving Association functions, duties and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate within the powers delegated to it by the Board or refer them to such other committee, director or officer of the Association as may be concerned with the matter presented.

## ARTICLE X. MEETING OF MEMBERS

**Section 1. Annual Meetings.** The Annual Meeting of the Members shall be held on the second Monday of December of each year at the hour of 7:15 pm.

**Section 2. Special Meetings.** Special meetings of the Members may be called at any time by the President, the Board of Directors, or the Class B Member, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the outstanding votes of the entire membership or who are entitled to vote one-fourth (1/4) of the outstanding votes of the Class A membership.

**Section 3. Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, either personally or by mailing a copy of such notice, postage prepaid, not less than ten (10) nor more than fifty (50) days before the date of such meeting, to each Member entitled to vote thereat, addressed to the Member at his address last appearing on the books of the Association or at such other address as shall be supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting, if the applicable statutes of the State of Virginia require a longer period of notice, such statutory requirement shall apply.

**Section 4. Quorum.** The presence at the meeting, in person or by proxy, of Members entitled to cast the Class B vote and twenty-five percent (25%) of the votes of the Class A membership shall constitute a quorum for any action, except as otherwise provided in the Articles of incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members present, in person or by proxy and entitled to vote thereat, shall have power to adjourn the meeting, from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid or such decreased quorum required pursuant to the Declaration shall be present or represented by proxy.

**Section 5. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing, dated and filed with the Secretary. Each proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Site, or upon the expiration of ninety (90) days from the date of the proxy.

## ARTICLE XI. OFFICERS AND THEIR DUTIES

**Section 1. Enumeration of Officers.** The officers of the Association shall be a President, and a Vice President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

**Section 2. Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each Annual Meeting of the Members.

**Section 3. Term.** The officers of this Association shall be elected annually by the Board and each shall hold office for a term of one (1) year, unless they shall sooner resign or shall be removed or otherwise disqualified to serve.

**Section 4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. Resignation and Removal.** Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Vacancies.** A vacancy in any office may be filled by the Board at any meeting of the Board. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7. Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall

simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this ARTICLE XI.

**Section 8. Duties.** The duties of the officers are as follows:

- (a) **President** – The President shall preside at all meetings of the Board of Directors and of the Members; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and, other written instruments in the name and behalf of the Association and shall consign all checks and promissory notes.
- (b) **Vice President** – The Vice President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.
- (c) **Secretary** – The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association, together with their addresses, and shall perform such Other duties as are required by the Board.
- (d) **Treasurer** – The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks of the Association; keep proper books of account; cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented at the regular Annual Meeting of the Members, and deliver a copy of each to the Members.

## ARTICLE XII. BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principle office of the Association, where copies may be purchased at reasonable cost.

## ARTICLE XIII. INDEMNIFICATION OF OFFICERS AND DIRECTORS

Each officer and Director of the Association in consideration of his services as such, shall be indemnified by the Association to the extent permitted by law against expenses and liabilities reasonably incurred by him in connection with the defense of any action, suit, or proceeding, civil or criminal, to which he may be a party by reason of being or having been a Director or officer of the Association. The foregoing rights of indemnification shall not be exclusive of any other rights to which the Director or officer or person may be entitled by law or agreement, or vote of the Members or otherwise.

## ARTICLE XIV. ARCHITECTURAL REVIEW BOARD

**Section 1. Composition.** The Declarant shall appoint an Architectural Review Board comprised of a chairman, who shall not be a Director, and two (2) or more Members. A quorum for Architectural Review Board action shall be three members. Upon termination of the Class B membership, the Architectural Review Board shall be appointed by the Board of Directors.

**Section 2. Duties.** It shall be the duty of the Architectural Review Board to regulate the external design, appearance, location and maintenance of the Properties and of improvements thereon and to regulate such, uses of property, as described in the Declaration.

**Section 3. Procedures.** The Architectural Review Board shall formulate general guidelines and procedures and submit them for confirmation to the Board of Directors. Such guidelines and procedures shall be considered adopted policy of the Association unless rejected by a two-thirds (2/3) vote of the Board of Directors within thirty days of the date of submittal. The adopted guidelines and procedures shall be printed and the Architectural Review Board shall act in accordance with such guidelines and procedures. Copies of the printed guidelines and procedures shall be available for inspection by the Members, and available for purchase at a reasonable cost.

**Section 4. Amendment of Procedures.** The Board of Directors may, at the request of the Architectural Review Board or on its own motion, amend or revise adopted guidelines and procedures in the manner set forth in ARTICLE XVI below for amending these Bylaws.

## ARTICLE XV. CORPORATE SEAL

The Association shall have a seal, in circular form, having within its circumference the words: GHENT SQUARE COMMUNITY ASSOCIATION.

## ARTICLE XVI. AMENDMENTS

**Section 1.** These Bylaws may be amended:

- (a) By a vote of two-thirds (2/3) of the Directors (with the assent of all Directors appointed by the Class B member) at any meeting of the Directors duly called for that purpose, providing that notice of the meeting and the proposed amendments has been given to the Members at least fifteen (15) days prior to such meeting; or
- (b) By the affirmative vote of the Class B Member, if any, and a majority of a quorum of Class A Members present in person or by proxy at an Annual or Special meeting of the Members.

**Section 2.** Amendments to these Bylaws shall become effective upon adoption.

**Section 3.** In the case of the conflict between the Articles on incorporation and these Bylaws, the Articles shall control: and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## ARTICLE XVII. FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of each year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the original Directors of the Ghent Square Community Association. have hereunto set our hands this \_\_\_ day of \_\_\_\_\_, 1976 and so hereby adopt these Bylaws for said Association.

David H. Rice  
Francis N. Crenshaw  
Howard W. Martin, Jr.  
Dennis Richardson  
J. Robert Draper  
Carl M. Hall  
Wesley Wright. Jr.

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made this 25th day of May, 1976, by Norfolk Redevelopment and Housing Authority, (hereinafter called "Declarant"), a political subdivision of the Commonwealth of Virginia;

### WITNESSETH THAT:

WHEREAS, the Declarant is the owner of certain real property in the East Ghent North Redevelopment Project, NOP Va. A-1-2, and the East Ghent South Redevelopment Project, NOP Va. A-1-1, in the City of Norfolk, Virginia, which property is more particularly described as follows:

All those certain pieces or parcels of land situate in the City of Norfolk, Virginia, in Projects NOP Va. A-1-1, and NOP Va. A-1-2, being known, numbered and designated as Parcel 2, Parcel 4-A, Common Area 4, Parcel 25-A, Common Area Easement-25, Parcel 26, Common Area Easement-26, Parcel 27- D, Common Area Easement-27, Parcel 28-A, Parcel 28-B, Parcel 28-C, Common Area Easement-28, Parcel 29-A, Parcel 29-B, Common Area Easement-29, Parcel 21-A, Common Area Easement-21, and Common Area 23-A-1, all as shown on a plat entitled "Ghent Square, Subdivision of a Portion of Plat of Botetourt, Section 1 & Section 2, Property of Norfolk Redevelopment and Housing Authority, Norfolk, Virginia, in Map Book 28, at pages 275-181 A and 275-181 B, together with any parcels, Sites, Common Areas, or Common Area Easements now or hereafter shown on any subdivision or resubdivision plats (as the same may from time to time be amended) of all or any portion of the lands described above.

SAVE AND EXCEPT so much of Parcel 26 mentioned above as is identified as 26-A on that certain plat entitled "Westover Square, Subdivision of a Portion of Ghent Square, Property of Norfolk Redevelopment and Housing Authority," dated August 15, 1975 and recorded in the aforesaid Clerk's Office in Map Book 28, at page 276-182.

WHEREAS, the Declarant desires to create on the property described above a planned community with permanent parks, playgrounds, open spaces, and other community facilities for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for the maintenance of the Common Areas and Common Area Easements and lawns and yards therein, and to this end desires to subject the real property described above, together with such additions as may hereafter be made thereto (as provided in ARTICLE IV hereof), to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, for the efficient preservation of the values and amenities in said community the Declarant has incorporated, under the laws of the State of Virginia the Ghent Square Community Association as a nonprofit corporation and will delegate and assign to it the powers of owning, maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the residents of the community; and

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

NOW, THEREFORE, the Declarant hereby declares that all of the Properties described above (together with any property which may be annexed thereto under the provisions of ARTICLE IV hereof) shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness thereof. These easements, covenants, restrictions and conditions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest therein or any part thereof, and shall inure to the benefit of each owner thereof.

### ARTICLE I. DEFINITIONS

**Section 1.** "Association" shall mean and refer to Ghent Square Community Association, a non-stock Virginia corporation, its successors and assigns.

**Section 2.** "Properties" shall mean and refer to that certain real property hereinbefore described in the Preamble and any annexations thereto as described in ARTICLE IV.



**Section 3.** "Common Areas" shall mean any numbered or unnumbered "Common Area" or "Common Area Easements" as shown on any presently or hereafter duly recorded subdivision plats of the Properties or portions thereof as the same may from time to time be amended.

**Section 4.** "Site" shall mean and refer to the numbered and/or lettered lot or site of real property or a similarly designated condominium housing unit which is a part of the Properties and which is shown upon the aforesaid plats or any hereafter recorded subdivision plats of the Properties, or any portion thereof, save and except the Common Area, the Common Area Easements and the Parcels.

**Section 5.** "Member" shall mean and refer to every person or entity who holds a membership in the Association.

**Section 6.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Site or Parcel which is a part of the Properties, excluding those having such interest merely as security for the performance of an obligation.

**Section 7.** "Assessable Unit" shall mean and refer to each and every Site (including condominium units) which has been conveyed by the Declarant to an Owner, and on which has been constructed one complete dwelling unit certified for occupancy by the City of Norfolk or as "completed" by the Declarant.

**Section 8.** "Declarant" shall mean and refer to the Norfolk Redevelopment and Housing Authority.

**Section 9.** "Supplementary Declaration" shall mean any declaration of covenants, conditions and restrictions which is duly recorded subsequent to the recordation of this Declaration which extends the provisions of this Declaration to real property in the City of Norfolk, Virginia, other than that real property hereinabove described, or which makes additional covenants, conditions and restrictions applicable to any of the Properties or portions thereof.

**Section 10.** "Parcel" shall mean and refer to any platted parcel of land within the Properties shown on any plat recorded on October 3, 1975, or thereafter which has not been subdivided into Sites, Common Area or Common Area Easements, including each portion of the Properties designated as "Parcel (Number and/or Letter)" on any of the aforesaid plats or any subdivision plat of the Properties or any portion thereof recorded by the Declarant.

**Section 11.** "Parcel Committee" shall mean and refer to those Members appointed or elected to represent the interests of the Owners of the Sites within a particular Parcel or group of Parcels at any meeting or meetings of the Association or the Board of Directors of the Association.

## ARTICLE II. MEMBERSHIP

Every person or entity who is a record Owner of a fee or undivided fee interest in any Site or Parcel shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Site or Parcel within the Properties. Ownership of such Site or Parcel shall be the sole qualification of membership.

## ARTICLE III. VOTING RIGHTS

**Section 1.** The Association shall have two (2) classes of voting membership:

**Class A.** Class A Members shall be all those Owners as defined in ARTICLE I except that the Declarant shall not be a Class A Member until such time as the Class B Membership terminates. Class A Members shall be entitled to one (1) vote for each Site in which they hold the interest required for membership by ARTICLE II. When more than one (1) person holds such interest in any Site, all such persons shall be Members, and shall execute and deliver to the Secretary of the Association a certificate duly executed by all of such Owners designating the person who shall be authorized to cast the vote allocated to the Owners of said Site. Said certificate shall be valid until revoked by a subsequent certificate. Unless and until said certificate is filed with the Secretary of the Association, the vote of such Owners shall not be considered for the purpose of determining a quorum or for any other purpose. In no event shall more than one (1) Class A vote be cast with respect to any Site.

**Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to one (1) vote for so long as the Class B membership exists. The Class B membership shall cease and/or be converted to Class A membership (a) upon written notice to the Association, or (b) when the Declarant no longer owns a Site or Parcel

within the Properties (including annexations thereto as provided for in ARTICLE IV), or (c) on December 31, 1995, whichever shall first occur.

**Section 2.** Class A Members shall be entitled to vote only after their Site has become an Assessable Unit.

#### **ARTICLE IV. ANNEXATION OF ADDITIONAL PROPERTIES**

The Association may annex additional residential properties and Common Areas to the Property described in the Preamble of this Declaration, and so add to its membership under the provision of ARTICLE II in the following manner:

- (a) For so long as the Class B membership exists the Declarant may in its sole discretion annex any additional lands within the boundaries of Granby Street, Twentieth Street, Colonial Avenue and Olney Road in the City of Norfolk, Virginia, by an amendment to the Declaration or by a Supplementary Declaration executed by the Declarant. The amendment or Supplementary Declaration shall be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.
- (b) Additional real estate in the City of Norfolk within the boundaries set forth in (a) above, or contiguous to the Properties or any annexations thereto, or separated from the Properties or any annexations thereto only by a public street or public land may be annexed by an instrument executed by the owner(s) of such additional real estate, the Class B Member, if any, and not less than seventy-five percent (75%) of the Class A Members. Any such annexation shall be effective upon the recordation of said instrument in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.

#### **ARTICLE V. PROPERTY RIGHTS**

**Section 1. Members Easements of Enjoyment.** Every natural person who is a Member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Site, subject to the following provisions:

- (a) The Association may establish reasonable rules, regulations, charges and fees for the use of the Common Area or portions thereof;
- (b) Subject to the limitations set forth in (e) below, each natural person Member shall, for himself, his immediate family, and his invitees have an easement, right and privilege to use the entire Common Area for pedestrian traffic, recreation and (in such parking areas and vehicular entranceways as may now or hereafter be established) vehicular traffic and parking. The Association reasonably and uniformly limiting the use of such easements to the end that no Member, in the exercise of his right of easement, shall unreasonably infringe on the rights of other Members;
- (c) The Association, in accordance with its Articles of Incorporation and Bylaws, may borrow money for the purpose of improving the Common Area and facilities and aid thereof mortgage (which term shall include a Deed of Trust) the Common Area; the rights of such mortgagee (which term shall include the beneficiary of a Deed of Trust) in the Common Area shall be subordinate to the rights of the Members hereunder;
- (d) The Association may or transfer all or any part of the common Areas to any municipality, 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 and until it shall have the affirmative vote of the Class B Member, if any, and more than two-thirds (2/3) of the Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to every Member no less than twenty-five (25) days nor more than fifty (50) days in advance of the meeting, setting forth the purpose of the meeting. At such meeting, the presence of Members or proxies entitled to cast the vote of the Class B membership, if any, and sixty percent (60%) of all of the votes of the Class A membership, shall constitute a quorum. If the required quorum is not present at any such meeting, another meeting may be called, subject to the notice requirement set forth above, and the quorum requirement at any such subsequent meetings shall be the Class B Member, if any, plus one-half (1/2) the quorum of the Class A membership required at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Additionally, no such dedication or transfer shall be effective unless an instrument, signed by the duly authorized representative of the Class B Member, if any, and Members entitled to cast more than two-thirds (2/3) of the votes of the Class A membership has been recorded, agreeing to such dedication or transfer, and unless a certificate of the

Secretary of the Association also be recorded stating that written notice of the proposed action was sent to every Member not less than twenty-five (25) days in advance of such effective date of such dedication or transfer.

- (e) With respect to any Common Area and/or Common Area Easement wholly within a Parcel or contiguous to one or more Parcels with a common number prefix designation, the Association will, upon the written request of the Parcel Committee for the Parcel(s) within or adjacent to which said Common Area and/or Common Area Easement is located and subject to the concurrence of not less than two-thirds (2/3) of the Owners of the Sites or Parcel(s) within the Parcel(s) requesting a Supplementary Declaration, and not less than one-third (1/3) of the Board of Directors of the Association, record a Supplementary Declaration, as to such Parcel(s) restricting the rights of enjoyment and use of the Common Area and/or Common Area Easement within or adjacent to such Parcel(s) to the Members (and their family and invitees) owning or residing in or on Sites within such Parcel(s). No such Supplementary Declaration shall be recorded until such Members have reimbursed the Association for the market or depreciated value of any recreational improvements or facilities located on or within said Common Area and/or Common Area Easement to Members in their own rights who did not own or reside in or on a Site within the particular Parcel(s).
- (f) Upon recordation of the Supplementary Declaration as described in (e) above, all costs allocable to the management, maintenance, taxation or capital improvement of the restricted Common Area and/or Common Area Easement shall be levied, assessed and collected from the Members owning or residing in or on Sites within the Parcel(s) whose Members have so elected to restrict the Common Area and/or Common Area Easement within or adjacent to their Parcel(s).
- (g) When Common Area and/or Common Area Easement has been restricted at the request of a Parcel Committee by Supplementary Declaration as described in (e) and (f) above, no Member who does not have rights of use and enjoyment of said Common Area and/or Common Area Easement (other than Owners of Sites within such Parcel(s)) shall be required to pay assessments for management, maintenance, taxation or capital improvement or other costs allocable to said restricted Common Area and/or Common Area Easement.
- (h) No Supplementary Declaration as described in the foregoing paragraphs (e), (f) and (g) above shall be recorded with respect to Common Areas 23-A-1 and 4-A as shown on the aforesaid plats.

**Section 2. Delegation of Use.** Any natural person Member may delegate, by written statement filed with the Association's Secretary and in accordance with the Association's Bylaws, Rules and Regulations, his right of enjoyment of the Common Area and facilities to those members of his family or contract purchasers who reside on such Member's Site, or to a natural person or bona fide family renting such Member's entire Site for use as a dwelling.

**Section 3. Title to the Common Area and Common Area Easements.** The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area and/or Common Area Easements to the Association, free and clear of all liens and encumbrances, except drainage and utility easement.

**Section 4. Damage to Common Area or Facilities.** In the event any Common Area or Common Area facility or amenity is damaged or destroyed by an Owner or his guest(s), tenants(s), licensee(s), agent(s) or family member(s), such Owner hereby authorizes the Association to repair any such damage or destruction at the expense of said Owner. The cost of such repairs shall be a Special Assessment Lien on the Site of such Owner until paid by the Owner.

**Section 5. Obligations of the Association.** The Association, subject to the rights of Members set forth above, shall be responsible for the management and control of the Common Area and all improvements or facilities thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

## ARTICLE VI. COVENANTS FOR MAINTENANCE ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant hereby covenants, and each Owner of any Site by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association for each and every Assessable Unit owned by it: (1) Annual assessments or charges, (2) Special assessments for capital improvements, (3) Parcel assessments, and/or (4) Declarant assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual assessments, Special assessments, Parcel assessments and Declarant assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Sites and shall be a continuing lien upon the Site or Parcel against which each such assessment is made. Sale or transfer of any Site shall not affect the assessment lien. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall

also be the personal obligation of the person or entity who was the Owner of such Site or Parcel at the time when the assessment fell due.

**Section 2. Purpose of Annual and Special Assessments.** The Annual and Special assessments levied by the Association shall be used exclusively for the purpose of promoting recreation, health, safety, and social welfare of the residents in the Properties through the ownership, improvement, operation and maintenance of the Common Area and Common Area Easements and the improvements thereon and the improvements thereon and the improvements thereon and the acquisition or construction of appurtenances thereto or thereon.

**Section 3. Maximum Annual Assessment.** Until January 1 of the year immediately following the conveyance by the Declarant of the first Site or Parcel to an Owner, the maximum Annual assessment shall be Three Hundred Sixty Dollars (\$360.00) per Site. From and after January 1 of the year immediately following the conveyance by the Declarant of the first Site or Parcel to an Owner, the maximum Annual assessment may be increased by the Board of Directors of the Association without a vote of the membership in conformance with the rise, if any, from July of the previous year in which the Board takes such action, in the Consumer Price Index (as defined below), which increase shall be effective as of January 1 of the year following such action by the Board of Directors. The term "Consumer Price Index" as used herein means the index for the U.S. City Average published monthly by the U.S. Department of Labor, Bureau of Labor Statistics as the "Consumer Price Index- The United States and selected areas for urban wage earners and clerical workers, all items most recent index and percent changes from selected dates (1967 = 100)." If the basis on which said revised index on the basis of conversion factors, if any, published by the Bureau of Labor Statistics. If such conversion factors are not so published, the Board of Directors shall request the Bureau of Labor Statistics to provide an appropriate conversion or adjustment which shall be applicable thereafter. If the Bureau of Labor Statistics shall be unable or unwilling to provide an appropriate conversion or adjustment, or if any index ceases to be published or otherwise becomes unavailable or unusable, the Board of Directors in good faith shall select an appropriate comparable index to be utilized as a substitute for the Consumer Price Index defined herein. The maximum Annual assessment may be increased above the amount allowed by the Consumer Price Index formula by the affirmative vote of the Class B Member and more than two-thirds (2/3) of the Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than twenty-five (25) days or more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting, and the proposed budget to be considered. After consideration of the current operation and maintenance costs and future needs of the Association, the Board of Directors of the Association may fix the Annual assessment at an amount not in excess of the maximum as defined above, but in an amount sufficient to meet the obligations imposed by this Declaration.

**Section 4. Special Assessments for Capital Improvements.** In addition to the Annual assessments authorized above, the Association may levy, in any assessment year, a Special assessment for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the landscaping and the necessary fixtures and personal property related thereto, provided that any such assessment (except an assessment pursuant to Article V, Section 4, above) shall have the assent of the Class B Member, if any, and more than two-thirds (2/3) of the Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than twenty-five (25) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting; and provided further that the sum of all Special assessments to be collected in any assessment year shall not exceed an amount equal to the then current maximum Annual assessment. The terms of collection and expenditure of the Special assessment shall be as determined by the Board of Directors of the Association.

**Section 5. Parcel Assessments.** Parcel assessments shall be used for such purposes as are authorized by the Supplementary Declaration for the Parcel(s) described therein. Parcel assessments shall be levied by the Association against Sites in one or more Parcel(s), using the basis set forth in the Supplementary Declaration for the particular Parcel(s), and said assessments shall be collected and disbursed by the Association. Parcel assessments shall be fixed by the affirmative vote of at least two-thirds (2/3) of the Board of Directors of the Association and shall be uniform with respect to each Site in the particular affected Parcel(s).

**Section 6. Declarant Assessment.** For a period of ten (10) years from January 1 of the year immediately following the conveyance by the Declarant of the first Site to an Owner, and for so long thereafter as the Class B membership shall exist the Declarant shall at the end of the Association's fiscal year contribute to the Association's treasury an assessment subsidy equal to the deficit (if any) between the Association's income from assessments and its actual operating expenses and reserves. The level of reserves shall be set by the Board of Directors with the concurrence of the Class B Member. Any Declarant assessment due hereunder which is not paid within thirty (30) days after its due date shall automatically be and

become a continuing lien upon such unimproved Sites or Parcels owned by Declarant as may be designated by the Board of Directors of the Association in an instrument executed by the President and Secretary of the Board of Directors of the Association and duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia.

**Section 7. Uniform Rate of Assessment.** Annual assessments must be uniform for all Sites. Assessments may be collected on a monthly (or other periodic) basis.

**Section 8. Quorum for Any Action Authorized Under Sections 3 and 4.** At the first meeting called, as provided in Sections 3 and 4 of this ARTICLE VI, the presence at the meeting of Members or of proxies entitled to cast the vote of the Class B Member, if any, and sixty percent (60%) of all the votes of the Class A Members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in said Sections 3 and 4, and the required quorum (as to Class A Members) at any such subsequent meeting shall be one-half (1/2) of the required quorum of Class A Members at the preceding meeting.

**Section 9. Date of Commencement of Annual Assessments: Due Dates.** The Annual assessments provided for therein shall commence as to each site of the first day of the first month after the Site becomes an Assessable Unit. The first Annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the Annual assessment against each Site at least thirty (30) days in advance of each Annual assessment period (which shall be the calendar year); but in the absence of such action by the Board of Directors the Annual assessment shall be in the amount last fixed; and for calendar year 1976, the Annual assessment shall be Two Hundred Twenty-eight Dollars (\$228.00) per Site. Written notice of the Annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Site have been paid. A reasonable charge may be made by the Board of the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**Section 10. Effect of Nonpayment of Assessments: Remedies of the Association.** Any Assessments which are not paid when due shall be delinquent. If any such assessment or installment due with respect to a Site is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the percentage rate of six percent (6%) per annum, provided however, that the Board of Directors may waive such interest for good cause shown. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Site. For purposes of foreclosure, the procedures set forth in 55-59 of the 1950 Code of Virginia (as amended) shall be followed, and for such purposes, this Declaration shall be construed to be the deed of trust, the Owner shall be construed as the beneficiary. By acceptance of a deed for a Site, each Owner shall be deemed to consent to the foreclosure procedures referred to above (and the Declarant hereby consents to such procedures), and to appoint the Board of Directors as trustee for purposes thereof. Upon default in the payment of any one or more installments, the Association may declare the entire balance of such assessment due and payable in full, along with interest, costs and reasonable attorney's fees incurred, which shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Site. Class A voting rights appurtenant to a Site shall be automatically suspended for the entire periods during which the assessment or installment due with respect to such Site is delinquent for thirty (30) or more days after the due date. In such case, the rights of the Site Owner or delegate to enjoyment and use of the Common Area, Common Area Easements and facilities located thereon may be curtailed or suspended pursuant to any rules or regulations adopted by the Association.

**Section 11. Subordination of the Lien to Mortgages.** The Lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on any Site. Foreclosure of any such first mortgage or first deed of trust shall extinguish such lien for assessments due prior to such foreclosure (and such lien shall attach to any excess proceeds of the foreclosure) but no such foreclosure shall relieve such Site from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 12. Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority or a municipality; (b) the Common Area; and (c) all properties owned by a charitable or nonprofit organization (other than the Declarant) exempt from taxation by the laws of the State of Virginia. However, anything herein to the contrary notwithstanding, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE VII. ARCHITECTURAL CONTROL

**Section 1. The Architectural Review Board.** An Architectural Review Board consisting of three or more persons shall be appointed by the Class B Member. At such time as the Class B membership no longer exists, the Architectural Review Board shall be appointed by the Association's Board of Directors.

**Section 2. Purpose.** The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Properties and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.

**Section 3. Conditions.** No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any property or the improvement located thereon from its natural or improved state existing on the date such property was first conveyed in fee by the Declarant to an Owner or to the Association shall be made or done without the prior written approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, painted, stained, altered, made or done without the prior written approval of the Architectural Review Board.

**Section 4. Procedures.** In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse Architectural Review Board decision to the Association's Board of Directors, who may reverse or modify such decision by a two-thirds (2/3) vote of the Directors.

**Section 5. Exemption for Declarant.** The provisions of Section 3 above shall not be applicable to the Declarant.

## ARTICLE VIII. USE RESTRICTIONS

**Section 1.** No dwelling (hereinafter referred to as "DWELLING") or building of any type shall be permitted on any Site or Parcel unless and until the plans, specifications, working drawings and materials therefore have been approved in writing by the Declarant. No DWELLING shall be constructed or permitted to be constructed upon any Site or Parcel situate within the Properties, hereinabove described, unless such DWELLING has a comparable cost basis (exclusive of land costs) equal to or greater than the contract minimum construction cost (exclusive of land costs) of \$45,000.00 per unit for the townhouse units approved by Declarant for construction on Parcels 29-A; 29-B; 28-A; 28-B; and 28-C, as shown on the aforesaid plats. The comparable cost basis shall be adjusted for the changes in building costs as measured by the proportionate changes in the Consumer Price Index (as defined in ARTICLE VI, Section 3, above), and weighted and adjusted pro-rata for proportional square-footage of the DWELLING to be constructed to provide comparable or better quality. Sites or Parcels within the Properties described on page 1 of this Declaration shall be used only for single-family residential purposes, and no multi-family rental housing or commercial uses shall be permitted on any such Site or Parcel. This restriction shall not, however, be construed to prohibit commercial or multi-family rental housing uses on Sites or Parcels annexed into the Properties by future Supplementary Declaration if such uses are permitted by the terms of the Supplementary Declaration(s).

**Section 2.** Declarant reserves for the benefit of itself and its successors and assigns the right to use the interior streets, driveways, and parking areas hereafter developed within the Properties for the ingress and egress in connection with the installation, repair, maintenance and/or replacement of utility lines of every kind and description within said streets and for any other lawful purposes. Declarant further reserves for the benefit of itself and its successors and assigns easements for the installation, repair, maintenance and/or "Common Area Easement" on the aforementioned plats and on the plat of any property which may be annexed hereunder, together with the right to use said areas for ingress and egress in connection therewith. Declarant further reserves the right, before and after the sale of any of the Sites, to transfer and assign any of the rights and easements herein described. Declarant covenants that it shall assign and convey to the Association any and all remaining rights and easements reserved herein upon sale by Declarant of the last Site.

**Section 3.** No obnoxious or offensive activity shall be conducted or permitted on any of the Sites, and nothing shall be done thereon which may be or become an annoyance or a nuisance to the neighborhood. No business or profession of any kind or nature shall be carried on or practiced in an DWELLING without the express written consent of the Class B Member and of the Architectural Review Board.

**Section 4.** No trailer, tent, shack, barn, garage, or other outbuilding shall be used on any Site at any time as a residence, either temporarily or permanently.

**Section 5.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Site, except that dogs, cats and other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.

**Section 6.** No DWELLING, building, fence, wall or other structure, including without limitation, trailers, tents, shacks, garages, carports, lawn sheds and barns, shall be commenced, erected or maintained on any Site, nor shall any addition to or exterior change or alteration thereon be made, nor any change in the present grades of said Sites be made, until plans and specifications showing the nature, kind, shape, dimensions, materials and exterior color scheme of such structure or Site grade to be placed, altered or changed have been submitted to and approved in writing by the Class B Member and the Architectural Review Board. No fences shall be constructed on any Sites other than fences of wooden, brick or ornamental iron (or combination thereof) construction.

**Section 7.** No sign of any kind (except for one "For Sale" sign of the size and shape normally used onsite to advertise for sale a single-family detach DWELLING) shall be displayed to the public view on any Site, unless permission is first obtained in writing from the Architectural Review Board.

**Section 8.** No Site shall be used for maintained as a dumping ground for rubbish or scrap. Trash, garbage or other waste shall not be kept on any Site except in covered sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

**Section 9.** Anything in Sections 1, 3, or 7 hereof to the contrary notwithstanding, during the period of time while Declarant, or any builder to whom Declarant has sold any Sites, is conducting the business of constructing and selling DWELLINGS, Declarant, or such builder with the consent of Declarant, may maintain such model DWELLINGS, sales offices, signs and other offices and activities as Declarant or such builder shall deem advisable in connection with such business.

**Section 10.** Unless otherwise provided in a Supplementary Declaration, the side wall of each DWELLING constructed along the side line of any Site abutting the side line of another Site shall be a party wall, and the Owner of each such abutting Site shall have an easement to use and maintain such wall as support for the DWELLING constructed or to be constructed on the respective Site. Declarant, and any assignee to whom such easement of support is expressly assigned, reserves the right, whether or not such easement is expressly reserved in any deed of conveyance of any Site, to grant such easement of support to the purchaser of any Site. The cost of maintaining any such party wall shall be borne equally between the abutting Site Owners using such party wall for support and so long as such wall is so used. To the extent not inconsistent herewith, the general rules of law pertaining to party walls and liability for property damage due to negligence or willful act or omission shall apply.

**Section 11.** All easements, rights and other benefits reserved by Declarant shall inure to the benefit of Declarant's successors and assigns.

**Section 12.** No Site upon which a DWELLING has been constructed shall be further subdivided or separated into smaller Sites by any Owner, and no portion less than all of any such Site, nor any easement or other interest therein, shall be conveyed or transferred by an Owner, provided that this restriction shall not prohibit deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments.

**Section 13.** Except to the extent the Association provides exterior maintenance pursuant to a Supplementary Declaration of Covenants, each Owner shall keep and maintain all Sites owned by him and all improvements therein or thereon, in good order and repair and free of debris, and will accomplish the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Site shall fail to maintain the premises on said Site and the improvements situated thereon as required by this restriction the Association, after notice to the Owner or his Tenant or agent, shall be entitled to enter upon said Site and to correct drainage or to repair, maintain and restore the Site and the exterior of the Building and any other improvements erected thereon at the expense of said Owner. Such expense of said correction, repair, maintenance or restoration shall become a Special Assessment Lien against the Site until paid.

**Section 14.** Motor vehicles (including motor homes), boats, trailers, and recreational equipment shall be kept in garages, screened enclosures approved by the Architectural Review Board or in areas designated by the Association for such purposes.

**Section 15.** All motor vehicles shall be maintained in proper operating condition so as not to be a nuisance by noise, exhaust emissions or otherwise. All motor vehicles, including, but not limited to trail bikes, motorcycles, and dune buggies shall be

driven or parked only upon paved street and parking lots. No motor vehicles shall be driven on pathways or unpaved Common Areas.

**Section 16.** No clothes lines or other exterior clothes drying apparatus shall be permitted on any Site, except as approved in writing by the Architectural Review Board.

**Section 17.** Exterior television or other antennae are prohibited except as approved in writing by the Architectural Review Board.

**Section 18.** Storage, collection and disposal of trash and garbage shall be in compliance with rules and regulations promulgated by the Architectural Review Board.

**Section 19.** Trash, leaves and other similar materials shall not be burned within the perimeter of the Properties without the written consent of the Architectural Review Board.

**Section 20.** Only mail boxes and newspaper tubes meeting design standards of the Architectural Review Board shall be permitted, except for mail depositories which are the property of the United States Postal Service.

**Section 21.** No live tree with a diameter in excess of four (4) inches, as measured twelve (12) inches above ground level, and no trees in excess of three (3) inches in diameter, similarly measured, which are generally known as flowering trees (such as dogwood or crape myrtle) or as broadleaf evergreens may be cut down or removed without prior approval of the Architectural Review Board.

**Section 22.** The Architectural Review Board may issue temporary permits to except any prohibitions expressed or implied by these restrictions, provided the Architectural Review Board can show good cause and acts in accordance with adopted guidelines and procedures.

**Section 23.** Gas, electric and other utility services shall be underground to the buildings from the main distribution. No utility line or connection to any utility line at or above ground level shall be permitted.

**Section 24.** There shall not be effected or executed any agreement, lease, covenant, conveyance or other instrument whereby the sale, lease or occupancy of any Site is restricted upon the basis of race, creed, color, religion, sex or national origin.

**Section 25.** Each Owner will comply with all state and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, creed color, religion, sex or national origin in the sale, lease or occupancy of Sites. Each Owner agrees, on behalf of himself, his successors and assigns, not to discriminate on the basis of race, creed, color, religion, sex or national origin in the sale, lease, rental, use or occupancy of any Site or any improvements thereon.

## **ARTICLE IX. EASEMENTS**

Declarant, and any assignee to whom such right is expressly assigned, reserves the right, whether or not such right is expressly reserved in any deed of conveyance of any part of the Common Area and/or Common Area Easements to the Association, to grant easements over, along, under and through the Common Area and/or Common Area Easements to the City of Norfolk or any utility company for drainage or utility purposes.

For a period of eight (8) years from the date of recordation of this Declaration, the Declarant reserves unto itself and its assignees a blanket easement and right on, over and under the ground within all of the property described above to maintain and to correct the drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees bushes or shrubbery, to make any gradings of soil, to install drainage pipe and catch basins, and to take any other similar action reasonable necessary to correct such drainage, following which the Declarant shall restore the affected property to its original condition to the extent practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

## **ARTICLE X. GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association, the Declarant or any Class A Member 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 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 or more of these covenants or restrictions by statute, ordinance or court order shall in no wise affect any other provisions hereof, which shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Association or any Member, their respective legal representative, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless at the expiration of the thirty year term or any ten-year extension period these covenants and restrictions are expressly terminated by a duly recorded instrument executed by not less than seventy-five percent (75%) of the Class A Members. This Declaration may be amended by an instrument executed by the Class B Member, if any, and by not less than seventy-five percent (75%) of the Class A Members. Any amendment must be duly recorded.

**Section 4. Public and Emergency Vehicles.** The Association shall permit access to the paved interior streets and parking areas comprising a part of its Common Area or Common Area Easements by public-service type vehicles, including, without limitation, police and fire department vehicles, garbage trucks, other municipal vehicles or rescue squads, ambulance companies and utility companies, and, anything in Sections 1 (a), 1 (e), 1 (f) and 1 (g) or ARTICLE V hereof to the contrary notwithstanding, the Association shall not promulgate any rules and regulations which will materially interfere with the utilization of the said interior streets and parking areas by such vehicles.

**Section 5. Development of the Properties.** As long as there is a Class B Member, the Association shall not sue its resources or take a public position opposing the Declarant's plans for development of the Properties without the affirmative vote of the Class B Member. Nothing in this section shall be construed as limiting in any way the rights of any members acting as individuals or in affiliation with other members or groups.

**Section 6. FHA / VA Approval.** As long as the Declarant owns any Common Area, the following actions shall require the prior approval of the Federal Housing Administration or the Veterans Administration, as the case may be, if either has an interest in the Properties:

- (a) Annexation of additional properties;
- (b) Merger or consolidation of the Association;
- (c) Mortgaging the Common Area; or
- (d) Amendment of the Declaration.

Should such approval (or a disapproval) not be received within thirty (30) days after the submission by the Association of a written request for approval, such approval shall be deemed granted.

IN WITNESS WHEREOF, Norfolk Redevelopment and Housing Authority has caused this Declaration to be executed and sealed by its Chairman and its assistant Secretary, thereunto duly authorized as of the day and year first mentioned above.

NORFOLK REDEVELOPMENT AND HOUSING  
AUTHORITY

By \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Assistant Secretary

STATE OF VIRGINIA, CITY OF NORFOLK, to-wit:

I, H. W. Martin, Jr., a Notary Public in and for the City aforesaid, in the State of Virginia, whose notarial commission expires on the 11th day of August, 1979, do hereby certify that Julian Rash kind, Chairman, and M. W. Lee, Assistant Secretary, respectively, of Norfolk Redevelopment and Housing Authority, whose names are signed as such to the foregoing writing bearing date of the 25th of May, 1976, have acknowledged the same before me in my City and State.

Given under my hand this 25th day of May, 1976.

By \_\_\_\_\_  
Notary Public

VIRGINIA:

*In the Clerk's Office of the Circuit Court of the City of Norfolk, on the 26th day of May, 1976 at 2:35 p.m. This instrument was received and upon certificate of acknowledgement thereto annexed, admitted to record. The tax imposed by Sec. 58-54. 1 of the Code has been paid, in the amount of \$ \_\_\_\_\_.*

TESTE: HUGH L. STOVALL, Clerk

By \_\_\_\_\_ D.C.