

1691

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
"THE CEDARS TOWNHOMES"

THIS DECLARATION, made on the date hereinafter set forth by Lauderdale Development Corporation, an Alabama Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Florence, County of Lauderdale, State of Alabama, which is more particularly described as:

All lands embraced in the map and plat of The Cedars Townhomes, a subdivision according to the map and plat thereof of record in the Office of the Probate Judge of Lauderdale County, Alabama in Plat Book 5 at Pages 83 and 84.

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to "The Cedars Townhomes Homeowners Association", its successors and assigns.

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

Section 3. "Properties" shall mean and refer to that certain real property

hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Lots A & B & C according to said plat of The Cedars Townhomes.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Lauderdale Development Corporation, an Alabama Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

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

(b) The right of the Association to suspend the voting rights and right to use the Common Area and any recreational facilities by an owner for any period during which any assessment against his or her Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area 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 signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of use. Any Owner may delegate, in accordance with the By-Laws, his or her right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

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.

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 among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

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

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding

in the Class B membership, or

(b) on January 1, 1990.

ARTICLE IV

COVENANT FOR CAPITAL, MAINTENANCE AND OPERATION EXPENSES ASSESSMENTS AND LIENS THEREFOR

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) annual assessments, (2) special assessments for capital improvements and operating expenses, and (3) any assessment created under Article V, such assessments to be established and collected as herein provided. All of said assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. The Association shall have the right to enforce all liens hereunder imposed to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures as in the case of mortgages under applicable law. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in the enforcement, foreclosure or collection thereof, shall also be the personal joint and several obligation of the person or persons who was or were the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them. Declarant shall not be required to pay such annual assessment as to any Lots owned by it so long as Declarant elicits, at its option, to provide the maintenance and improvements called for in Article IV, Section 2. At such time as Declarant is not maintaining and providing such maintenance and improvements, it shall pay such annual assessment on Lots owned by it.

Section 2. Purpose of Annual Assessment. The annual assessment levied by the Association shall be used exclusively for maintenance and improvement of

the Common Area, operating expenses of the Association, and the maintaining, improvement and replacing of lawns and shrubs on all Lots and Common Areas including mowing, raking, seeding and planting, to the extent funds are available by reason of such annual assessments or otherwise.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Twenty Dollars (\$120.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may from time to time fix the annual assessment at an amount not in excess of the maximum and may direct the date or dates of the payment thereof in one lump sum or in installments.

(d) Within 20 days of becoming the Owner of a Lot, such Owner shall pay an initial assessment of \$60.00 (in addition to the annual assessment) to be used for same purposes as the annual assessment.

Section 4. Special Assessments for Capital Improvements and Operating Expenses. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, and any operating expenses of the Association, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who

are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. 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 members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments, set forth in Sections 3 and 4 above, must be fixed at a uniform rate for all Lots and may be collected on a monthly basis or such other basis as determined by the Board.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Areas. 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.

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 eight percent (8%) per annum.

The Association may bring an action at law against the Owner personally obligated

to pay the same, or foreclose the lien against the property, or both. 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 Lien to Mortgages. The lien of any assessment or charge authorized herein with respect to Owner's Lot is hereby made subordinate to the lien of any bona fide mortgage on such Owner's Lot if, but only if, all assessments and charges levied against such Owner's Lot falling due on or prior to the date such mortgage is recorded has been paid. The sale or transfer of any Owner's Lot pursuant to a mortgage foreclosure proceeding or a proceeding in lieu of foreclosure or the sale or transfer of such Owner's Lot pursuant to a sale under power contained in a mortgage on such property shall extinguish the lien for assessments falling due prior to the date of such sale, transfer or foreclosure, but Association shall have a lien on the proceeds of such sale senior to the equity of redemption of the mortgagor. The foregoing subordination shall not relieve an Owner whose Lot has been mortgaged of his personal obligation to pay all assessments and charges falling due during the time when he or she is the owner of such property. The Board of Directors of Association may at any time, either before or after the mortgaging of any Owner's Lot, waive, relinquish or quitclaim in whole or in part the right of the Association to assessments and other charges collectible by the Association with respect to such property coming due during the period while such property is or may be held by a mortgagee or mortgagees pursuant to such sale or transfer.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Alabama shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

EXTERIOR MAINTENANCE

(a) The Association shall, to the extent allowable by monies available from annual assessments, provide for the maintaining, replacing and improvement of lawns and shrubs on all Lots including raking, mowing, seeding and planting. In the event the need for such maintenance, replacement or improvement is caused by or arises out of any willful or negligent act of the Owner, members of his or her family, or his or her guests or invitees, the cost of such shall be added to and become a part of the assessment to which such Lot is subject.

(b) In the event an owner of any lot in the Properties shall fail to maintain, restore and repair the roof, gutters, downspouts, exterior building surfaces and other exterior improvements in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, but not the obligation, through its contractors, agents and employees, to enter upon said parcel and to repair, maintain and restore such roof, gutters, downspouts, exterior building surfaces and other exterior improvements. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VI -

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they

shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his or her 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 5. Right to 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 in title.

ARTICLE VII

ARCHITECTURAL CONTROL AND USE RESTRICTION

No building, fence, wall or other structure or exterior surface or roof of any building or structure shall be commenced, repaired, replaced, 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, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, colors, materials 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. Without limiting the foregoing, such plans and specifications must include a detailed statement of the colors of any paints or materials to be used in exterior surfaces and roofs. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted to it, as evidenced only by its written acknowledgement of receipt thereof, approval will not be required and this Article will be deemed to have been fully complied with. In any event, the Lots shall be used solely for single family residential purposes and not more

than one single family residence may be erected, constructed or permitted to remain upon any Lot. No Business, trade or commercial activity of any kind or character may be conducted upon any Lot. Such plans may be disapproved because of any of the following:

(a) failure of such plans or specifications to comply with any of the Restrictions;

(b) failure to include information in such plans and specifications as may have been reasonably requested;

(c) objection to the exterior design, appearance or materials of any proposed building or repairs or replacement;

(d) incompatibility of any proposed building with existing buildings upon other Lots in the vicinity;

(e) objections to the location of any proposed structure upon any Lot or with reference to other Lots in the vicinity;

(f) objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any proposed structure.

ARTICLE VIII

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.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from

the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Areas may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Easements. The Owner proposes to construct on each of the foregoing lots a town house. In the matter of the construction and completion of each of said town houses, certain eaves, roof overhangs and brick veneer attached to the structural walls will or may encroach over onto the air space of an adjoining or contiguous lot. There is hereby created on each of said lots so affected an easement for said encroachments or overhangs created by said construction. In addition to the easements for each of said encroachments or overhangs there is also granted the right to maintain and repair the same so long as said encroachments and overhangs shall and do exist. In the further event that any structure comprising a town house is totally destroyed and then rebuilt, such encroachments and easements shall be permitted in the matter of the reconstruction and the right of maintenance shall continue to exist. An easement of access is reserved over and across the roofs of all structures where reasonably required for the purpose of maintaining, repairing or constructing or reconstructing adjacent structures. Each Lot is also subject to all easements as shown on the recorded plat of "The Cedars Townhomes", Plat Book 5 at

Pages 83 -84 for utilities, drainage or otherwise.

Section 7. Option of Association to Purchase. In the event the dwelling on any Lot is wholly or partially destroyed by fire, flood, act of God or any other cause or casualty and the Owner thereof does not rebuild or restore the same to like good order and condition as existed prior to such total or partial destruction within six (6) months of such destruction, then the Association shall have the right, privilege and option to purchase such Lot at the fair market value thereof as fixed and determined by the average of three appraisals in writing, one by each of three licensed real estate brokers or appraisers licensed to do business in Lauderdale County, Alabama.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 2nd day of December, 1980.

ATTEST:

LAUDERDALE DEVELOPMENT CORPORATION,
An Alabama Corporation

Wayne Smith
Its Secretary

Hillard Matthews
Its President

STATE OF ALABAMA

LAUDERDALE COUNTY

I, Barbara C. Earwood, a Notary Public in and for said County in said State, hereby certify that Hillard Matthews whose name as President of LAUDERDALE DEVELOPMENT CORPORATION, an Alabama Corporation, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Declaration, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 2nd day of December, 1980.

/s/ Barbara C. Earwood (Seal)
Notary Public

The First National Bank of Florence, mortgagee of the property described herein, hereby consents to the execution of the within instrument by Lauderdale Development Corporation.

This the 23 day of December, 1980.

THE FIRST NATIONAL BANK OF FLORENCE
By /s/ D. Samuel Dennis
Its Vice President

AMENDMENT TO DECLARATION **4990**

OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR

"THE CEDARS TOWNHOMES"

THE DECLARATION, made on December 2, 1980, and recorded in the office of the Judge of Probate of Lauderdale County, Alabama, in Volume 1177, pages 742-753, by Lauderdale Development Corporation, hereinafter referred to as "Declarant," is hereby amended by Declarant on the date hereinafter set forth to state as follows:

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Florence, County of Lauderdale, State of Alabama, which is more particularly described as:

All lands embraced in the map and plat of The Cedars Townhomes, a subdivision according to the map and plat thereof of record in the office of the Probate Judge of Lauderdale County, Alabama, in Plat Book 5, at pages 83-84, including those lands embraced in the map and plat of A Resurvey of Lots 20, 21, 22, 23, 24, 25, 26, 27 of The Cedars Townhomes of record in the office of the Probate Judge of Lauderdale County, Alabama, in Plat Book 5 at Page 88.

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to "The Cedars Townhomes Homeowners Association," its successors and assigns.

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

Section 3. "Properties" shall mean and refer to that

certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Lots A & B & C according to said plat of The Cedars Townhomes.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Lauderdale Development Corporation, an Alabama Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

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

(b) The right of the Association to suspend the voting rights and right to use the Common Area and any recreational facilities by an owner for any period during which any assessment against his or her Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area 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 signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of use. Any Owner may delegate, in accordance with the By-Laws, his or her right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

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..

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 among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

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

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1990.

In the event additional residential property is annexed and new lots become subject to the Declaration of Covenants, Conditions, and Restrictions of the Association, Class B membership shall be increased (or reinstated in the event Class B membership shall have ceased) for each lot annexed, subject to the same voting rights set forth heretofore.

ARTICLE IV

COVENANT FOR CAPITAL, MAINTENANCE AND OPERATION EXPENSES ASSESSMENTS AND LIENS THEREFOR

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) annual assessments, (2) special assessments for capital improvements and operating expenses, and (3) any assessment created under Article V, such assessments to be established and collected as herein provided. All of said assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. The Association shall have the right to enforce all liens hereunder imposed to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures as in the case of mortgages under applicable law. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in the enforcement, foreclosure or collection thereof, shall also be the personal joint and several obligation of the person or persons who was or were the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them. Declarant shall not be required to pay such annual assessment as to any Lots owned by it so long as Declarant elicits, at its option, to provide the maintenance and improvements called for in Article IV, Section 2. At such time as Declarant is not maintaining and providing such maintenance and improvements, it shall pay such annual assessment on Lots owned by it.

Section 2. Purpose of Annual Assessment. The annual assessment levied by the Association shall be used exclusively for maintenance and improvement of the Common Area, operating expenses of the Association, and the maintaining, improvement and replacing of lawns and shrubs on all Lots and Common Areas including mowing, raking, seeding and planting, to the extent funds are available by reason of such annual assessments or otherwise.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be ONE HUNDRED TWENTY DOLLARS (\$120.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may from time to time fix the annual assessment at an amount not in excess of the maximum and may direct the date or dates of the payment thereof in one lump sum or in installments.

(d) Within 20 days of becoming the Owner of a Lot, such Owner shall pay an initial assessment of \$60.00 (in addition to the annual assessment) to be used for same purposes as the annual assessment.

Section 4. Special Assessments for Capital Improvements and Operating Expenses. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, and any operating expenses of the Association, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. 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 members not less than

30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments, set forth in Sections 3 and 4 above, must be fixed at a uniform rate for all Lots and may be collected on a monthly basis or such other basis as determined by the Board.

Section 7. Date of Commencement of Annual Assessments:
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Areas. 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.

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 eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, or both. 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 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 become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Alabama shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

EXTERIOR MAINTENANCE

(a) The Association shall, to the extent allowable by monies available from annual assessments, provide for the maintaining, replacing and improvement of lawns and shrubs on all Lots including raking, mowing, seeding and planting. In the event the need for such maintenance, replacement or improvement is caused by or arises out of any willful or negligent act of the Owner, members of his or her family, or his or her guests or invitees, the cost of such shall be added to and become a part of the assessment to which such Lot is subject.

(b) In the event an owner of any lot in the Properties shall fail to maintain, restore and repair the roof, gutters, downspouts, exterior building surfaces and other exterior improvements in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, but not the obligation, through its contractors, agents and employees, to enter upon said parcel and to repair, maintain and restore such roof gutters, downspouts, exterior building surfaces and other exterior improvements. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

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

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his or her 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 5. Right to 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 in title.

Section 6. In the event of any dispute arising concerning a party wall, or under the provisions of this Article VI, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators.

ARTICLE VII

ARCHITECTURAL CONTROL AND USE RESTRICTION

No building, fence, wall or other structure or exterior surface or roof of any building or structure shall be commenced, repaired, replaced, 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, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, colors, materials 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. Without limiting the foregoing, such plans and specifications must include a detailed statement of the colors of any paints or materials to be used in exterior surfaces and roofs. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted to it, as evidenced only by its written acknowledgment of receipt thereof, approval will not be required and this Article will be deemed to have been fully complied with. In any event, the Lots shall be used solely for single family residential purposes and not more than one single family residence may be erected, constructed or permitted to remain upon any Lot. No business, trade or commercial activity of any kind or character may be conducted upon any Lot. Such plans may be disapproved because of any of the following:

- (a) failure of such plans or specifications to comply with any of the Restrictions;
- (b) failure to include information in such plans and specifications as may have been reasonably requested;
- (c) objection to the exterior design, appearance or materials of any proposed building or repairs or replacement;
- (d) incompatibility of any proposed building with existing buildings upon other Lots in the vicinity;
- (e) objections to the location of any proposed structure upon any Lot or with reference to other Lots in the vicinity;

(f) objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any proposed structure.

ARTICLE VIII

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. Invalidity 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.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional land within the area described in Deed Book 1128 at pages 859-861 and Deed Book 1181 at page 260 in the office of the Judge of Probate of Lauderdale County, Alabama, may be annexed by the Declarant without the consent of members within twenty (20) years of the date of this instrument provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Easements. The Owner proposes to construct on each of the foregoing lots a town house. In the matter of the the construction and completion of each of said town houses, certain eaves, roof overhangs and brick veneer attached to the structural walls will or may encroach over onto the air space of an adjoining or contiguous lot. There is hereby created on each of said lots so affected an easement for said encroachments or overhangs created by said construction. In addition to the easements for each of said encroachments or overhangs, there is also granted the right to maintain and repair the same so long as said encroachments and overhangs shall and do exist. In the further event that any structure comprising a town house is totally destroyed and then rebuilt, such encroachments and easements shall be permitted in the matter of the reconstruction and the right of maintenance shall continue to exist. An easement of access is reserved over and across the roofs of all structures where reasonably required for the purpose of maintaining, repairing or constructing or reconstructing adjacent structures. Each Lot is also subject to all easements as shown on the recorded plat of "The Cedars Townhomes," Plat Book 5 at pages 83-84 and the plat of "A Resurvey of Lots 20, 21, 22, 23, 24, 25, 26, 27 of the Cedars Townhomes," Plat Book 5 at page 88, for utilities, drainage or otherwise.

Section 7. Option of Association to Purchase. In the event the dwelling on any Lot is wholly or partially destroyed by fire, flood, act of God or any other cause or casualty and the Owner thereof does not rebuild or restore the same to like good order and condition as existed prior to such total or partial destruction within six (6) months of such destruction, then the Association shall have the right, privilege and option to purchase such Lot at the fair market value thereof as fixed and determined by the average of three appraisals in writing, one by each of three licensed real estate brokers or appraisers licensed to do business in Lauderdale County, Alabama.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 21 day of

April, 1981.

ATTEST:

Wayne F. Fitch
Its Secretary

LAUDERDALE DEVELOPMENT CORPORATION,
An Alabama Corporation

By William L. Matthews
Its President

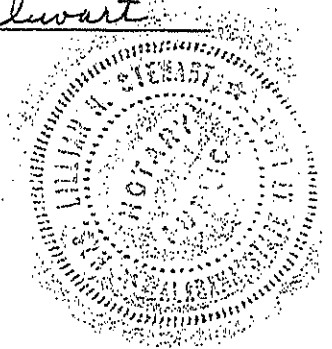
STATE OF ALABAMA)

LAUDERDALE COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Willard Matthews whose name as President of Lauderdale Development Corporation, an Alabama Corporation, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Declaration, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 21 day of April, 1981.

Mrs. Lillian M. Stewart
Notary Public



Filed, April 21, 1981 at 1:11 P.M.

Recorded, Book 1185, Pages 1030-1041

STATE OF ALABAMA,
LAUDERDALE COUNTY, PROBATE COURT
I hereby certify that the foregoing instrument was
filed to record in this office on April 21, 1981
at 1:11 P.M. o'clock and duly recorded in Vol. 1185 Page 1030
Deed Tax \$ 18.00 Adm. Tax \$ 1.00 Fee \$ 1.00

William B. Stewart Judge of Probate

2274

ANNEXATION OF ADDITIONAL LAND TO BE SUBJECT
TO "DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR THE CEDARS TOWNHOMES
LOTS 56, 57, 58, 59, 60, 61, 62 AND 63"

WHEREAS, Lauderdale Homes, Inc., an Alabama corporation, did heretofore on January 17, 1986, cause the "Declaration of Covenants, Conditions and Restrictions For The Cedars Townhomes Lots 56, 57, 58, 59, 60, 61, 62 and 63" (hereinafter "Declaration") to be filed in the office of the Judge of Probate of Lauderdale County, Alabama, on Fiche 86-0012, Frames F-007 through G-005; and

WHEREAS, said Declaration provides for the annexation of additional land within the scheme of development to be subject to all of the covenants, conditions, and restrictions of said Declaration; and

WHEREAS, Lauderdale Homes, Inc., an Alabama corporation, has obtained by deeds which are recorded in the office of the Judge of Probate of Lauderdale County, Alabama, in Fiche 86-0185, Frames E-009 through E-010 and Frames E-011 through E-012 title to that certain land which is more particularly described hereinafter and which is encumbered by a real estate mortgage in favor of The First National Bank of Florence as recorded in the office of the Judge of Probate of Lauderdale County, Alabama in Fiche 86-0185, Frames D-014 through E-002; and

WHEREAS, it is the desire of all parties which have executed this document that the certain land which is more particularly described hereinafter be subject to the covenants, conditions, and restrictions of the said Declaration, and all requirements pertaining thereto have been met.

NOW, THEREFORE, in consideration of the premises and other valuable consideration, the receipt whereof is hereby acknowledged, the undersigned do hereby agree and declare the land located in the City of Florence, Lauderdale County, Alabama, which is more particularly described as follows:

7.50mc

All lands embraced in the map and plat of THE CEDARS TOWNHOMES LOTS 64 THRU 88 as recorded in the Office of the Judge of Probate of Lauderdale County, Alabama, in Plat Book 5 at Pages 160-161.

shall be held, sold, or conveyed subject to the covenants, conditions, and restrictions of the "Declaration of Covenants, Conditions, and Restrictions For The Cedars Townhomes Lots 56, 57, 58, 59, 60, 61, 62 and 63" as the same is recorded in the office of the Judge of Probate of Lauderdale County, Alabama, in Fiche 86-0012, Frames F-007 through G-005, and said Declaration is adopted by reference, and the same shall apply to the aforescribed land as if said Declaration was set out herein in full, and said covenants, conditions, and restrictions, including certain rights set forth therein, for the purpose of protecting the value and desirability of the aforescribed land, shall run with said land and shall be binding on all parties having any right, title or interest to said land, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

IN WITNESS WHEREOF, Lauderdale Homes, Inc. an Alabama corporation, and The First National Bank of Florence, Florence, Alabama, a national banking association, have caused this instrument to be executed on this the 25 day of November, 1986.

ATTEST:

Charles W. Matthews
Its Secy/Treas.

LAUDERDALE HOMES, INC., an Alabama corporation

By Hillard Matthews
Its President

ATTEST:

Glyn H. Hollis
Its Trust Officer

THE FIRST NATIONAL BANK OF FLORENCE, FLORENCE, ALABAMA, a national banking association

By Rich B. Alsaar
Its Vice President

STATE OF ALABAMA
LAUDERDALE COUNTY

I, the undersigned authority, a Notary Public in and for the said county in said state, hereby certify that Hillard Matthews, whose name as President of Lauderdale Homes, Inc., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this 25th day of November, 1986.

Glenn Allen
Notary Public
MY COMMISSION EXPIRES 7-24-88

STATE OF ALABAMA
LAUDERDALE COUNTY

I, the undersigned authority, a Notary Public in and for the said county in said state, hereby certify that Billy B Weaver, whose name as Vice President of The First National Bank of Florence, Florence, Alabama, a national banking association, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this 25th day of November, 1986.

Glenn Allen
Notary Public
MY COMMISSION EXPIRES 7-24-88

This instrument prepared by
Brant Young, Attorney
Florence, Alabama

STATE OF ALABAMA,
LAUDERDALE COUNTY, PROBATE COURT

I hereby certify that the foregoing instrument was
filed to record in this office on Nov 25, 1986
at 4:15 pm o'clock and duly recorded in File #
86-0251 From F004-F006 Book 750
Mfg. Tax 7.50

William B. Johnson
Judge of Probate