

INDEX TO DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS

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NORTH CAROLINA
COUNTY OF CUMBERLAND

GATES FOUR TOWNHOUSE
ASSOCIATION INC.
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AS AMENDED IN 1981 AND 1989

THIS DECLARATION, made the 29th day of December, 1976, by L. G. C.; Inc., a North Carolina Corporation, hereinafter referred to as "Declarant;"

WITNESSETH:

WHEREAS, Declarant is owner of certain property near the City of Fayetteville, in Rockfish Township, Cumberland County, North Carolina which is more particularly described as :

SEE EXHIBIT A

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold or conveyed 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 real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof..

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Gates Four Townhouse Association Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is 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 hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners to include, at the discretion of the Board of Directors, areas privately owned in need of improvement, that effects the overall appearance and structures of the project, that is compulsorily tied to every person's ownership of property in the project. The common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

All of that area shown as "Common Area" on that certain map of Section One, gates Four Townhouses, which is recorded in Map Book 44, page 25, in the office of the Register of Deeds of Cumberland County, North Carolina.

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 L. G. C. Inc., 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 L. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in the Common Area which shall 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 recreational facilities by any owner for any period during which any assessment against his lot remain unpaid; and for a period not to exceed 60 days for any infraction of its published in the 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, 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;

(d) the right of individual Owners to the exclusive use of parking spaces as provided in this article.

(e) the right of the Association to limit the number of guest of members;

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

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

Section 3. Parking Rights. Ownership of each Lot shall include two parking spaces together with the right of ingress and egress in and upon said parking area.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessments 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 Owners with exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they 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 Class A membership equals the total votes outstanding in the Class B membership, or

(b) on January 1, 1981.

ARTICLE IV
COVENANTS FOR MAINTENANCE ASSESSMENTS.

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

(1) annual assessments or charges, and

(2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. (see Second Amendment dated (20 May 1998)

The annual and special assessments, together with interest, cost, and reasonable attorney's fees, shall be charged on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvements and maintenance of the Common Area.

Section 3. Maximum Annual Assessment .Until January of the year immediately following the conveyance of the first Lot to an Owner, the annual maximum assessment shall be Two Hundred Forty Dollars (\$240.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner the annual maximum assessment may be increased each year not more than 10% above the assessment for the previous year without a vote of the membership. (See Amendment dated (9/9/1981)

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual maximum assessment may be increases above 10% 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 fix the annual assessment at an amount not to excess of the maximum.

Section 4. Special Assessment for Capital Improvements. (As amended 20 May, 1998) 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 capital improvement upon the Common Area, including fixtures and personal property related thereto, or upon the exterior building surfaces, roofs or appurtenant buildings of the buildings subject to the Declaration 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. Taxes. As an additional annual assessment, the Association shall levy against the Owners equally an amount sufficient to pay the annual cost of liability insurance premiums for such insurance of the Common Area and the amount of ad- volorem-property taxes-and/ or special-assessments-levied-by any

lawful governmental authority on the Common Area. It shall be the duty of the Association to pay all such premiums and taxes promptly when they shall come due.

Section 6. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking action authorized under Section 3 and 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 proxies entitled to cast sixty per cent (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 quorums and the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting.,

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates: The written assessments provided for herein shall commence as to all Lots on the First day of the month following conveyance of the Common Area. 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 such Lot at least thirty (30) days in advance each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessment paid in pro-rata monthly installments. 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 has been paid.

Section 9. 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 of one and one half percent (1 1/2 %) per month on the outstanding balance. The Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape the liability for the assessments provided for herein by non use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the lien to Mortgage. The lien of 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 lien thereof: shall extinguish the lien of such assessments as to payments which became 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.

ARTICLE V ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it. Approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI
PARTY WALLS

Section 1. General Rules of law to Apply. Each wall which is built as part of original construction of the homes upon the Properties and placed on the dividing lines 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 of liability for property damage to negligence or willful acts or omissions 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 to make use of the wall in to proportion to such use.

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

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his own negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements.

Section 5. Right to contribution Runs with Land. The right of any Owner to contribution from any owner under this Article shall appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VII
EXTERIOR MAINTENANCE
(AS AMMENDED 20 May, 1998)

Section 1. Exterior Maintenance. The Association shall be responsible for the painting, repair and replacement, when necessary, of each individual Owner's townhouse building exterior surfaces, specifically including and limited to, the roof, exterior building surfaces, fences, and such exterior surfaces of appurtenant structures, provided that such responsibility shall be subject to the following conditions and limitations:

(a). Such maintenance obligations shall be limited to repairs or replacement because of wear and tear from ordinary use.

(b). Such maintenance obligation shall be conditioned on and subject to the Association's financial status at the time maintenance is required and its ability in the exercise of its best efforts in good faith to provide through annual and special assessments funds to pay for necessary maintenance.

Section 2. Individual Owners Responsibility. Individual Owners shall be responsible for the painting, repair and replacement, when necessary, of the roof, exterior building surfaces, fences, and such exterior building surfaces of appurtenant structures, from damage or loss caused by:

(a). Intentional negligent, or accidental acts of the individual Owners or their guest or invitees.

(b). Theft or vandalism.

(c). Casualty from fire, wind, lighting, ice, Acts of God, and all other risks and perils generally covered fire and extended coverage real property hazard insurance. Each individual owner shall keep their buildings roof, exterior building surfaces, fences and such exterior building on appurtenant structures insured against loss, against the risk and perils set out in the preceding sentence, in the amount deemed sufficient by the Association, which shall in the absence of further Association action be ninety percent (90%) of the replacement value thereof Such insurance shall be written by a company recognized financial standing which is authorized to do business in the State of North Carolina and shall show the individual owner as an insured and name the Association as an additional insured, as the respective parties' interest may appear. All such insurance proceeds shall be applied to the extent necessary for the repair and restoration of the individuals roof, exterior building surfaces, fences, or such exterior building surfaces of appurtenant structures, unless the Association shall otherwise consent in writing.

Section 3. The Association Shall Not be Responsible for. Notwithstanding anything contained to the contrary, the association shall not be responsible for, and the individual owner shall be responsible for maintenance, repair and replacement of gutters and downspouts on buildings subject to the declaration.

Section 4. In the Event an Owner Neglects or Otherwise refuses to Perform maintenance Obligations. In the event that an owner neglects or otherwise refuses to perform maintenance obligations under the paragraphs (b) or (c) above, then, and in that event, the Association may, but shall not be obligated to, effect such maintenance, repairs, or replacement, and the cost of such maintenance, repairs or replacements shall be added to and become a part of the assessment to which such lot is subject.

Section 5. Special Assessment. A Special Assessment of \$200.00 per year per Lot is hereby assessed for a period of five (5) years, a total of \$1,000.00 per Lot, to insure that funds are available to repair or replace original existing roofs. The annual assessment for 1998 shall be due August 1, 1998. Annual special assessment hereunder for the following calendar years shall be due one-half (1/2) on January 1 of such year and one-half (1/2) on May, I of such year. The funds from this special assessment shall be placed in a special bank account separate from other funds of the Association and may be used only for:

- (a). Roof repairs
- (b). Roof replacements; and / or
- (c). Legal expenses related to this Amendment or to roof repair or replacement legal issues or representation

ARTICLE VII USE RESTRICTIONS

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one single family townhouse dwelling, not to exceed three and one-half stories in height. Any building erected, altered, placed or permitted to remain on any Lot shall be subject to the provisions of Article V of this Declaration of Covenants, Conditions and Restrictions relating to architectural control.

Section 2. Nuisance. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Temporary structures: No structure of temporary character, trailer, basement-tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently.

Section 4. Recreational Vehicles. No boat, motor boat, camper, trailer, motor or mobile home, or similar type vehicle, shall be permitted to remain on any Lot at any time, unless consent of the Association in which such vehicles shall be placed in an area or area designated by the association.

Section 5. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes.

Section 6. Outside Antennas. No outside radio or television antennas shall be erected on any Lot or dwelling unit within the Properties unless and until permission for same be granted by the Board of Directors of the Association or its architectural control committee.

Section 7. Exterior Lights and Draperies. In order to preserve a harmonious presentation of the exterior of the units, only clear white non-frosted or smoked exterior lights may be utilized and all draperies covering windows which are visible from the exterior of the units shall be lined with white or some other neutral color.

ARTICLE IX EASEMENTS

Section 1. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage, or which may obstruct or retard the flow of water.

Section 2. The Association acting through its officers, agents, servants, and/or employees shall have the right of unobstructed access at all reasonable times to all properties as may be reasonably necessary to perform exterior maintenance called for in Article VII of this declaration.

Section 3. Easements are also reserved over those portions of the Common Area that may be necessary or required to accommodate overhanging eaves or other cantilevered construction which may encroach upon the Common Area on the air and light space above the Common Area.

ARTICLE X ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property shall require the assent of two-thirds (2/3) of the Class A members and two-thirds (2/3) of the Class B members, if any, at a meeting dully called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. The presence of members or of their proxy entitled to cast 60 percent (60%)of the votes of each class of membership 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 above and the required quorum at subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-third (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. If within eight years of the date of incorporation of this association the Declarant shall to decide to develop the following described lands such additional lands may be annexed to said properties without the assent- of-the Glass A members: See Exhibit B

Provided however, the development of any additional lands described in this section shall be in accordance with a general plan submitted to the federal housing Administration and the Veterans Administration with the processing papers for the first section. Detailed plans for the development of additional lands must be submitted to the federal Housing Administration or the Veterans Administration prior to such development. If either the federal Housing Administration or the Veterans Administration determines that the detailed plans are not in accordance with the general plan on file and that either agency so advises that the Association and the Declarant, the development of the additional lands must have the assent of two-thirds (2/3) of the Class A members who are voting in person or by proxy at a meeting called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. At this meeting, the presence of members or proxies entitled to cast sixty percent (60%) of all votes of the Class A membership 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 above, and the required quorum at any such 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.

ARTICLE XI
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or 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 anyone of these covenants or restrictions by judgment or court order shall in no wise 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, and shall insure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) years by an instrument signed by not less than ninety per cent (90%) of the lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners, provided that no amendment shall alter any obligation to pay valorem taxes or affect any lien for payment thereof established herein. Any amendment must be properly recorded.

Section 4 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. .

IN WHITNESS WHEREOF, I. G. C. INC. , the Declarant herein, has caused this Declaration to be signed in its corporate name by its President and attested by its Secretary and sealed with its corporate seal, all on the day and year first above written.