

BOOK 1362 PAGE 979

PREPARED BY AND SENT TO:
MILAN WOODS, ELLIS & ADAMS
POST OFFICE BOX 19764
RALEIGH, NORTH CAROLINA 27619

NORTH CAROLINA
DURHAM COUNTY

DECLARATION OF PROTECTIVE COVENANTS,
FOR MILAN WOODS, SECTION ONE,
RECORDED IN PLAT BOOK
114, PAGE 10, DURHAM
COUNTY REGISTRY

THIS DECLARATION, made on the date hereinafter set
forth by HOYING HUFF, INC., a North Carolina corporation,
hereinafter referred to as the "Declarant;"

WITNESSETH: THAT WHEREAS, the Declarant is the
Owner of certain property lying within the City of Durham,
Durham County, North Carolina, which is more particularly
described as follows:

Being all of lots 53 through 65 inclusive, and all
of that area designated as Common Area "A" and
Common Area "B" as shown on a map recorded in Plat
Book 114, Page 10, Durham County Registry.

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

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, all of which are for the purpose
of enhancing and protecting the value, desirability, and
attractiveness of the real property. These easements,
covenants, restrictions, and conditions shall run with the
real property and shall be binding on all parties having or
acquiring any right, title or interest in the described

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Declaration
BK 1603
Pg 595

Declaration
BK 1522
Pg 328
5-4-89

Declaration
BK 1690
Pg 657
11-14-91

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Declarative Declaration
BK 1492 BK 1492
Pg 504-506 Pg 507
11-23-88 509
11-23-88

Properties or any part thereof, and shall inure to the
benefit of each Owner thereof.

Declaration
BK 1477
Pg 746-747
9-12-88

INDEX

<u>Page No.</u>		
	ARTICLE I - DEFINITIONS	7
	Section 1 - Association	
	Section 2 - Properties	
	Section 3 - Common Area	
	Section 4 - Lot	
	Section 5 - Member	
	Section 6 - Owner	
	Section 7 - Declarant	
	Section 8 - Person	
	Section 9 - Building	
	Section 10 - Board of Directors	
	Section 11 - Common expenses	
	Section 12 - Amenities	
	Section 13 - Declaration	
	ARTICLE II - ANNEXATION OF ADDITIONAL PROPERTIES.	9
	Section 1 - Annexation By Members	
	Section 2 - Annexation by Declarant	
	Section 3 - Method of Annexation	
	Section 4 - Conveyance of Common Area Upon Annexation	
	ARTICLE III - MEMBERSHIP.	10
	ARTICLE IV - VOTING RIGHTS.	11
	Section 1 - Voting Classes	
	Section 2 - Suspension of Voting Rights	
	ARTICLE V - PROPERTY RIGHTS	12
	Section 1 - Members' Easements of Enjoyment	

Section 2 - Delegation of Use	
Section 3 - Title to the Common Area	
ARTICLE VI - COVENANT FOR ASSESSMENTS	14
Section 1 - Creation of the Lien and Personal Obligation of Assessments	
Section 2 - Purposes of Assessments	
Section 3 - Amount of Assessment	
Section 4 - Special Assessments for Capital Improvements	
Section 5 - Uniform Rate of Assessment	
Section 6 - Quorum for any Action Authorized Under Sections 3 and 4	
Section 7 - Date of commencement of Annual Assessments: Due Dates	
Section 8 - Assessments by Declarant	
Section 9 - Effect of Non-Payment of Assessments	
Section 10 - Subordination of Liens to Mortgagee	
Section 11 - Three Months Assessment to be Collected at Closing	
Section 12 - Management of Funds	
ARTICLE VII - MAINTENANCE OF PROPERTIES	22
Section 1 - Maintenance of Common Areas	
Section 2 - Maintenance of Lots	
ARTICLE VIII - ARCHITECTURAL CONTROL & INSPECTION	23
ARTICLE IX - RULES AND REGULATIONS.	25
Section 1 - Common Area	
Section 2 - Rules and Regulations for Parking Vehicles	
ARTICLE X - PROTECTIVE COVENANTS	26
Section 1 - Lot Size	
Section 2 - Land Use	

Section 3 - Dwelling	
Section 4 - Building Location	
Section 5 - Easements	
Section 6 - Temporary Structures	
Section 7 - Animals	
Section 8 - Garbage Cans and Clotheslines	
Section 9 - Mail Box Posts	
Section 10 - Signs	
Section 11 - Prohibition of Television Antennae, Satellite Discs and Clotheslines	
ARTICLE XI - RIGHTS OF FIRST MORTGAGEES AND INSURERS OF FIRST MORTGAGES.	29
ARTICLE XII - PAYMENT OF TAXES AND ASSESSMENTS ON COMMON AREA	30
ARTICLE XIII - GENERAL PROVISIONS.	30
Section 1 - Enforcement	
Section 2 - Insurance	
Section 3 - Severability	
Section 4 -FHA/VA Approval	
Section 5 - Duration	
Section 6 - Amendment	
Section 7 - Certification of Amendment	
Section 8 - Restrictions Against Association Entering Into Long Term Contracts While Declarant in Control	
Section 9 - Exchange of Common Area	
Section 10 - Dedication of Common Area Upon Conveyance by Association or Dissolution of Association	
ARTICLE XIV - EASEMENTS	37
Section 1 - Walks, Drives, Parking Areas and Utilities	

Section 2 - Easements Appurtenant to Lots	
Section 3 - Emergencies	
Section 4 - Easement for Governmental Agencies	

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to MILAN WOODS HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property referred to as Milan Woods, hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Milan Woods Association.

Section 3. "Common Area" shall mean all real property and Amenities located thereon owned by the Association for the common use and enjoyment of members of the Association. Common Area shall also include any water lines and sewer lines that may be located within the Common Area and not within publicly dedicated sanitary sewer easements.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded map of a portion of the Properties with the exception of the Common Area and area designated as Open Space.

Section 5. "Member" shall mean and refer to every Person or entity who holds 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 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 7. "Declarant" shall mean and refer to HOYING HUFF, INC., and its successors and assigns to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

Section 8. "Person" shall mean and refer to any individual, corporation, partnership, Association, trustee, or other legal entity.

Section 9. "Building" shall mean and refer to a residential structure, constructed or erected on the Property.

Section 10. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Milan Woods Association, unless a contrary intent is evident.

Section 11. "Common Expenses" shall mean and include:

(a) All sums lawfully assessed by the Milan Woods Association against its members;

(b) Expenses of administration, maintenance, repair, or replacement of the Common Areas;

(c) Expenses declared to be Common Expenses by the provisions of this Declaration or the Bylaws:

(d) Expenses agreed by the members to be Common Expenses of the Association; and

Section 12. "Amenities" shall mean the facilities constructed, erected or installed on the Common Areas.

Section 13. "Declaration" shall mean and refer to this Declaration of Protective Covenants and all subsequent valid amendments thereto.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Except as provided in Section 2 of this Article, annexation of additional Property shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any.

Section 2. Annexation by Declarant. If within 5 years of the date of incorporation of this Association, the Declarant should develop additional lands within the boundaries of the lands described in Exhibit "A" attached hereto and incorporated herein by reference such additional lands may be annexed to said Properties without the assent of the Class A members.

Section 3. Method of Annexation. Annexation of additional Properties shall be accomplished by recording in the Durham County Registry a Declaration of Annexation, duly executed by the Declarant if the Declarant has the right to annex pursuant to Section 2 above (and by the Association if pursuant to Section 1 above), describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this

Declaration. The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent on the part of the Milan Woods Association or any other Person or entity shall be necessary to accomplish the annexation except the City of Durham if required by its ordinances.

Section 4. Conveyance of Common Area Upon Annexation. Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any Common Area within the lands annexed as such Common Area is developed, as set forth in Article V, Section 3 of this Declaration.

ARTICLE III

MEMBERSHIP

Every Person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to the Milan Woods Declaration, including contract sellers, 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 Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot.

ARTICLE IV

VOTING RIGHTS

Section 1. Voting Classes. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one Person holds such 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 and no fractional vote may be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which he holds the interest required for membership by Article III, provided, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) when the total votes outstanding in Class A, membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, such additional lands are annexed to the Properties without the assent of Class A members on

account of the development of such additional lands by the Declarant, all as provided for in Article II, Section 2 above, or

(b) on December 31, 1992.

Section 2. Suspension of Voting Rights. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

ARTICLE V

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment.

Every Member shall have a right and easement of enjoyment in and to the Common Area, including the rights of ingress and egress, and such easement shall be appurtenant to and shall pass with the right to every Lot, subject to each of the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage the Common Area, or any portion thereof, provided the rights of such mortgage in said Properties shall be subordinate to the rights of the owners hereunder.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area for such purposes and subject to such conditions as may be agreed to by the members of the Board of Directors.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area for utility, drainage, pedestrian walkway and cablevision easements.

(d) The right of the Association, acting through its Board, to exchange Common Area, as set forth in Section 8, Article XIII of this Declaration.

(e) The right of the Association, to formulate publish and enforce rules and regulations as provided in Article IX.

(f) Actions contemplated under subparagraphs (a), (b), and (d) above shall not be taken until the following two steps are met:

(1) Board members entitled to cast three-fourths ($3/4$) of all the votes of the Board of Directors have voted for such action at a meeting duly called for said purpose, notice of which was sent to every board Member not less than fifteen (15) nor more than thirty (30) days in advance of the meeting.

(2) Owners of Lots owning two-thirds ($2/3$) of the Lots other than those owned by Declarant have approved the action in writing.

The instrument effecting such dedication, transfer, conveyance or mortgage shall be sufficient if executed by appropriate officers of the Association and contains a recital of the above provisions, and that they have been complied with.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area to the Members of his family, his tenants, or contract purchasers who reside on the Property and to his guests and invitees.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself its heirs and assigns, that, prior to the conveyance of the first Lot, it will convey fee simple title to the Common Area designated as Common Area "A" and Common Area "B" shown on the aforementioned map recorded in Plat Book 114, Page 10, Durham County Registry, to the Association, free and clear of all encumbrances and liens, except utility and drainage easements and easements to governmental authorities. Similarly, the Declarant will convey to the Association Common Areas which are parts of Milan Woods as those portions are annexed in the future until all Common areas, as shown on plans approved by the City of Durham, have been conveyed to the Association.

ARTICLE VI

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and every other Owner of any Lot by acceptance of a deed therefor, 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:

(a) Annual assessments or charges which are Common Expenses; and

(b) Special assessments for capital improvements.

Notwithstanding of any provision therein to the contrary the assessment for each Lot owned by Declarant shall be twenty-five percent (25%) of the assessment which is applicable for a Lot titled in a name other than Declarant.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot and improvements against which each such assessment is made. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due. The personal obligation of an Owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. All assessments shall be shared equally by the owners of each Lot, except as otherwise provided in this section.

Section 2. Purposes of Assessments. The annual assessment shall be used exclusively for promoting the recreation, health, safety, and welfare of the residents of Milan Woods; enforcing these covenants and the rules of the

Association; improving and maintaining the Common Area lying within Milan Woods, and paying all Common Expenses.

Section 3. Amount of Annual Assessment.

(a) Initial Assessment. To and including December 31, 1987, the initial annual assessment shall not be in excess of \$150.00 per Lot, the exact amount of which shall be determined from time to time as provided in Subsection (d) of this Section 3.

(b) Increase by Association. From and after December 31, 1987, the subdivision portion of the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, to an amount which may not exceed the original assessment (or revised assessment determined pursuant to subparagraph (c) below) plus ten (10%) percent of said assessment per year since 1987 or the year the revised assessment was established, whichever is later.

(c) Increase by members. From and after December 31, 1987, the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative 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 such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. The limitations

herein set forth shall not apply to an increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) Criteria for Establishing Annual Assessment.

The Association is required to set the annual assessment high enough to enable the Association to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas. The fund shall be maintained out of annual assessments for Common Expenses as provided for in this article. In establishing the annual assessment for any assessment year, the Board of Directors shall set the annual assessment high enough to cover all current costs and expenses of the Association, any accrued debts, and reserves for future needs.

(e) Decrease of Annual Assessment. The Board of Directors may decrease the annual assessment from time to time if in its opinion such decrease is prudent.

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 applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and

personal property related thereto; 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, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. The amount of the proposed assessment need not be stated.

Section 5. Uniform Rate of Assessment. The annual assessment and special assessments must be fixed at a uniform rate for all Lots, on a per Lot basis, and may be collected on a monthly basis.

Section 6. Quorum for Any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Section 3 and 4 of this Article, the presence at the meeting 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 forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth in sections 3 and 4 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

Section 7. Date of Commencement of Annual Assessments. The annual assessments provided for herein

shall commence as to each Lot on the first day of the month following the later of these two events occurs:

(a) the Lot becomes subject to this Declaration;

or

(b) the appropriate official of the appropriate local government issues a certificate of occupancy or its equivalent stating that the Building constructed on the Lot is substantially complete and available for occupancy.

The first assessment shall be adjusted according to the number of months then remaining in that fiscal 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, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Assessments by Declarant.

(a) After the commencement of assessment payments as to any Lot, Declarant covenants and agrees to pay the full amount of the annual assessment for each such Lot it owns on which there is located an occupied Building;

notwithstanding anything contained herein to the contrary, the Declarant shall be required to pay only twenty-five (25%) percent of the annual assessment for other Lots upon which assessments are due.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called in-kind contribution). The amount by which monetary assessments shall be decreased as a result of any in-kind contributions shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of the contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

Section 9. Effect of Nonpayment of Assessments:
Remedies of the Association. Any assessments which are not

paid when due shall be delinquent. If the assessments are not paid within thirty (30) days after the due date, assessments shall bear interest from the date of delinquency at the lesser of the highest lawful rate or eight (8%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. A sale or any transfer of any Lot shall not affect the assessment liens; provided, however, that the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from the liability for any assessment thereafter becoming due or from the lien thereof.

Section 11. Three Months Assessments to be Collected at Closing. At the closing of each sale of a Lot, a sum shall be collected from the purchaser equal to the total assessment for such Lot for the succeeding three months and such sum shall be contributed to the accounts of

the Association to ensure that the Association will have sufficient funds to meet unforeseen expenditures. This contribution shall not be considered an advance against assessments to become due or a refundable deposit.

Section 12. Management of Funds. All funds collected through assessments shall be managed by the Association subject to the provisions of this Declaration. Disbursement of funds collected from Lot Owners shall be as directed by the Board of Directors.

ARTICLE VII

MAINTENANCE OF PROPERTIES

Section 1. Maintenance of Common Areas

Maintenance of Common Areas located within Milan Woods shall be supervised by the Association. Funds for such maintenance shall be supplied from the annual assessment.

Section 2. Maintenance of Lots. If in the opinion of the Board, an Owner fails to maintain his property in a neat and orderly condition or otherwise neglects his property and allows unsightly conditions to develop, the Board, after 30 days written notice to the Owner, may, but is not obligated to, take steps to remedy the problem. Such remedy may include, but shall not be limited to; the removal of debris or junked cars, the mowing of grass or cutting of brush and the painting or repair of structures located on the property. The Board may bill such Owner for all expenses incurred in correcting the problem.

Every Owner by acceptance of a deed covenants to pay said bill. Failure to pay said bill shall allow the Board to file a lien against said property and enforce said lien by action at law.

ARTICLE VIII

ARCHITECTURAL CONTROL & INSPECTION

Except for initial improvements by Declarant, no construction, erection, or installation of any improvements, including, but not limited to, residences, outbuildings, fences, walls, screens (whether by plants or structures) and other structures, shall be undertaken upon the Properties unless the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the proposed improvements shall have been submitted to the Declarant or its agent and expressly approved in writing. No subsequent alteration or modification of any existing improvements nor construction, erection, or installation of additional improvements may be undertaken on any of the Properties without prior review and express written approval of the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board of the Association.

In general, no exterior alterations or additions to buildings or garages shall be considered for approval unless such alterations or additions are in harmony with existing structures, as to style, shape, color and size. However, this section shall not be construed to mean that

the Architectural committee or Board shall have to approve a proposed alteration or addition that meets the above criteria.

In general, the construction or painting of fences, walls, screens, and other structures will not be permitted if in the opinion of the Declarant, Board, or Architectural Committee, as applicable, such construction or planting constitutes an unreasonable obstruction of the view of another Owner.

In the event that the Declarant or the Association, as the case may be, fails to approve or disapprove the site of design of any proposed improvements within thirty (30) days after plans and specifications therefore have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully met; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Declarant or the Association if they contain erroneous data or fail to present adequate information upon which the Declarant or the Association, as the case may be, can arrive at a decision.

The Declarant and/or the Association (as applicable) shall have the right, at its election, but shall not be required, to enter upon any of the Properties during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity

with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE IX

RULES AND REGULATIONS

Section 1. Common Area The Board of Directors of the Association shall have the power to formulate, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolution which shall be maintained in a place convenient to the owners and available to them for inspection during normal business hours.

Section 2. Rules and Regulations for Parking of Vehicles. The Board of Directors of the Association shall have the power to formulate, publish, amend and enforce reasonable rules and regulations concerning the parking of any type of vehicle on the Properties, including Common Area. Said rules may provide, without limitation, the following:

(a) A definition of a "recreational vehicle" and regulations covering the parking of recreational vehicles on public streets.

(b) That campers, planes, boats, trailers, trucks, and commercial vehicles of any kind that the Board designates cannot be parked on a public or private street,

in any Common Area or on any Lot, except in areas designated for that purposes, if any.

(c) Limitations on the period of time and extent to which a motor vehicle may be repaired on the premises, and that all motor vehicles parked on public streets or in Common Areas are to have valid license plates.

ARTICLE X

PROTECTIVE COVENANTS

Section 1. Lot Size. A Lot shall have a width at the minimum Building set back line and an area that meets the minimum requirements of the Durham City Code. Adjustments may be made in the line between two Lots so long as the area of any Lot is not reduced by more than ten percent (10%) and so long as all other restrictions herein set forth are observed. Upon any recombination of Lots the setbacks and side line clearances from new Lot lines shall be applicable and sets backs from former Lot lines shall no longer be required. No recombination of Lots shall increase the number of Lots above the number existing before recombination, except as hereinafter set forth and as approved by City of Durham if required by its ordinances.

Section 2. Land Use. No Lot shall be used except for residential purposes; provided, however, that nothing herein shall prevent the conversion of portions of Lots to public or private streets as approved by the City of Durham, if required by its ordinances. No Building shall be erected, altered, placed or permitted to remain on any Lot other than

one detached single-family dwelling not to exceed three stories in height, not more than two private garages, and outbuildings incidental to residential use. Provided however, that Declarant reserves the right to use any dwelling located on a Lot as an office and/or model which may be shown to prospective purchasers of units.

Section 3. Dwelling. No dwelling shall be permitted on any Lot unless the same has at least 1,000 square feet of heated living area, exclusive of decks, porches, breeze-ways, steps, and garages.

Section 4. Building Location. All lots shall have a minimum Building set back line that meets the minimum requirements of the Durham City Code. For the purpose of this covenant, eaves, steps and open porches without roofs shall not be construed as a part of the Building provided, however, that this shall not be construed to permit any portion of a Building on a Lot to encroach upon another Lot.

Section 5. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved over the rear ten feet of each Lot. In the event that the Owner of any Lot shall acquire land adjacent to and in the rear of such Lot, such Lot Owner may relocate the easement herein established over the rear line to conform to the increase in the size of his Lot, subject to the approval of the City of Durham if required by its ordinance and provided that alteration in drainage does not thereby

adversely the affect the drainage of any other Lot or interfere with the rights of the Owners of other property within this subdivision to services rendered by the easement herein created. Such relocated easement shall be the same width as the original easement.

Section 6. Temporary Structure. No structure of a 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 7. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 8. Garbage Cans and Clotheslines. Garbage cans and clotheslines, if approved by the Architectural Committee, shall be kept in rear yards so as not to be visible from the street. Garbage cans of a type and size required by the City of Durham may be kept at the street if required by the City of Durham for collection.

Section 9. Mail Box Posts. All mail box support posts shall be of material and design as initially approved by Declarant.

Section 10. Signs. No sign of any kind, except an Owner and street number identification, shall be displayed to the public's view on any Lot except one

professional sign of not more than 5 square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale period.

Section 11. Prohibition of Television Antennae, Satellite Discs and Clotheslines. Television antennae, satellite discs, and outdoor clotheslines are prohibited on the Properties unless approved in writing by the Architectural Committee of the Association.

ARTICLE XI

RIGHTS OF FIRST MORTGAGEES AND INSURERS OF FIRST
MORTGAGES

Any institutional holder of a first mortgage on a Lot will, upon request in writing to the Association, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings (c) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage, (d) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage, (e) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (f) receive written notice of any proposed

action that requires the consent of a specified percentage of mortgage holders, and (i) be furnished with a copy of any insurance policy owned by the Association, and (j) to be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by a Certified Public Accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement and Report to be furnished by April 15 of each calendar year. The Association may require the payment of expenses incurred in preparing copies and mailing of documents furnished to first mortgage holders pursuant to this Article.

ARTICLE XII

PAYMENT OF TAXES AND ASSESSMENTS ON
COMMON AREA

The Board of Directors of the Association shall provide for the payment of any taxes or assessments levied on the Common Area by the City of Durham or other governmental authority. Said payments shall be paid by the Association as Common Expenses from the annual assessment.

ARTICLE XIII

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, covenant, reservations, liens, and charters 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. Insurance. In the event the Association becomes the Owner of any buildings, or other improvements, or personal property, located within the Common Area, the Board of Directors shall obtain hazard insurance (if available) in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to buildings and Properties similar in construction, location and use.

The Board of Directors shall also procure and maintain public liability and property damage insurance, insuring: each Member of the Board of Directors; the manager, if any; and the Association against any liability to the public or to homeowners (and their invitees, agents, and employees) arising out of or incident to the ownership and/or use of the Common Area and facilities, or such other areas for which the Association is responsible. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which

the rights of each named insured under the policy shall not be prejudiced with respect to his action against another named insured. The amount of such public liability insurance shall be determined by the Board of Directors, but in no event shall it be less than \$1 million per occurrence with regard to the Association and each individual director.

There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors as a common expense of the Association.

Section 3. 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 4. FHA/VA Approval. Notwithstanding any provisions in this instrument to the contrary, as long as there is a Class. B membership, and if Declarant desires to qualify sections of this subdivision for Federal Housing Administration or Veterans Administration approval (but not otherwise), the following actions will require the prior approval of Federal Housing Administration or the Veterans Administration: Annexation of additional Properties, amendment of this Declaration of Covenants, Conditions and Restrictions, merger and consolidations, dissolution and exchange of common areas.

Section 5. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for an unlimited number of successive periods of ten (10) years each.

Section 6. Amendment. This Declaration may be amended by an instrument signed by the owners of not less than sixty six and two thirds percent (66 2/3%) of the Lots that have been made subject to this Declaration.

Furthermore, the Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend this Declaration without the consent of the owners and hereby reserves the right to act on behalf of the owners to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any units therein for mortgage or improvement loans made, guaranteed or insured by a governmental agency, including, without limitation, Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, Housing and Urban Development and Federal Home Loan Mortgage Corporation, or to comply with the requirements of law or regulations of any governmental corporation or agency regarding purchase of mortgage interests in units by such agency. A letter from any such agency stating that a change is desired or

necessary in order to qualify the Property or any units for loans eligible to be guaranteed by, insured by or purchased by such agency, shall be sufficient authority for the amendment of this Declaration.

Section 7. Certification of Amendment. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of the Association. Thereupon, the Board of Directors, shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined);

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,

CONDITIONS AND RESTRICTIONS OF MILAN WOODS

By authority of its Board of Directors, Milan Woods Homeowners Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of _____ percent of the Lots of Milan Woods and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Milan Woods.

MILAN WOODS HOMEOWNERS
ASSOCIATION, INC.

BY: _____
President

ATTEST:

Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in Durham County Registry.

All amendments shall be effective from the date of recordation in the Durham County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of the Milan Woods Association. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots in Milan Woods.

Notwithstanding the foregoing, an amendment which requires the approval of the City Attorney of Durham shall not be effective until approved by said attorney.

Section 8. Restrictions Against Association
Entering Into Long Term Contract While Declarant in control
of Board of Directors. Until such time as the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, or December 31, 1991,

whichever occurs first, the Association is not bound either directly or indirectly to contracts or leases (including a management contract) unless there is a right to termination of any such contract or lease, without cause, which is exercisable without penalty at any time after the occurrence of one of the above events, upon not more than 90 days notice to the other party.

Section 9. Exchange of Common Area. With approval as set forth in Section 1(f) of Article V of this Declaration, the Association, acting through its Board, from time to time may exchange with Declarant or any Member a portion of the Common Area for a portion of the real property owned by such Member within Milan Woods, provided that the real property acquired by the Association in the Exchange; (a) is free and clear of all encumbrances except the Declaration, and easements for drainage, utilities, and sewers; (b) is contiguous to other portions of the Common Area; and (c) has approximately the same area and utility as the portion of the Common Area exchanged. The real property so acquired by the Association shall be a part of the Common Area, and, without further act of the Association or membership, shall be released from any provisions of the Declaration except those applicable to the Common Area. The portion of the Common Area so acquired by Declarant or a Member, without further act of the Association or membership, shall cease to be Common Area and shall be subject to those provisions of the Declaration that were

applicable to the real property conveyed to the Association by the Member.

9. Dedication of Common Area Upon Conveyance by the Association or Dissolution of the Association. If all or any portion of the Common Area is being conveyed by the Association or if the Association is being dissolved pursuant to Article XII of the Articles of Incorporation of the Association, and if required by the applicable ordinances of the City of Durham, a dedication of the then existing Common Area for public use for purposes similar to those to which they would be required to be devoted by the Association, shall be offered to the appropriate local governmental unit and the areas thus dedicated shall be conveyed to the local governmental unit. In the event that the local governmental unit refuses to accept such dedication and conveyance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, or Association, trust or other organization to be devoted to purposes and uses that would most nearly reflect the purposes and uses to which they were required to be devoted by the Association. Anything contained herein to the contrary notwithstanding, the Association shall not be required to offer for dedication Common Area which is being exchanged for a portion of the Properties pursuant to Section 8 of this article.

ARTICLE XIV

EASEMENTS

Section 1. Walks, Drives, Parking Areas and Utilities. All of the Property, including Lots and Common Area, shall be subject to such easements for walkways, water lines, irrigation systems, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, cable television and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant. Subject to the approval of the City of Durham if required by its ordinances, the Association shall have the power and authority to grant and to establish in, over, upon, and across the common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

The Declarant reserves the right to subject the real property covered by this Declaration to a contract with a power and light company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to the power and light company by the Owner of each Building.

Section 2. Easements Appurtenant to Lots. All Common Area shall be subject to an easement in favor of every Lot to which they are adjacent or which they are designated to serve and shall be deemed appurtenant to each such Lot, whereby the Owner of each such Lot shall be entitled to use them as a means of pedestrian ingress,

egress and regress and such other uses as shall have been designated. This section shall not be construed to prevent the Association from subjecting the Common Area to an access easement for ingress and egress and an easement for parking areas to serve any amenities which may be located in the Common Area. Such easements shall be superior to the lien of every mortgage or deed of trust.

Section 3. Emergencies. Every Lot shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any Building or portion of the Common Area.

Section 4. Easement for Governmental Agencies. An easement is hereby established over the Common Area for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed in its corporate name by its duly authorized officers and its corporate seal to be affixed hereto by authority of its Board of Directors, this instrument this the 10th day of April, 1987.

BOOK 1362 PAGE 1016

HOYING HUFF, INC.

BY: James A. Huff
President



[Signature]
Secretary

NORTH CAROLINA
WAKE COUNTY

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that J. Mayes James C. Huff personally appeared before me this day and acknowledged that he is _____ Secretary of HOYING HUFF, INC., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by himself as its _____ Secretary.

WITNESS my hand and notarial seal this the 10th day of April, 1987.

Margie F. Strand
Notary Public

My Commission Expires:

6-16-87

sal/leb21

FILED
BOOK 1362 PAGE 929-1019
APR 16 10 31 AM '87
RUTH C. GARRETT
REGISTER OF DEEDS
DURHAM COUNTY, NC

State of North Carolina-Durham County

The foregoing certificate(s) of Margie F. Strand
A Notary (Notaries) Public for the Designated Governmental
units is (are) certified to be correct.

This the 16th day of April, 1987
Ruth C. Garrett
Register of Deeds

Amanda Tollock
By Assistant, Deputy
Register of Deeds

EXHIBIT A
TO PROTECTIVE COVENANTS FOR MILAN WOODS

Tract 1

Beginning at an iron pipe on the eastern right-of-way of Amberley Street, said iron pipe being in the southwest corner of the property shown on the plat of the property of Melvin Kelly Prince and wife, Mildred McFarland Prince, as surveyed by George C. Love, Jr., dated 11-2-76 and recorded in Plat Book 91 at Page 11, Durham County Registry, to which plat reference is hereby made for a more particular description; running thence South 86°20'30" East 345.68 feet to an iron pipe; running thence north 3°52'30" east 119.87 feet to an iron pipe; running thence north 86°10'30" west 312.80 feet to an iron pipe; running thence north 19°5'30" east 251.43 feet to an iron pipe; running thence south 86°58'45" east 1,613.04 feet to an iron pipe; running thence south 1°15'50" east 167.06 feet to an iron pipe; running thence south 7°43'15" west 109.69 feet to an iron pipe; running thence south 7°50'30" east 121.95 feet to an iron pipe; running thence south 41°47'30" west 33 feet to an iron pipe; running thence south 13°33'40" east 161.34 feet to an iron pipe; running thence south 35°6'30" west 92.90 feet to an iron pipe; running thence south 30°43'30" west 138.10 feet to an iron pipe; running thence south 16°26'30" west 75.81 feet to an iron pipe; running thence south 7°30'15" east 35.41 feet to an iron pipe; running thence south 70°38'10" east 202.97 feet to an iron pipe; running thence south 9°7' west 110.89 feet to an iron pipe; running thence south 5°23'30" west 108.88 feet to an iron pipe; running thence south 5°38'30" east 58.13 feet to an iron pipe; running thence south 25°33'00" east 166.44 feet to an iron pipe; running thence south 7°56' east 145.20 feet to an iron pipe; running thence south 25°49' east 115.62 feet to an iron pipe; running thence south 3°28'40" west 61.71 feet to an iron pipe; running thence south 46°42'30" east 65.21 feet to an iron pipe; running thence north 83°59'50" west 477.81 feet to an iron pipe; running thence north 82°32'45" west 378.29 feet to an iron pipe; running thence north 83°17'40" west 849.81 feet to an iron pipe; running thence north 83°27'40" west 316.61 feet to an iron pipe; running thence north 83°27'40" west 380.64 feet to an iron pipe; running thence north 19°26'20" east 322.06 feet to an iron pipe; running thence north 19°4'30" east 614.23 feet to an iron pipe; running thence north 20°18'00" east 314.39 feet to an iron pipe, the point and place of beginning, and being all of that property shown as Tracts 1 and 3 (cemetery) on the boundary survey for Oakwood Land Development as surveyed by Evans Engineering, Inc., dated April 26, 1984 to which survey reference is hereby made for a more particular description of the above-described property.

Tract 2

Beginning at an iron pipe located at the southwest corner of Tract 1 as shown on the plat and survey entitled "Boundary Survey for Oakwood Land Dev." said stake being located the following courses and distances from an iron stake on the eastern right-of-way of Amberley Street at the southwest corner of the property shown on the plat of the property of Melvin Kelly Prince and wife, Mildred McFarland Prince, as surveyed by George C. Love, Jr., dated 11-2-76 and recorded in Plat Book 91 at Page 11, Durham County Registry: south 20°18'00" west 314.39 feet to an iron stake; south 19°4'30" west 614.23 feet to an iron stake; south 19°26'20" west 322.06 feet to an iron stake, being the point and place of beginning; running thence along and with the southern property line of Tract 1 as hereinabove referred to, south 83°27'40" east 380.64 feet to an iron pipe; running thence south 01°22'40" west 24.82 feet to an iron pipe; running thence north 83°26'30" west 388.51 feet to an iron pipe; running thence north 19°26'20" east 25.24 feet to an iron pipe, being the point and place of beginning, and being all of Tract 2 as shown on the plat and survey entitled "Boundary Survey for Oakwood Land Dev." as prepared by Evans Engineering, Inc., dated April 26, 1984; to said plat and survey reference is hereby made for more particular description of same.

BEING in all respects the same property conveyed to Grantor by deed of Melvin Kelly Prince and wife, Mildred McFarland Prince recorded in Book 1162 at Page 865 and correction deed recorded in Book 1168 at Page 17 of the Durham County Public Registry.

Tract 3

BEGINNING at a stake on the south side of Faucette Avenue designated control corner, said stake marking the point of intersection of the south side of Faucette Avenue with the west property line of Malinda Wilkins Estate and running thence along and with the west property line of Malinda Wilkins Estate south 20 degrees 11 minutes west 1423.38 feet to a stake in the north property line of Daniel Robinson; running thence along and with the said Robinson's line north 87 degrees 24 minutes west 184.80 feet to a stake in Wolf Branch; running thence along and with the meanders of said Wolf Branch the following courses and distances: north 27 degrees 42 minutes west 121.80 feet; north 85 degrees 25 minutes west 67.0 feet; north 44 degrees 55 minutes west 74.0 feet; north 5 degrees 37 minutes east 61.80 feet; north 23 degrees 45 minutes west 115.70 feet to a stake; north 5 degrees 51 minutes west 145.20 feet to a stake; north 23 degrees 43 minutes west 166.60 feet to a stake; north 3 degrees 43 minutes west 58.0 feet to a stake; north 7 degrees 23 minutes east 108.90 feet to a stake; north 11 degrees 06 minutes east 110.90 feet to a stake; north 68

degrees 39 minutes west 203.10 feet to a stake; north 5
degrees 28 minutes east 35.40 feet to a stake; north 18
degrees 27 minutes east 75.90 feet to a stake; north 32
degrees 44 minutes east 138.10 feet to a stake; north 37
degrees 07 minutes east 92.90 feet to a stake; north 12
degrees 00 minutes west 161.70 feet to a stake; north 43
degrees 47 minutes east 33.0 feet to a stake; north 5
degrees 51 minutes west 122.10 feet to a stake; north 9
degrees 39 minutes east 16.03 feet to a stake on the south
side of Faucette Avenue south 85 degrees 05 minutes east
249.12 feet to a stake; continuing along and with the south
side of Faucette Avenue along a curve in a clockwise
direction the radius of which is 585.46 feet a distance of
149.18 feet to a stake designated control corner in the
south side of Faucette Avenue; thence continuing along and
with the south side of Faucette Avenue south 70 degrees 29
minutes east 636.26 feet to a stake, the point and place of
BEGINNING, containing 25.0 acres, more or less, as shown on
plat and survey entitled "Property of Elmwood Corporation"
dated July 11, 1974, by J. Watts Copley, Land Surveyor, of
record in the Office of the Register of Deeds of Durham
County in Plat Book 90 at page 18, to which reference is
hereby made for a more particular description of same.