

While every effort has been made to ensure accuracy, these “Willow Green Subdivision Covenants, Conditions and Restrictions, as Amended” are provided for your convenience. They are NOT OFFICIAL transcripts and should NOT be used except as an aid to finding the location of official, binding, covenants, conditions, and restrictions.

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WILLOW GREEN SUBDIVISION
COVENANTS, CONDITIONS AND RESTRICTIONS
- AS AMENDED -

THIS DECLARATION, made on this 27th day of March, 1973, by LAND CONCEPTS, INC., (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Newport News, State of Virginia, which is more particularly described as:

All that certain piece, parcel or tract of land being known and described as "Willow Green, Section One, City of Newport News, Virginia," according to plat prepared by Coenen and Associates, dated March 27, 1973, which plat is attached hereto and intended to be recorded forthwith in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, said plat containing a total area of 8.405 acres of which, as shown on said plat, 5.294 acres is "Home Association Area," 3.069 acres is lot area and 0.042 acres is R/W area (said R/W area containing 0.042 acres being a part of the "Common Area" as hereinafter defined and used).

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restriction, 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 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.

THIS AMENDMENT to "Declaration of Covenants, Conditions and Restrictions" made and entered into by LAND CONCEPTS, INC. and the other parties whose signatures appear hereinafter, the 9th day of January, 1975.

WITNESSETH:

WHEREAS, by that certain "Declaration of Covenants, Conditions and Restrictions" dated the 27th day of March, 1973, and recorded on the 10th day of January, 1974, in Deed Book 849, page 579, in the Clerk's office of the Circuit Court of the City of Newport News, Virginia, LAND CONCEPTS, INC., as Declarant, imposed restrictions on "Willow Green Section One, City of Newport News, Virginia," said "Declaration of Covenants, Conditions and Restrictions" being made a part hereof by reference thereto; and

WHEREAS, the Federal Home Loan Mortgage Corporation has promulgated said regulations in respect to Planned Unit Development as contained in its document entitled "Sellers' Guide Conventional Whole Loans," dated July 1, 1974, Page 101, et sec: and

WHEREAS, Land Concepts, Inc. is the owner of certain of the lots and has conveyed other lots in said Willow Green, Section One, unto the parties whose signatures appear hereinafter; and

WHEREAS, Land Concepts, Inc. and the other parties whose signatures appear hereinafter desire to amend the terms of said "Declaration of Covenants, Conditions and Restrictions" in accordance with Section 4 of Article VII, being more than ninety per cent (90%) of the lot owner who are joining in the within amendment.

NOW, THEREFORE, in consideration of the mutual benefits to be obtained thereby, the undersigned do hereby agree that Article VII of said "Declaration of Covenants, Conditions and Restrictions" is hereby amended by adding thereto and making a part thereof the following Section 6:

[Note – The amended Section 6 will be seen in its natural position]

1st Amendment

Annexation

This ANNEXATION and DECLARATION made this 18th day of May, 1976, by WILLOW GREEN ASSOCIATES, a partnership (herein after referred to as "Declarant").

WITNESSETH:

WHEREAS, LAND CONCEPTS, INC., former owner and former Declarant, by certain Declaration of Covenants, Conditions and Restrictions, dated the 27th day of March, 1973, and recorded on the 10th day of January, 1974, at Deed Book 849, Page 579 in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, imposed certain covenants, conditions, and restrictions of property known AS "WILLOW GREEN, SECTION ONE, CITY OF NEWPORT NEWS, VIRGINIA", said Declaration of Covenants, Conditions and Restrictions being made part hereof by reference thereto the same as if incorporated herein in its entirety; and,

WHEREAS, said Declarant by that certain Amendment to Declaration of Covenants, Conditions and Restrictions dated the 9th day of January, 1975 and recorded on the 6th day of June, 1975, at Deed Book 891, Page 483 in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, imposed covenants, conditions, and restrictions of property known AS "WILLOW GREEN, SECTION ONE, CITY OF NEWPORT NEWS, VIRGINIA", said Declaration of Covenants, Conditions and Restrictions being made part hereof by reference thereto the same as if incorporated herein in its entirety; and,

WHEREAS, said Declarant of Covenants, Conditions and Restrictions provided therein that Declarant might from time to time annex certain additional properties, to the terms and conditions thereof; and,

WHEREAS, said Declarant, in accordance therewith, desires to, and does hereby annex to all of the terms and conditions of said Declaration of Covenants, Conditions and Restrictions of the 27th day of March, 1973, and said Amendment to Declaration of Covenants, Conditions and Restrictions dated the 9th day of January, 1975, all of the property known as "Willow Green, Section Three", which is more fully described as follows:

All that certain piece, parcel, or tract of land being known and described as "WILLOW GREEN, SECTION THREE, CITY OF NEWPORT NEWS, VIRGINIA", on that certain plat prepared by Coenen & Associates, Engineers-Planners-Surveyors, dated June 17, 1974, and recorded in Plat Book 9, page 82, in the Clerk's Office of the Circuit Court for the City of Newport News, Virginia, said plat containing a total area of 3.285 acres of which 1.913 acres is Homes Association Area and 1.372 acres is Lot Area; to which reference is here made for a more particular description and to be hereinafter referred to as the "Properties"; and

NOW, THEREFORE, Declarant does hereby ANNEX said "Properties" to the terms and conditions of said Declaration of Covenants, Conditions and Restrictions, dated the 27th day of March, 1973, and said Amendment to said Declaration of Covenants, Conditions and Restrictions, dated the 9th day of January, 1975, which is for the purpose of protecting the value and desirability of, and which shall run with the "Properties" hereinabove described and shall be binding on all parties having any right, title, or interest in the hereinabove described "Properties", or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof;

Declarant, for itself and its successors and assigns, of all or any part of said "Properties", covenants and agrees that the hereinabove "Properties" shall be a part of the said Declaration of Covenants, Conditions and Restrictions, dated the 27th day of March, 1973, and said Amendment to said Declaration of Covenants, Conditions and Restrictions, dated the 9th day of January, 1975, and that Declarant and all subsequent owners of all or any part of said "Properties" shall be entitled to, and subject to, all of the terms and conditions of said Declaration of Covenants, Conditions and Restrictions, dated the 27th day of March, 1973, and said Amendment to said Declaration of Covenants, Conditions and Restrictions, dated the 9th day of January, 1975, in the same manner as if the within annexed "Properties" had been included within the description and definition of "Properties" as contained therein.

IN WITNESS WHEREOF, the said WILLOW GREEN ASSOCIATES, being the Declarant herein, has caused these presents to be executed of its behalf by PENINSULA REALTY SERVICE, INC., a partner, by its President, in this behalf first duly authorized, all the day and year first hereinabove written.

WILLOW GREEN ASSOCIATES
By PENINSULA REALTY SERVICE, INC.
By: signed W Ballard Preston Jr

2nd Amendment

THIS AMENDMENT to "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION," made and entered into by WILLOW GREEN HOMES ASSOCIATION and the other parties whose signatures appear hereinafter, the 1st day of September, 1980

WITNESSETH:

WHEREAS, by that certain "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS" dated the 27th day of March, 1973, and recorded on the 10th day of January, 1974, in Deed Book 849, page 579, in the Clerk's office of the Circuit Court of the City of Newport News, Virginia, LAND CONCEPTS, INC., as Declarant, imposed restrictions on "WILLOW GREEN SECTION ONE, CITY OF NEWPORT NEWS, VIRGINIA," said "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS" being made a part hereof by reference thereto; and

WHEREAS, said Restrictions were supplemented by Amendment duly recorded In Deed Book 891, page 483; and,

WHEREAS, said Restrictions provided that the Common Area shall also include Such other similar areas as may be added by annexation; and,

WHEREAS, WILLOW GREEN HOMES ASSOCIATION is the Owner of all of the Common Areas of Willow Green: and,

WHEREAS, the parties whose signatures appear hereinafter are the owners of individual lots in WILLOW GREEN: and,

WHEREAS, WILLOW GREEN HOMES ASSOCIATION and the other parties whose Signatures appear hereinafter desire to amend the terms of said "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS" in accordance with Section 3 of Article VII, there being more than ninety per cent (90%) of the lot owners who are joining In the within Agreement.

NOW, THEREFORE, in consideration of the mutual benefits to be obtained Thereby, the undersigned do hereby agree that said "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS" is hereby amended by adding and deleting as follows:

NOTE: ORIGINAL AND BOTH AMENDMENTS HAVE BEEN MERGED INTO ONE TEXT. Note the "Change Bars" (and ~~struck-through~~ deletion).

Article I: DEFINITIONS

Section 1. "Association" shall mean and refer to the Willow Green Homes 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 seller, 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, including but not limited to the "Common Areas", the right-of-way area and all the respective lots shown thereon and such additions thereto as may hereafter may 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. The Common Area to be owned by the Association at the time of conveyance of the first Lot is described as follows:

The Common Area is deemed to include all of that certain piece, parcel or tract of land being known and described as "Willow Green, Section One, City of Newport News, Virginia," as described hereinbefore under the first Whereas clause on page one hereof, containing a total area of 8.805 acres, unless and except however, that certain "lot area" containing a total area being excluded hereunder being known and described as lots a through d, both inclusive, of Block 1; lots a through g, both inclusive, of Block 2; lots

a through f, both inclusive, of Block 3; lots a through h, both inclusive, of Block 4; lots a through g, both inclusive, of Block 5; lots a through h, both inclusive, of Block 6; lots a through f, both inclusive, of Block 7; lots a through d, both inclusive, of Block 8; lots a through f, both inclusive, of Block 9; lots a through f, both inclusive, of Block 10; lots a through d, both inclusive, of Block 11; lots a through g, both inclusive, of Block 12; and lots a through h, both inclusive, of Block 13.

The above described Common Areas specifically includes the R/W areas containing 0.042 acres and the Homes Association area containing 5.294 acres, all shown on the hereinabove described plat.

It is further understood and agreed that said Common Area shall also include such other similar areas as may be added by annexations hereinafter prescribed and set forth.

Section 5. "Lot" shall mean and refer to any lettered lot or plot of land within a numbered block as shown upon the plat hereinabove referred to.

Section 6. "Declarant" shall mean and refer to LAND CONCEPTS, INC., its successors and assigns if such successors or assigns should acquire more than one Lot from the Declarant for the purpose of development.

Section 7. "Mortgage" as used herein shall mean a mortgage or deed of trust, said terms having the same meaning and may be used interchangeably.

Article II: **PROPERTY RIGHTS**

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easements 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:

2nd Amendment

- (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 of the recreational facilities by an Owner for any period during which any assessment against his Lot, or penalty, remains unpaid; and for a period not to exceed a 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 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.

2nd Amendment

Section 2. Members shall be all Owners 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."

Article IV: COVENANT FOR ASSESSEMENTS AND PENALTIES

2nd Amendment

Section 1. Creation of the Lien and Personal Obligation of Assessments and Penalties. 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: annual assessments, charges, and special assessments for capital improvements (including painting of exterior), and penalties as herein provided, such assessments and penalties to be established and collected as hereinafter provided. The assessments and penalties 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 and penalty is made. Each such assessment and penalty, together with interest, cost's and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment or penalty fell due, and a legal action for collection may be maintained for such obligation. The personal obligation for delinquent assessments or penalties shall not pass to his successors in title except when expressly assumed by them.

2nd Amendment

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 improvement and maintenance of the Common Area, for maintenance of lawns and landscaping on the lots, and for painting the exterior of the residential units, and an easement is hereby established across the exterior of all lots during reasonable hours for this purpose.

2nd Amendment

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 NINETY AND NO/100 DOLLARS (\$90.00) 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 by the Board of Directors not more than five percent (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 five per cent (5%) by a vote of two-thirds (2/3) of the members who are voting in person, or by proxy.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

2nd Amendment

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, maintenance, repair, or replacement of a capital improvement upon the Common area, including fixtures and personal property related thereto, and to include the exterior of all buildings located within the properties in order to maintain uniform integrity, provided that any such assessment shall have the assent of two-thirds 2/3 of the votes 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 by prepaid mail or by hand delivery to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. A record shall be kept by the Secretary of such notices and filed as in the regular order of business. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the 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 of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

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

Remedies of the Association. Any assessment or penalty not paid within thirty (30) days after the due date may become a lien on the property and shall bear interest from the due date at the rate of eight per cent (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. No owner may waive or otherwise escape liability for the assessments or penalties provided for herein by non-use of the Common area or abandonment of the Lot.

Section 8A. Special Assessment for Non-Compliance. The Willow Green Board of Directors may levy a penalty for each violation of the within Covenants, the By-laws or written Rules of the Association as may be established by the Board of Directors from time to time. For parking or vehicular infractions, improper animal control, and violations of regulations applicable to recreational facilities, the penalty payable by the offender to the Willow Green Homes Association shall be Fifteen Dollars (\$15) for the first offense, and Thirty Dollars (\$30) for the second offense, as well as suspension of voting rights and the right to use facilities as hereinabove set forth in Article II. Section 1 (b).

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not effect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or any assessments thereafter becoming due or from the lien thereof.

Section 10. Voluntary Conveyance of Lots. In a voluntary conveyance of a Lot, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the latter for his share of the assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid assessments against the grantor due to the Association and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth.

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 harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association. The Board may appoint an architectural committee for counsel and advice. In the event said Board fails to approve or disapprove such design and location within sixty (60) 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. The Board may remove at the Owner's expense any unauthorized changes or alterations not approved by the Board.

In addition thereto, no change in the exterior colors or exterior design of any building, or part thereof, shall be made without the approval of the board of Directors in the manner hereinabove set forth. Each lot Owner agrees to maintain the exterior of his townhouse (including without limitation the roof and outside windows, walls, storage sheds, and fences) in a neat, attractive, and well kept manner and in the event of damage to the exterior to promptly restore and repair the same to its original condition.

It is contemplated that the exterior of the property will be painted every three years. The board of Directors will assess each owner his proportionate Share of the cost, to be assessed and paid on an annual basis. The Board will determine the color, style, and type of painting. Any unpaid assessment will cause suspension of voting rights and other privileges in accordance with these Restrictions and will result in a lien being created for nonpayment. In addition, A legal action may be brought against the owner for nonpayment.'

Article VI: PROPERTY RESTRICTIONS

Section 1. Vehicle and Traffic Control. Ownership of each Lot shall entitle the Owner or Owners thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The association shall permanently assign two (2) vehicle parking spaces for each dwelling. No vehicle other than personal passenger automobile motor vehicles shall be parked or stored on the Properties except in such areas as may be specifically designed by the Board of Directors. The intent herein is to prevent the parking or storing of school busses, trucks, pick-up trucks in excess of one (1) ton, boats and boat trailers, campers, motor

homes, travel trailers, trailers, motorcycles, motor bikes and the like, and all other similar vehicles or objects except in such areas as may be so designated from time to time by the Board of Directors.

Section 2. Repair and Storage of Automotive Vehicles. No inoperable, unlicensed or abandoned motor vehicle of any type shall be parked or stored upon the Properties and no portion of the Properties shall be used for the repair, overhauling, painting, or work of a similar nature of a motor vehicle.

Section 3. Pets and Domestic Animals. No pet or domestic animal shall be tied or housed outside of the residence or enclosed patio of any Owner and no Owner shall permit any pet or domestic animal to run loose on the Properties or to otherwise constitute a nuisance, including but not limited to barking, or in creating an unsanitary condition upon any ~~front~~-yard or common area. The Board of Directors shall from time to time, as necessary, promulgate additional rules and regulations regarding the size number, activities, and control of pets and domestic animals upon the properties.

Section 4. Recreation facilities. The Board of Directors shall promulgate Rules and Regulations for the use, security, maintenance, cleaning, and operation of the community building, swimming pool, tennis courts, and other recreation areas and facilities in Willow Green or in any annexed area.

Section 5. Restricted Uses. No numbered lot shown on said plat shall be used except for residential purposes. Every dwelling unit constructed within the subdivision shall be connected to the public sewerage disposal system. Easements for the installation and maintenance of utilities of drainage facilities and for egress and ingress thereto are reserved in the Common Area or as shown on said plat. No nuisance, noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance to the neighborhood. No structure of a temporary character shall be used on any lot at any time as a residence.

Article VII

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 and any rule, regulation, or requirement established by the Board. 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."

All other terms and conditions of the Declaration of Covenants, Conditions and Restrictions, as amended, shall remain in full force and effect.

Section 2. Severability. Invalidation of any one or these covenants or restrictions by judgment or court order shall in no way affect any other provision 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 thirty (30) 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 thirty (30) 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. Any amendment must be recorded.

Section 4. Annexation. All or any part of that certain real estate being shown and designated on said plat as "Section Two, 6.622 Acres Future Development" may be annexed hereto at any time hereafter solely by Declarant without the consent of the Class A or Class B members. Any such annexation by the Declarant of all or any part of said real estate shall be upon a parcel, or parcels, which are shown on a subdivision plat duly approved by the City of Newport News and recorded in the aforesaid Clerk's Office.

Declarant may cause such annexation to be made by including the provisions of such annexation to be shown on such recordation plat, or by an instrument executed by Declarant and duly recorded, describing the parcel or parcels to be annexed and referring to and making such parcel or parcels subject to the within Covenants, Conditions and Restrictions, or both.

Upon any such annexation being made, the real estate or "Properties" covered thereby, together with the Declarant and all Owners thereof, their heirs, successors and assigns, shall be entitled to, and subject to, all of the terms of the within Covenants, Conditions and Restrictions in the same manner as if such annexed parcel had been included within the legal description as contained in the first Whereas clause on Page 1 hereof, the same being defined as the "Properties" under Section 3 of Article I hereof.

It is further understood and agreed that such annexation of all or any part of the real estate hereinafter described shall be solely at the option of the Declarant and Declarant may from time to time annex all or any part or parts thereof as determined solely by the Declarant, but provided however that no such annexation shall be made unless and until the Veterans Administration (commonly referred to as VA) deems that such annexation is in accordance with the general plan heretofore approved by it.

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

Section 6. Additional Covenants. It is further understood and agreed, anything to the contrary contained in said "Declaration of Covenants, Conditions and Restrictions" notwithstanding, as follows:

- a) A first mortgage will be provided written notification of any default by the mortgagor of such unit of such unit in the performance of such mortgagor's obligations under the Planned Unit Development documents which is not cured within 30 days; as used herein the terms 'first mortgagee,' 'mortgage' or 'mortgagor' shall have the same meaning as 'first deed of trust noteholder,' 'first deed of trust' or 'grantor of a deed of trust'; the terms 'mortgage' and 'deed of trust' for the purposes herein shall have the same meaning and intent.
- b) Any first mortgagee who comes into possession of a unit in the Planned Unit Development pursuant to the remedies provided in the mortgage, or foreclosure, shall be exempt from any 'right of first refusal.'
- c) Any first mortgagee who comes into possession of the unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit which accrue prior to the time such holder comes into possession of the unit (except for claims for a pro rata share of such

assessments or charges resulting from a pro rata reallocation of such assessments or charges to all units including the mortgaged unit.

- d) Unless at least 75% of the first mortgagees (based upon one vote for each first mortgage) of individual units in the Planned Unit Development association, corporation, or trust shall not be entitled to:
- (1) by act or omission seek to abandon, petition, subdivide, encumber, sell or transfer real estate or improvements thereon which are owned, directly or indirectly, by such association, corporation, or trust for the benefit of the units in the Planned Unit Development ('PUD common property').
The granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Planned Unit Development shall not be deemed a transfer within the meaning of this clause;
 - (2) change the method determining the obligations, assessments, dues or other charges which may be levied against a Planned Unit Development unit owner;
 - (3) by act or omission, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the external appearance of units, the external maintenance of units, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the Planned Unit Development;
 - (4) fail to maintain fire and extended coverage on insurable Planned Unit Development common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon current replacement cost);
 - (5) use hazard insurance proceeds for losses to any Planned Unit Development common property for other than the repair, replacement or reconstruction or such improvements.
- e) First mortgagees shall have the right to examine the books and records of the Planned Unit Development association, corporation, trust or any entity which owns the common property of the Planned Unit Development.
- f) First mortgagees of units in a Planned Unit Development may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Planned Unit Development common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the PUD association, corporation or trust. Entitlement to such reimbursement is hereby agreed to and this instrument shall constitute an agreement in favor of all first mortgagees of units in the Planned Unit Development, and Willow Green Homes Association by joining the within Amendment so agrees and this Amendment shall constitute such agreement.
- g) No provision of the Planned Unit Development Articles of Incorporation or Association, or the Planned Unit Development declaration of easements, restrictions and covenants, or any similar instrument pertaining to the Planned Unit Development or to units in a Planned Unit Development, gives a Planned Unit Development unit owner or any other party priority over any rights of first mortgagees of units in a

Planned Unit Development pursuant to their mortgages in the case of a distribution to Planned Unit Development unit owners of insurance proceeds or condemnation awards for losses to or taking of Planned Unit Development common property.

- h) Planned Unit Development unit owners have a right to enjoyment of the Planned Unit Development common property and such property is owned in fee or in an acceptable leasehold estate by the Planned Unit Development association, corporation or trust. The Planned Unit Development common property was conveyed to the Planned Unit Development association, corporation or trust unencumbered except for any easements granted for public utilities or for other public purposes consistent with the intended use of such property by the Planned Unit Development.

Article VIII: PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the home 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 provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 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. 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 of the arbitrators.

Article IX: PARTIES IN POSSESSION

These covenants and restrictions are applicable to all parties in possession in the premises in Willow Green, whether they be tenants, guests, invitees or others and all assessments, penalties and means of enforcement provided for in these restrictions shall be applicable equally to any party in possession.

