

## **GOHA DECLARATION**

***IMPORTANT NOTE (MAY 2005): THIS SEARCHABLE, ELECTRONIC VERSION OF THE GOHA DECLARATION WAS CREATED FROM THE OFFICIAL DECLARATION BY USING AN OPTICAL-CHARACTER SCANNER. IT HAS BEEN EDITED MANUALLY TO CORRECT SCANNING ERRORS. EVERY EFFORT HAD BEEN MADE TO ENSURE ACCURACY, INCLUDING ELECTRONIC DOCUMENT COMPARISON. SPELLING ERRORS IN THE OFFICIAL DECLARATION HAVE BEEN CORRECTED. DIFFERENCES IN FORMATTING EXIST. IF ANY DISCREPANCY IS FOUND, THE DOCUMENT FILED IN THE LAND RECORDS OF FAIRFAX, VA SHALL PREVAIL.***

This document reflects the three amendments of January 20, 1975, March 3, 1976, and July 19, 1978, to the original Declaration of September 28, 1973, all of which are filed, with the Deed of Dedication, in the Land Records of Fairfax, County, Va.

## DECLARATION

THIS DECLARATION is made and executed this 28th day of September, 1973, by GREAT OAKS ASSOCIATES, a Virginia Limited Partnership (hereinafter referred to as the "Developer").

### W I T N E S S E T H:

WHEREAS, Developer is the fee simple owner of certain real property located in the City of Fairfax, State of Virginia, as described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Property"), and desires to develop therein a residential community together with common lands and facilities for recreational purposes for the benefit of such community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common lands and facilities; and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens (hereinafter referred to collectively as the "Restrictions") as hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which will be delegated and assigned the powers of maintaining and administering the community facilities; administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated or intends to incorporate under the laws of the State of Virginia, as a non-profit corporation the GREAT OAKS HOMEOWNERS ASSOCIATION, for the purpose of exercising the functions aforesaid, and

WHEREAS, the Developer desires that the Restrictions shall run with, burden, and bind the Property;

NOW, THEREFORE, the Developer hereby declares the Property is and shall be held, transferred, sold, conveyed, occupied and used subject to the Restrictions hereinafter set forth, for and during the period of time hereinafter specified.

ARTICLE I  
DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplement hereto (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the Great Oaks Homeowners Association, its successors and assigns.

(b) "The Properties" shall mean and refer to all such existing properties as are subject to this Declaration or any Supplemental Declaration under the provisions of Article III hereof.

(c) "Common Area" shall mean and refer to that area of land designated "Common Area" on any recorded subdivision plat of The Properties and shall include the paved areas. Said Common Area is intended to be devoted to the Common use and enjoyment of the members of the Association as herein defined, and is not dedicated for use by the general public, but is subject to a nature easement to be granted to the School Board of the City of Fairfax, Virginia, and to utility easements shown on the recorded plat of subdivision.

(d) "Lot" shall mean and refer to any plot of land intended and subdivided for single family residential use shown upon one of the recorded subdivisions maps of The Properties, but shall not include the Common Area as herein defined.

(e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure.

(f) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article II, Section 1, hereof.

(g) "Mortgage" shall mean and refer to any mortgage, deed of trust or other similar instrument granted as security for the performance of any obligation.

(h) "Party Wall" shall mean and refer to the entire wall, all or a portion of which is used for support of each adjoining property, situated, or intended to be situated, on the boundary line between adjoining properties.

ARTICLE II  
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association, provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Lot Owners (with the exception of the Developer) and shall be entitled to two (2) votes for each Lot owned. When more than one person holds an interest in any Lot, all persons shall be members. The votes for such Lot shall be exercised as they among themselves determine, but in no event shall more than two votes be cast with respect to any Lot.

Class B. The Class B member shall be the Developer, its successors and assigns, and shall be entitled to six (6) votes for each lot owned by the Developer, until such time as the total votes of the Class A membership for the first time is equal to or greater than the total votes of the Class B membership, at which time thereafter the Class B member shall only be entitled to two (2) votes for each lot owned by it. The Class B membership shall cease on the happening on either of the following events, whichever occurs earlier:

(a) When the Class B member has sold and conveyed the last Lot in the Subdivision, or

(b) on September 28, 1983.

ARTICLE III  
PROPERTY SUBJECT TO THIS DECLARATION;  
ADDITIONS THERETO

Section 1. Existing Property.

All that property located in the City of Fairfax, State of Virginia, described in Exhibit A attached hereto and made a part hereof.

ARTICLE IV  
PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Owners' Easements of Enjoyment. Subject to the provisions of Section 2 of this Article IV, every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement, together with the specific right of each owner to use the private streets in the Common Area as a means of ingress and egress to and from his Lot and Old Lee Highway, Route 237 shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The rights of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage said properties and the rights of such mortgagee in said properties shall be subordinate to the rights of the owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of two-thirds of the Class A membership and two-thirds of the Class B membership, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

(b) the right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure;

(c) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member in the recreational facilities for any period during which any assessment remains unpaid, and for any period not to exceed thirty days for any infraction of its published rules and regulations;

(d) the right of the Association to charge reasonable admission and other fees for the use of the Common Areas;

(e) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the action is sent to every member at least sixty (60) days in advance of any action taken; and

(f) the rights of the School Board of the City of Fairfax with respect to the Nature Study Easement.

Section 3. Delegation of Use. Any owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, or contract purchasers (and members of the family of any tenant or contract purchaser) who reside on the property or to such other persons as may be permitted by the Association.

## ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for itself and its successors and assigns, and for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected as hereinafter provided, together with late charges on both types of assessments if not paid when due. The annual and special assessments, together with late charges, interest, costs, and reasonable attorney's fee, shall be a

charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorney's fee, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property, and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Monthly Assessments. On the first day of the month following the conveyance of the Common Area to the Association and until January 1 of the year immediately following such conveyance, the monthly assessment imposed upon each Class A member of the Association shall be at the rate of \$25.00 per Lot, and until such time as all Class B membership Lots are sold, the Developer shall pay a monthly assessment to offset any deficit in the budget between the monies collected from the assessable units and the actual operating expenses. Assessable unit is defined as each Lot which has been conveyed to an Owner who is not the Developer. The monthly assessment may be increased as hereinafter provided in Section 5 of this Article V.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the monthly assessment for any year in an amount not in excess of the maximum, and may provide for the payment of such assessment on an annual basis, rather than in monthly installments, provided that it shall be an affirmative obligation of the Association and its Board of Directors to fix such assessments at an amount sufficient to maintain and operate the Common Area and facilities; and provided further that the monthly assessment imposed upon a Lot owned by a Class B member may be less than the monthly assessment imposed on a Lot owned by a Class A member.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessments authorized by Section 3 of this Article V, the Association may levy in any assessment year a special assessment (which must be fixed at one uniform rate for each Lot owned by a Class A member and a similar uniform rate for each Lot owned by the Class B member) applicable to that year only, for the purpose of defraying in whole or in part, the cost of any 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 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

Section 4-A. Repair and Replacement Reserve. The Association shall obtain owner contributions to capital on a regular basis, which contributions will be used to establish a replacement and repair reserve. Such contributions shall be paid monthly and be in an amount to be designated from time to time by the Board of Directors, and which shall not be less than five percent (5%) of the aggregate monthly installments levied pursuant to the provisions of this Article V. Such fund shall be conclusively deemed to be a common expense. Such fund shall be deposited in an interest bearing account which is insured by an agency of the United States Government or invested in obligations that are fully guaranteed as to principal by the United States Government. The replacement reserve may be expended only for the purpose of effecting the replacement and repair of the common elements and equipment of the Association or designated by the Board of Directors utilizing prescribed corporate accounting procedures. The amount required to be allocated to the replacement reserve may be reduced, by appropriate resolution of the Board of Directors, upon the accumulation in such replacement reserve of a sum equal to the full replacement value of the sums required for repair and replacement. Full replacement value shall be annually determined by the Board of Directors for casualty insurance purposes. The proportionate interest of any owner in the replacement and repair reserve shall be considered an appurtenance of his Association unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Association unit to which it appertains and shall be deemed to be transferred with such Association unit.

Section 5. Change in Maximum of Monthly Assessments. From and after the first day of the calendar month immediately following the conveyance of the first Lot to an Owner, the Board of Directors of the Association may, without a vote of the members of the Association, prospectively increase the maximum of the monthly assessments (fixed by Section 3 hereof) to an amount which is the greater of (i) ten percent (10%) above the monthly assessments for the previous December or (ii) the monthly assessment fees stated in the first paragraph of Section 3 of this Article V.

The Association may prospectively increase the maximum of the assessments above the amount permitted pursuant to the preceding sentence, provided that any such change shall have the assent of fifty-one percent (51%) 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 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting.

Section 6. Quorum for any Action Authorized Under Section 4 and 5. The quorum required for any action authorized by Sections 4 and 5 of this Article V, shall be as follows: At the first meeting called, as provided in Sections 4 and 5 of this Article V, 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, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at such subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting, provided that such subsequent meeting shall not be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Monthly Assessments; Due Dates. The monthly assessments as to all Lots shall commence on the first day of the month following the conveyance of the Common Area to the Association. The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors. In the event of any change in the monthly assessments as set forth herein, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each lot for each assessment period at least thirty days in advance of such date or period and shall,

at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid, or the amount of any unpaid assessment. A reasonable charge may be made by the Association for the issuance of such certificate. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner: The Lien; Remedies of Association. If any assessment is not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum and the Association may bring legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the property; and in the event a judgment is obtained, such judgment shall include interest on the assessments above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action. No Owner of a Lot may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or its Lot.

Section 10. Subordination of the Lien to First Mortgages. The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or

transfer of any Lot by foreclosure of any first mortgage 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 for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following properties subject to this Declaration shall be exempted from the assessments; charge and lien created herein: (a) all properties dedicated to and accepted by a governmental body, agency or authority, and devoted to public use; and (b) all Common Areas as defined in Article I, Section I, hereof. Notwithstanding any provisions herein, no land or improvements now devoted or intended in the future to be devoted to dwelling use shall be exempt from said assessments, charges or liens.

## ARTICLE VI PARTY WALLS OR PARTY FENCES

Section 1. General Rules of Law to Apply. 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 to each party wall or party fence which is built as part of the original construction of the homes upon The Properties and any replacement thereof. In the event that any portion of any structure, as originally constructed by the Developer, including any party wall or fence, shall protrude over an adjoining lot, such structure, party wall or fence shall not be deemed to be an encroachment upon the adjoining lot or lots, and Owners shall neither maintain any action for the removal of a party wall or fence or projection, nor any action for damages. In the event there is a protrusion as described in the immediately preceding sentence, it shall be deemed that said Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection, party wall or fence. The foregoing shall also apply to any replacements in conformance with the original structure, party wall or fence constructed by the Developer. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

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

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

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his 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. Retaining Walls. Retaining Walls appurtenant to improvements on Lots may be extended, in original construction, beyond lot lines and to that extent, an Owner shall be considered to have an easement over adjoining lot for the maintenance of such portion of the retaining wall, together with the right of ingress and egress over such adjoining lot for the purpose of maintenance and repair.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall, party fence, or retaining wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators and be binding upon the parties.

## ARTICLE VII ARCHITECTURAL CONTROL

Section 1. No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, 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, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated Committee, fails to approve or disapprove such design and location within 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.

Section 2. Maintenance of Property. Each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, including but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management.

Section 3. Permitted Use. No Lot, or any portion thereof, shall be used for any purpose other than as a single family private residence.

Section 4. Prohibited Uses.

(a) No noxious or offensive acts shall be conducted in or upon, or suffered to be conducted in or upon any Lot; nor shall any nuisance be maintained, or suffered to be maintained in or upon any such Lot.

(b) No Lot shall be split, divided, or subdivided for sale, resale, gift, transfer or otherwise.

(c) No facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot, and no external or outside antennas of any kind shall be permitted or maintained, except customary household television antenna.

(d) No motor vehicles, boat, boat trailers, house trailer, trailer or any similar item shall be stored in or upon any Lot except that a private passenger type motor vehicle may be stored in the garage.

(e) No temporary building, trailer, garage, or building in the course of construction or other temporary structure shall be used, temporarily, or permanently, as a residence on any Lot.

(f) No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except building materials during the course of construction of any approved structure. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pick-up is to be made, in such a place so as to provide, access to persons making such pick-up. At all other times such containers shall be stored in such a manner so that they cannot be seen from adjacent and surrounding property. The Architectural Committee, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the Lots.

(g) No water pipe, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel, or earth.

(h) No tree shall be removed from any Lot by any Owner other than Great Oaks Associates without the express written authorization of the Zoning Administrator of the City of Fairfax or other official having jurisdiction over the same.

(i) No birds, animals, or insects shall be bred, raised, kept or maintained on any Lot except for domestic purposes. Under no circumstances shall any commercial or business enterprise involving the use of animals be conducted on the Property. The Architectural Committee may, from time to time, publish and impose reasonable regulations setting forth the type and number of domestic animals that may be kept on any Lot.

(j) No sign or other advertising device of any nature shall be placed upon any Lot except as provided herein. The Architectural Committee may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. Notwithstanding the foregoing, a family name plate, a name and address plate, or an address plate, none of which shall exceed 240 square inches in area, and a temporary sign, not to exceed two (2) square feet in area, for the purpose of advertising the property for sale may be displayed on a Lot.

The Architectural Committee may establish other criteria with respect to the size, form and location of such signs.

(k) Use of a Lot for any purpose other than that of a single family residence shall not be permitted without the specific written approval of the Architectural Committee. The Architectural Committee, in its discretion, upon consideration of the circumstances in each case, and particularly the effect on surrounding Property, may permit a Lot, or any improvement thereon, to be used in whole or in part for some purpose other than a single family residence. No such use shall be permitted, however, unless it is considered, by the Architectural Committee, to be compatible with a high quality residential neighborhood and such use in compliance with all City of Fairfax ordinances.

(l) No clothing or any other household fabrics shall be hung in the open on any Lot. No-machinery shall be placed or operated upon any Lot except such machinery as is usual in maintenance of a private residence.

(m) No change in the exterior colors of any dwelling house shall be made without the express written authorization of the Architectural Committee and appropriate Governmental authority. Notwithstanding other provisions herein, the Architectural Committee may authorize any Owner of any Lot with respect to the property owned by him, to:

- (a) temporarily use a single family dwelling house for more than one family;
- (b) maintain a sign other than as expressly permitted herein;
- (c) locate structures other than the principal dwelling house within set-back areas on a temporary basis.

Section 5. Prohibited Structures. No structure other than a detached dwelling, a private garage (designed for use by not more than two (2) automobiles), a swimming pool, patios, walkways, customary household television antenna, and fences and such other structures as may be appurtenant to said specified structures, shall be erected, placed or maintained on any Lot, without the express written authorization of the Architectural Committee.

Section 6. Construction and/or Alterations of Structures.

(a) No construction of, or alterations to, any structure shall be commenced, made, placed, erected, or permitted to remain on a Lot by any person,

form or corporation unless and until the plans and specifications therefore and a plot plan (showing the location of such structure, alteration or modification on the affected portion of the Property) shall have been approved in writing by the Architectural Committee, it being the intention of Great Oaks Associates that such structures, or alterations or modifications thereto, shall generally conform in design to and be in aesthetic harmony with structures existing on other areas of the Property and in conformity with the over-all development scheme of the Property; EXCEPT THAT the provisions of this section 6(a) shall not be applicable to, or binding upon Great Oaks Associates.

(b) In the event that the Architectural Committee fails to approve or disapprove any plan, specification, design or plot plan within sixty (60) days after same shall have been submitted to it then such plan, specification, design or plot plan shall be deemed to have been approved by the Architectural Committee, provided, however, that such approval shall not be deemed to be a waiver of any covenant, condition or restriction herein provided.

Section 7. Easements. Great Oaks Associates, for itself and its successors and assigns, hereby creates easements over, under, in, on, and through the "easement area", as hereinafter defined, of each Lot or other parcel of land for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation, and inspection of sewer, water, drainage, electric, gas, telephone and cable telephone facilities and the wires, lines, conduits and other necessary and proper attachments in connection therewith, for the benefit of the adjoining land owners, Great Oaks Associates, any Federal, State or local authority, commission, or agency having jurisdiction thereover and any corporation, either public, quasi-public or private, supplying or servicing such facilities.

The term "easement area", as used herein shall mean and refer (1) to a ten (10) foot wide strip of land paralleled and adjacent to each front and rear lot line of each Lot, or parcel of land, to the extent that as to each Lot or parcel of land there neither are nor will be any permanent improvements located closer than ten (10) feet to the front and rear Lot lines, and (11) to a five (5) foot wide strip of land parallel and adjacent to each side Lot line of each Lot or parcel of land, to the extent that as to each Lot or parcel of land there neither are nor will be any permanent improvements located closer than five (5) feet to the side Lot line. In the event permanent improvements are or will be located closer than ten (10) feet to the front or rear Lot line, or closer than five (5) feet to the

side Lot lines, then the "easement area" shall be deemed to extend from the Lot line to the permanent improvements.

During the period when the total votes of the Class A membership is equal to or greater than the total votes of the Class B membership and the last Lot in the subdivision has not yet been conveyed by the Developer, the Association, shall not deny the Developer ingress and egress to, from and over the Common Area at any time.

Great Oaks Associates hereby vacates and releases the easements created over, under, in, on and through those parts of the easement area as herein before defined upon which permanent improvements have been or will be made. No permanent improvement shall be deemed to create an encroachment upon the easement area.

Section 8. Drainage. No person, except Great Oaks Associates or its duly authorized agents, shall obstruct, alter or in any way modify the established drainage pattern from, on or over any Lot or parcel of land, nor shall any person obstruct, alter or in any way modify any drainage swales, devices and/or facilities now installed on any Lot or parcel of land, nor shall any structure be erected, placed or maintained which shall in any way obstruct such drainage.

Section 9. Duration. The Restrictions contained in this Declaration shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by Great Oaks Associates, and the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded; after which time said Restrictions shall be automatically extended for successive periods of ten years. This Declaration may not be amended in any respect (except with regard to the annexation of additional properties as set forth in Section I(b) hereof) except by the execution of an instrument signed by not less than seventy-five percent (75%) of the Owners of the Lots, which instrument shall be filed for recording among the Land Records of Fairfax County, Virginia, or in such other place of recording as may be appropriate at the time of the execution of such instrument, provided that any amendment made prior to the sale of the last lot by Great Oaks Associates or within five years from the date hereof, whichever occurs earlier, shall require the written approval of Great Oaks Associates. After twenty (20) years from the date this Declaration is recorded, this Declaration may be amended and/or terminated in its entirety by an instrument signed by not less than

sixty-seven percent (67%) of the Owners of the Lots which instrument shall be filed for recording among the Land Records of Fairfax County, Virginia, or in such other place of recording as may be appropriate at the time of execution of such instrument.

Section 10. Remedies.

(a) Violation or breach of any Restriction herein contained shall give Great Oaks Associates or the Architectural Committee, their respective legal representatives, heirs, successors and assigns, in addition to all other remedies, the right, upon 15 days notice, to enter upon the land upon or as to which such violation or breach exists, and summarily abate and remove, at the expense of the Owner thereof any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof; and the said parties shall not thereby be deemed guilty of any manner of trespass, or be liable for any damage, for such entry, abatement or removal. Nothing herein contained shall be deemed to affect or limit the rights of any Owner of a Lot within the Property to enforce the Restrictions by appropriate judicial proceedings.

(b) Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as other available relief either at law or in equity.

(c) Any party to a proceeding who succeeds in enforcing a restriction or enjoining the violation of a Restriction against an Owner of a Lot may be awarded a reasonable attorney's fee against such Owner.

Section 11. Non-Waiver. The failure of Great Oaks Associates, the Architectural Committee, or the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns, to enforce any Restriction herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

Section 12. Construction and Interpretation. Great Oaks Associates and the Architectural Committee to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or

in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, Great Oaks Associates and the Architectural Committee shall take into consideration the best interests of the Owners of the Lots to the end that the Property shall be preserved and maintained as a high quality community.

Section 13. Severability. All of the covenants, conditions, restrictions, and reservations herein contained are hereby declared to be severable and a finding by any court of competent jurisdiction that any of them or any clause or phrase thereof, is void, unlawful or unenforceable shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations, or clause or phrase thereof.

Section 14. Miscellaneous.

(a) The headings of the Articles herein are for convenience only and shall not affect the meanings or interpretation of the contents thereof.

(b) No violation of any of these Restrictions shall defeat or render invalid the lien of any mortgage or deed of trust which is a lien upon any portion of the Property; provided, however, that any mortgagee (or beneficiary under a deed of trust) in actual possession, or any purchaser at any mortgagee's or foreclosure sale shall be bound by and subject to these Restrictions as fully as any other Owner of any Lot.

(c) Each grantee accepting a deed, lease or other instrument conveying any interest in a Lot, whether or not the same incorporates or refers to these Restrictions, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by these Restrictions.

(d) No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

This document reflects the, three amendments of January 20, 1975, March 3, 1976 and July 19, 1978, to the original Declaration of September 28, 1973, all of which are filed, with the Deed of Dedication, in the Land Records of Fairfax County, Va.