DECLARATION
of
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 30th day of July, 1979, by **PANACHE BUILDERS, INC.,** a Virginia corporation, hereinafter sometimes called "the Declarant."

WITNESSETH

WHEREAS, Declarant is the sole owner of certain real property located in the Mason Magisterial District of Fairfax County, Virginia, containing 10.54653 acres, as more specifically described in the metes and bounds description attached as Exhibit A to the Deed of Dedication and Subdivision recorded immediately prior hereto, to which Deed of Dedication and Subdivision this Declaration is specifically made a part; and

WHEREAS, Declarant desires to create on the said property a residential community with permanent open spaces and other common facilities for the benefit of said community and to provide for the preservation of the values and amenities in said community, and such other areas as may be subjected to this Declaration by Declarant, and for the maintenance of said open spaces and other facilities and, to this end, desires to subject the property as herein above described to the covenants, restrictions, easements, conditions, charges, and liens hereinafter set forth, it being intended that the easements, covenants, restrictions, and conditions shall run with said property and shall be binding on all persons or entities having or acquiring any right, title, or interest in said real property or any part thereof, and shall inure to the benefit of each other thereof; and

NOW, THEREFORE, Declarant does hereby declare that the real property described in Exhibit A attached to the Deed of Dedication and Subdivision recorded immediately prior hereto, shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, conditions, charges, and liens (hereinafter referred to as "Covenants and Restrictions") hereinafter set forth, which are for the purpose of protecting the value and desirability of, and 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.

ARTICLE I

DEFINITIONS

Section 1. *"Association"* shall mean and refer to LAFAYETTE VILLAGE COMMUNITY ASSOCIATION, its successors and assigns.

Section 2. *"Property"* shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, in accordance with the terms of this Declaration.

Section 3. *"Common Area"* shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the members of the Association and being initially composed of Parcel A, Section One, Lafayette Village.

Section 4. *"Lot"* shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property, but with the exception of the Common Area and areas dedicated as public streets.

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 Property, 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 Panache Builders, Inc., its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development, and the owner of any other property which might be annexed under the provisions hereof.

Section 8. *"Dwelling"* shall mean and refer to any building or portion of a building situated upon the Property and designed and intended for use and occupancy as a residence.

Section 9. *"Mortgagee"*, as used herein, means the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the lots. "Mortgage," as used herein, shall include deed of trust. "First Mortgage," as used herein, shall mean a mortgage with priority over other mortgages. As used in this Declaration, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgages. As used in this Declaration, the term "institutional mortgagee" or "institutional holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, saving and loans associations, trusts, mutual savings, banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or of any state or municipal government. As used in this Declaration the terms "holder" and "mortgagee" shall include the parties secured by any deed of trust or any beneficiary thereof.

Whenever in this Declaration any action is required to be taken by a specified percentage of "each class of the then members" of the Association, then such action shall be required to be taken separately by the specified percentage of the then outstanding members of each class of the Association. Whenever in this Declaration any action is required to be taken by a specified percent-

age of the "then members" of the Association, then such action shall be required to be taken by the specified percentage of the then outstanding cumulative membership of the Association.

ARTICLE II

Section 1. *Property Subject to Declaration.* The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in Fairfax County, Commonwealth of Virginia, and is more particularly described on "EXHIBIT A" to the Deed of Dedication and Subdivision recorded immediately prior hereto, to which Deed of Dedication and Subdivision this Declaration is specifically made a part.

Section 2. *Additions.* So long as there are Class C members of the Association, additional property may be annexed to the above-described property without the consent of the Class A and/or Class B members of the Association, if any.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration of Covenants and Restrictions among the Land Records for Fairfax County, Virginia, which Supplementary Declaration shall extend the scheme of the within Declaration of Covenants and Restrictions to such annexed property. Such annexations need not be made by the Declarant; provided, however, that any such annexation accomplished by persons other than the Declarant shall have the consent of the Declarant.

So long as any lot is encumbered by a deed of trust or mortgage which is guaranteed by the Veterans Administration, no annexation shall be made pursuant to this Article, or otherwise, except following a determination by the Veterans Administration that the annexation conforms to a general plan for the development of the community previously approved by the Veterans Administration or, if no such general plan was approved by the Veterans Administration, except following the prior written approval of the Veterans Administration.

ARTICLE III

MEMBERSHIP

Section 1. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, 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 for each lot owned. 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.

Section 2. The Association shall have three (3) classes of voting membership:

Class A: Class A members shall be all those Owners as defined in Article I, who own and hold title to a lot upon which a single family detached dwelling unit is or can be constructed, 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 this Article. 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.

Class B: Class B members shall be all those Owners as defined in Article I, who own and hold title to a lot upon which a single family attached dwelling unit is or can be constructed, with the exception of the Declarant. Class B members shall be entitled to one vote for each Lot in which they hold the interest required for membership by this Article. 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.

Class C: The Class C member shall be the Declarant. The Class C member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by this Article, *provided, however,* that the Class C membership shall cease and be converted to Class A or Class B membership, depending upon the type of Lot owned on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A and Class B memberships equal the total votes outstanding in Class C membership, or

(b) On December 31, 1984; provided however that

(c) In the event of annexation of additional properties, Class C membership shall be revived with respect to those lots contained in the annexed property; which Class C membership shall cease and be converted to Class A or Class B membership, depending upon the type of lot owned, on the happening of either of the following events, whichever occurs first:

(i) When the total votes outstanding in the Class A and Class B memberships in the annexed property equal the total votes outstanding in the Class C membership in such annexed property, or

(ii) Seven (7) years from the date of recordation of the Deed of Dedication or Supplemental Declaration for such annexed property.

ARTICLE IV

Section 1. *Member's Right of Enjoyment.* Every member shall have a right and easement of enjoyment in and to the common areas and community facilities and such easement shall be appurtenant to and shall pass with the fee title to every lot subject to the following:

(a) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, and with the consent of two-thirds (2/3) of each class of the then members of the Association, voting separately, to borrow money for the purpose of improving the common areas and community facilities in a manner designed to promote the enjoyment and welfare of the members and in aid thereof to mortgage any of the common areas and community facilities; and

(b) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosures; provided, however, that the same are in conformity with the other provisions of this Declaration; and

(c) the right of the Association to adopt reasonable rules respecting use of the common areas and community facilities to reasonably limit the number of guests of members to the use of any facilities which are developed upon the Property; and

(d) the right of the Association to suspend the voting rights and the rights to use of the common areas and community facilities for any period during which any assessment remains unpaid and for any period not to exceed sixty (60) days for any infraction of any of the published rules and regulations of the Association; and

(e) the right of the Association to dedicate or transfer all or any part of the common areas or community facilities to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the members and further subject to the then existing laws and applicable ordinances; provided, however, that no such dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless two-thirds (2/3) of each class of the then members of the Association consent to such dedication, transfer, purpose and conditions, at any special meeting of the members duly called for such purpose.

(f) the right of the Association, acting by and through its Board of Directors, to grant licenses, rights of way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, the Declarant or any other person; provided, however, that no such licenses, rights of way or easements shall be unreasonably and permanently inconsistent with the rights of the members to the use and enjoyment of the common areas and community facilities; and

(g) the right of the Association, acting by and through its Board of Directors, to enter into agreements whereby the Association acquires leaseholds, membership or other possessory or use interests in real or personal property for the purpose of promoting the enjoyment, recreation or welfare of the members of the Association and to declare expenses incurred in connection therewith to be common expenses of the Association.

Section 2. Delegation of Right of Use. Any member of the Association may delegate his right to the use and enjoyment of the common areas and community facilities to the members of his family who reside permanently with him and to his tenants, contract-purchasers and guests, all subject to such reasonable rules and regulations which the Association may adopt and uniformly apply and enforce.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. *Annual Maintenance Assessments.* The Declarant hereby covenants and each person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who becomes a fee owner of a lot within the Property, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the Association, in advance, a monthly sum (hereinelsewhere sometimes referred to as "maintenance assessments") equal to one-twelfth (1/12) of the member's proportionate share of the sum required by the Association, as estimated by its Board of Directors, to meet its annual expenses, including but in no way limited to the following:

(a) the cost of all operating expenses of the common areas and community facilities and the services furnished to or in connection with the common areas and community facilities, including charges by the Association for any services furnished by it; and

(b) the cost of necessary management and administration of the common areas and community facilities, including fees paid to any Management Agent; and

(c) the amount of all taxes and assessments levied against the common areas and community facilities; and

(d) the cost of liability insurance on the common areas and community facilities and the cost of such other insurance as the Association may effect with respect to the common areas; and

(e) the cost of utilities and other services which may be provided by the Association, whether for the common areas and community facilities or for the lots, or both; and

(f) the cost of maintaining, replacing, repairing, and landscaping the common areas, including, without limitation, maintenance of any storm water detention basins or the like located upon the common areas and the cost of the maintenance of all pathways upon the property, together with such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and

(g) the cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and a reserve for replacements; and

(h) the cost of any leasehold, membership or other possessory or use interests in real or personal property arranged by the Association for the purpose of promoting the enjoyment, recreation or welfare of the members of the Association.

The Board of Directors shall determine the amount of the maintenance assessement annually, but may do so at more frequent intervals should circumstances so require. Upon resolution of the Board of Directors, installments of annual assessments may be levied and collected on a quarterly, semi-annual or annual basis rather than on the monthly basis hereinabove provided for. Any member may prepay one or more installments on any annual maintenance assessment levied by the Association, without premium or penalty.

The Board of Directors shall prepare, or cause the preparation of an annual operating budget for the Association which shall provide, without limitation, for the management, operation and maintenance of the common areas. The Board of Directors of the Association shall make reasonable efforts to fix the amount of the annual maintenance assessment against each lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the lots and the annual maintenance assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner upon reasonable notice to the Board. Written notice of the annual maintenance assessments shall thereupon be sent to the members. The omission by the Board of Directors, before the expiration of any assessment period to fix the amount of the annual maintenance assessment hereunder for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release of any member from the obligation to pay the annual maintenance assessment, or any installment thereof, for that or any subsequent assessment period, but the annual maintenance assessment fixed for the preceding period shall continue until a new maintenance assessment is fixed. No member may exempt himself from liability for maintenance assessments by abandonment of any lot belonging to him or by the abandonment of his right to the use and enjoyment of the common areas and community facilities.

Except as may be specifically provided for herein, this Declaration does not contemplate that the Association shall have any responsibility for the maintenance or repair of the dwellings or their appurtenances and the responsibility and duties of the Association for maintenance and repairs shall be limited to the common areas and community facilities. The owner of any lot shall, at his own expense, maintain his lot and dwelling, and any and all appurtenances thereto, in good order, condition and repair and in a clean, sightly and sanitary condition at all times.

Section 2. *Special Maintenance Assessments.* In addition to the regular maintenance assessments authorized by this Article, the Association may levy in any assessment year a special maintenance assessment or assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, inordinate repair or replacement of a described capital improvement located upon, or forming a part of the common areas and community facilities, including the necessary fixtures and personal property related thereto, or for such other purposes as the Board of Directors may consider appropriate; provided that any such assessment shall have the assent of the members representing two-thirds (2/3) of each class of the then members of the Association. A meeting of the members shall be duly called for this purpose.

Section 3. *Reserves for Replacements.* The Association shall establish and maintain a reserve fund for replacements of the common areas and community facilities by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by any State or by any agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements of the common areas and community facilities may be expended only for the purpose of affecting the replacement of the common areas and community facilities, major repairs to any sidewalks, parking areas, streets, or roadways developed as a part of The Property, equipment replacement, and for start-up expenses and operating contingencies of a nonrecurring nature relating to the common areas and community facilities. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any member in any such reserves shall be considered an appurtenance of his lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the lot to which it appertains and shall be deemed to be transferred with such lot.

Section 4. *Annual Maintenance Assessments.* The initial maximum annual maintenance assessment for each of the lots to which Class A membership is appurtenant shall not exceed the sum of Three Hundred and Twelve Dollars and No/100 ($312.00) per annum. The annual maintenance assessment shall be levied at a uni-

form rate for each lot to which Class A membership is appurtenant.

The initial maximum annual maintenance assessment for each of the lots to which Class B membership is appurtenant shall not exceed the sum of Three Hundred and Twelve Dollars and No/100 ($312.00) per annum. The annual maintenance assessment shall be levied at a uniform rate for each lot to which Class B membership is appurtenant.

The initial maximum annual maintenance assessment for each of the lots to which Class C membership is appurtenant shall be equal to twenty-five percent (25%) of the maximum annual maintenance assessment which would be assessed against the lot were it owned by a Class A member. In consideration of the Declarant's exemption from a full assessment, Declarant hereby covenants and agrees to maintain (exclusive of real estate taxes, insurance premiums and utility bills) the Common Area, without cost to the Association, for one year from the date of conveyance of the first Lot to an Owner, or until the Declarant has conveyed seventy-five percent (75%) of said Lots to Owners, whichever occurs first. Said maintenance shall apply upon subsequent annexation pursuant to Section 2, Article II, with respect to the Common Area contained in the property so annexed, which maintenance shall end one (1) year from the date of conveyance of the first Lot in such annexed property to an Owner, or until the Declarant has conveyed seventy-five percent (75%) of the Lots contained in such annexed property to Owners, whichever occurs first.

Section 5. *Increase in Maximum Annual Maintenance Assessment.*

(a) from and after January 1, 1980, the maximum annual maintenance assessment for all Class A and Class B memberships hereinabove provided for, may be increased by the Board of Directors of the Association, without a vote of the Class A and Class B memberships, by an amount equal to ten percent (10%) of the maximum annual assessment for the preceding year, plus the amount by which any *ad valorem* real estate taxes and casualty and other insurance premiums payable by the Association have increased over amounts payable for the same or similar items for the previous year.

(b) from and after January 1, 1980, the maximum annual maintenance assessments for all Class A and Class B memberships hereinabove provided for may be increased above that established by the preceding paragraph by a vote of the members, as hereinafter provided, for the next succeeding year and, thereafter, at the end of such year, for each succeeding year. Any change made pursuant to this paragraph shall have the assent of two-thirds (2/3) of each class of the then members of the Association. A meeting of the members shall be duly called for this purpose.

Section 6. *Non-Payment of Assessments – Memorandum of Lien for Assessments*

Any assessment levied pursuant to this Declaration, and any installment thereof, which is not paid on the date when due shall be delinquent and shall, together with interest thereon and the cost of collection thereof, as hereinafter provided, become a continuing lien upon the lot or lots belonging to the member against whom such assessment is levied.

The lien evidenced hereby shall bind the lot or lots herein described in the hands of the then owner thereof, his heirs, devisees, personal representatives and assigns. The personal obligation of the member to pay such assessment shall, in addition, remain his personal obligation for the statutory period and a suit to recover a money judgment for nonpayment of any assessment levied pursuant to this Declaration, or any installment thereof, may be maintained without establishing, perfecting, foreclosing or waiving the lien herein provided for to secure the same.

No suit or other proceeding may be brought to enforce or foreclose the lien evidenced herein after twenty-four (24) months from the date the assessment became due and owing. No suit or other proceeding may be brought to enforce or foreclose the lien except after ten (10) days' written notice to the member, given by Registered or Certified Mail - Return Receipt Requested, postage prepaid, to the address of the member shown on the roster of members maintained by the Association.

Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid with ten (10) days after it is due, may, upon resolution of the Board of Directors, bear interest at the rate of eight percent (8%) per annum, and the Association may bring an action at law against the member personally obligated to pay the same, or foreclose on the lien against the lot or lots then belonging to said member in the manner now or hereafter provided by law or, if no separate provision is made by law, then in the manner now or hereafter provided by law for the foreclosure of mortgages, deeds of trust or other liens on real property in the Commonwealth of Virginia containing a power of sale or consent to a decree, and subject to the same requirements, both substantive and procedural, or as may otherwise from time to time be provided by law, in either of which events interest, costs and reasonable attorneys' fees of not less than twenty percent (20%) of the sum claimed shall be added to the amount of each assessment. Suit for any deficiency may be maintained in the same proceeding.

The Association shall notify the holder of the first mortgage on any lot for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of thirty (30) days and in any other case where the owner of such lot is in default with respect to the performance of any other obligation hereunder for a period in excess of thirty (30) days, but any failure to give such notice shall not affect the validity of the lien for any

assessment levied pursuant to this Declaration, nor shall any such failure affect any of the priorities established in this Article.

The Board of Directors may post a list of members who are delinquent in the payment of any assessments or other fees which may be due the Association, including any installment thereof, which becomes delinquent, in any prominent location upon The Property.

Section 7. *Assessment Certificates.* The Association shall, upon written demand at any time, furnish to any member liable for any assessment levied pursuant to this Declaration (or any other party legitimately interested in the same) a certificate in writing and in form sufficient for recordation signed by an officer of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid as to a particular lot. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. Failure of the Association to furnish or make available such a certificate within five (5) business days following the receipt of such a written request shall extinguish the right of the Association to claim the lien for such assessment provided by law and provided for in this Declaration, and a charge not to exceed Fifteen Dollars ($15.00) may be levied in advance by the Association for each certificate so delivered.

Section 8. *Subordination of the Lien to Mortgages.* The lien of the assessment provided for herein shall be subordinate to the lien of any first trust or mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. *Exempt Property.* The following property subject to this Declaration shall be exempt from the assessments created herein; (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; (c) all properties owned by charitable or other organizations exempt from taxation by the laws of the State of Virginia. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 10. *Date of Commencement of Annual Assessments: Due Dates.* The annual assessments provided for herein shall commence as to each individual lot on the first day of the month following the issuance by the appropriate governmental authorities of the residential use and occupancy permit for such Lot. No lot shall be subject to such assessment until the issuance of the required residential use and occupancy permit for that lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

Section 11. *Dissolution of Association.* In the event of dissolution of the Association, in accordance with the terms of its Articles of Incorporation, each Lot shall continue to be subject to the annual assessment specified in Section 1 of this Article, and each Owner shall continue to be personally obligated for such assessment, to the extent that such assessments are required to enable the grantee of the real property owned by the Association to properly maintain it. In no event, however, shall the assessment exceed the amount that would otherwise by payable to the Association in accordance with the provisions of Section 4 of this Article.

ARTICLE VI

Section 1. *Architectural Control Committee.* Except for construction or development by, for or under contract with the Declarant, and except for any improvements to any lot or to the common areas accomplished by the Declarant concurrently with said construction and development, and except for purposes of proper maintenance and repair, no building, fence, wall or other improvements or structures shall be commenced, directed, placed, moved, altered or maintained upon The Property, nor shall any exterior addition to or change (including any change of color) or other alteration thereupon be made until the complete plans and specifications showing the location, nature, shape, height, material, color, type of construction and any other proposed form of change (including, without limitation, any other information specified by the Architectural Control Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the community by an Architectural Control Committee designated by the Board of Directors.

Section 2. *Architectural Control Committee – Operation.* The Board of Directors shall appoint an Architectural and Environmental Control Committee. The Architectural and Environmental Control Committee shall be composed of three (3) or more natural persons designated from time to time by the Board of Directors. The affirmative vote of a majority of the members of the Architectural and Environmental Control Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article.

Section 3. *Approvals, etc.* Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to the provisions of this Article, a copy of such plans and specifications, as approved, shall be deposited among the permanent records of such Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. In the event the Committee fails to approve or disapprove any plans

and specifications which may be submitted to it pursuant to the provisions of this Article within sixty (60) days after such plans and specifications (and all other materials and information required by the Architectural Control Committee) have been submitted to it in writing, then approval will not be required and this Article will be deemed to have been fully complied with.

Section 4. *Limitations.* Construction or alterations in accordance with plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date upon which the same are approved by the Committee (whether by affirmative action or by forbearance from action, as in Section 3 of this Article provided), and shall be substantially completed within twelve (12) months following the date of commencement, or within such other period as the Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviation from the plans and specifications approved by the Committee without the prior consent in writing of the Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

Section 5. *Rules and Regulations, etc.* The Architectural Control Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish and record such statements of policy, standards, guidelines and establish such criteria relative to architectural styles or details, fences, colors, set-backs, materials or other matters relative to architectural control and the protection of the environment, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The Architectural Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to the provisions of this Article. The decisions of the Architectural Control Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Committee (or by any policy, standards or guidelines established by the Committee) may appeal the decision of the Architectural Control Committee to the Board of Directors and, upon the request of such member, shall be entitled to a hearing before the Board of Directors of the Association.

Section 6. *Prohibited Uses and Nuisances.* Except for the activities of the Declarant during the construction or development of the community, or except with the prior written approval of the Board of Directors of the Association or the Architectural Control Committee, or as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or upon the common areas:

(a) no noxious or offensive trade or activity shall be carried on upon any lot or within any dwelling, nor shall anything be done therein or thereon, which may be or become an annoyance or nuisance to the neighborhood or other members. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any dwelling or upon the exterior of any other improvements.

(b) the maintenance, keeping, boarding or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited on any lot or within any dwelling, except that this shall not prohibit the keeping of dogs, cats or caged birds as domestic pets provided they are not kept, bred or maintained for commercial purposes and, provided further, that such domestic pets are not a source of annoyance or nuisance to the neighborhood or other members. The Board of Directors or, upon resolution of the Board of Directors, the Architectural Control Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other members, and such determination shall be conclusive. Pets shall be attended at all times and shall be registered, licensed and innoculated as may from time to time be required by law. Pets shall not be permitted upon the common areas unless accompanied by a responsible person and unless they are carried or leashed. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets as it may from time to time consider necessary or appropriate.

(c) no burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind shall be permitted on any lot.

(d) except as hereinelsewhere provided, no junk vehicle, trailer, camper, camp truck, house trailer, boat or other similar machinery or equipment of any kind or character (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any dwelling and except for such equipment and machinery as the Association may require in connection with the maintenance and operation of the common areas and community facilities shall

be kept upon The Property nor (except for *bona fide* emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of the Architectural Control Committee, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) trash and garbage containers shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any lot. Garbage, trash and other refuse shall be placed in covered containers.

(f) no lot shall be divided or subdivided and no portion of any lot (other than the entire lot) shall be transferred or conveyed for any purpose. No portion of any dwelling (other than the entire dwelling) shall be leased. The provisions of this subsection shall not apply to the Declarant and, further, the provisions hereof shall not be construed to prohibit the granting of any easement or right of way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, the Declarant or any other person for any purpose.

(g) except for hoses and the like which are reasonably necessary in connection with normal lawn maintence, no water pipe, sewer pipe, gas pipe, drainage pipe, television cable or similar transmission line shall be installed or maintained on any lot above the surface of the ground.

(h) no lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

(i) no sound hardwood trees measuring in excess of six (6) inches in diameter two (2) feet above the ground shall be removed from any lot without written approval of the Association acting through the Architectural Control Committee or duly appointed subcommittee. The Architectural Control Committee may from time to time adopt and promulgate such additional rules and regulations regarding the preservation of trees and other natural resources and wildlife as it may consider appropriate.

(j) no structure of a temporary character, and no trailer, tent, shack, barn, pen, kennel, run, stable, outdoor clothes dryer, shed or other buildings shall be erected, used or maintained on any lot at any time.

(k) except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" and such promotional sign or signs as may be maintained by the Declarant or the Association, no signs or advertising devices of any character shall be erected, posted or displayed upon, in or about any lot or dwelling, provided, however, that one sign not exceeding two (2) square feet in area and not illuminated may be attached to a dwelling where a professional office (as hereinelsewhere in this Declaration defined) is maintained, and provided further, that one temporary real estate sign not exceeding six (6) feet square in area, may be erected upon any lot or attached to any dwelling placed upon the market for sale or rent. Any such temporary real estate sign shall be removed promptly following the sale or rental of such dwelling. The provisions and limitations of this subsection shall not apply to any institutional first mortgagee of any lot who comes into possession of the lot by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

(l) no structure, planting or other material shall be placed or permitted to remain upon any lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct or retard direction or flow of any drainage channels.

(m) no outside television aerial or radio antenna, or other aerial or antennae for either reception or transmission, shall be maintained upon the Property, except that such aerials or antennae may be erected and maintained within the dwellings located upon the Property.

(n) no member shall make any private or exclusive or proprietary use of any of the common areas except with the specific approval of the Architectural Control Committee and then only on a temporary basis and no member shall engage or direct any employee of the Association on any private business of the member during the hours such employee is employed by the Association, nor shall any member direct, supervise or in any manner attempt to assert control over any employee of the Association.

Section 7. *Residential Use – Leasing.* All dwellings shall be used for private residential purposes exclusively, except that a professional office may be maintained in a dwelling, provided that such maintenance and use is limited to the person actually residing in the dwelling and, provided further, that such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation. As used in this Section the term "professional office" shall mean rooms used for office purposes by a member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics. Nothing contained in this Article, or elsewhere in this Declaration, shall be construed to prohibit the Declarant from the use of any lot or dwelling for promotional or display purposes, or as "model homes," a sales office, or the like.

Section 8. *Fences.* Any fence constructed upon the Property shall be either horizontal, rustic, unfinished split rail or vertical split sapling, or vertical board and shall not extend beyond the front building line of the dwelling on the lot upon which any such fence is erected or the front building line of the dwellings on all immediately adjacent lots. No fence shall be more than six (6) feet in height. Chain link and other wire fencing is specifically prohibited. The erection of all fences shall be subject to the provisions of this Article.

Section 9. *Parking.* Parking upon the common areas may be regulated by the Board of Directors and parking spaces may initially be assigned by the Declarant and thereafter by the Board of Directors of the Association or by such Committee as the Board of Directors may designate for that purpose. In the event parking spaces upon the common areas are assigned as aforesaid, then no member shall make use of any parking space other than the space or spaces assigned to his lot by the Board of Directors without the express written consent of both the owner of the lot to which such other space has been assigned and the Board of Directors of the Association, nor shall any member invite, encourage or permit the use by his guests of parking spaces assigned to lots other than his own. No vehicle belonging to any member, or to any guest or employee of any member, shall be parked in a manner which unreasonably interferes with or impedes ready vehicular access to any other parking space upon the common areas. Nothing shall be stored upon any of the parking areas nor shall be same be permitted to accumulate trash or debris. In the event the Board of Directors elects to assign parking spaces upon the common areas as herein provided for, then the Board of Directors may make reasonable efforts to assign parking spaces in a manner calculated to make reasonable adjustments to accommodate the elderly and the handicapped.

Section 10. *House Rules, etc.* There shall be no violation of any rules for the use of the common areas and community facilities or "house rules" or other community rules and regulations not inconsistent with the provisions of this Declaration which may from time to time be adopted by the Board of Directors of the Association and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt such rules.

Section 11. *Enforcement – Right to Remove or Correct Violations.* In the event any violation or attempted violation of any of the covenants or restrictions contained in this Article shall occur or be maintained upon any lot, or in the event of any other conduct in violation of any of the provisions or requirements of this Article, then the same shall be considered to have been undertaken in violation of this Article and without the approval of the Architectural Control Committee required herein, and, upon written notice from the Architectural Control Committee, such violation shall be promptly removed or abated. In the event the same is not removed, or the violation is not otherwise terminated or abated, within fifteen (15) days (or such shorter period as may be required in any such notice) after notice of such violation is delivered to the owner of the lot upon which such violation exists, or to the member responsible for such violation if the same shall be committed or attempted on premises other than the lot owned by such member, then the Association shall have the right, through its agents and employees (but only after a resolution of the Architectural Control Committee) to enter upon such lot and to take such steps as may be necessary to remove or otherwise terminate or abate such violation and the cost thereof may be assessed against the lot upon which such violation occurred and when so assessed, a statement for the amount thereof shall be rendered to the owner of said lot at which time the assessment shall become due and payable and a continuing lien upon such lot, and a binding personal obligation of the owner of such lot, in all respects (and subject to the same limitations) as provided in Article V of this Declaration. The Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any lot at any reasonable time for the purpose of ascertaining whether any violation of the provisions or requirements of this Declaration, exist on such lot; and neither the Association nor any such agent or employee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE VII

Section 1. *Party Walls.* Each wall which is built as part of the original construction of the dwellings upon The Property and placed on the dividing line between lots or partly on one lot and partly on another shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. *Repairs 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 equal shares. Nothing shall be done by any Owner which impairs the structural integrity of any party wall or which diminishes the fire protection afforded by any party wall. No Owner shall use any party wall for any purpose which creates a hazard or nuisance for any other Owner who makes use of the party wall.

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, of the right of any such Owner to call for a larger contribution from the others under any rules of law regarding liability for negligent or willful acts or omissions.

Section 4. *Weatherproofing.* Notwithstanding any other provision of this Article, any Owner who by his negligent or willful act causes a 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 Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. *Encroachments.* If any portion of a party wall shall encroach upon any adjoining lot, or upon the common areas or community facilities, by reason of reconstruction, settlement or shifting of any building, or

otherwise, a valid easement for the encroachment and for the maintenance of the same as long as the building stands, shall exist.

ARTICLE VIII

Section 1. *Management Agent.* The Board of Directors may employ for the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. The Management Agent shall perform such duties and services as the Board of Directors shall authorize in writing.

Any management agreement entered into by the Association Shall provide *inter alia*, that such agreement may be terminated, with or without cause and without the payment of any penalty or termination fee, by either party upon ninety (90) days' written notice thereof to the other party. The term of any such management agreement shall not exceed one (1) year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

Section 2. *Limitation of Liability.* The Association shall not be liable to any member for loss or damage, by theft or otherwise, of articles which may be stored upon the common areas or community facilities. No diminution or abatement of assessments, as hereinelsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the common areas or community facilities, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

ARTICLE IX

Section 1. *Reservation of Easement Rights by the Declarant.* The Declarant hereby reserves a non-exclusive easement and right of way in, through, over and across the common areas and community facilities for the purpose of the storage of building supplies and materials, the installation, construction, maintenance, reconstruction and repair of sanitary sewer lines, water lines, cables, storm drains and appurtenances to any of the same, and for all other purposes reasonably related to the completion of construction and the provisions of utility services, whether public or private, to the community and to other property adjacent to, or in the vicinity of, the community. Any and all instruments of conveyancing made by the Declarant to the Association with respect to any of the common areas and community facilities shall be conclusively deemed to incorporate this reservation, whether or not specifically set forth in such instruments. At the request in writing of the Declarant, the Association shall from time to time execute, acknowledge and deliver to the Declarant such further assurances of this reservation as may be necessary.

Section 2. *Easements for Utilities and Related Purposes.* The Association is authorized and empowered to grant (and shall from time to time grant) such other licenses, easements and rights of way over the common areas and community facilities for sewer lines, water lines, electrical cables, telephone cables, gas lines, storm drains, cables, underground conduits and such other purposes related to the provisions of utility services to the community as may be considered necessary and appropriate by the Board of Directors for the orderly maintenance, preservation and enjoyment of the common areas and community facilities and for the preservation of the health, safety, convenience and welfare of the owners of the lots or the Declarant.

ARTICLE X

Section 1. *Amendment.* Subject to the other limitations set forth in this Declaration, prior to the lapse of all of the Class C memberships in the Association, as in Article III provided, this Declaration may be amended only by an instrument executed and acknowledged by two-thirds (2/3) of each class of the then members of the Association, if any, and by the Declarant, which instrument shall be recorded among the Land Records for the jurisdiction in which this Declaration is recorded. Subject to the other limitations set forth in this Declaration, following the lapse of all of the Class C memberships in the Association, as in Article III provided, this Declaration may be amended by an instrument executed and acknowledged by a majority of each class of the then members of the Association, which instrument shall be recorded among the Land Records for the jurisdiction in which this Declaration is recorded. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on the date of recording; provided, however, that no amendment shall be effective unless it is executed by at least one Class A and one Class B members, should there be any Class A and/or Class B members.

Section 2. *Duration.* Unless amended in accordance with the provisions of Section 1 of this Article and the other requirements of this Declaration, and except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of ten (10) years each.

Section 3. *Construction and Enforcement.* The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the community. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenants or restriction, either to restrain or enjoin violation or to recover dam-

ages or both, and against any lot to enforce the lien created hereby; and the failure or forbearance by the Association or the owner of any lot to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The provisions hereof may be enforced, without limitation, by the Declarant, by the Association, by any owner or any mortgagee of any lot which becomes subject to the provisions hereof and by any other person, firm, corporation or other legal entity who has any right to the use of any of the common areas and community facilities owned by the Association.

There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

Section 4. *Successors of Declarant.* Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant, with or without notice to the Association.

Section 5. *Incorporation by Reference on Resale.* In the event any owner sells or otherwise transfers any lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration.

Section 6. *Notices.* Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postpaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing.

Section 7. *No Dedication to Public Use.* Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any common areas or community facility by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the common areas or community facilities.

Section 8. *Severability.* Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect.

Section 9. *Consents.* Any other provision of this Declaration to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the institutional holders of all first mortgages of record on the lots:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights of way, easements and the like for public utilities or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate this Declaration; or

(c) modify the method of determining and collecting common expense assessments or other assessments as provided for in this Declaration; or

(d) fail to maintain fire and extended coverage insurance on insurable common areas and community facilities on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value of such common areas and community facilities, based upon current replacement cost; or

(e) resolve to use the proceeds of casualty insurance for any purpose other than the repair, replacement or reconstruction of the common areas and community facilities; or

(f) modify or amend any material or substantive provision of this Declaration or the ByLaws of the Association.

Section 10. *Consent of Veterans Administration.* Provided that any lot in the project is then encumbered by a deed of trust or mortgage which is guaranteed by the Veterans Administration and, provided further, that there are then Class C memberships of the Association outstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Veterans Administration:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the common areas and community facilities; provided, however, that the granting of rights of way, easements and the like for public utilities or for other purposes consistent with the use of the common areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate this Declaration; or

(c) modify or amend any material or substantive provision of this Declaration or the By-Laws of the Association.

Section 11. *Additional Rights of Mortgagees - Notice.* The Association shall promptly notify the holder of the first mortgage on any lot for which any assessment levied pursuant to the Declaration or any installment thereof, becomes delinquent for a period in excess of thirty (30) days and the Association shall promptly notify the holder of the first mortgage on any lot with respect to which any default in any other provision of this

Declaration remains uncured for a period in excess of thirty (30) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any first mortgage on any lot and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days' written notice to the holder of the first mortgage on the lot which is the subject matter of such suit or proceeding.

Any institutional first mortgagee of any lot upon The Property may pay any taxes, utility charges or other charge levied against the common areas and community facilities which are in default and which may or have become a charge or lien against any of the common areas and community facilities and any such institutional first mortgagee may pay any overdue premiums on any hazard insurance policy or secure new hazard insurance coverage on the lapse of any policy, with respect to the common areas and community facilities. Any first mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

Section 12. *Casualty Losses.* In the event of substantial damage or destruction to any of the common areas or community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the lots. No provision of this Declaration or the By-Laws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his lot with respect to the distribution to such member of any insurance proceeds paid or payable on account of any damage or destruction of any of the common areas or community facilities.

Section 13. *Condemnation or Eminent Domain.* In the event any part of the common areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the lots. No provision of this Declaration or the By-Laws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his lot with respect to the distribution to such member of the proceeds of any condemnation or settlement relating to a taking of any of the common areas and community facilities.

Section 14. *Captions and Gender.* The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

DEED OF AMENDMENT

THIS DEED OF AMENDMENT, made and entered into this 18th day of August, 1980, by PANACHE BUILDERS, INC., a Virginia corporation, hereinafter referred to as the Declarant.

WITNESSETH:

WHEREAS, by Declaration dated July 30, 1979, and recorded as Exhibit B to the Deed of Dedication and Subdivision and Deed of Conveyance for Lafayette Village, Section One, which is recorded in Deed Book 5248 at page 434, among the land records of Fairfax County, Virginia, the Declarant did subject the property therein more particularly described to the Covenants, Conditions and Restrictions set forth in this Declaration; and

WHEREAS, the terms and provisions of this Declaration were incorporated by reference in the Deed of Dedication and Subdivision and Deed of Conveyance for Section Two, Lafayette Village, which is recorded in Deed Book 5248 at page 472, among the land records of Fairfax County, Virginia, wherein certain additional property, as therein more particularly described, was subjected to the force and effect of this Declaration; and

WHEREAS, this Declaration was incorporated by reference in the Deed of Dedication and Subdivision and Deed of Conveyance for Section Three, Lafayette Village, which is recorded in Deed Book 5248 at page 482, among the land records of Fairfax County, Virginia, wherein the property, as more particularly described therein, is subjected to the force and effect of this Declaration; and

WHEREAS, the Declarant desires to amend and modify certain provisions of the aforesaid Declaration, as hereinafter more particularly set forth.

NOW, THEREFORE, for and in consideration of the sum of ONE DOLLAR ($1.00), cash in hand paid, the foregoing premises and the covenants and promises hereinafter set forth, the Declarant does hereby amend and modify that certain Declaration dated July 30, 1979, and recorded as Exhibit B to the Deed of Dedication and Subdivision and Deed of Conveyance recorded in Deed Book 5248 at page 434, among the land records of Fairfax County, Virginia, as follows:

1. The property described in the Declaration, as containing 10.54653 acres, as more particulary described in the metes and bounds description attached as Exhibit A to the Deed of Dedication and Subdivision to which the Declaration is recorded as Exhibit B, shall be, and hereby is, modified so as to provide that the property is more particularly described as Lots 1 through 21, both inclusive, Parcel A and Outlot B, Section One, Lafayette Village, as the same is duly dedicated, platted and recorded in Deed Book 5248 at page 434, among the land records of Fairfax County, Virginia.

It is further understood and agreed that the Declaration, as hereby amended, shall apply to and be binding upon Lots 25 through 29, both inclusive, and Parcel B, Section Two, Lafayette Village, as the same is duly dedi-

cated, platted and recorded in Deed Book 5248 at page 472, among the land records of Fairfax County, Virginia, and Lots 37 through 140, both inclusive, and Parcels C and E, Section Three, Lafayette Village, as the same is duly dedicated, platted and recorded in Deed Book 5248 at page 482, among the land records of Fairfax County, Virginia. In no event, shall the Declaration, as hereby amended, apply to or subject to its terms Parcel D, Section Three, Lafayette Village, which was conveyed to the Fairfax County Park Authority by Deed recorded in Deed Book 5248 at page 500, among the land records of Fairfax County, Virginia.

2. Amend Article V, Section 4, by deleting in its entirety the last paragraph of that section, and substituting in its place the following language:

> The maximum annual maintenance assessment for each of the lots to which Class C Membership is appurtenant shall be equal to 25 percent of the maximum annual maintenance assessment which would be assessed against the lot were it owned by a Class A or a Class B Member, whichever is applicable. Additionally, however, the Class C Member, during the period of time that he is a Class C Member hereunder, shall be responsible, for paying, in addition to the aforesaid percentage of the maximum annual maintenance assessment, the reserves for replacements specified in Section 3 above, which are applicable to the lots which are the subject of Class C membership, and it shall also be the responsibility of the Class C Member, during the period of time in which he is a Class C Member, to fund any and all shortfalls incurred by the association, being the difference between the income of the association and its expenses, during the period of time of Class C Membership.

3. Amend Article V, Section 10, by deleting therefrom the following language:

> "The annual assessments provided for herein shall commence as to each individual lot on the first day of the month following the issuance by the appropriate governmental authorities of the residential use and occupancy permit for such lot."

In its place, the following language should be substituted:

> "The annual assessments provided for herein shall commence on the lots subject to the Declaration on the first day of the month following the conveyance by the Declarant of the first lot of an owner, to be applied on a sectional basis."

4. Amend Article III, Section 2, Class C(b) by changing the date from December 31, 1984, to December 31, 1985; and further amend the provisions of Article III, Section 2, Class C(c)(ii) by changing the period of time from seven (7) years to four (4) years.

5. All other provisions of the aforesaid Declaration shall remain in full force and effect.