

SSC 350 PAGE 504

STATE OF NORTH CAROLINA

COUNTY OF ORANGE

DECLARATION OF UNIT OWNERSHIP

THIS DECLARATION made this the 31ST day of OCTOBER, 1980, by ROGER BAKER, INC., hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of record of the fee simple title of certain properties in Orange County, North Carolina, which are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the Declarant is the owner of a certain condominium type multi-unit building and certain other improvements heretofore constructed or hereafter to be constructed upon the aforesaid property and it is the desire and the intention of the Declarant to divide the project into "condominium units" or "units" as those terms are defined under the provisions of the North Carolina Ownership Act, and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, the Declarant desires and intends, by the filing of this Declaration, to submit the above described property and the multi-unit building located thereon and all other improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the provisions of the North Carolina Unit Ownership Act (Chapter 47A, North Carolina General Statutes).

NOW, THEREFORE, the Declarant does hereby publish and declare that all of the property described in Exhibit "A" and as described in paragraph 3 below is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominium units and shall be deemed to run with the land and shall be a burden and a benefit to Declarant,

its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. NAME AND ADDRESS

The name by which this condominium is to be identified is:

ESTES OFFICE PARK

The condominium's location and address are:

Estes Office Park
104 S. Estes Drive
Chapel Hill, North Carolina
Orange County, North Carolina

2. DEFINITIONS

The terms used herein and in the By-laws shall have the meanings stated in the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes unless otherwise defined herein or in the By-laws or unless the context otherwise requires.

2.1 Condominium Unit means a unit as defined in the said Unit Ownership Act.

2.2 Association means the Estes Office Park Association, Inc. consisting of all the unit owners acting as a group in accordance with the By-laws and this Declaration.

2.3 Condominium means all of the condominium property as a whole when the context so permits, as well as the meaning stated in the said Unit Ownership Act.

2.4 Singular, Plural, Gender. Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

2.5 The Developer is Roger Baker, Inc.

3. IDENTIFICATION OF PROPERTY

A. LAND: The description of the land on which the buildings and improvements are, or are to be, located is set forth in Exhibit "A" of this Declaration.

B. BUILDING: The description of the building erected by the Declarant on the land described in Exhibit "A" is set forth in Exhibit "B" which states the number of stories and basements, the number of units, and the principal construction materials of

each condominium structure.

Said multi-unit condominium structure is more particularly described in the plans of said building, a copy of which is annexed hereto as Exhibit "C".

C. UNIT DESIGNATIONS: The unit designation of each condominium unit, its location, its dimensions, approximate area, number of rooms and common area and facilities to which it has immediate access, and other data concerning its proper identification are set forth on Exhibit C hereinabove referred to and made a part hereof. No unit bears the same identifying number as does any other unit. Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings, and floors which are shown on said plans, subject to such encroachments as are created by construction, settlement or movement of the building, or by permissible repairs, construction or alteration.

D. COMMON AREAS AND FACILITIES:

(1) Extent: The common areas and facilities consist of all parts of the property described in Exhibits "A" and "B" other than the individual units therein as described in Exhibit "C" above.

(2) Nature of Interest: Each of the unit owners shall own an undivided interest in the common elements and said undivided interest, stated as percentages of such ownership in the said common elements, is set forth in Exhibit "D" which is annexed to this Declaration and made a part hereof.

The fee title to each condominium unit shall include both the unit and the respective undivided interest in the common elements and the said undivided interest in the common elements is to be deemed to be conveyed or encumbered with its respective unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the condominium unit.

Any attempt to sever or separate the fee title to a condominium unit from the undivided interest in the common elements appurtenant to each unit shall be null and void.

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EPTING, HACKNEY
& LONG
ATTORNEYS AT LAW
CHAPEL HILL, N. C.

(3) All areas of the described property not within any units shall be common areas, and all portions of any building or other improvement not included within a unit shall be a common facility, except as may be hereinafter stated. The common facilities shall include all installations, items and equipment for utility service and shall also include tangible personal property required for the maintenance and operation of the condominium even though owned by the Association. The use of the term "common elements" in this document shall be synonymous with "common areas and facilities."

E. AMENDMENT TO PLANS:

(1) The developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, so long as the developer owns the units so altered. No such change shall increase the number of units nor alter the boundaries of the common elements without amendment of this Declaration by approval of the Association and unit owners in the manner elsewhere provided. If the developer shall make any changes in units so authorized, such changes shall be reflected by an amendment to the Declaration. If more than one unit is concerned the Developer shall apportion between the units the shares in the common elements which are appurtenant to the units concerned. No unit at any time may contain less than 500 square feet.

(2) An amendment of this Declaration reflecting such alteration of condominium unit plans by Developer need be signed and acknowledged only by the Developer and need not be approved by the Association, unit owners or lienors or mortgagees of units or of the condominium, whether or not elsewhere required for an amendment.

4. AMENDMENT OF RATIOS

As provided by this Declaration, the By-laws of Estes Office Park Association, Inc., (hereinafter called the "Association") and the terms of Chapter 27A of the General Statutes of North Carolina, the ratio of the undivided interest of each unit owner in the common areas and facilities as set forth in Exhibit "D" attached

hereto may be altered by an amendment to this Declaration duly recorded.

5. NATURE OF INTEREST IN UNITS

Every condominium unit, together with its undivided common interest in the common areas and facilities, shall for all purposes be, and it is hereby declared to be and to constitute, a separate parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of this condominium unit subject only to the covenants, restrictions, easements, rules, regulations, resolutions and decisions as may be contained or provided for herein and in the accompanying By-laws and minutes of the Association.

6. USE

The buildings and each of the units shall be used for business office or professional office purposes only. Any unit owner may delegate, in accordance with this Declaration and the By-laws of the Association, his rights of possession, use, and enjoyment of his unit and the common area and facilities to guests, invitees, licensees and tenants.

7. SERVICE OF PROCESS

ROBERT EPTING is hereby designated to receive Service of Process in any action which may be brought against or in relation to this condominium development and/or the Association. Said persons's place of business is 214 West Rosemary Street, Chapel Hill, North Carolina which is within the city and county in which the development is located. The Association may revoke the appointment of any such agent and appoint a successor, all pursuant to the By-laws.

8. EASEMENTS

The following easements are covenants running with the land affected by this Declaration:

A. Each unit owner shall have an easement in common with the other owners of all other units to use all pipes, wire, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit

shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Association or its designee shall have the right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common facilities contained therein or elsewhere in the building.

B. The Association may hereafter grant easements for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair and replace water lines, gas lines, pipes, sewer lines, television cables, telephone wires and equipment and electrical conduits, and wires over, along and on any portion of the common areas, and each unit owner hereby grants the Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of each unit owner such instruments as may be necessary or desirable to effectuate the foregoing.

C. Ingress and egress is reserved for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the common elements; and for vehicular traffic over, through and across such portions of the common elements as from time to time may be paved and intended for such purposes.

D. Easements are reserved to the owners of units in the Estes Office Park for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes, and for the construction and maintenance of water, sewer and other utilities.

E. If a unit shall encroach upon any common element, or upon any other unit by reason of original construction or by the nonpurposeful or non-negligent act of the unit owner or of the Association, then an easement appurtenant to such encroaching unit, to the extent of such encroachment, shall exist so long as such encroachment shall exist.

9. PARTITIONING

The common areas and facilities shall not be divided nor shall

any right to partition any thereof exist. Nothing herein contained however, shall be deemed to prevent ownership of a condominium unit by the entireties, jointly, or in common or in any other form by law permitted.

10. PARKING SPACES

Parking spaces are located in the condominium clusters. Parking shall be both reserved and generally available according to the following design:

A. Two reserved parking spaces shall be provided each unit per 1000 square feet of unit space. These spaces shall be assigned and managed by general direction of the Association or its designated agent.

B. Three general spaces shall be provided per 1000 square feet of unit space, but these spaces shall be generally available for public use.

11. LIENS

While the property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the common areas and facilities except with the unanimous consent in writing of all of the condominium unit owners and the holders of the first lien thereon except such liens as may arise or be created against the several units and their respective common interests under the provisions of the North Carolina Unit Ownership Act. Every agreement for the performance of labor, or the furnishings of materials to the common areas and facilities, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and the right to file a mechanic lien or other similar lien by labor performed or materials furnished is waived.

12. OPERATING ENTITY

The operation of the condominium shall be by an incorporated Association organized pursuant to Chapter 55 of the General Statutes of North Carolina.

A. Name: The name of the Association shall be:

ESTES OFFICE PARK ASSOCIATION, INC.

B. Powers: The Association shall have all of the powers and duties set forth in the Unit Ownership Act, except as limited by this Declaration and the By-laws, and all of the powers and duties reasonably necessary to operate the condominium as set forth in this Declaration and the By-laws and as they may be amended from time to time.

The Association's powers of maintenance, operation, administration, management, and care of the condominium property may be delegated to a Manager as provided for in Article 14 herein.

C. Members:

(1) Qualifications: The members of the Association shall consist of all of the record owners of the units.

(2) Change of Membership: After receiving the approval of the Association elsewhere required, change of membership in the Association shall be established by recording in the public records of Orange County, North Carolina, a deed or other instrument establishing a record title to a unit or units in the condominium and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

(3) Voting Rights: There shall be one person with respect of each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known hereafter and referred to as "voting member". Such voting member may be the owner or one of a group composed of all of the owners of a unit ownership, or may be some other persona designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner. Such designation shall be made in writing to the Association and shall be revocable at any time by actual notice to the Secretary of the Association of the death or judicially declared incompetence of any designator, or by written notice to the Association by the owner or owners. Each unit owner shall be entitled to the number of votes provided in Exhibit "D" attached hereto. Unit owners may vote on any matter by secret ballot upon motion duly made and seconded by any voting member.

(4) Approval or Disapproval of Matters: Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration.

(5) Restraint Upon Assignment of Shares in Assets: The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his unit.

Any assessment for reserve or sinking funds for capital improvements or repairs shall be held by the Association for the purposes so designated and for no other. In the event such purpose or contingency does not occur, said allocated funds shall be expended only for the general operation of the property and any excess assessments in any year shall be used to reduce the following year's assessments.

(6) Designation of Voting Representative: If a unit is owned by one person his right to vote shall be established by the record title to his unit. If a unit is owned by more than one person, or by a partnership, trust, or estate or is under lease, the person entitled to cast the vote for the unit shall be designated by a certificate signed by all of the record owners of the unit or signed by the partnership, trustee, or other fiduciary and filed with the Secretary of the Association. If a unit is owned by a corporation, the person entitled to cast the vote for the unit shall be designated by a certificate of appointment signed by the president, vice president or secretary of the corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the unit concerned.

D. Indemnification of Officers: Every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or

imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been an officer at the time of the acts in question or such expenses are incurred, except in such cases wherein the officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Association approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such officer may be entitled.

E. By-laws: The By-laws of the Association shall be in the form attached hereto as Exhibit "E", as amended from time to time.

F. Property in Trust: All funds and the titles of all properties acquired by the Association and the proceeds thereof shall be held in trust for the members in accordance with the provisions of this Declaration and the By-laws.

13. COMMON EXPENSE

All expenses and surpluses incurred with the approval of the Association, including but not limited to maintenance, insurance and utilities shall be shared and paid by the Unit owners as common expenses in the common area ownership percentages specified in Exhibit "D" as amended from time to time. Such expenses shall be collected as hereinafter provided in Paragraph 15.

14. MANAGEMENT AND MAINTENANCE

A. Manager: The Association may enter into a contract with a Management Company or Manager for the purpose of providing all elements of the operation, care, supervision, maintenance, and management of the property. All the powers and duties of the Association necessary or convenient for such maintenance and management may be delegated to and vested in the Manager by the Association, except such as are specifically required by this Declaration, the By-laws, or the Unit Ownership Act, to have the approval of the Association. The manager is hereby further authorized to recommend the annual budget, and, upon approval thereby the Asso-

ciation, make assessments for common expenses, and collect such assessments as provided in this Declaration and the By-laws, subject always to the supervision and right of approval of the Association.

B. Owner's Maintenance; Utilities Use:

(1) Each unit owner agrees as follows:

a) To maintain in good condition and repair his unit and all interior surface within his unit (such as walls, ceilings and floors) which are not common elements or exterior surfaces the maintenance of which shall be the responsibility of the Association and assessable to all the unit owners as a common expense.

b) Not to make or cause to be made any structural addition to the common elements without the prior written consent of the Association.

c) To make no alterations, repairs, replacements or change of the common elements, or to any outside or exterior portion of the building, whether within a unit or part of the common elements.

d) To permit the Board of Directors or the Manager, or the agents or employees of the Association, to enter with notice at any reasonable hour of the day, for the purpose of maintenance, inspection, repair, replacement or improvements within the units or the common elements, or to determine in the case of emergency, the circumstances threatening any unit(s) or the common elements, or to determine compliance with the provisions of this Declaration, the By-laws, or the Rules and Regulations promulgated thereunder.

(2) In the event a unit owner fails to maintain a unit as required herein or makes any structural addition or alteration to the common areas without the required written consent of the Association, or fails to permit entrance to the Association, the Association or its designee shall have the right to proceed either at law or in equity for whatever appropriate remedy including reasonable attorneys fees the circumstances required. In lieu

thereof and/or in addition to this remedy, the Association, shall have the right and power to levy an assessment against the owner of the unit and the unit itself for such necessary sums to remove any unauthorized structure or alteration and to restore the property to its former condition. The Association shall have the further right and power to have its employees or agents, or any subcontractor appointed by it, enter the unit at any and all reasonable times, to do such work as is deemed necessary by the Board of Directors to enforce compliance with the provisions hereof.

(3) In the event that separate utility metering is provided for each unit, each unit owner shall be responsible for payment of all utilities use charged to its unit. Should utilities be metered to the project generally, those utility charges shall be assessed and collected as the Association may determine.

C. Limitation of Liability: Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

15. ASSESSMENTS

The common expenses shall be divided and assessed against each unit owner as provided for in Paragraph 13 above. Assessments which are unpaid for over thirty (30) days after due date shall bear the maximum interest allowed by law, (but not to exceed the monthly rate of one and one-half percent (1 1/2) from the due date until such unpaid assessment is paid in full.

Unit owners shall be subject to assessment by the Association upon acquiring title to their unit. However, the Developer shall not be liable for assessments until the units contemplated by this Declaration have been sold.

Any sum assessed remaining unpaid for more than thirty (30) days shall constitute a lien upon the delinquent unit or units when filed of record in the Office of the Clerk of Superior Court of Orange County in the manner provided for by Article 8 of Chapter 44 of the General Statutes of North Carolina as amended. The lien

for unpaid assessments shall also secure reasonable attorney's fees incurred by the Manager of the Association incident to the collection of such assessment or the enforcement of such lien. In any foreclosure of a lien for assessments, the owner of the Unit subject to the lien shall be required to pay a reasonable rental for the unit, and the Manager or Association shall be entitled to the appointment of a receiver to collect the same.

16. INSURANCE

A. Ownership of Policies: All insurance policies upon the condominium property shall be purchased by the Association or Manager for the benefit of the Association, the unit owners, and their mortgagees as their interest may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of units owners. Unit owners may, at their option, obtain additional insurance coverage at their own expense upon their personal property, for business interruption or for such other coverage as they may desire.

B. Coverage: All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, or by 90% co-insurance blanket coverage or by such other form of policy as the Association annually determines will most reasonably provide the funds necessary to repair or reconstruct the insured improvements. Such coverage shall afford protection against (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

C. Public Liability Insurance: Public liability insurance shall be secured by the Association or Manager in such amount and with such coverage as shall be deemed necessary by the Association including, but not limited to, an endorsement to cover liability of the unit owners as a group or to a single unit owner. There shall also be obtained such other insurance coverage as the

Association or Manager shall determine from time to time to be desirable or necessary.

D. Premiums: Premiums upon insurance policies purchased by the Association or Manager shall be paid by the Association and chargeable to the Association as a common expense.

E. Proceeds: All insurance policies purchased by the Association or Manager shall be for the benefit of the Association and the unit owners and their mortgagees as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The Association is hereby irrevocably appointed Agent for each unit owner and his mortgagee as their interests may appear for the purpose of compromising and settling claims arising under insurance policies purchased by the Manager of Association for the benefit of the Association and the unit owners; said Association or its designee is hereby further empowered to execute and deliver releases to the insurance carrier upon the payment of claims. The Association's duty or its designee's duty upon receipt of such proceeds shall be to hold the same in trust for the purposes elsewhere stated herein or in the By-laws for the benefit of the Association and the unit owners and their mortgagees, as their interests may appear.

F. In the Event a Mortgage Endorsement Has Been Issued as to a Unit: The share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest may appear.

G. Additional Coverage: Each individual unit owner shall be responsible for purchasing, at his own expense, including but not limited to liability insurance to cover accidents occurring within his own unit, coverage upon his own personal property, business interruption, fire and other hazard, mortgage insurance, and such other insurance as the unit owner deems necessary or desirable.

17. DISTRIBUTION OF INSURANCE PROCEEDS

Proceeds of insurance policies shall be payable to the Estes Office Park Association, Inc., as insurance trustee and shall be distributed to or for the benefit of the beneficial owners in the following manner:

A. Expense of the Trust: All expenses of the insurance trustee shall be first paid or provision made therefor.

B. Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as determined in Paragraph 16 hereof. Any proceeds remaining after defraying such cost shall be distributed as surpluses to the beneficial owners of the damaged units pursuant to Paragraph 13 hereof.

C. Failure to Reconstruct or Repair: If it is determined, as provided in Paragraph 18 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed as surpluses to the beneficial owners of the damaged units thereof pursuant to Paragraph 13 hereof.

D. Mortgagees: In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

18. DAMAGE AND DESTRUCTION

A. Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(1) Common Elements: If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

(2) Condominium Units:

a) Partial Destruction: If the damaged improvement is a condominium unit, and if termination as provided in subparagraph (b) below does not take place, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty it is determined by agreement in the

manner elsewhere provided that the condominium be terminated.

b) Total Destruction: If more than two-third (2/3) of the condominium units are destroyed and the owners of three-fourths (3/4) of the units in the entire condominium should determine not to proceed with repair or restoration, then the procedure set forth in Section 47A-25 of the North Carolina General Statutes, and any amendments thereto, shall take place.

B. Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as Exhibits; or if not, then according to plans and specifications approved by the Association, and if the damaged property is a condominium unit, by the owners of all damaged units therein which approvals shall not be unreasonably withheld.

C. Responsibility: If the damage is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

D. Estimate of Costs: Immediately after a determination to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

E. Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the unit owners who own the damaged units, and against all unit owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against unit owners for damage to units shall be

in proportion to the cost of reconstruction and repair of their respective units. Such assessments on accounts of damage to common elements shall be in proportion to the unit owner's share in the common elements.

19. USE AND OCCUPANCY

A. Use: The buildings and each of the units shall be used for office and business purposes only. Any unit owner may delegate, in accordance with this Declaration and the By-laws of the Association, his rights of possession, use, and enjoyment of his unit and the common area and facilities to his invitees, employees, guests and tenants.

B. Nuisance: The unit owner shall not permit or suffer anything to be done or kept in or about his unit which will increase the rate of insurance on the building, or which will obstruct or interfere with the rights of other unit owners or annoy them by unreasonable noises, odors, or otherwise. No unit owner shall commit nor permit any nuisance, immoral, or illegal act in or about the building.

C. Exterior: It shall be the responsibility of each unit owner and the Association to prevent the development of any unclean, unsightly, or unkept condition of the property which shall tend to decrease the beauty of the neighborhood either as a whole or the specific area.

The unit owner shall not cause anything to be hung, displayed, or placed on the exterior walls, doors, balconies, windows or any other exterior part of the building without the prior written consent of the Association. No person may place or cause to be placed any communications aerial, television aerial, or similar device on any portion of the condominium property without the written consent of the Association.

D. Signs: No signs (including "for rent", "for sale", and other similar signs) or property identification signs shall be erected or maintained on any unit except with written permission of the Association, or except as may be required by legal proceedings.

E. Structures, Outbuildings, and Trailers: No structure of a temporary character shall be placed upon the property at any time, provided, however, that this prohibition shall not apply to shelters used by a contractor during the construction or repair of the multi-unit building, so long as these latter temporary shelters are not, at any time, used as residences, offices, or for business purposes of a unit owner or permitted to remain on the building plot after completion of said construction or repair.

No mobile home of any kind, trailer, tent, barn, storage shed, garage, tree house, or other similar outbuildings or structure, regardless of purpose or function, shall be placed on the property at any time, either temporarily or permanently.

F. Rules and Regulations: No person shall use the common elements, or any part thereof, or a condominium unit, or the condominium property, or any part thereof, or any other property the use of which has been acquired for the benefit of the Association, or the unit owners, in any manner contrary to or not in accordance with the Rules and Regulations pertaining thereto, as from time to time may be promulgated by the Association.

G. Breach of Restrictions: In the event of a violation or breach of any of the restrictions contained in this Declaration or of any other covenants contained in this Declaration, the By-laws or Rules and Regulations of the Association by any unit owner, tenant, or agent of such owner, or any of them, jointly or severally the Association shall have the right to proceed at law or in equity to compel in compliance with the terms hereof or to prevent the violation of these restrictions, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the unit owner, if after five (5) days' written notice of such violation it shall not have been corrected by the unit owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation and conditions in this Declaration, by the By-laws, or Rules and Regulations however long continued, shall not be deemed a waiver of the right to do so thereafter, as to the same breach or as to

breach occurring prior to or subsequent thereto, and shall not bar or affect its enforcement. The invalidation by any court of any restrictions in this Declaration, the By-laws or rules and regulations shall in no way affect any of the other restrictions, but they shall remain in full force and effect. In addition to any other remedy obtained the prevailing party in actions contemplated by this Paragraph shall recover reasonable attorneys fees expended on its behalf therein.

21. UNITS SUBJECT TO DECLARATION

All present and future owners, tenants and occupants of units shall be subject to, and shall comply with the provisions of this Declaration, the By-laws and any Rules and Regulations of the Estes Office Park Association, Inc., as said Declaration, By-laws, Rules and Regulations may be amended from time to time. The acceptance of a deed, or the entering into of a lease, or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, By-laws and any Rules and Regulations which may be adopted are accepted and ratified by such owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed or conveyance or lease.

22. AMENDEMENT OF DECLARATION

This Declaration may be amended by the vote of at least 66 2/3% of the undivided interest of all unit owners in the common elements as set forth in Exhibit "D", cast in person or by proxy at a meeting duly held in accordance with the provisions of the By-laws. No such amendment shall be effective until recorded in the Office of the Register of Deeds for the county wherein the property, the subject of this Declaration, is located.

23. WAIVER

No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

24. CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

25. LIMITATION OF LIABILITY

A. Limitation Upon Liability of Association: Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or by the elements or other owners or persons.

B. Property in Trust: All funds and the titles of all properties acquired by the Association and the net proceeds thereof shall be held in trust for the members in accordance with the provisions of this Declaration and the By-laws of the Association.

26. EMINENT DOMAIN

In the event of a taking by eminent domain (or condemnation or a conveyance in lieu of condemnation) of part or all of the common elements, the award for such taking shall be payable to the Association, which shall represent the owners named in the proceedings. Said award shall be utilized to the extent possible for the repair, restoration, replacement or improvement of the remaining common elements, if only part are taken. If all or more than two-third (2/3) of all of the general common elements are taken, it shall be deemed a destruction of more than two-thirds (2/3) of all the general common elements and the condominium regime shall be terminated as hereinabove provided. Any funds not utilized (in the case of a partial taking) shall be applied in payment of common expenses otherwise assessable. In the event of a taking of all or part of a unit, the award shall be made payable to the owner of such unit and his mortgagee, if any, as their interests may appear.

27. MISCELLANEOUS

A. Encroachments: The owners of the respective condominium

units agree that if any portion of a condominium unit or common element encroaches upon another, a valid easement for the encroachment and maintenance of same, so long as it stands, shall and does exist. In the event the building is partially or totally destroyed and then re-built, the owners of the condominium units agreed that encroachments on parts of the common elements or limited common elements or condominium units, as described herein, due to construction, shall be permitted, and that a valid easement for said encroachments and the maintenance thereof shall exist.

B. Exemption from Liability: No owner of a condominium unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use and enjoyment of any of the common elements, or by the abandonment of his condominium unit.

C. Merger of Units: Nothing hereinabove set forth in this Declaration shall be construed as prohibiting the Association from removing or authorizing the removal of any party wall between any condominium units in order that the said units might be used together as one condominium unit. In such event, all assessments, voting rights, and the share of common elements shall be calculated as if such units were originally designaged on the Exhibits attached to this Declaration, notwithstanding the fact that several units were uses as one, to the intent and purpose that the unit owner of such combined units shall be treated as the unit owner of as many units as have been so combined. No unit at any time may contain less than 500 square feet.

D. Construction: Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and plural shall include the singular. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of condominium property.

E. Warranties and Representations: The Declarant specifically disclaims any intent to have made any warranty or representation in connection with the property or the condominium documents, except as specifically set forth therein, and no person shall rely

upon any warranty or representation not so specifically made there-
in. Any estimates of common expenses, taxes or other charges are
deemed accurate, but no warranty or guaranty is made or intended,
nor may one be relied upon.

F. Controlling: This Declaration and Exhibits attached
hereto and Amendments hereof, shall be construed and controlled by
and under the laws of the State of North Carolina.

G. Covenants: If any of the provisions of this Declaration
and Exhibits attached hereto and amendments hereof, or of the
Amendments hereof, or of the Unit Ownership Act Chapter 47A of the
North Carolina General Statutes, or any section, sentence, clauses,
phrase, or word, or the application thereof, in any circumstances
is held invalid, the invalidity of the remainder of this Declara-
tion, By-laws, the Exhibits attached hereto, the Amendments hereof,
or the Unit Ownership Act, shall not be affected thereby.

DECLARANT:

ROGER BAKER, INC.

Roger J. Baker (SEAL)
Roger J. Baker, President

ATTEST:

Haral Shores
Secretary



STATE OF NORTH CAROLINA
COUNTY OF Durham

I, the undersigned Notary Public in and for the aforesaid
County and State, certify that Haral Shores
personally came before me this day and acknowledged that he is the
Secretary or ROGER BAKER, INC., a Corporation of the State of
North Carolina, and that by authority duly given and as the act of
the Corporation, the foregoing instrument was signed in its name
by its President, sealed with its corporate seal, and attested by
its Secretary.

WITNESS my hand and seal this the 31st day of October,
1980.

Bonnie Mc Knight
Notary Public
My commission expires: 2/6/85

