



persons living and cooking together as a single housekeeping unit, together with any household servants.

Section 1.3 Garage. Each residence may have a private garage suitable for parking not more than three (3) standard size automobiles, which garage shall conform in design and materials with the main structure, and which shall be attached to the main structure.

Section 1.4 Restrictions on Resubdivision. None of the lots, once subdivided by the Declarant, shall be subdivided into smaller lots.

Section 1.5 Driveways. All driveways shall be surfaced with concrete or similar substance approved by the Committee.

Section 1.6 Uses Specifically Prohibited.

(a) No temporary dwelling, shop, trailer or mobile home of any kind or any improvement of a temporary character (except dog houses) shall be permitted on any lot except that the building or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a given lot during construction of a residence. No building material of any kind or character shall be placed or stored upon the property until the owner thereof is ready to commence construction of improvements, and then such material shall be placed within the property lines of the lot upon which the improvements are to be erected.

(b) No boat, marine craft, hovercraft, aircraft, recreational vehicle, motorcycle, pick-up truck, camper, travel or other types of trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the Subdivision. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity.

(c) Trucks with tonnage in excess of one ton and any vehicle with painted advertisement shall not be permitted to park overnight within the Subdivision except those used by a builder during the construction of improvements.

(d) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Subdivision at any time.

(e) No vehicles or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks and pick-up trucks with attached bed campers that are in operating condition and have current license plates and inspection stickers and are in daily use as motor vehicles on the streets and highways of the State of North Carolina, nor shall any vehicle be parked on any street in the Subdivision except in the immediate vicinity of and for the purpose of viewing a model house maintained by a builder.

(f) No structure of a temporary character, such as a trailer, basement, tent, shack, barn or other out-building shall be used on any property at any time as a dwelling house, provided, however, that any builder may maintain and occupy model houses, sales offices and construction trailers during the construction period.

(g) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Subdivision. No derrick or other structure designed for using in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted within the Subdivision.

(h) No animals, livestock or poultry of any kind shall be raised, bred or kept on any property in the Subdivision except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the community. No more than four (4) pets will be permitted on each lot. Pets must be restrained or confined on the homeowner's back lot inside a fenced area or within the house. It is the pet owner's responsibility to keep the lot clean and free of pet debris. All animals must be properly tagged for identification.

(i) No lot or other area in the Subdivision shall be used as a dumping ground for rubbish or a site for the accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or other disposal of such material shall be kept in a clean and sanitary condition. Materials incident to construction of improvements may be stored on lots

during construction so long as construction progresses without undue delay.

(j) No individual water supply system shall be permitted in the Subdivision.

(k) No individual sewage disposal system shall be permitted in the Subdivision.

(l) No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period) shall be occupied by any owner, tenant or other person prior to the erection of a residence.

(m) No air conditioning apparatus shall be installed on the ground in front of a residence. No air conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed on the front wall or window of a residence.

(n) No antennas, discs or other equipment for receiving or sending sound or video messages shall be permitted in this Subdivision except antennas for AM or FM radio reception and UHF and VHF television reception. All antennas shall be located inside the attic of the main residential structure.

(o) No lot or improvement shall be used for business, professional, commercial or manufacturing purposes of any kind. No activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken within the Subdivision, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales office until such builder's last residence in the Subdivision is sold. Nothing in this subparagraph shall prohibit an owner's use of a residence for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowners' use and enjoyment of their residences and yards.

(p) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting them at points ten (10) feet from the intersection of the street right-of-way lines, or, in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection

of a street right of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(q) Except for dog houses, no building previously constructed elsewhere shall be moved onto any lot, it being the intention that only new construction be placed and erected thereon, and no greenhouse, gazebo, storage building or other out-building shall be constructed on any lot (except for sales offices and construction trailers during the construction period).

(r) Within easements on each lot, no structures, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow within drainage channels or which may obstruct or retard the flow of water through drainage channels. This provision shall not prohibit the construction of driveways within the easement areas.

(s) The general grading, slope and drainage plan of a lot may not be altered without the approval of the Town and other appropriate agencies having authority to grant such approval.

(t) No sign of any kind shall be displayed to the public view on any lot except one (1) sign of not more than five (5) square feet placed in the yard of a detached single family lot or placed in a window for an attached townhouse or condominium unit advertising the property for sale, or signs used by a builder to advertise the property during the construction and sales period. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

(u) The outdoor drying of clothes and the erection of outdoor clothes lines or similar devices in the Subdivision is prohibited.

(v) Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything shall be permitted within the Subdivision.

Section 1.7 Minimum Floor Area. The total air conditioned living area of the main residential structure, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and permitted detached accessory buildings, shall be not less than 1,100 square feet for a one and one-half story detached dwelling, 1,550 square feet for a two story detached dwelling, 650 square feet for a one bedroom attached townhouse or condominium,

850 square feet for a two-bedroom attached townhouse or condominium or the minimum habitable floor area as specified by the Town, whichever is the greater.

Section 1.8 Side Line and Front Line Setback Restrictions. No dwelling shall be located on any lot nearer to the front lot line or nearer to the side lot line than the minimum setback lines shown on any recorded plat or as required by the Town. In any event, no detached single family building shall be located on any lot nearer than thirty (30) feet to the right-of-way of a street, nearer than five (5) feet to any side lot line (interior lot line), nearer to any side lot lines such that the aggregate side yards are less than fifteen (15) feet, or nearer than twenty (20) feet to any rear lot line except that structures on corner lots shall be no nearer than eighteen (18) feet to the side property line adjoining the street. For the purposes of these covenants, eaves and steps and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. The Committee may permit deviations in the setback restrictions as long as such setback is in compliance with the minimum requirements of the Town of Cary.

Section 1.9 Fences and Walls. Any fence or wall must be constructed of oiled, stained or painted wood and according to specifications provided by the Committee. Chain link fences are not permitted. A to-scale drawing and evaluation of the fence or wall must be provided to the Committee for its approval. No fence or wall shall be permitted to extend nearer to any street than the back building line of any residence. Fences or walls erected by Declarant shall become the property of the owner of the lot on which the same are erected and, as such, shall be maintained and repaired by such owner except as provided in Article III. No portion of any fence shall extend six (6) feet in height.

Section 1.10 Sidewalks. All sidewalks shall conform to the Town, FHA and VA specifications and regulations.

Section 1.11 Mailboxes. Mailboxes shall be constructed of a material and design approved by the Committee.

## ARTICLE II

### ARCHITECTURAL CONTROL

Section 2.1 Appointment. Declarant shall designate and appoint an Architectural Control Committee (herein called the "Committee") composed of three (3) individuals, each generally familiar with residential and community development design matters and knowledgeable about Declarant's concern for a high level of taste and design standards within the Subdivision. The Committee shall use its best efforts to promote and ensure a high level of

taste, design, quality, harmony and conformity throughout the Subdivision consistent with this declaration.

Section 2.2 Successors. In the event of the death, resignation or removal by Declarant of any member of the Committee, the Board of Directors of Wellington Park Homeowners Association (the "Association") shall appoint a successor member. Upon the termination of Declarant's Class B membership in the Association, the term of office of all members of the Committee appointed by Declarant shall cease, and all members shall thereafter be appointed by the Board of Directors of the Association. No member of the Committee shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of, services performed pursuant to this declaration.

Section 2.3 Authority. No landscaping shall be undertaken and no building, fence, wall or other structure shall be commenced, erected, placed, maintained or altered on any lot, nor shall any exterior painting of, exterior addition to, or alteration of, such items be made until all plans and specifications and a plot plan have been submitted to and approved in writing by a majority of the members of the Committee as to:

(a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, proper facing of main elevation with respect to nearby streets;

(b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping in relation to the various parts of the proposed improvements and in relation to improvements on other lots in the Subdivision; and

(c) the other standards set forth within this declaration (and any amendments hereto) or matters in which the Committee has been vested with the authority to render a final interpretation and decision.

The Committee is authorized and empowered to consider and review any and all aspects of construction and landscaping which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more lot owners or the general value of lots in the Subdivision. In considering the harmony of external design between existing structures and the proposed building being erected, placed or altered, the Committee shall consider only the general appearance of the proposed building as that can be determined from front, rear and side elevations on submitted plans.

Section 2.4 Procedure for Approval. Final plans and specifications shall be submitted in duplicate by personal delivery or by certified mail to the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and

locations of all landscaping and improvements. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this declaration. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the committee and the other complete set of plans shall be marked "Approved", signed by a majority of the Committee and returned to the lot owner or his designated representative. If disapproved by the Committee, one set of such plans shall be returned marked "Disapproved" and shall be accompanied by a reasonable statement of the reasons for disapproval, which statement shall be signed by a majority of the Committee. Any modification of the approved set of plans and specifications must again be submitted to the Committee for its approval. The Committee's approval or disapproval, as required herein, shall be in writing. In no event shall the Committee give verbal approval of any plans. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of submission, written approval of the matters submitted shall not be required and compliance with this Article shall be deemed to have been completed. In case of a dispute about whether the Committee responded within such time period, the person submitting the plans shall have the burden of establishing that the Committee received the plans. The Committee's receipt of the plans may be established by a signed certified mail receipt.

Section 2.5 Standards. The Committee shall have sole discretion with respect to taste, design and all standards specified herein. One objective of the Committee is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built in the Subdivision. The Committee shall also have the authority to require a minimum 7-12 foot roof slope, to specify that chimney flues be covered with brick or masonry or wood, to prohibit the use of light-weight composition roof material, to require that the colors of roofing materials be earth tones, to require the use of wood framed windows, and generally to require that any plans meet the standards of the existing improvements on neighboring lots. The Committee may from time to time publish and promulgate bulletins regarding architectural standards, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this declaration.

Section 2.6 Liability of Committee. The members of the Committee shall have no liability for decisions made by the Committee so long as such decisions are made in good faith and are not arbitrary or capricious. Any errors in or omissions from the plans or the site plan submitted to the Committee shall be the responsibility of the owner of the lot to which the improvements relate, and



the Committee shall have no obligation to check for errors in or omissions from a -! such plans, or to check for such plans' compliance with the general provisions of this Declaration, Town codes, state statutes or the common law, whether the same relate to lot lines, building lines, easements or any other issue.

### ARTICLE III

#### GENERAL PROVISIONS

Section 3.1 Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on any now or hereafter recorded plats for the Subdivision. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. By acceptance of a deed to any lot, the owner thereof covenants and agrees to mow weeds and grass and to keep and maintain in a neat and clear condition any easement which may traverse a portion of the lot.

Section 3.2 Recorded Plat. All dedications, limitations, restrictions and reservations shown on any now or hereafter recorded plats for the Subdivision are incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by Declarant, conveying lots in the Subdivision, whether specifically referred to therein or not.

Section 3.3 Lot Maintenance. The owner and occupant of each lot shall cultivate an attractive ground cover or grass on all yards visible from the street, shall maintain the yards in a sanitary and attractive manner. Grass, weeds and vegetation on each lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. No vegetables shall be grown in any yard that faces a street. No owner shall permit weeds or grass to grow to a height of greater than six inches (6") upon his property. Upon failure of any owner to maintain any lot, Declarant or its assigns may, at its option, have the grass, weeds and vegetation cut as often as necessary in its judgment, and the owner of such property shall be obligated, when presented with an itemized statement, to reimburse Declarant for the cost of such work. This provision, however, shall in no manner be construed to create a lien in favor of any party on any property for the cost of such work or the reimbursement for such work.

Section 3.4 Maintenance of Improvements. Subject to the provisions of the Declaration of Master Covenants, Conditions and Restrictions for Wellington Park Subdivision and any other declarations hereafter recorded for condominiums or townhouses, each lot owner shall maintain the exterior of all buildings, fences, walls and other improvements on his lot in good condition and repair, and shall replace worn and rotten parts, and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate in an unattractive manner.

Section 3.5 Mortgages. It is expressly provided that the breach of any of the foregoing conditions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to the same premises or any part thereof encumbered by such mortgage or deed of trust, but said conditions shall be binding thereto as to lots acquired by foreclosure, trustee's sales or otherwise, as to any breach occurring after such acquisition of title.

Section 3.6 Term. The foregoing covenants and restrictions shall run with and bind the land and shall remain in full force and effect for a term of thirty (30) years after this declaration is recorded. They shall be automatically extended for successive periods of ten (10) years unless amended as provided herein.

Section 3.7 Severability. If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

Section 3.8 Binding Effect. Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Subdivision, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the owner of any land except land in the Subdivision. This instrument, when executed, shall be filed of record in the deed records of Wake County so that each and every owner or purchaser of any portion of the Subdivision is on notice of the conditions, covenants, restrictions and agreements herein contained.

Section 3.9 Enforcement. The owner of any lot in the Subdivision shall have the easement and right to have each and all of the foregoing restrictions, conditions and covenants herein faithfully carried out and performed with reference to each and every lot in the Subdivision, together with the right to bring any suit

or undertake any legal process that may be proper to enforce the performance thereof, it being the intention hereby to attach to each lot in the Subdivision, without reference to when it was sold, the right and easement to have such restrictions, conditions and covenants strictly complied with, such right to exist with the owner of each lot and to apply to all other lots in the Subdivision whether owned by the undersigned, its successors and assigns, or others. Failure by any owner, including Declarant, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3.10 Definitions of "Owner" and "Lots". As used herein, the term "owner" shall refer to the record owner, whether one or more persons or entities (including contract sellers.), of the fee simple title to a lot on which there is or will be built a single family residence or of the fee simple title to a condominium unit, but not including those having an interest merely as security for the performance of an obligation. Any reference herein to "lots" shall include single family detached dwellings and lots, attached townhouses and condominium units.

Section 3.11 Other Authorities. If other authorities, such as the Town, impose more demanding, extensive or restrictive requirements than those set forth herein, the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish the requirements herein.

Section 3.12 Addresses. Any notices or correspondence to an Owner of a lot shall be addressed to the street address of the lot. Any notices or correspondence to the Committee shall be addressed to the address shown opposite the signature of Declarant below or to such other address as is specified by the Committee pursuant to an instrument recorded in the deed records of Wake County.

Section 3.13 Amendment. At any time, the owners of the legal title to two-thirds (2/3) of the lots within the Subdivision (as shown by the Wake County records) may amend the covenants, conditions and restrictions set forth herein by recording an instrument containing such amendment(s.), except that, for the five (5) years following the recording of this declaration, no such amendment shall be valid or effective without the joinder of Declarant.

Section 3.14 VA and/or FHA Approval. As long as there remains a Class B membership, the following actions will require the prior approval of the Veterans Administration and/or Federal

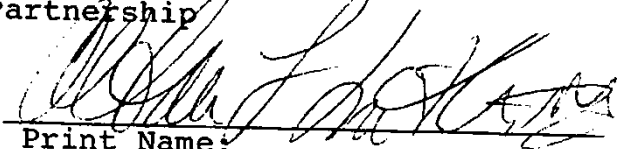
Housing Administration: annexation of additional properties,  
dedi- cation of Common Properties, and amendment of this  
Declaration.

EXECUTED as of this 30th day of December, 1986.

Address:

WELLINGTON PARK ASSOCIATES III,  
a North Carolina General  
Partnership

Suite 210  
4112 Blue Ridge Road  
Raleigh, North Carolina 27612

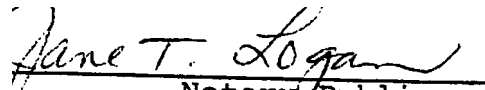
by:   
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, John T. Irwin, a Notary Public of the  
aforesaid County and State, do hereby certify that JifpnL.  
c.50...t-1).Jlk. a  
general partner of Wellington Park Associates III, a North  
Carolina general partnership, personally appeared before  
me this day and acknowledged the due execution of the  
foregoing instru- ment.

Witness my husband notarial seal this 30 day of Dec-  
c:nl.lk:r,  
1986.

  
Notary Public

My Commission Expires:

11-91