

LAKWOOD HILLS #1 COMMUNITY ASSOCIATION

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 3rd day of May, 1977, by Lee Jackson Development, Corporation (hereinafter referred to as Declarant), a Virginia Corporation, successor by merger to Levitt and Sons of Virginia, Inc.

*****WITNESSETH*****

WHEREAS, the Declarant is the owner of certain property located in the County of Fairfax, Virginia, containing 12.8733 acres which is more particularly described by reference to the metes and bounds description and the plat of subdivision attached to the Deed of Declaration and Subdivision of which this Declaration is a part; and

WHEREAS, Declarant will convey the said properties subject to certain protective covenants, conditions, restrictions, reservation, liens and charges as hereinafter set forth; and

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to LAKEWOOD HILLS NO. 1 COMMUNITY ASSOCIATION, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described in the Deed of Dedication recorded immediately prior hereto, and such other townhouse additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all property owned by the Association for the common use and enjoyment of the members of the Association and initially being more particularly described as Parcels H and L, Section 1-A GLENWOOD MANOR on the plat of subdivision attached to the Deed of Dedication of which this Declaration is a part.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

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 of any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligations.

Section 7. "Declarant" shall mean and refer to Lee Jackson Development Corp., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

ANNEXATION OF OTHER ADDITIONAL PROPERTIES

Section 1. Annexation of other additional property not provided for herein shall require the assent of three-fourths (3/4) of the Class A members and three-fourths (3/4) of the Class B members, if any, at a meeting duly called for the purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting, setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast seventy-five percent (75%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1 /2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting. In the event that three-fourths (3/4) of the Class A membership or threefourths (3/4) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. If within five (5) years of the date of incorporation of this Association, the Declarant should develop additional lands within the area described in Of the records of Fairfax County, Virginia, such additional lands may be annexed to said Properties without the assent of the Class A members; provided however, that the development of the additional lands described in this section shall be in accordance with a general plan submitted to the Federal Housing Administration and the Veterans Administration with the processing papers for the first section, if such agencies shall be involved, and otherwise in accordance with the preliminary plan heretofore submitted to Fairfax County, Virginia. Detailed plans for the development of additional lands must be submitted to the

Federal Housing Administration and the Veterans Administration prior to such development, if such agencies shall be involved. If either the Federal Housing Administration or the Veterans Administration determines that such detailed plans are not in accordance with the general plan on file and either agency so advises the Association and the Declarant, the development of the additional lands must have the assent of three-fourths (3/4) of the Class A members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten (10) days or more than (50) days in advance of the meeting setting forth the purpose of the meeting. At this meeting the presence of members or of proxies entitled to cast seventy-five (75%) of all of the votes of the Class A membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at any such subsequent meeting shall be one-half (1 /2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE III **MEMBERSHIP**

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 (1) membership for each lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessments by the Association. Ownership of such Lot shall be the sole qualification for membership.

ARTICLE IV **VOTING RIGHTS**

Section 1. The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all those Owners as defined in Article III 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 Article III. 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: The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article III, *provided that*, the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or
- b. On December 31, 1981.

Section 2. Upon annexation by the Declarant of additional properties pursuant to Article 11, Section 2, and in the event that Class B membership shall have ceased as hereinabove provided, Class B membership shall be revived with respect to those Lots so annexed, *provided that*, the Class B membership in these annexed lots shall cease and be converted to Class A membership on the happening of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership in the annexed property equals the total votes outstanding in the Class B membership in such property, or
- b. Four (4) years from the date of recordation of the Deed of Dedication for such annexed property.

ARTICLE V **PROPERTY RIGHTS**

Section 1 Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- a. the rights of the Association to limit the number of guests of members.
- b. the rights of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.
- c. the rights of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgage of said properties shall be subordinate to the rights of the homeowners hereunder; the mortgaging of the common

area should only be permitted with the assent of three-fourths (3/4) of each class of members;

d. the rights of the Association to suspend the voting rights and right to use the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days from any infraction of its published rules and regulations;

e. the rights of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to three-fourths (3/4) of the votes of the Class A membership and threefourths (3/4) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance; and

f. the right of the individual owners to the exclusive use of parking spaces as provided in this Article.

Section 2 Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3 Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot.

Section 4 Parking Rights. Ownership of each Lot shall entitle the owner or owners thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking areas. The Association shall have the right to permanently assign one (1) vehicular parking space for each dwelling.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for

each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3 Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$15.00 per month for Class A members, and twenty-five percent (25%) of the Class A members' assessment per month for Class B members. In consideration of Declarant's exemption from a full assessment, Declarant hereby covenants and agrees to maintain (exclusive or real estate taxes and insurance premiums) the Common Area, without cost to the Association for one (1) 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.

- a. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of October as compared with the month of October one year earlier.
- b. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above that specified in (a) above only by a vote of three-fourths (3/4) of each class of members who are voting

in person or by proxy, at a meeting duly called for this purpose.

c. After consideration of current maintenance costs and further needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, *provided that* any such assessment shall have the assent of three-fourths (3/4) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5 Notice and Quorum of Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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

Section 7 Date of Commencement of Annual Assessments: Due Dates: The annual assessments provided for herein shall commence for 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. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association, shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8 Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated To pay the same, or foreclose the lien against the property. Now Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which 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 10 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; and
- c. all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the Commonwealth of Virginia, *provided this*, no land or improvements devoted to dwelling use shall be exempt from said assessments.

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 Article VI hereof, 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 be payable to the Association in accordance with the provisions of Section 3 of Article VI hereof.

ARTICLE VII **PARTY WALLS**

Section 1 General Rules of Law to Apply. Each wall which is built as a part of the original

construction of the homes upon the Properties and place on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party wall and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

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

Section 4 Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators.

ARTICLE VIII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee composed of three (3) representatives appointed by the Board of Directors. In the event said committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article

will be deemed to have been fully complied with.

The initial members of the Architectural Control Committee and their terms of office shall be as follows:

<u>MEMBER</u>	<u>EXPIRATION OF TERM OF OFFICE</u>
Michael Belknap	December 31, 1978
Diane Hobeck	December 31, 1979
Stephen Zapp	December 31, 1980

Thereafter the term of each member of the Architectural Control Committee shall be for a period of three (3) years.

ARTICLE IX EXTERIOR MAINTENCE

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, at its option and sole discretion the Association may perform the maintenance or repair and the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE X PROTECTIVE COVENANTS AND RESTRICTIONS

In order to conserve the natural beauty of the subdivided property, to insure its best use and most appropriate development and to prevent the erection of poorly designed or constructed improvements, the entire area shown on the attached plat shall be subject to the following protective covenants and restrictions hereinafter referred to as the General Covenants:

Section 1. No building, structure, alteration, addition or improvement affecting the external appearance of a building or structure shall be constructed upon any portion of The Properties unless and until a plan of such construction shall have been approved by the Architectural Control Committee of said Association as to quality of workmanship and materials, harmony of external design with surrounding structures, location with respect to topography and finished grade elevation, the effect of the construction on the outlook from surrounding property and all other factors which will in their opinion affect the desirability or suitability of the construction. No construction shall be commenced and no lot shall be graded except in accord with such approved

plan or a modification thereof similarly approved.

Section 2. No lot shall be used except for residential purposes, or for professional offices, or for a builder's construction, sales office and/or models during the construction and sales period.

Section 3. No fence, wall, tree, hedge or shrub planting shall be maintained in such as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no tree of any diameter of more than four inches measured two feet above ground level, lying without the approve building driveway and parking areas, shall be removed without the approval of the Architectural Control Committee.

Section 4. No noxious or offensive activity shall be carried on upon any portion of The Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. No exterior lighting shall be directed outside the boundaries of a lot or other parcel of The Properties.

Section 5. Easements for the installation and maintenance of underground utilities, supply and transmission lines, and drainage facilities are reserved to the Declarant through all areas shown on the deed of dedication plat, whether within the boundaries of residential Lots or in Common Properties. Such easements shall include the right of ingress and egress, provided that any damage resulting from the installation, maintenance or repair of an underground utility, supply or transmission line, or drainage facility shall be promptly repaired or replace at the expense of the corporation or authority which directed the entry.

Section 6. No fence or wall of any kind shall be erected, begun or permitted to remain upon any portion of The Properties unless shown on the deed of dedication plat or unless approved by the Architectural Control committee.

Section 7. No exterior clothesline or clothes hanging device shall be allowed upon any lot.

Section 8. No sign of any kind larger than one-foot-square shall be displayed to the public view on any Lot, except temporary signs of not more than four square feet advertising the said Lot for sale or rent and except for temporary signs erected by the Declarant in connection with the construction, lease of sale of buildings and lots or other parcels of the Properties.

Section 9. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept, provided that they are not raised, bred or kept for any commercial purpose.

Section 10. The Association shall have the right (if after twenty (20) days' notice to the Owner of the Lot or Lots involved, setting forth the action intended to be taken, such action has not been taken by the Owner) to trim or prune, at the expense of the Owner, any hedge or other planting that in the opinion of the Architectural Control Committee, by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining property or is unattractive in appearance. The Association shall further have the right, upon like notice and conditions, to care for any vacant or unimproved Lot, and to remove grass, weeds, and rubbish therefrom and do any and all things necessary or desirable in the opinion of the Architectural Control Committee to keep such Lot in neat and good order, and at the cost and expense of the Owner.

Section 11. No exterior antenna for the transmission or reception of radio or television signals shall be erected or permitted on any building or Lot or other parcel of The Properties.

Section 12. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No material or refuse or any container for the same shall be placed or stored in the front Of any house, or on the patio or stoop at any time, except in enclosed rear yard. All trash and garbage shall be placed in covered trash cans in the trash area provided. The Association shall have the right to impound any trash can or garbage receptacle which is placed in violation of this paragraph and to enter onto any Lot for this purpose.

Section 13. No commercial truck, commercial bus or other commercial vehicle of any kind shall be permitted to be kept or parked overnight upon any portion of The Properties.

Section 14. No portion of The Properties shall be used for the repair of automobiles, no shall any vehicles other than a private automobile be parked in any of the parking space maintained by the Association. After ten (10) days written notice to the Owner of any vehicle parked in violation of this covenant, the Association may remove such vehicle at the expense of the Owner thereof.

Section 15. No baby carriages, bicycles or other articles of personal property shall be deposited, allowed or permitted to remain on any Lot except in the enclosed rear area. The Association may impound all such articles and make a charge for their return.

The Declarant hereby grants to members of the Association in good standing and their agents and employees an easement upon and across any Lot adjacent to a Lot owned by said member for the purpose of temporary support of ladders during cleaning, painting and maintenance operations on said member's Lot, and an easement over and across all walkways and sidewalks not dedicated

to public use.

ARTICLE XI
GENERAL PROVISIONS

Section 1 Enforcement. The Association, or any Owner, shall have the right to enforce, ay any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2 Severability. Invalidation of any one of these covenants or restriction by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, 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 this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration, if either of those agencies are involved: annexation of additional properties, dedication of Common Areas, and amendment of the Declaration of Covenants, Conditions and Restrictions.

LEE JACKSON DEVELOPMENT CORPORATION