

**STATE OF NORTH CAROLINA
COUNTY OF WILSON**

**PROTECTIVE COVENANTS FOR THE
_____HOUSE**

WHEREAS the _____ House, located at _____ Street, Wilson, Wilson County, North Carolina, hereinafter referred to as the “Subject Property,” is a building of recognized historical, cultural, and architectural significance, and

WHEREAS THE HISTORICAL PRESERVATION FUND OF WILSON COUNTY, INC. hereinafter referred to as the “Fund,” and _____, hereinafter referred to as the “Grantee,” both desire that the Subject Property be preserved, retaining its significant historical and architectural features while being adapted to provide for contemporary uses, and

WHEREAS the Fund is a charitable organization which acquires certain rights pursuant to historic preservation agreements that will ensure that structures located within the County of Wilson, North Carolina which are of recognized historical and architectural significance be preserved and maintained for the enjoyment, edification, and general benefit of present and future generations, and

WHEREAS the North Carolina General Assembly has enacted the Historic Preservation and Conservation Agreements Act validating restrictions, easements, covenants, or other conditions such as are appropriate to the preservation of a structure or site significant for its historical, architectural, or archaeological associations,

NOW THEREFORE the Grantee hereby agrees that the Subject Property shall be and shall permanently remain subject to the following easements, covenants, and restrictions:

1. In this and in all subsequent conveyances of the Subject Property, these covenants shall be administered and enforced solely by the Fund or its successors in interest or assigns. In the event that the Fund or its successors in interest ceases to exist, the Fund shall assign all of its rights and interests in these easements, covenants, and conditions subject to such duties and obligations which it assumes to the grantee, hereby to The Historic Preservation Foundation of North Carolina, Inc. which exists for substantially the same reasons as the Fund itself, as described hereinabove
2. The Grantee covenants and agrees to continuously maintain, repair, and administer Subject Property herein described in accordance with the Secretary of the Interior’s Standards for Rehabilitation (as amended) so as to preserve the historical integrity of features, materials, appearances, workmanship and environment of the Subject Property. Said standards are attached hereto and incorporated in these covenants by reference as Exhibit “A.”
3. Aside from changes judged not to have a significant impact on the property, *i.e.* normal maintenance and repair of any exterior architectural feature which does not involve a change in material or the design of the building or site, no alteration, physical or structural change, material, or surfacing to the Subject Property or additional structures added or constructed upon Subject Property shall be made without the prior written approval of the Fund’s President or his appointed representative or Executive Director.

4. The Grantee and the Fund hereby agree that the following interior and exterior architectural features are elements that contribute to the historical, architectural, and cultural significance of the Subject Property:

(Sample interior items that may be recorded in the Protective Covenants)

- Interior woodwork including mantels, baseboards, and window surrounds
- Single panel doors, door surrounds and glass doorknobs
- Butler's Pantry
- Built-in Ironing Board
- Dental Molding
- Tongue and Groove Paneling in Den
- Wood floors throughout house
- Stairway Balusters and Newel Post
- Arched Opening upstairs between the bedroom and bathroom

Every effort shall be made to retain and repair these interior and exterior features. No removal, relocation, or alteration of the foregoing architectural features shall be made without prior written approval of the Fund's President or his appointed representative or Executive Director.

5. Neither the Subject Property nor any significant architectural feature (see Section 4) thereof may be removed or demolished without prior written approval of the Fund's President or his appointed representative or Executive Director.

6. No portion of the Subject Property or its acreage may be subdivided without the prior written approval of the Fund's President or his appointed representative or Executive Director.

7. No living deciduous tree greater than ten (10) inches in diameter at a point four (4) feet above ground level, except those closer than ten (10) feet from the house, shall be removed from the property without the express written approval of the Fund unless immediate removal is necessary for the protection of persons coming onto the Subject Property or of the general public; for the prevention or treatment of disease; or for the protection and safety of the Subject Property or other permanent improvements upon the Subject Property which have been approved by the Fund.

8. When seeking approvals under Paragraphs 3, 4, 5, 6 and 7, the Grantees shall give written notice in writing to the Fund. If the Fund fails to respond within thirty (30) days, then the Grantees shall have the right to proceed according to their plans. The Fund's decisions under paragraphs 3, 4, and 5, shall be based on the Secretary of the Interior's Standards for the Treatment of Historic Properties and shall not be unreasonably withheld.

9. Should a dispute arise between the Fund and the Grantee in regard to the agreement to continuously maintain, repair, and administer the Subject Property herein described in accordance with the Secretary of the Interior's Standards for Rehabilitation (as amended) so as to preserve the historical integrity of features, materials, appearances, workmanship and environment of the Subject Property under Paragraphs 2, 3, 4, and 5, either party may seek the advice of the North Carolina State Historic Preservation Office and the City of Wilson Preservation Specialist.

10. In any case where a sale of the Subject Property or a portion thereof is contemplated by the Grantee or by any successor in title thereto, the Fund or its successors or assigns shall be notified in writing and shall have first refusal as to any bona fide offer of purchase. If the Fund decides to purchase, it shall notify the owner of its willingness to buy upon the same terms within seven (7) days of receipt of written notice of said bona fide offer. Failure of the Fund to notify the then owner of its intention to exercise this right of first refusal within said period shall free the owner to sell pursuant to the bona fide offer. The Fund may, in its discretion, waive its right of first refusal in writing, upon receipt of said bona fide offer. The right to repurchase shall be subject to any

outstanding deeds of trust or other encumbrances upon the property, which shall either be satisfied or assumed as part of the purchase price.

11. Representatives of the Fund, researchers, scholars, groups especially interested in historic preservation, and the general public may, by special appointment and at the Grantee's discretion, have access to view the interior of the rehabilitated property. Requests for appointments to view the property shall be made in writing at least two weeks before the requested appointment.

12. The Fund shall not be responsible or liable in any way for any defect, hazard, or hazardous material, including, but not limited to, materials such as lead paint, asbestos, or other material. Addressing these problems is one of the challenges of owning and restoring a historic property. The Fund does not have the resources to correct these problems and cannot take responsibility for the condition of the properties being sold.

13. The Grantee shall insure the property against damage by fire, or other catastrophe. If the original structure is damaged by fire or other catastrophe to an extent not exceeding fifty percent (50%) of the insurable value of those portions of the building, then the insurance proceeds shall be used to rebuild those portions of the property in accordance with the Secretary of the Interior's Standards for Rehabilitation, attached hereto and incorporated in these covenants by reference. The Grantee shall insure the property under a comprehensive general liability policy.

14. All mortgages and rights in the property of all mortgagees are subject and subordinate at all times to the rights of the Fund to enforce the purposes of these covenants and restrictions. Grantee will provide a copy of these covenants and restrictions to all mortgagees of the Subject Property and has caused all mortgagees as of the date of this deed to subordinate the priority of their liens to these covenants and restrictions. The subordination provisions as described above relates only to the purposes of these covenants and restrictions, namely the preservation of the historic architecture and landscape of the Subject Property.

15. Except as otherwise provided herein, there shall be assessed by the Fund and collected from all purchasers of the Subject Property, or any portion thereof subject to these covenants and restrictions, a transfer fee equal to twenty-five-one-hundredths of one percent (0.25%) of the sales price of such property or any portion thereof, which transfer fee shall be paid to and used by the Fund for the purpose of preserving the historical, architectural, archaeological, cultural, or environmental aspects of real property. Such fee shall not apply to all transfers as listed below and each shall hereinafter be referred to as an "Exempt Transfer, transfers by gift

- transfers between spouses
- transfers between parents and children
- transfers between grandparents and grandchildren
- transfers between siblings transfers between a corporation and any shareholders in the same corporation who owns ten percent (10%) or more of the stock in such corporation
- transfers between a limited liability corporation and any member who owns ten percent (10%) or more of such limited liability corporation
- transfers by Will, bequest, or intestate succession
- transfers to the Fund

Provided, however, that said fee shall not apply to the first non-exempt transfer of the Subject Property, but shall apply to each non-exempt transfer thereafter. In the event of non-payment of said fee, the amount due shall bear interest at the rate of twelve percent (12%) per annum from the date of transfer, shall together with accrued interest constitute a lien on the real property or any portion thereof subject to these covenants and restrictions, and shall be subject to foreclosure by the Fund. At its discretion, the Fund may require the seller and/or

purchaser to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds, affidavits, or other such evidence, and purchaser shall be obligated to provide such information within forty-eight (48) hours after receipt of written request for such information from the Fund.

16. In the event of a violation of the covenants contained in paragraphs 2, 3, 4, and 5 of this agreement, the Fund shall have an option to purchase the Subject Property, provided that it shall give the Grantee written notice of the nature of the violation and the Grantee shall not have corrected same within ninety (90) days following the giving of said notice. The purchase of the Subject Property, pursuant to the exercise of the option retained hereby, shall be at a price equal to the then market value of the Subject Property, subject to restrictive covenants, as determined by agreement of the then owner and the Fund, or, in the absence of the other to be designated by the herein, or, in the absence of such agreement, by a committee of three appraisers, one to be selected by the Fund, one to be selected by the then owner, and the other to be designated by the two appraisers selected by the Fund and the owner respectively. Provided, however, that if there are outstanding deeds of trust or other encumbrances against the property, any right to purchase shall be subject to said deeds of trust or encumbrances, and they shall either be satisfied or assumed as part of the purchase price.

17. The provisions of Paragraph 14 notwithstanding, the right of first refusal granted to the Fund in Paragraph 10 and the right to repurchase granted to the Fund in Paragraph 16 are specifically secondary, subordinate, and inferior to the lien of any deed of trust or mortgage encumbering the property and to all rights and remedies accruing to the mortgagee by virtue of any such deed of trust or mortgage.

18. In the event of a violation of these covenants, all legal and equitable remedies, including injunctive relief, specific performance, and damages, shall be available to the Fund. No failure on the part of the Fund to enforce any covenant or restriction herein, nor the waiver of any right hereunder by the Fund shall discharge or invalidate such covenant or restriction or any other covenant, condition or restriction hereof, or affect the right of the Fund to enforce the same in the event of a subsequent breach or default.

19. The Grantee and the Fund recognize that an unexpected change in the conditions surrounding the Subject Property may make impossible or impractical the continued use of the Subject Property for conservation purposes and necessitate the extinguishment of these Protective Covenants. Such an extinguishment must be the result of a final judicial proceeding, which will determine entitlements to the grantee and the Fund as appropriate at the time.

20. The Grantee does hereby covenant to carry out the duties specified herein, and these restrictions shall be covenants and restrictions running with the land, which the Grantee's heirs, successors, and assigns, covenant and agree, in the event the Subject Property is sold or otherwise disposed of, will be inserted in the deed or other instrument conveying or disposing of the Subject Property.

THE HISTORICAL PRESERVATION FUND OF WILSON COUNTY, INC.

_____ Dated: _____
Fund

_____ Dated: _____
Grantee

_____ Dated: _____
Grantee

Exhibit A

The Secretary of the Interior's Standards for Rehabilitation

The Secretary of the Interior is responsible for establishing standards for all national preservation programs under Departmental authority and for advising Federal agencies on the preservation of historic properties listed or eligible for listing in the National Register of Historic Places.

The Standards for Rehabilitation, a section of the Secretary's Standards for Historic Preservation Projects, address the most prevalent preservation treatment today: rehabilitation. Rehabilitation is defined as the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

The Secretary of the Interior's Standards for Rehabilitation

The Standards that follow were originally published in 1977 and revised in 1990 as part of Department of the Interior regulations (36 CFR Part 67, Historic Preservation Certifications). They pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment as well as attached, adjacent or related new construction.

The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that causes damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be

undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to: improper repainting techniques; improper exterior masonry cleaning methods; or improper introduction of insulation where damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. In addition, every effort should be made to ensure that the new materials and workmanship are compatible with the materials and workmanship of the historic property.