

ARTICLE V
PROPERTY RESTRICTIONS

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes; provided, however, this shall in no way restrict the Common Area Lots being used for their intended purposes. No additional, adjacent or connected buildings to house additional persons for rent or other purposes will be permitted.

Section 2. No businesses shall be conducted from these residences or on these Lots wherein any evidence of said businesses is visible from without the residence. This includes signs, marked vehicles, equipment and materials. Neither may any home business generate a stream of traffic to constitute a nuisance to the neighbors. As long as Declarant owns any Lot, Declarant may maintain a model and/or sales trailer on the Properties.

Section 3. No Lots may be subdivided by any person other than the Declarant, except Lot line adjustments may be permitted, provided the total number of Lots is not increased. Notwithstanding the foregoing, the Declarant shall have the right to subdivide Lots and/or make Lot line adjustments which increase the total number of Lots, subject only to municipal approval.

Section 4. No animals, livestock or poultry of any kind may be kept on any Lot except dogs, cats or other household pets, provided that they are not kept, bred or maintained for any commercial purpose. Animals must be properly managed so as not to be a nuisance to neighbors by barking, trespass or maintenance of their bodily functions.

Section 5. No Lot shall be used or maintained as a dumping ground for rubbish or other material prior to construction. During construction the area will be kept in a reasonably neat and clean condition, although some debris must be expected. After occupancy the property shall be

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kept in a good state of maintenance by the owner. Trash, garbage and other waste shall not be kept in or on the Properties, except in sanitary containers which shall be enclosed in a screening structure, including but not limited to a lattice structure, or located on the lot such that it can not be viewed from the street(s) in the Subdivision. Incinerators will not be permitted and all trash and refuse must be picked up and hauled away, except as otherwise allowed by local ordinance.

Section 6. No construction or improvements shall be permitted within any area designated under the heading "Open Space," "Conservation Area" or "Easement" as reflected on plat of this subdivision unless approved by Declarant and/or James City County.

Section 7. All Owners, except Builder or builders who are successors or assigns within the meaning of "Declarant," shall submit to the Declarant for its review and approval, architectural elevation and floor plans for all dwelling units to be constructed on the Lots, in accordance with the following procedures:

(a) Within fifteen (15) days after Declarant shall have received proposed elevations and floor plans for one (1) or more units to be constructed on the Lots, Declarant shall give Owner notice of its approval or disapproval thereof, specifying, in the case of the latter, its reason therefor. Declarant's right to disapprove such plans and specifications shall be exercised in conformance with the following criteria: (1) Subsection (a) of this paragraph; (2) architectural compatibility with units constructed in adjoining sections and (3) adverse impact on marketability of Lots within the Properties.

(b) An Owner, upon receipt of a notice of disapproval given pursuant to the above, may promptly undertake to amend and modify the proposed design so as to meet the reasons for Declarant's disapproval specified in the notice of disapproval and, upon completion

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thereof, the same shall be approved or disapproved in writing by Declarant within fifteen (15) days after receipt of same, provided that each submission by Owner shall constitute a new proposal. If there shall be a bona fide dispute between the parties as to whether Declarant's disapproval of any design submitted to it is permitted hereunder, the parties shall enter into discussions of points of disagreement and use their best efforts to resolve such issues to their mutual satisfaction.

(c) If Declarant fails to give notice of its approval or disapproval within fifteen (15) days after receipt of any architectural elevations or other supporting documentation submitted to it for its approval, or of any required modification or amendment thereof, the same shall be deemed to have been approved by Declarant.

Section 8. All dwellings shall be served by underground utility service, including sewer, gas, electric, telephone and cable television. No above ground utilities will be permitted.

Section 9. The following additional restrictions will be observed in the intent of preserving the architectural integrity of the Properties:

(a) No external antennas of any description, except satellite dishes of less than two feet (2') in diameter, which are located entirely below all roof lines of the house on the Lot and is not visible from the street(s) of the Subdivision.

(b) No window air conditioners.

(c) No clothes lines, unless said lines are small and well-screened and approved by the Architectural Review Committee in advance of their construction, installation or creation.

(d) No fencing shall be allowed nearer to the street than the front of the residence, and no fencing, which is otherwise permitted, shall be erected prior to obtaining the approval of

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the Architectural Review Committee, however, Builder does not need approval from the Architectural Review Committee, nor must Builder comply with the locational requirements of this Section 9(d).

(e) No solar or energy panels may be visible from the street or to any other residence.

(f) No car ports shall be erected on any Lot or attached to any residence.

(g) No temporary structure, trailer, tent, shack, shed or other outbuilding shall be built or used on any Lot as a residence or for storage.

(h) No chain link fence is permitted, except around dog runs, which are limited to one hundred twenty (120) square feet of area, and must be located on the Lot so as not to be seen from the streets of the Subdivision.

(i) 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 advertising the property for sale or rent, or any sign used by the builder to advertise or market the Properties.

(j) All driveways shall extend to the street and shall be either aggregate or concrete so as to blend with the streets.

(k) Outbuildings and fencing may be constructed or installed only with the permission of the Architectural Review Committee.

(l) All replacement mailboxes or mailbox stands shall be of the design provided by Declarant or as otherwise approved by the Architectural Review Committee.

Section 10. Vehicles. Since the unregulated use of vehicles can destroy the appearance of a neighborhood, the following restrictions will apply:

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(a) No more than three (3) ungaraged vehicles will be permitted to be consistently parked on the premises, and such vehicles must be in the driveway or on a parking apron off the driveway. These vehicles will be restricted to licensed, operable automobiles, mini-vans and pickup trucks not to exceed three-quarters (3/4) ton in capacity.

(b) No major vehicle maintenance or overhaul of ungaraged vehicles will be permitted.

(c) No inoperable or unlicensed vehicle may remain on the Properties for more than two (2) days, unless garaged.

(d) All vehicles on the Properties must have all major body panels and doors (except tailgates on trucks) properly installed and closed.

(e) No recreational vehicles, boats, jet skis, trailers, campers, mobile homes or equipment, except passenger automobiles and passenger trucks, may be parked on the streets or on any Lot within the front property set back line.

Section 11. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of subdivision. The drainage and utility easements may also be used by the Declarant for ingress and egress to or to benefit the Common Area and/or the Lots as provided for herein. Easements shown on the plan of other deeds of record for streets, drainage, utilities, screening, open space or conservation areas are for the benefit of the residents of The Villages at Westminster Subdivision and may be changed by the Declarant or the County of James City, Virginia. The Declarant reserves the right to require additional easements not to exceed five (5) feet in width along any property line or any Lot if

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drainage problems develop at a later date and require such easements as may be necessary in the Declarant's opinion.

Section 12. Leasing. Any Owner may lease or rent his Lot as long as the use of the Lot is consistent with the restrictions herein and provided that the lease agreement between Owner and lessee shall be written, shall be for a term of not less than thirty (30) days and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and all other documents of the Association and that the failure of the lessee to comply with the terms of such documents shall constitute a default under the lease.

ARTICLE VI
INSURANCE

Section 1. The Board of Directors is authorized (but not directed) to secure such insurance as it deems advisable and prudent and the coverage, proceeds and benefits from any such insurance policy shall be equal for all Lot Owners. No director shall be liable for the failure to obtain any such insurance. Each Owner is hereby encouraged and entitled to secure and provide their respective insurance coverage. The Association has no duty to provide any insurance of any type on the Common Areas, the Properties or elsewhere.

ARTICLE VII
GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity in the Circuit Court of the City of Williamsburg and

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County of James City, Virginia, all restrictions, conditions, covenants reservations, liens and charges now or hereafter imposed by the provisions of this Declaration in accordance with the Act and all other applicable laws. 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. The Court is hereby specifically empowered and authorized to use its equitable powers and authorities to correct any arbitrary, capricious or unreasonable act by the Association or any Lot Owner or committee connected therewith.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by any judgment or court order shall in no way 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 for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners and fifty-one percent (51%) of first mortgagees as hereinafter defined, such vote to include at least a majority of the votes of all Members present, in person or by proxy, and voting at any meeting of the Association properly called for the purpose of acting on such amendment, other than the Declarant; provided that, so long as there is a Class B membership, such amendment requires the prior approval of HUD and/or VA, as applicable. Notwithstanding the foregoing, the Declarant reserves the right to make changes or revisions to comply with the requirements of HUD, VA, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation. Any amendment upon receiving the necessary

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approval shall be recorded in a document executed on behalf of the Association by its duly authorized officers. Any amendment must be recorded. In no event shall these covenants and restrictions terminate for so long as the Association owns any Common Area.

Section 4. Association Documents. In accordance with the Act, the Association shall maintain current copies of the Declaration, Articles of Incorporation, Bylaws, Rules and Regulations and budgets and shall provide copies upon request to Owners and Purchasers. The Association shall annually cause to be prepared a statement for each fiscal year which shall be provided to the Owners at each annual meeting.

Section 5. Additional Covenants. It is understood and agreed, anything to the contrary contained herein notwithstanding, as follows:

(a) A first mortgagee will be provided written notification of any default by the mortgagor of such Lot in the performance of such mortgagor's obligation under the Subdivision documents which is not cured within thirty (30) days; as used herein, the terms "first mortgage," "mortgage" or "mortgagor" shall have the same meaning and import as "first deed of trust noteholder" or "first deed of trust" or "grantor of a deed of trust"; the terms "mortgage" and "deed of trust" for the purposes herein shall have the same meaning and intent.

(b) Any first mortgagee who comes into possession of a Lot in the Properties pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall be exempt from all "rights of first refusal," if any.

(c) Any first mortgagee who comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall take the Property free of any claims for unpaid assessments or charges

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against the mortgaged unit which accrue prior to the time such holder comes into possession of the Lot.

(d) Unless at least fifty-one percent (51%) of the first mortgagees (based upon one [1] vote for each first mortgagee) of individual Lots in the Properties have given their prior written approval, the Association shall not be entitled to:

(1) By act or omission seek to abandon, petition, subdivide, encumber, sell or transfer real estate or improvements thereon which are owned, directly or indirectly, by such Association for the benefit of the Owners and Lots in the Properties, provided, however, that the Declarant, or the Association by a vote of its Board of Directors, at any time may convey all or any part of the Common Area to the County of James City, Virginia, or to any other public body, who shall thereafter maintain the same. The conveyance to the County of James City of other public body, or the granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association shall not be deemed a prohibited transfer within the meaning of this clause.

(2) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.

(3) Use hazard insurance proceeds for losses to any Common Area property for other than the repair, replacement or reconstruction of such improvements.

(e) First mortgagees shall have the right to examine the books and records of the Association or any entity which owns the Common Area or the property of the Association.

(f) First mortgagees of Lots in the Properties may, jointly or singly, pay taxes or other charges which are in default and which may have become a charge against any Common

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Area property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property, and first mortgagees making such payment shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement is hereby agreed to and this instrument shall constitute an agreement in favor of all first mortgagees of Lots in the Properties.

(g) No provision of the Association Articles of Incorporation, or the declaration of easements, restrictions and covenants, or any similar instrument pertaining to the Properties or to Lots therein gives a Lot Owner or any other party priority over any rights of first mortgagees of Lots herein pursuant to their mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for losses to or taking of the Association's common property.

(h) Lot Owners have a right to enjoyment of the Common Area as provided herein and such property is owned in fee by the Association. The Common Area was conveyed to the Association unencumbered except for any easements granted for public utilities or for other public purposes consistent with the intended use of such Property by the Association. The Common Area cannot be mortgaged or conveyed without the consent of two-thirds (2/3) of the Lot Owners (excluding the Declarant).

(i) In the event that management other than self-management is required of the Association ("Outside Management"), and in the event that the Association elects or decides to terminate said Outside Management, then all first mortgagees shall be given at least thirty (30) days notice of said action.

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(j) All first mortgagees shall be entitled to receive reasonable written notice of damage to or condemnation of any part of the Common Area.

(k) Any approval herein required by a first mortgagee shall be implied if a first mortgagee has failed to submit a response within fourteen (14) days to a written proposal or notice, provided the proposal or notice was delivered by certified or registered mail, with a return receipt requested.

Section 6. Easement for Public Necessity. Upon recordation of this Declaration, there is hereby granted to the County of James City, Virginia, its employees and agents a perpetual right of ingress and egress over and upon the Common Area in order to assure the performance of all public duties, including but not limited to law enforcement officers, rescue squad personnel, fire fighting personnel and government building officials and inspectors. In addition, Declarant shall have the right to construct storm water management facilities on the Common Area and to have an easement for ingress and egress and for all type easements over, under and upon the Common Area for the benefit of the Lots.

ARTICLE VIII
DECLARANT'S RIGHTS AND REPRESENTATIVES

Section 1. Rights. Anything herein to the contrary notwithstanding, the Declarant shall at all times have and does hereby reserve to itself, its successors and assigns:

(a) the right to use Lots for sales models and/or a sales office for sale of all Lots within the Subdivision.

(b) A non-exclusive easement over and upon the Common Area and for purposes of making improvements to the Common Area and on all Lots located within the Subdivision.

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ARTICLE IX
CONDEMNATION

In the event of a condemnation or taking by eminent domain by any local, state or federal authority of all or any part of the Common Area, the Association is hereby designated and appointed as attorney-in-fact for all Owners for purposes of representing all Owners in any proceedings, negotiations, settlements or agreements. Any funds received by the Association shall be held for the benefit of the Association and be used by the Association for the purposes herein set forth, unless there is a total taking of all the Common Area, in which event the funds shall be distributed pro rata among the Owners and their respective first mortgagees.

ARTICLE X
ANNEXATION

Section 1. Annexation. All or any part of the following described Properties may be annexed hereto at any time hereafter solely by Declarant without the consent of the Class A or Class B members of the Association; and upon the same happening, Declarant shall be deemed the "Declarant" as herein defined and shall be entitled to any and subject to all of the privileges, rights and liabilities herein set for Declarant. Said Properties which may be so annexed being described as all or any portion of the property described as follows:

All those certain pieces, parcels or tracts of land as described on the attached Exhibit B, which are hereby made a part hereof by reference hereto, and any and all adjacent parcel or parcels of land now or hereafter acquired by Declarant.

Section 2. Method of Annexation. Declarant may cause such annexation to be made by including the provisions of such annexation to be shown on such recordation plat or by an instrument executed by Declarant and duly recorded describing the parcel or parcels to be

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annexed and referring to and making such parcel or parcels subject to the within Covenants, Conditions and Restrictions, or both.

Upon any such annexation being so made, the real estate or "Properties" covered thereby together with the Declarant and all owners thereof and their heirs, successors and assigns shall be entitled to, and subject to, all of the terms of the within Covenants, Conditions and Restrictions in the same manner as if such annexed parcel had been included within the legal description as contained in said The Villages at Westminster, Phase I, Section I. It is further understood and agreed that such annexation of all or of any part of the real estate hereinabove described shall be solely at the option of the Declarant, and Declarant may from time to time annex all or any part or parts thereof as determined solely by the Declarant without the necessity of approval of any Lot Owner of the Association, anything to the contrary notwithstanding in the Articles of Incorporation or Bylaws of the Association, provided, however, that any such annexation requires the prior approval of HUD and/or VA, as applicable, so long as there is a Class B membership.

Section 3. Encroachments. In the event any portion of any improvement on any Lot encroaches upon the Common Areas and facilities, or an encroachment for an improvement in the Common Areas exists upon a Lot, as result of construction, reconstruction, repair, shifting, settlement or movement of any portion thereof, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. In addition, there is hereby created an easement for the encroachment of the entrance sign or signs to The Villages at Westminster on any adjacent Lot(s).

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