

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SMITHY GLEN TOWNHOMES

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

SMITHY GLEN TOWNHOMES

THIS DECLARATION is made this 1st day of April, 1988, by VIKING VILLAGE, LTD., a Virginia corporation, hereinafter referred to as the "Declarant," the owner and developer of the real property described herein, being hereinafter referred to as the "Property."

WITNESSETH: That Declarant hereby declares that all of the Property shall be held, transferred, sold, conveyed, occupied and used subject to the following easements, restrictions, reservations, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property. These easements, restrictions, reservations, covenants and conditions shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE ONE

DEFINITIONS

Section One. Generally. When used in this Declaration, the terms contained herein shall have the following meanings:

A. "Association" shall mean the Virginia non-stock corporation known as Smithy Glen Townhomes Owner's Association, Inc., its successors and assigns, comprised of members being owners of Lots in the Project.

B. "Building" shall mean a single structure comprised of a block of Townhouses, constructed upon and appurtenant to Lots located upon the Property.

C. "Common Area" shall mean all portions of the Property and any improvements thereon other than the portion of the Property designated as Lots.

D. "Common Expenses" shall mean those expenses incurred by the Association for the maintenance, repair or improvement of the Lots, the Townhouses situated thereon, and the Common Area.

E. "Declarant" shall mean Viking Village, Ltd., a Virginia corporation, its successors or assigns.

F. "Master Development" shall mean and refer to the development known as "Coventry Planned Unit Development" created by Declaration dated January 1, 1988, and recorded in Deed Book 509, at page 110, in the Office of

the Clerk of the Circuit Court of York County, Virginia, and any amendments thereto.

G. "Project" shall mean the townhouse development known as "Smithy Glen Townhomes" constructed upon the Property by the Declarant and subject to this Declaration.

H. "Lot" shall mean any certain parcel of property created within the Property as designated from time to time on subdivision plats of the Property recorded in the Office of the Clerk of the Circuit Court for the County of York, Virginia, upon which a Townhouse shall be constructed and conveyed in fee simple absolute by general warranty deed to an Owner.

I. "Overall Plan" shall mean and refer to the "Overall Plan of the Waldon Planned Unit Development" dated April 12, 1985, and revised May 2, 1985, and any amendments made thereto, being the plan adopted by the County Ordinance as defined in the Declaration of Covenants, Conditions and Restrictions of Coventry Planned Unit Development, recorded in Deed Book 509, page 110, in the Office of the Clerk of the Circuit Court of York County, Virginia, and being placed on file in the Department of Planning and Community Development, York County, Virginia.

J. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

K. "Property" shall mean that certain real property described in Article Two, Section One and such additions made thereto from the Additional Land described in Article Three, Section One of this Declaration.

L. "Townhouse" or "Townhome" shall mean that certain residential structure constructed upon and being appurtenant to a given Lot.

ARTICLE TWO

PROPERTY

Section One. Generally. The Property submitted by this Declaration to the covenants, conditions, and restrictions contained herein is as described in Exhibit A hereto.

Section Two. Common Area. Declarant hereby covenants for itself, its successors and assigns, that it shall convey fee simple title to the Common Area free and clear of all liens and encumbrances, except those created by this Declaration, to the Association for its preservation and maintenance in accordance with the terms and conditions of this Declaration. Said conveyance shall be made prior to the conveyance to an Owner by Declarant of the first Lot in a given phase of the Project. Each Owner shall have an undivided interest in the Common Area through his mandatory membership in the Association. An individual Owner's rights to use and enjoyment of the Common Area shall be established by

this Declaration and amendments thereto and any rules and regulations promulgated by the Association in this regard.

Section Three. Party Walls. Each wall which is built as a part of the original construction of the Townhouses upon the Property and placed 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 walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

A. 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.

B. 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 Owner thereafter makes 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.

C. Weatherproofing. Notwithstanding any other provision 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.

D. Right to Contribution Runs with Land. The right of an 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.

E. 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 an additional arbitrator, and the decision shall be by a majority of all the arbitrators and the decision of the majority of the arbitrators shall be binding on the parties.

ARTICLE THREE

EXPANSION OF PROJECT

Section One. Description of Additional Land. The Additional Land, as hereinafter referred to in this Declaration, which may from time to time be added to the Property at the sole option of the Declarant is described in Exhibit B attached hereto.

Section Two. Reservation of Right to Expand. The Declarant expressly reserves the option to expand the Project in accordance with this Article Three. Except as expressly stated herein, there shall be no limitations on the option of the Declarant to expand the Property. The Declarant shall not be

required to obtain the consent of any Owner in order to exercise said option to expand.

Section Three. Time Limitation on Expansion. The option of the Declarant to expand the Project as set forth in this Article Three shall terminate seven (7) years after the date of recordation of this Declaration, or at such other time as all Additional Land described herein is added to the Property by amendment of this Declaration, or at such time as the Declarant terminates said option by amendment of this Declaration, whichever shall first occur.

Section Four. Improvements to Additional Land. The Declarant makes no assurances with respect to the exact type or location of improvements that may be made on the Additional Land. Any improvements made to any Lots created within the Additional Land added to the Project by amendment to this Declaration shall be restricted exclusively to residential use, except that the Declarant reserves the right and easement to maintain within the Additional Land offices and models pursuant to the terms and conditions of this Declaration. In addition to any Lots created and structures placed upon said Lots within the Additional Land, Declarant reserves the right, but shall not be obligated, to construct improvements thereon for recreational and/or service purposes such as swimming pools, tennis courts, club house, or other amenities as it desires. Declarant makes no assurances that any such improvements will be made on the Additional Land.

Section Five. No Limitations on Area of Expansion. If this Project is expanded under the provisions of this Article Three, Declarant is not obligated to submit the Additional Land in its entirety nor is Declarant obligated to submit a portion thereof prior to submitting any other portion thereof. Further, different portions of the Additional Land may be added at different times within the time limits established for adding Additional Land to the Project, as explained in Section Three of this Article Three.

Section Six. Declarant Not Obligated to Expand. Nothing contained herein shall be construed to impose upon the Declarant, its successors or assigns, any obligation to create Lots or construct Townhouses or amenities or other improvements upon the Additional Land described herein, or to submit all or any portion thereof to the Project.

Section Seven. VA/FHA Approval. Should the Property or any portion thereof be submitted for approval to the Department of Housing and Urban Development (formerly known as and often referred to as the Federal Housing Administration) and/or the Veterans Administration (hereinafter referred to as the "Agencies"), any expansion of the Project onto the Additional Land shall be in accordance with the general plan submitted to and approved by the Agencies. Nothing herein requires the Declarant to submit any portion of the Project to the Agencies, but the Declarant may so submit, at any time, in its sole discretion.

ARTICLE FOUR

EASEMENTS

Section One. Easement of Enjoyment. Every Owner, his immediate family, tenants, guests and invitees, is hereby granted a perpetual non-exclusive easement of use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

A. The right of the Association to charge reasonable admission and other fees and to adopt reasonable regulations for the use of any recreational facility situated within the Common Area.

B. The right of the Association to suspend the voting rights and right to use of the recreational facilities in the Project or the Master Development by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

C. The right of the Association to dedicate or convey in fee simple 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 Owners. No such dedication or conveyance shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the members has been recorded.

D. The transfer of a Lot automatically transfers membership in the Association and all rights of the transferrer with respect to the Common Area and facilities to which ownership of such Lot relate.

Section Two. Easement to Facilitate Sales. The Declarant hereby reserves the right and easement to maintain, anywhere within the Project, management offices, sales offices, settlement offices, rental offices and models in, and to relocate the same among, any of the Lots now or hereafter owned by the Declarant. It is hereby specified that any one or more of the Lots may be used for the purposes enumerated in this Section, and the Declarant may relocate to other Lots within the Project in order to carry out any of those functions. The Declarant also reserves the right and easement throughout the Common Area to place and relocate or remove signs and other devices advertising the Project.

Section Three. Utility and Drainage Easements. Utility and drainage easements are reserved, and granted, through the Property as may be required for construction and maintenance of utility services and storm drainage in order to adequately serve the Project.

Section Four. Easement for Support. Each Lot and Common Area has an easement for support from every other Lot and Common Area, including, but not limited to, both horizontal and vertical support.

Section Five. Easement to Facilitate Expansion. The Declarant shall have a transferable easement over and upon the Common Area for the purpose of making improvements upon the Lots created upon the Additional Land pursuant to the provisions of this Declaration and for the purpose of doing all things reasonably necessary and proper in connection therewith.

Section Six. Easements for Encroachments. If any portion of the Common Area, or improvement thereon, encroaches upon any Lot, or improvement thereon, or if any Lot or improvement thereon encroaches upon any portion of the Common Area or another Lot as the same are defined and described herein, an easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist. In the event any improvement made upon a Lot shall be partially or totally destroyed and then rebuilt, minor encroachments upon any portion of the Common Area due to reconstruction shall be permitted, and easements for such encroachments and maintenance thereof shall and do exist.

Section Seven. Easement for Association. The Association shall have the right, which right shall be exercised by its Board of Directors and its agents, to enter upon any Lot or have access to the exterior of any Townhouse situated upon a Lot from time to time during reasonable hours as may be necessary for the operation and maintenance of the Project and the prevention of damage to any Lot or Common Area.

Section Eight. Easements May Be Granted by the Declarant and the Association. Declarant and, subject to any restrictions and limitations specified herein, the Association, shall have the irrevocable power as attorney-in-fact on behalf of all the Owners and their successors in title, to grant easements through the Common Area and accept easements benefiting the Project or a portion thereof.

ARTICLE FIVE

USE AND OCCUPANCY: RESTRICTIONS

Section One. General Restrictions. In order to preserve the quality and integrity of the Project, the following protective covenants are established for the mutual benefit of all Owners:

A. No Owner shall occupy or use his Townhouse, or permit the same or any part thereof to be occupied or used, for any purpose other than as a private, single-family residence for the Owner's immediate family, lessees, servants or guests.

B. Except for parking passenger automobiles in the designated parking spaces, nothing shall be stored by any Owner in the Common Area without the prior consent of the Association, and no waste shall be committed in or to the Common Area.

C. Any parking garages constructed as part of a Townhouse within the Project are to be used for automobile parking only, and may not be converted into living space without the prior consent of the Association.

D. Except as reserved to the Declarant, no Lot may be divided, redivided or subdivided, nor may any portion thereof be sold or otherwise transferred, except in its entirety.

E. No Owner shall do or keep or permit anything to be done or kept on any Lot or in the Common Area which will increase the rate of insurance on the Project, result in cancellation of insurance on any Townhouse or on any part of the Project, or be in violation of any law without the prior consent of the Association.

F. No sign of any kind shall be displayed to the public view on or upon any Lot or Townhouse thereon or in the Common Area without the prior consent of the Association, except as provided in paragraph L below.

G. No animals or livestock or poultry of any kind shall be raised, bred or kept upon any Lot or within any Townhouse thereon or in the Common Area, except such dogs, cats, or other household pets as may be permitted by the rules and regulations adopted by the Association governing the same.

H. No nuisances shall be allowed in or upon any Lot or Townhouse or the Common Area, nor shall any use or practice be allowed which interferes with the peaceful occupancy and use of any Townhouse or the Common Area by the Owners.

I. No immoral, improper, offensive or unlawful use shall be made of any Lot or Townhouse thereon or any part of the Common Area.

J. Except as provided in paragraph L below, Townhouses may be rented by the Owner only if the Townhouse is occupied by the lessee and his immediate family, servants and guests, and only if the minimum term of any such rental and occupancy shall be one (1) month.

K. Reasonable rules and regulations concerning the use of the Common Area and conduct of the Owners, their families, guests, tenants, agents and invitees within the Project may be made, amended and revoked from time to time by the Board of Directors of the Association. Copies of rules and regulations and all amendments thereto shall be furnished by the Association to all Owners and residents of the Project upon request.

L. No Owner nor the Association shall interfere in any way with the completion of the contemplated improvements and the sale of the Lots by the Declarant. The Declarant may make such use of the unsold Lots as may in its judgment facilitate such completion and sale to the extent otherwise set forth in this Declaration. The Declarant may display such signs as it deems necessary and appropriate in its sales efforts. The Declarant shall have the right to lease any unsold Lot and Townhouse thereon upon any terms it desires, notwithstanding the provisions of paragraph J above.

M. Except for the right of ingress and egress, the Owner shall use the Common Area only as may be allowed by the Association or expressly provided for herein.

ARTICLE SIX

ADMINISTRATION OF THE PROJECT

Section One. Establishment of Association. The administration of the Project, the maintenance, repair, replacement and operation and general management of the Common Area and exterior of the Townhouses and Lots appurtenant thereto, and those acts required of the Association shall be vested in and be the responsibility of a non-stock corporation made up of Owners, known as Smithy Glen Townhomes Owner's Association, Inc. Such administration shall be pursuant to this Declaration and the Articles of Incorporation attached hereto as Exhibit C and the Bylaws of the Association attached hereto as Exhibit D.

Section Two. Membership. Each Owner, upon acquiring title to his Lot, shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association shall automatically cease. No person holding any lien, mortgage, or other encumbrance upon any Lot shall be entitled, by virtue thereof, to membership in the Association or to any of the rights and privileges of such membership.

Section Three. Voting Rights. The Master Association shall have two types of voting Membership as follows:

Type "A": Type "A" Members shall all be Owners of Lots, (with the exception of the Declarant, which shall only become a Type "A" Member with respect to any Lots owned by them upon the termination of the Type "B" Membership as indicated below). Each Lot is assigned one (1) vote which may be cast by the Owner upon any call for a vote at any meeting of the Association. Where the ownership of a Lot is in more than one person, the person who shall be entitled to cast the vote of such Lot shall be the person named in a certificate executed by all of the Owners of such Lot and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Lot shall be the person owning such Lot who is present. If more than one person owning such Lot is present then such vote shall be cast only in accordance with the unanimous agreement of said Owners. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Except where a greater percentage is required by this Declaration or the Bylaws, the Owners representing more than fifty percent (50%) of the votes in the Association, voting in person or by proxy at one time at a duly convened meeting at which a quorum is present is required to adopt decisions at any meeting of the Association. Notwithstanding the above, if the Declarant owns or holds title to one or more Lots, and the Type "B" Membership in the Association has terminated, the Declarant shall become a Type "A" Member and shall have the right at any meeting of the Association to cast the votes to which such Lot or Lots are entitled. No Owner may vote at any meeting of the Association or be elected to or serve on the Board of Directors if the Association has perfected a lien against his Lot and the amount necessary to release such lien has not been paid at the time of such meeting or election.

Type "B": The Type "B" Membership shall consist of the Declarant, which shall be entitled to three (3) votes for each Lot in the Project including all Lots which may be added to the Project from time to time by the expansion of the Project onto the Additional land. This Type "B" Membership shall terminate upon the happening of either of the following events, whichever shall first occur:

A. The date upon which the total outstanding votes in the Type "A" Membership equal the total outstanding votes of the Type "B" Membership; or

B. The date ten (10) years from the date of settlement of the first Lot conveyed to an Owner.

Section Four. Powers of Association. In the administration of the Project, the Association shall have; and is hereby granted, the authority and power to enforce the provisions of this Declaration, convey and acquire real and personal property, levy and collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such Rules and Regulations governing the use of any Lot and any Townhouse thereon and Common Area as the Board of Directors of the Association may deem to be in the best interest of the Project, and develop yearly budgets for review and adoption by the membership of the Association upon which annual Lot assessments are based. The Association shall have the right, when determined by the Board of Directors to be in the best interest of the Project, to grant exclusive licenses, easements, permits, leases or privileges to any individual or entity, including any non-Owners, which affect the Common Area and to add to, relocate or improve the Common Area, and further provided that such grants, alterations, additions or improvements, do not, except for temporary inconvenience, interfere with or result in uses contrary to the uses intended for the Common Area as contained in the Overall Plan.

Section Five. Merger of Association. The Association, upon an affirmative majority vote of its Members, may merge or consolidate the Association with another association. Through such merger, the Association's properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration for the existing property and additions thereto together with the covenants and restrictions established upon any other properties as one plan. No such merger or consolidation, however, shall effect the revocation, change or addition to the covenants established by this Declaration within the existing property except as hereinafter provided.

Section Six. Management Agreement. The Association shall be authorized to enter into such management contracts as it may deem necessary or desirable for the administration and operation of the Project, provided that such contracts must comply with the terms and conditions of the Agencies

identified in Article Three, Section Seven above. Each Owner agrees to be bound by the terms and conditions of all such management agreements.

ARTICLE SEVEN

MAINTENANCE AND REPAIR OF THE LOTS, TOWNHOUSES AND COMMON AREA OF THE PROJECT

Section One. Duties of the Association. The Association shall cause the (exterior of each Townhouse) the Lot upon which the Townhouse is situate, and the Common Area of the Project to be kept in good order, condition and repair and in clean and sanitary condition and appearance, and shall cause to be performed and furnished all the labor and materials which may at any time be necessary to accomplish the same. No repair or maintenance of the exterior of any Townhouse, Lot, or any portion of or improvements upon the Common Area, other than those of a minor nature as may be established from time to time by the Association, may be made by an Owner without the prior consent of the Association. The Association shall maintain architectural control over the Project in accordance with Article Eight of this Declaration. In addition, the Association shall have the overall responsibility over matters relating to promoting the recreation, health and welfare of the residents in the Project, including, but not limited to, maintaining the service for the collection of garbage and trash, snow removal when appropriate, grass cutting and landscaping, and providing street lighting, security devices, and protection of the Owners and the Project where necessary in the opinion of the Association when not provided by a public authority.

Section Two. Reserve Fund. The Association shall establish a reserve fund for the replacement of the Common Area and exterior of Townhouses which it maintains. Such a reserve fund shall set aside monies for the replacement of certain items including, but not limited to, roads, driveways, parking lots, recreational facilities, if any, and building exteriors. The reserve fund shall be funded out of monthly installments of the maximum annual assessment in such amounts as may be determined in accordance with Article Nine hereof.

Section Three. Maintenance Standards: York County. Should the Association fail to maintain the Common Area in reasonable order and condition in accordance with the Overall Plan, York County may notify the Association or the Owners of Lots in the Project of deficiencies and demand that such deficiency be cured pursuant to § 24-252(c) of the York County Zoning Ordinance. Any funds expended by York County pursuant to said Section shall be assessed equally by the County against all Lots in the Project pursuant to § 24-252(c)(7) thereof and such assessments shall be a charge on and be a continuing lien upon the Lot 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 is the Owner of such property at the time when the assessment falls due. The personal obligation for delinquent assessments shall not pass to said Owner's successors in title unless expressly assumed by them.

* extract of York County Zoning Ordinance - 10/79

Smithy Glen Townhomes Owners Association, Inc. – Maintenance Responsibility Chart

Article 7 – MAINTENANCE AND REPAIR OF THE LOTS, TOWNHOUSES AND COMMON AREA OF THE PROJECT; Section One – Duties of the Association, of the Declaration of Covenants, Conditions and Restrictions states that the Association shall cause the exterior of each Townhouse, the Lot upon which the Townhouse is situated, and the Common Area of the project to be kept in good order, condition and repair and in clean and sanitary condition and appearance, and shall cause to be performed and furnished all the labor and materials which may at any time be necessary to accomplish the same.

Description of Item or Service	Resp.	Comments
BUILDING EXTERIORS		
- Roof Replacement	A	Replacement as per Reserve Study
- Roof Repair	H	Check office for Warranty
- Gutters and downspouts	A	Replace per RS= A, Routine maint=H
- Chimney Cap	H	
- Chimney Pipe/Fireplace	H	
- Chimney Cleaning	H	
- Bathroom/Stove/Dryer Vents	H	
- Vinyl Siding replacement	A	Replacement as per Reserve Study
- Vinyl Siding upkeep/repair	H	Siding to be power washed as needed to remove mildew.
- Exterior Brick	A	
- Exterior Metal Trim	A	
- Concrete Patio, Entrance walkways, driveways	H	As indicated on Homeowner plat as private property
- Fences, fence latches, locks and hinges	H	Fences to be repaired & power washed. Use only Olympic Elite Semi-Solid "Canyon Sunset" to Stain and Seal
- Railings	A	
- Exterior Light fixtures	H	
- Exterior Termite inspection	A	
- Interior Termite inspection	H	
- Townhouse structure	H	
DOORS & WINDOWS		
- Shed door	H	
- Front door	H	
- Sliding door	H	
- All door frames	H	
- Exterior locks, hardware	H	
- House numbers	H	
- Door painting (Outside)	A	Garage, front, back and shed— Normal painting rotation
- Kick plate, bell, knocker,	H	
- Storm doors	H	
- All windows (glass, seals, frames)	H	New doors require ARC review
- Wood/ Aluminum Trim/ Shutters	A	Normal wear and tear only

Description of Item or Service	Resp	Comments
UTILITIES		
- Sewer	A	Homeowner is responsible for the line from inside the home to cleanout. Association is responsible for the sewer line from cleanout to main sewer line.
- Water	A	Homeowners are responsible for water line from the meter to the home and inside home. Newport News Water Works is responsible for lines from street into the meter.
- Cable TV/ Satellite Dishes	H	Satellite dishes require ARC form and to comply with Association Rules & Regulations
- Phone/ Electrical connections	H	
- Heat and Air-Conditioning Unit	H	
COMMON GROUNDS		
- Sidewalks	A	
- Roads	A	
- Lots/ Landscaping	A	Association shall provide grass cutting in front yards only as provided in landscape contract; homeowners shall cut grass inside back fence. Homeowner is responsible for maintaining landscape beds, i. e. mulch as needed, bushes trimmed, tree of weeds.
- Street Lighting	A	
- Lakes	A	
- Household trash removal	A	
- Bulk trash removal for private homes.	H	Contact Association office for assistance. Ph # 867-9200
INSURANCE		
Common Areas	A	
Townhouses	H	Owners should obtain Homeowner policy. Tenants-renter policy.

PLEASE save for future reference.

Key: H=Homeowner A=Association
Revised Feb. 28, 2006 Policy Resolution No.3 2/24/2004.

**SMITHY GLEN TOWNHOME OWNERS ASSOCIATION, INC.
POLICY RESOLUTION NO. 3**

WHEREAS, Article 7 – MAINTENANCE AND REPAIR OF THE LOTS, TOWNHOUSES AND COMMON AREA OF THE PROJECT; Section One – Duties of the Association; of the Declaration of Covenants, Conditions and Restrictions states that the Association shall cause the exterior of each Townhouse, the Lot upon which the Townhouse is situate, and the Common area of the project to be kept in good order, condition and repair and in clean and sanitary condition and appearance, and shall cause to be performed and furnished all the labor and materials which may at any time be necessary to accomplish same;

AND WHEREAS, the Board of Directors has determined that they have a fiduciary duty to comply with Article 7 of the Association's Declaration;

AND WHEREAS, there is a need to clarify what exterior maintenance will be performed by the Association and what is the responsibility of each individual property owner;

NOW THEREFORE BE IT RESOLVED THAT as of January 1, 2004 homeowners are to refer to the Smithy Glen Townhome Owners Maintenance Responsibility Chart

Owners shall be responsible for maintaining in good working order all exterior fixtures that service only their home including but not limited to all air conditioning/heating units; all exterior light fixtures and outlets; roof sheathing; plumbing, dryer, and exhaust vents; all windows, doors, sliding doors, storm doors and skylights and their integral parts (i.e., glass, screens, frames, weather-stripping, locks, latches, etc.), all flues and pipes (including chimney flues), all utility service connections, all house numbers, kick-plates, concrete patios, fences and associated hardware and any other exterior features added by the owner.

Since the homes are held fee simple ownership, homeowners shall also maintain proper insurance coverage for the lots and the dwellings. Homeowners and their insurance companies shall be responsible for any interior damage from roof leaks.

The Board of Directors hereby adopts this resolution and the attached maintenance responsibility chart at a meeting duly held on February 24, 2004 at which a quorum was present.

Date:

Feb 24, 04

President:

Wayne Harding
Wayne Harding

Date:

Feb 24, 04

Secretary:

Arthur Miller
Arthur Miller

KAUFMAN & CANOLES

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VIA FACSIMILE to (757) 766-0249

November 11, 2003

Board of Directors
Smithy Glen Townhomes Owner's Association, Inc.
c/o Cathy Thompson, CMCA, AMS
100 Wrought Iron Bend
Yorktown, VA 23693-4530

Re: Review of Proposed Maintenance and Repair Responsibility Chart

Dear Board Members:

I have been asked to review a proposed maintenance and repair responsibility chart prepared in accordance with the requirements of Article Seven of the Association's Declaration of Covenants, Conditions and Restrictions and Policy Resolution No. 2, Exterior Maintenance and Repair Responsibilities, dated December 15, 1999. The Chart as drafted complies with the requirements of both the Declaration and the Resolution, with the exception of a couple of typographical errors I pointed out to your Association Manager by telephone call earlier today. The errors will be corrected prior to distribution of the chart to the Owners.

Please contact me if I can answer any questions for you. I appreciate this opportunity to be of service.

Sincerely,



Sarah R. Palamara

Chesapeake

Hampton

Newport News

Norfolk

Richmond

Virginia Beach

www.kaufmanandcanoles.com

ARTICLE EIGHT

ARCHITECTURAL CONTROL

Section One. Generally. Except as to any construction by the Declarant upon the Property or any Additional Land submitted to the Project in accordance with this Declaration, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made or change in any exterior color be made, until the plans and specifications showing the nature, kind, shape, height, materials, location or design or color 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 Board of Directors of the Association, or by an architectural review committee composed of three (3) or more representatives appointed by the Board. Any such change shall be made at the sole expense of Owner. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it in writing, approval will not be required and this Article will be deemed to have been fully complied with.

Section Two. Conformity of Maintenance, Style and Materials. All repairs, painting, replacements and maintenance, whether made by Owners or the Association, to the doors, windows, fences, gates or the exterior surface of any building, including roofs, or to any generally visible portion of the Common Area, shall be carried out in such a manner so as to conform to the materials, architecture, style, color and quality of construction initially provided by the Declarant.

Section Three. Liability of Owner. Should an Owner undertake unauthorized additions and modifications to his Townhouse, as specified above, or should an Owner cause any damage to the Common Area, the Association may correct such unauthorized actions and undertake such repairs, replacements or maintenance as may be necessary under the circumstances, and levy a special assessment for the cost thereof against said Owner. In the event an Owner threatens to or violates the provisions hereof, the Association shall also have the right to proceed in a court of equity for an injunction to seek compliance with the provisions hereof.

ARTICLE NINE

COVENANT FOR MAINTENANCE ASSESSMENTS

Section One. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, 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 as may be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and attorney's fees shall be a charge on, and be a continuing lien upon the Lot 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 Two. Preparation and Approval of Budget. Before each annual meeting of the Association, the Board of Directors shall adopt a budget of the Association containing an estimate of the total amount considered necessary for the next fiscal year to pay the Common Expenses for managing and maintaining the Common Area, including (without limitation) reasonable amounts necessary to provide working capital, a general operating reserve, and reserves for contingencies and replacements. The budget shall be presented at the annual meeting of the Association. Within ten (10) days after each annual meeting, the Secretary shall send to each Owner a copy of the budget in a reasonably itemized form setting forth the amount of the Common Expenses and the amounts and due dates of the annual assessment (and installments thereof) payable by an Owner for each Lot owned by him. Any budget created by the Board of Directors while the Declarant is a Class B Member of the Association, shall not require presentation at an annual meeting of the Association and may be adjusted during any budget year as deemed appropriate by the Board.

Section Three. Annual Lot Assessments and Payment of Common Expenses. The total amount of the estimated funds required to meet the Common Expenses and reserves needed to operate the Association and the Project as set forth in any budget or adjusted budget adopted by the Board of Directors shall be divided by the number of Lots in the Project and said share shall be assessed annually against each Lot. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven (11) months in such fiscal year, each Owner shall be obligated to remit to the Association one-twelfth (1/12) of such assessment. Within thirty (30) days after the end of each fiscal year, the person who served as Treasurer on the last day of that fiscal year shall supply to all Owners an itemized accounting of the common expenses for such fiscal year actually paid, together with a tabulation of the amounts collected pursuant to the budget for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited equally among the Lots against the next monthly installments due with respect to each such Lot. Any net shortage shall be assessed promptly against the Owners equally and shall be due either in full with the next monthly assessment due or, if the Board of Directors so determines, in a number of equal monthly installments sufficient to make up the shortage within a period ending not later than the end of the then current fiscal year.

Section Four. Reallocation of Assessments. Within thirty (30) days after any change in the number of Lots in the Project, the Board of Directors shall adjust the budget, allocating assessments against all the Lots equally, and the Secretary shall send to each Owner a copy of the adjusted budget reflecting the liability of all Lots for Common Expenses for the remainder of the fiscal year. If the assessments necessary to fund the budget will not be modified as to any particular Lots, such notification need not be given to the Owners thereof. The amount of assessments attributable to each Lot shall

thereafter be the amount specified in the adjusted budget until a new budget shall have been adopted by the Board of Directors.

Section Five. Reserves and Special Assessments. The Association shall accumulate and maintain reasonable reserves for working capital, operations, contingencies and replacement of the Common Area and the exterior of Townhouses. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, the Board of Directors may by majority vote of those present at a meeting of the Board duly called and having met quorum requirements, at any time levy a special assessment, which shall be assessed against the Lots equally and which shall be payable in a lump sum or in installments as the Board may determine. The Secretary shall give notice of any such special assessment to each Owner, giving the reason(s) therefor. All Owners shall be obligated to pay such special assessment either in full with the next monthly installment due or, if the Board of Directors so determines, in a number of equal monthly installments sufficient to make up the shortage within a period ending not later than the end of the then current fiscal year.

Section Six. Commencement of Assessments. Regular assessments shall commence as to each Lot as of the first day of the month following the month in which the Lot, as improved with a substantially completed Townhouse, is conveyed to an Owner.

Section Seven. Effect of Non-payment of Assessments; Remedies of the Association. No sale or transfer of a Lot shall relieve an Owner from liability for any assessment thereafter becoming due or from the lien thereof. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate determined from time to time by the Board. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area or abandonment of his Lot.

Section Eight. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust on a Lot within the Project. Sale or transfer of any Lot shall not effect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a first deed of trust or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer.

ARTICLE TEN

INSURANCE PROCEEDS; RESTORATION AND REPAIR

Section One. Insurance Trustee; Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and Mortgagees, as their interest may appear. Proceeds shall be held in trust for the purposes hereinafter set forth and for the benefit of

the Owners and Mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

Proceeds on account of damage to the Common Area shall be held as undivided shares for each Owner and his Mortgagee, such shares being equal to the undivided share of such Owner in the Association appurtenant to his Lot ownership; provided, however, that to the extent that any Common Area damaged serves less than all of the Lots within the Project, any proceeds shall be held as undivided shares for the Owners and Mortgagees of the Lots thus affected.

Section Two. Restoration. Except as otherwise provided herein, all insurance proceeds from any damage to improvements upon the Common Area shall be used to repair or replace such Common Area.

Section Three. Conduct of Restoration. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements made to the Common Area, subject to such minor alterations as are approved by the Board of Directors of the Association. Immediately after determination has been made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost of rebuilding or repairing.

Section Four. Inadequate Insurance.

A. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association under Section Two above, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, the Association may levy assessments against all Owners in the case of damage to the Common Area, in sufficient amounts to provide funds for the payment of such costs. The assessments due to damage to the Common Area, other than buildings, shall be assessed against all Owners at a uniform rate.

B. If any portion of the assessments levied by the Association in accordance with Section Four A above shall remain after payment of all costs of reconstruction and repair, the Association shall return such surplus to the Owners who were assessed.

Section Five. Distribution of Insurance Proceeds. If the damage for which the proceeds from insurance policies are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof, upon such invoices, receipts or demands for payment as the Association may require. Any proceeds remaining after defraying such costs shall be the property of the Association. If it is determined as provided in Section Four A above that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the Owners and their Mortgagees jointly as their interest may appear. In making distribution to Owners and their Mortgagees, the Association may rely upon a certificate of the

Association as to the names of the Owners and their respective shares of distribution.

ARTICLE ELEVEN

AMENDMENT OF DECLARATION

Section One. General Provisions. Except as provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by the Owners of record of two-thirds (2/3) of the Lots in the Project, which amendment shall be effective upon recordation thereof in the Clerk's Office of the Circuit Court for the County of York, Virginia.

Section Two. Rights of Declarant May Not Be Eliminated by Amendment. The rights of the Declarant as set forth herein may not be changed or altered unless the Declarant is a party to the written instruments described hereinabove; provided that if the Declarant is a party to the aforesaid writing, the number of Lots owned by the Declarant may be included in the computation to determine whether or not the instrument contains the required number of signatures by Owners. No amendment shall be made to this Declaration or the Articles of Incorporation or Bylaws of the Association while the Declarant is a Class B Member of the Association without the written consent of the Declarant.

Section Three. County Approval of Amendments. With the exception of adding additional land to the Project pursuant to Article Three hereof, no amendments to be made pursuant to Section One of this Article shall be enacted without first obtaining the written authorization for such amendment by the County Administrator of the County of York, Virginia.

ARTICLE TWELVE

MORTGAGEE RIGHTS

Section One. Generally.

A. The Association shall provide, upon request, written notification of any default by an Owner of any Lot of such Owner's obligation to the Association which is not cured within thirty (30) days to any first mortgagee or first deed of trust holder.

B. Any first mortgagee who comes into possession of any Lot 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 any "right of first refusal."

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 against the mortgaged Townhouse which accrue prior to the time such holder comes into possession of the Lot (except

for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Townhouses, including the mortgaged Townhouse).

D. Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage) of individual Lots 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 Owner. 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 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. By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Townhouses, the exterior maintenance of Townhouses, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings.

4. Fail to maintain fire and extended insurance coverage on the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurance value (based on current replacement cost);

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

E. First mortgagees of Lots shall have the right to examine the books and records of the Association.

F. First mortgagees of Lots may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area 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 payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement is hereby agreed to and this instrument shall constitute an agreement between the first mortgagees of Lots and the Association.

G. No provision of the Articles of Incorporation and Bylaws of the Association, or the Declaration of Covenants, Conditions, and Restrictions, or any similar instrument pertaining to Lots or Common Area shall give an Owner or any other party priority over any rights of first mortgagees of Lots pursuant to their mortgages in the case of a distribution to the Owners of insurance

proceeds or condemnation awards for losses to or taking of Common Area or Properties.

ARTICLE THIRTEEN

COMPLIANCE AND DEFAULT

Section One. Relief. Each Unit Owner shall comply with all provisions of the Articles of Incorporation and Bylaws of the Association and this Declaration, and the Rules and Regulations, as any of the same may be amended from time to time. The Association, acting through any of its Officers or through the Managing Agent, shall be entitled to the following relief:

(a) Additional Liability. Each Owner shall be liable for the expense of all maintenance by the Association rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any of his family, employees, agents, licensees, or invitees, but only to the extent that such expense is not covered by the proceeds of insurance maintained by or on behalf of the Association. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or Townhouse or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

(b) Costs and Attorney's Fees. In any proceeding arising out of any alleged default by an Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such actual attorneys' fees incurred by such prevailing party.

(c) No Waiver of Rights. The failure of the Association, any Officer(s), or any Owner(s) to enforce any provision of the Declaration, Articles of Incorporation or Bylaws shall not constitute a waiver of the right of the Association, any Officer, or any Owner to enforce such provisions in the future. All rights, remedies and privileges granted to the Association, and Officer(s), or any Owner(s) pursuant to any provision of the Declaration, Articles of Incorporation or Bylaws shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the person(s) exercising the same from exercising such other rights, remedies and privileges as may be granted to such person(s) by the Declaration, Articles of Incorporation or Bylaws or by law.

(d) Interest and Late Charges. If an Owner fails to pay in full any assessment for a period in excess of fifteen (15) days from the due date, the principal amount unpaid shall bear interest from the date due until paid at the rate of eighteen percent (18%) per annum or at such other lawful rate as may be fixed from time to time by resolutions of the Board of Directors. Except as otherwise determined by resolution of the Board, any assessment or installment thereof not paid within five (5) days after becoming due shall accrue a late charge in the amount of Fifteen Dollars (\$15.00) or such other

amount as may be established from time to time by resolution of the Board of Directors.

(e) Abating Violations. Any violation under the Declaration, Articles of Incorporation or Bylaws or any Rules and Regulations adopted by the Association shall give the Board of Directors, the Managing Agent, any person(s) authorized by the Board or the Managing Agent, and any group of the foregoing, the right to enter the Lot in which, or as to which, such violation exists and summarily to abate and remove, at the expense of the Owner thereof, any condition that may exist therein constituting such a violation.

(f) Legal Proceedings. Violation of any provision of the Declaration, Articles of Incorporation or Bylaws, or the Rules and Regulations shall be grounds for relief, including (without limitation) an action or suit: (i) to recover any sums due, (ii) for damages, (iii) for injunctive relief, (iv) to foreclose the lien for assessments, (v) any other relief provided for by the Declaration, Articles of Incorporation or Bylaws, (vi) for any other remedy available at law or in equity, and (vii) for any combination of any of the foregoing, all of which relief may be sought by the Association, any Officer(s), the Managing Agent and in any appropriate case, by any aggrieved Owner(s), and shall not constitute an election of remedies.

(g) Assessment for Fines and Charges. The Board is hereby granted the authority to assess fines or charges against Owners for violations of the Declaration, Articles of Incorporation, and Bylaws, and any rules and regulations adopted from time to time by the Board for which such Unit Owner or his family members, tenants, guests, employees, or invitees are responsible. Before any such charges may be assessed, the Owner shall be given an opportunity to be heard and to be represented by counsel before the Board or any such committee established by the Board to hear such matters. Notice for such hearings shall, at least fourteen (14) days in advance thereof, be hand delivered or mailed by registered or certified United States mail, return receipt requested, to such Owner at the address on record with the Association. The amount of charges so assessed shall not exceed FIFTY DOLLARS (\$50.00) per day for a single offense or TEN DOLLARS (\$10.00) per day for any offense of a continuing nature, unless such amounts shall be adopted from time to time by the Board. Any charges assessed pursuant hereto shall be treated as an assessment against the Lot pursuant to this Declaration.

ARTICLE FOURTEEN

MISCELLANEOUS PROVISIONS

Section One. Duration. 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, the Declarant and any Owner subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said twenty-five (25) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten year renewal periods hereunder shall be

unlimited and this Declaration shall be automatically renewed and extended upon the expiration of each ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial twenty-five (25) year period, or during the last year of any subsequent ten year renewal period, three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Members of the Association vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Office of the Clerk of Circuit Court of York County, Virginia, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section Two. Termination of Association. In the event that this Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, all the Common Area owned by the Association at such time shall be transferred to a trustee appointed by the Circuit Court of York County, Virginia, which trustee shall own and operate said Common Area for the use and benefit of the Owners within the Project as set forth below:

A. Each Lot located within the Project shall be subject to an annual assessment which shall be paid by the Owner to the Trustee. The amount of such annual assessment and its due date shall be determined solely by the Trustee, as the case may be, but the amount of such annual assessment on any particular Lot shall not exceed the amount actually assessed against that Lot in the last year that assessments were levied by the Association, subject to the adjustments set forth in Subparagraph B immediately below.

B. The annual assessment which may be charged by the Trustee hereunder on any particular Lot may be automatically increased each year by ten percent (10%).

C. The Trustee shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Area. The Declarant or the trustee may charge as part of the cost of

such functions the reasonable value of its services in carrying out the duties herein provided. The trustee shall not have the obligation to provide for operation, maintenance, repair and upkeep of the Common Area once the funds provided by the annual assessment have been exhausted, but is hereby granted the exclusive authority to charge special assessments for purposes of operation, repair, replacement and upkeep of the Common Area only upon the exhaustion of funds collected by the Trustee for such purposes from the annual assessments.

D. Any past due assessment together with interest thereon at the maximum rate of interest permitted by law from the due date and all costs of collection, including attorney's fees, shall be a personal obligation of the Owner at the time the annual assessment became past due, and it shall also constitute and become a charge and continuing lien on the Lot against which the assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

E. The Trustee shall have the power to dispose of the Common Area free and clear of the limitations imposed hereby, subject to the provisions of § 24-252(b) of the Zoning Ordinance of York County, Virginia as amended; provided, however, that such disposition shall be first approved in writing by fifty-one percent (51%) of the Owners of property within the Project or in the alternative shall be found to be in the best interest of the Owners of the property within the Project by the Circuit Court of York County, Virginia. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Area, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of such Common Area, then for the payment of any obligations distributed among the Owners of property within the Project, exclusive of the trustee, in a proportion equal to the proportion that the maximum annual assessment on property owned by a particular Owner bears to the total maximum annual assessments for all property located within the Project.

Section Three. Severability. The provisions hereof shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or any portion thereof shall not affect the validity or enforceability of any other provision hereof.

Section Four. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section Five. Form of Ownership. Each Lot shall for all purposes constitute a separate parcel of real estate which, subject to the terms of this Declaration, may be owned in fee simple.

Section Six. Headings. All headings in this document are inserted

solely for convenience of reference, and none of them constitutes a part of this document or affects its meaning, construction or effect.

Section Seven. Effective Date. This Declaration shall take effect upon recordation.

Section Eight. Provisions of Declaration for Benefit of Owner and Mortgagees. The provisions of the Declaration, and all exhibits thereto, requiring the Association to maintain the Common Area or portions of the Townhouses or Lots, collect assessments, maintain insurance, and make any repairs, and all restrictions of the Declaration and exhibits thereto, are intended to be for the benefit of and may be enforced by either an Owner or any Mortgagee.

Section Nine. Leases Must Contain Covenant to Abide. If an Owner should lease a townhouse appurtenant to a Lot in the Project, the lease must be in writing and contain a covenant on the part of the lessees to abide by all provisions of this Declaration and its exhibits and any rules and regulations and any amendments thereto which may subsequently be promulgated by the Association.

IN WITNESS WHEREOF, VIKING VILLAGE, LTD. has caused its corporate name to be signed thereto by its President, said officer being thereunto duly authorized.

VIKING VILLAGE, LTD.

By: [Signature]
President

STATE OF VIRGINIA
CITY OF NEWPORT NEWS, to wit:

I, Delwyn M. Kennedy, a Notary Public in and for the City and State aforesaid, whose commission expires on the 10th day of March, 1990, do hereby certify that H. R. Ashe, as President of VIKING VILLAGE, LTD., whose name is signed to the foregoing instrument or writing, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this 28th day of April, 1988.

[Signature]
Notary Public

solely for convenience of reference, and none of them constitutes a part of this document or affects its meaning, construction or effect.

Section Seven. Effective Date. This Declaration shall take effect upon recordation.

Section Eight. Provisions of Declaration for Benefit of Owner and Mortgagees. The provisions of the Declaration, and all exhibits thereto, requiring the Association to maintain the Common Area or portions of the Townhouses or Lots, collect assessments, maintain insurance, and make any repairs, and all restrictions of the Declaration and exhibits thereto, are intended to be for the benefit of and may be enforced by either an Owner or any Mortgagee.

Section Nine. Leases Must Contain Covenant to Abide. If an Owner should lease a Townhouse appurtenant to a Lot in the Project, the lease must be in writing and contain a covenant on the part of the lessees to abide by all provisions of this Declaration and its exhibits and any rules and regulations and any amendments thereto which may subsequently be promulgated by the Association.

IN WITNESS WHEREOF, VIKING VILLAGE, LTD. has caused its corporate name to be signed thereto by its President, said officer being thereunto duly authorized.

VIKING VILLAGE, LTD.

By: H.R. Ashe
President

STATE OF VIRGINIA
CITY OF NEWPORT NEWS, to wit:

I, Delwyn M. Kennedy, a Notary Public in and for the City and State aforesaid, whose commission expires on the 10th day of March, 1990, do hereby certify that H.R. Ashe, as President of VIKING VILLAGE, LTD., whose name is signed to the foregoing instrument or writing, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this 28th day of April, 1988.

Delwyn M. Kennedy
Notary Public

THIS DOCUMENT IS EXHIBIT "A" TO THE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
SMITHY GLEN TOWNHOMES DATED APRIL 1, 1988

Submitted Property

The property submitted to the Declaration pursuant to Article Two,
Section One is as follows:

All that certain lot, piece or parcel of land situate, lying and
being in York County, Virginia, containing 8.25 acres, as shown on
that certain plat entitled, "SMITHY GLEN, SECTION ONE, COUNTY OF
YORK, VIRGINIA," dated July 24, 1987, and prepared by DeYoung
Johnson Group, Inc., said plat being recorded in Plat Book _____,
page _____, in the Office of the Clerk of the Circuit Court of
York County, Virginia.

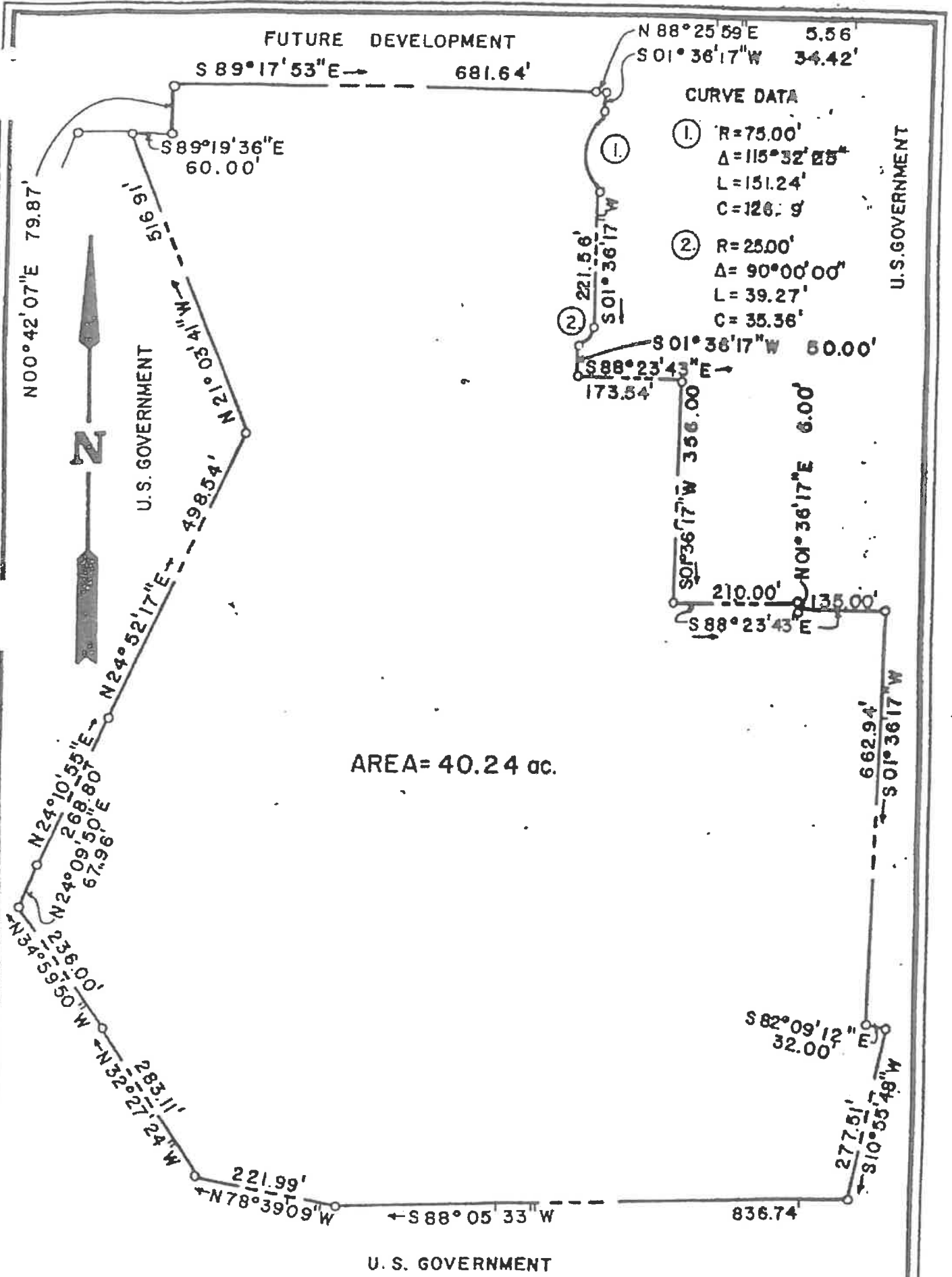
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THIS DOCUMENT IS EXHIBIT "B" TO THE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
SMITHY GLEN TOWNHOMES DATED APRIL 1, 1988

Additional Property

The property reserved by the Declarant as Additional Land is as follows:

All that certain lot, piece or parcel of land situate, lying and being in York County, Virginia, containing 40.24 acres, as shown on that certain plat entitled, "PERIMETER PLAT EXPANDABLE TOWNHOUSE PARCEL A COVENTRY PLANNED DEVELOPMENT COUNTY OF YORK, VIRGINIA," dated April 5, 1988, and prepared by The DeYoung-Johnson Group, Inc., Engineers-Architects-Surveyors, said plat being attached hereto and made a part of this Declaration as Exhibit B-1 hereof.



Plat Book No. 12 Page 4-42AMENDMENT TO DECLARATION OF COVENANTS,CONDITIONS AND RESTRICTIONSFORSMITHY GLEN TOWNHOMES OWNERS ASSOCIATION, INC.

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES OWNERS ASSOCIATION, INC. is made this 29th day of April, 1994, by VIKING VILLAGE, LTD., a Virginia corporation, (hereinafter referred to as the "Declarant").

WHEREAS, by Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes dated April 1, 1988 and recorded in the office of the Clerk of the Circuit Court of the County of York, Virginia, in Deed Book 516, at Page 619, hereinafter referred to as the "Declaration", the Declarant did declare that certain real property shall be held, transferred, sold, conveyed, occupied and used subject to certain easements, restrictions, reservations, covenants and conditions, all of which were set forth in said Declaration; and

WHEREAS, in said Declaration the Declarant did reserve the option to add additional property to the property subject to the Declaration and did reserve the option to expand the carriage home or townhouse development known as Smithy Glen Townhomes; and

WHEREAS, the Declarant hereby exercises its option to add additional property subject to this Declaration.

NOW THEREFORE, the Declarant does hereby amend the Declaration as follows:

1. Additional Land: The Declarant does hereby submit the additional real property described on Exhibit "A", attached hereto, to be subject to and governed by the Declaration Of Covenants, Conditions And Restrictions For Smith Glen Townhomes.

2. Disclosure to Purchaser of Lots Contained Within the Property Described on Exhibit A: Prior to the execution of a contract for sale or lease of any lot contained within the properties described on Exhibit A, the Declarant shall disclose to the prospective purchaser/lessee that such lot is close or adjacent to a public recreation area and that there is a potential for elevated light, glare, noise and activity levels resulting from the presence of public recreation facilities designed or intended for night time use.

3. Confirmation of Declaration: All other terms and provisions of the Declaration are expressly ratified and confirmed and shall remain in full force and effect.

BK0790PG0737

IN WITNESS WHEREOF, the Declarant has caused this Amendment To Declaration Of Covenants, Conditions And Restrictions For Smithy Glen Townhomes to be executed in its name and on its behalf by its President, thereunto duly authorized.

VIKING VILLAGE, LTD.

By H.R. Ashe
H.R. ASHE, Its President

STATE OF VIRGINIA

City of Newport News, to-wit:

I, DEBORAH A. BAILEY a Notary Public in and for the City and State aforesaid, do certify that H. R. Ashe, President, Viking Village, Ltd., whose name is signed to the above writing, bearing date on the 29th day of April, 1994, has acknowledged the same before me in my said City and State.

Given under my hand this 29th day of April, 1994.

Deborah A. Bailey
Notary Public



My commission expires:

10/30/96

BK0790PG0738

EXHIBIT "A"

All those certain lots, pieces or parcels of land situate, lying and being in the County of York, Virginia, known and designated as Lots Numbered ONE (1) through ONE FIFTY-SIX (56), as shown on that certain plat entitled "RECORD PLAT SMITHY GLEN SECTION FOUR, COUNTY OF YORK, VIRGINIA", dated September 20, 1993 and made by Louis M. Penci, Inc., Surveyors, and recorded on April 29, 1994, in the Clerk's Office of the Circuit Court for the County of York, Virginia in Plat Book 12, at Pages 41-42.

Virginia: County of York to-wit:
In the Clerk's Office of the Circuit Court for the
County of York, the 29 day of April 1994
This deed was presented with the certificate annexed
and admitted to record at 9:30 o'clock AM
Test: Nancy B. Kane, Clerk
By: [Signature] Deputy Clerk

Plat Book No. 12 Page 43-45
AMENDMENT TO DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS

FOR

SMITHY GLEN TOWNHOMES OWNERS ASSOCIATION, INC.

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES OWNERS ASSOCIATION, INC. is made this 29th day of April, 1994, by VIKING VILLAGE, LTD., a Virginia corporation, (hereinafter referred to as the "Declarant").

WHEREAS, by Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes dated April 1, 1988 and recorded in the office of the Clerk of the Circuit Court of the County of York, Virginia, in Deed Book 516, at Page 619, hereinafter referred to as the "Declaration", the Declarant did declare that certain real property shall be held, transferred, sold, conveyed, occupied and used subject to certain easements, restrictions, reservations, covenants and conditions, all of which were set forth in said Declaration; and

WHEREAS, in said Declaration the Declarant did reserve the option to add additional property to the property subject to the Declaration and did reserve the option to expand the carriage home or townhouse development known as Smithy Glen Townhomes; and

WHEREAS, the Declarant hereby exercises its option to add additional property subject to this Declaration.

NOW THEREFORE, the Declarant does hereby amend the Declaration as follows:

1. Additional Land: The Declarant does hereby submit the additional real property described on Exhibit "A", attached hereto, to be subject to and governed by the Declaration Of Covenants, Conditions And Restrictions For Smith Glen Townhomes.

2. Disclosure to Purchaser of Lots Contained Within the Property Described on Exhibit A: Prior to the execution of a contract for sale or lease of any lot contained within the properties described on Exhibit A, the Declarant shall disclose to the prospective purchaser/lessee that such lot is close or adjacent to a public recreation area and that there is a potential for elevated light, glare, noise and activity levels resulting from the presence of public recreation facilities designed or intended for night time use.

3. Confirmation of Declaration: All other terms and provisions of the Declaration are expressly ratified and confirmed and shall remain in full force and effect.

BK0790PG0746

IN WITNESS WHEREOF, the Declarant has caused this Amendment To Declaration Of Covenants, Conditions And Restrictions For Smithy Glen Townhomes to be executed in its name and on its behalf by its President, thereunto duly authorized.

VIKING VILLAGE, LTD.

By H.R. Ashe
H.R. ASHE, Its President

STATE OF VIRGINIA

City of Newport News, to-wit:

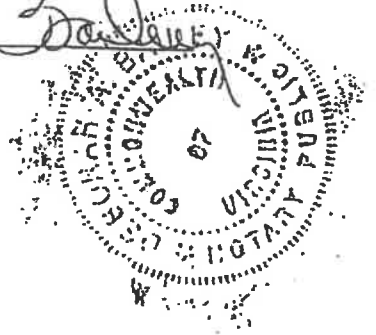
I, Deborah A. Bailey, a Notary Public in and for the City and State aforesaid, do certify that H. R. Ashe, President, Viking Village, Ltd., whose name is signed to the above writing, bearing date on the 29th day of April, 1994, has acknowledged the same before me in my said City and State.

Given under my hand this 29th day of April, 1994.

Deborah A. Bailey
Notary Public

My commission expires:

6/30/96



BK0790PG0747

EXHIBIT "A"

All those certain lots, pieces or parcels of land situate, lying and being in the County of York, Virginia, known and designated as Lots Numbered ONE HUNDRED ONE (101) through ONE HUNDRED FORTY-FIVE (145), as shown on that certain plat entitled "RECORD PLAT SMITHY GLEN SECTION THREE COUNTY OF YORK, VIRGINIA", dated July 30, 1993 and made by Louis M. Penci, Inc., Surveyors, and recorded on April 29, 1994 in the Clerk's Office of the Circuit Court for the County of York, Virginia in Plat Book 12, at Pages 43-45.

Virginia: County of York to-wit:

In the Clerk's Office of the Circuit Court for the County of York, the 29 day of April 1994
This deed was presented with the certificate annexed and admitted to record at 10:00 o'clock AM

Teste: Nancy B. Kane, Clerk

By: Richard R. Darrow Deputy Clerk

SECOND AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

FOR

SMITHY GLEN TOWNHOMES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES is made this 1/14 day of January, 1995, by VIKING VILLAGE, LTD., a Virginia corporation (hereinafter referred to as the "Declarant").

WHEREAS, by Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes, dated April 1, 1988, and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 516, at page 619, hereinafter referred to as the "Declaration," the Declarant did declare that certain real property shall be held, transferred, sold, conveyed, occupied and used subject to certain easements, restrictions, reservations, covenants and conditions, all of which were set forth in said Declaration; and

WHEREAS, in said Declaration, the Declarant did reserve the option to add additional property to the property subject to the Declaration and did reserve the option to expand the carriage home or townhouse development known as Smithy Glen Townhomes; and

WHEREAS, the Declarant hereby exercises its option to add additional property subject to this Declaration.

NOW, THEREFORE, the Declarant does hereby amend the Declaration as follows:

1. Additional Land: The Declarant does hereby submit the additional real property described on Exhibit "A" attached hereto, to be subject to and governed by said Declaration.

2. Disclosure to Purchaser of Lots Contained Within the Property Described on Exhibit A: Prior to the execution of a contract for sale or lease of any lot contained within the properties described on Exhibit A, the Declarant shall disclose to the prospective purchaser/lessee that such lot is close or adjacent to a public recreation area and that there is a potential for elevated light, glare, noise and activity levels resulting from the presence of public recreation facilities designed or intended for night time use.

3. Confirmation of Declaration: All other terms and provisions of the Declaration are expressly ratified and confirmed and shall remain in full force and effect.

BK0830PG0165

IN WITNESS WHEREOF, the Declarant has caused this Amendment to the Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes to be executed in its name and on its behalf by its President, thereunto duly authorized.

VIKING VILLAGE, LTD.

BY H.R. Ashe
H.R. Ashe
Its President

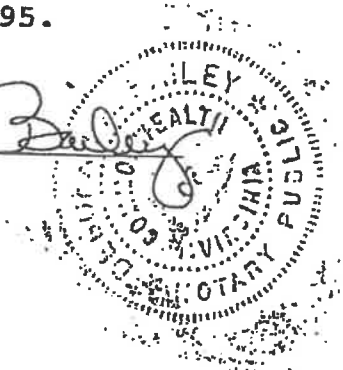
COMMONWEALTH OF VIRGINIA

In the City of Newport News, to wit:

I, DEBORAH A. BAILEY, a Notary Public in and for the City and State aforesaid, do certify that H.R. Ashe, President on behalf of Viking Village, Ltd., whose name is signed to the above writing, bearing the date of the 11th day of January, 1995, has acknowledged the same before me in my said City and State.

Given under my hand this 11th day of January, 1995.

Deborah A. Bailey
Notary Public



My commission expires: 6/30/96

BK0830PG0166

EXHIBIT A

All those certain lots, pieces or parcels of land situate, lying and being in the County of York, Virginia, known and designated as Lots Numbered One (1) through Twenty-Three (23), as shown on that certain plat entitled, "RECORD PLAT SMITHY GLEN SECTION FIVE COUNTY OF YORK, VIRGINIA," dated January 13, 1994, made by Louis M. Penci, Inc., Surveyors, and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia, in Plat Book 12, at page 189-190.

virginia: County of York to-wit:

In the Clerk's Office of the Circuit Court for the County of York, the 12 day of Jan 19 95
This deed was presented with the certificate annexed and admitted to record at 10:45 o'clock Am

Teste Nancy B. Kane, Clerk

By [Signature] Deputy Clerk

THIRD AMENDMENT TO DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

FOR

SMITHY GLEN TOWNHOMES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES is made this 5th day of June, 1995, by VIKING VILLAGE, LTD., a Virginia corporation (hereinafter referred to as the "Declarant").

WHEREAS, by Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes, dated April 1, 1988, and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 516, at page 619, hereinafter referred to as the "Declaration," the Declarant did declare that certain real property shall be held, transferred, sold, conveyed, occupied and used subject to certain easements, restrictions, reservations, covenants and conditions, all of which were set forth in said Declaration; and

WHEREAS, in said Declaration, the Declarant did reserve the option to add additional property to the property subject to the Declaration and did reserve the option to expand the carriage home or townhouse development known as Smithy Glen Townhomes; and

WHEREAS, the Declarant hereby exercises its option to add additional property subject to this Declaration.

NOW, THEREFORE, the Declarant does hereby amend the Declaration as follows:


1. Additional Land: The Declarant does hereby submit the additional real property described on Exhibit "A" attached hereto, to be subject to and governed by said Declaration.

2. Confirmation of Declaration. All other terms and provisions of the Declaration are expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to the Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes to be executed in its name and on its behalf by its President, thereunto duly authorized.

VIKING VILLAGE, LTD.

BY



H.R. Ashe
Its President

BK0848PG0168

COMMONWEALTH OF VIRGINIA

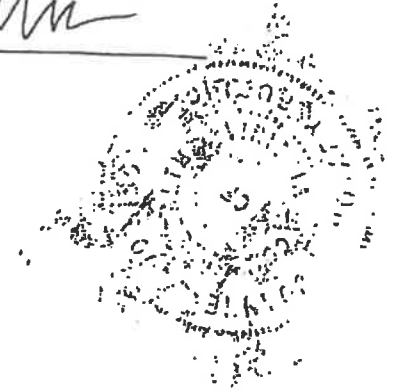
In the City of Newport News, to wit:

I, Joanne L. Johnson, a Notary Public in and for the City and State aforesaid, do certify that H.R. Ashe, President on behalf of Viking Village, Ltd., whose name is signed to the above writing, bearing the date of the 5th day of June, 1995, has acknowledged the same before me in my said City and State.

Given under my hand this 5th day of June, 1995.

Joanne L. Johnson
Notary Public

My commission expires: 11/30/95



BK 0848 PGO 169

EXHIBIT "A"

All those certain lots, pieces or parcels of land situate, lying and being in the County of York, Virginia, known and designated as Lots Numbered One (1) through Twenty-One (21), as shown on that certain plat entitled, "RECORD PLAT SMITHY GLEN, SECTION SIX, COUNTY OF YORK, VIRGINIA," dated March 23, 1994, made by Louis M. Penci, Inc., Surveyors, and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia, on June 2, 1995 in Plat Book 12, at page 251.

Virginia, County of York to-wit:

In the Clerk's Office of the Circuit Court for the County of York, the 6th day of June 1995
This deed was presented with the certificate annexed and admitted to record at 10:35 o'clock am

Teste: Nancy B. Kane, Clerk

By Sude S. Hughes Deputy Clerk

FIFTH AMENDMENT TO DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

FOR

SMITHY GLEN TOWNHOMES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES is made this 30th day of August, 1995, by VIKING VILLAGE, LTD., a Virginia corporation (hereinafter referred to as the "Declarant").

WHEREAS, by Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes, dated April 1, 1988, and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 516, at page 619, hereinafter referred to as the "Declaration," the Declarant did declare that certain real property shall be held, transferred, sold, conveyed, occupied and used subject to certain easements, restrictions, reservations, covenants and conditions, all of which were set forth in said Declaration; and

WHEREAS, in said Declaration, the Declarant did reserve the option to add additional property to the property subject to the Declaration and did reserve the option to expand the carriage home or townhouse development known as Smithy Glen Townhomes; and

WHEREAS, the Declarant hereby exercises its option to add additional property subject to this Declaration.

NOW, THEREFORE, the Declarant does hereby amend the Declaration as follows:


1. Additional Land: The Declarant does hereby submit the additional real property described on Exhibit "A" attached hereto, to be subject to and governed by said Declaration.

2. Confirmation of Declaration. All other terms and provisions of the Declaration are expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to the Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes to be executed in its name and on its behalf by its President, thereunto duly authorized.

VIKING VILLAGE, LTD.

BY


H.R. Ashe
Its President

BK0860PG0832

COMMONWEALTH OF VIRGINIA

In the City of Newport News, to wit:

I, CAROLYN R. KRAUSE, a Notary Public in and for the City and State aforesaid, do certify that H.R. Ashe, President on behalf of Viking Village, Ltd., whose name is signed to the above writing, bearing the date of the 31 day of August, 1995, has acknowledged the same before me in my said City and State.

Given under my hand this 31 day of August, 1995.

Carolyn R. Krause
Notary Public

My commission expires: April 31, 1999

BK0860PG0833

EXHIBIT "A"

All those certain lots, pieces or parcels of land situate, lying and being in the County of York, Virginia, known and designated as Lots Numbered One (1) through Forty-Eight (48), as shown on that certain plat entitled, "RECORD PLAT SMITHY GLEN SECTION EIGHT COUNTY OF YORK, VIRGINIA," dated May 12, 1995, made by Louis M. Penci, Inc., Surveyors, and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia, on August 30, 1995 in Plat Book 12, at pages 289-290.

Virginia: County of York to-wit:

In the Clerk's Office of the Circuit Court for the County of York, the 1st day of Sept 1995

This deed was presented with the certificate annexed and admitted to record at 9:40 o'clock am

Tests: Nancy B. Kane, Clerk

By: Dee S. Hughes Deputy Clerk

BK0865PG0496

CORRECTED
FIFTH AMENDMENT TO DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

10637

FOR

SMITHY GLEN TOWNHOMES

THIS CORRECTED FIFTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES is made this 28th day of September, 1995, by VIKING VILLAGE, LTD., a Virginia corporation (hereinafter referred to as the "Declarant").

WHEREAS, by Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes, dated April 1, 1988, and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 516, at page 619, hereinafter referred to as the "Declaration," the Declarant did declare that certain real property shall be held, transferred, sold, conveyed, occupied and used subject to certain easements, restrictions, reservations, covenants and conditions, all of which were set forth in said Declaration; and

WHEREAS, in said Declaration, the Declarant did reserve the option to add additional property to the property subject to the Declaration and did reserve the option to expand the carriage home or townhouse development known as Smithy Glen Townhomes; and

WHEREAS, the Declarant did add additional property subject to the Declaration known and designated as Lots Numbered One (1) through Forty-Eight (48), all as more particularly shown on that certain Plat entitled, "RECORD PLAT SMITHY GLEN SECTION EIGHT COUNTY OF YORK, VIRGINIA," by the Fifth Amendment to the Declaration and duly recorded in the aforesaid Clerk's Office in Deed Book 860, page 831; and

WHEREAS, the Declarant, all other owners of the properties, and the County of York, Virginia, did later vacate certain lots from the aforesaid Plat by a recorded Plat entitled, "RECORD PLAT VACATION OF LOTS 1-16, 41-48 AND PORTION OF COMMON AREA SMITHY GLEN SECTION EIGHT COUNTY OF YORK, VIRGINIA," dated September 18, 1995, made by Louis M. Penci, Inc., Surveyors, and duly recorded in the aforesaid Clerk's Office on September 27, 1995, in Plat Book 12, at pages 297-298; and

WHEREAS, the Declarant wishes to correct the Fifth Amendment to the Declaration to reflect the correct description of the additional property resulting from the recordation of the aforesaid Record Plat of Vacation of Lots 1-16, 41-48 and Portion of Common Area.

PK 0865PG0497

NOW, THEREFORE, the Declarant does hereby amend the Declaration as follows:

- 1. Additional Land: The Declarant does hereby submit the additional real property described on Exhibit "A" attached hereto, to be subject to and governed by said Declaration.
- 2. Clarification of this Correction: The Declarant has hereby removed Lots 1-16, 41-48 and a portion of the Common Area from the additional land; all other land as shown on said Plat is to be subject to and governed by said Declaration.
- 3. Confirmation of Declaration. All other terms and provisions of the Declaration, as amended, are expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Corrected Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes to be executed in its name and on its behalf by its President, thereunto duly authorized.

VIKING VILLAGE, LTD.

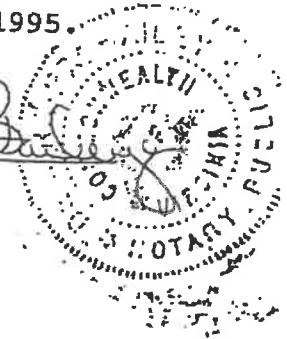
BY H.R. Ashe
H.R. Ashe
Its President

COMMONWEALTH OF VIRGINIA
In the City of Newport News, to wit:

I, DEBORAH A. BAILEY, a Notary Public in and for the City and State aforesaid, do certify that H.R. Ashe, President on behalf of Viking Village, Ltd., whose name is signed to the above writing, bearing the date of the 28th day of September, 1995, has acknowledged the same before me in my said City and State.

Given under my hand this 28th day of September, 1995.

Deborah A. Bailey
Notary Public



My commission expires: 6/30/96

EXHIBIT "A"

All those certain lots, pieces or parcels of land situate, lying and being in the County of York, Virginia, known and designated as Lots Numbered Seventeen (17) through Forty (40) and common area as shown on that certain plat entitled, "RECORD PLAT VACATION OF LOTS 1-16, 41-48, AND PORTION OF COMMON AREA SMITHY GLEN SECTION EIGHT COUNTY OF YORK, VIRGINIA," dated September 18, 1995, made by Louis M. Penci, Inc., Surveyors, and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia, on September 28, 1995, in Plat Book 12, at pages 297-298.

virginia: County of York to-wit:

In the Clerk's Office of the Circuit Court for the County of York, the 2nd day of Oct 1995
need was procured and admitted to record 2:04 PM

Teste: Henry B. Berry

Henry B. Berry
Clerk

BK0865PG0499

SIXTH AMENDMENT TO DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

106

FOR

SMITHY GLEN TOWNHOMES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES is made this 29th day of September, 1995, by VIKING VILLAGE, LTD., a Virginia corporation (hereinafter referred to as the "Declarant").

WHEREAS, by Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes, dated April 1, 1988, and recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 516, at page 619, hereinafter referred to as the "Declaration," the Declarant did declare that certain real property shall be held, transferred, sold, conveyed, occupied and used subject to certain easements, restrictions, reservations, covenants and conditions, all of which were set forth in said Declaration; and

WHEREAS, in said Declaration, the Declarant did reserve the option to add additional property to the property subject to the Declaration and did reserve the option to expand the carriage home or townhouse development known as Smithy Glen Townhomes; and

WHEREAS, the Declarant hereby exercises its option to add additional property subject to this Declaration.

NOW, THEREFORE, the Declarant does hereby amend the Declaration as follows:


1. Additional Land: The Declarant does hereby submit the additional real property described on Exhibit "A" attached hereto, to be subject to and governed by said Declaration.

2. Confirmation of Declaration. All other terms and provisions of the Declaration are expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to the Declaration of Covenants, Conditions and Restrictions for Smithy Glen Townhomes to be executed in its name and on its behalf by its President, thereunto duly authorized.

VIKING VILLAGE, LTD.

BY


H.R. Ashe
Its President

BK0865PG0500

COMMONWEALTH OF VIRGINIA

In the City of Newport News, to wit:

I, Deborah A. Bailey, a Notary Public in and for the City and State aforesaid, do certify that H.R. Ashe, President on behalf of Viking Village, Ltd., whose name is signed to the above writing, bearing the date of the 29th day of September, 1995, has acknowledged the same before me in my said City and State.

Given under my hand this 29th day of September, 1995.


Notary Public

My commission expires: 6/30/96



BK0865PG0501

EXHIBIT "A"

All those certain lots, pieces or parcels of land situate, lying and being in the County of York, Virginia, known and designated as Lots Numbered One (1) through Twenty-Three (23), as shown on that certain plat entitled, "RECORD PLAT SMITHY GLEN SECTION SEVEN COUNTY OF YORK, VIRGINIA," dated March 23, 1994, made by Louis M. Penci, Inc., Surveyors, and recorded in the Clerk's Office of the Circuit Court for the County of York, Virginia, on September 29, 1995 in Plat Book 12, at page 299-300.

Virginia: County of York to-wit:
in the Clerk's Office of the Circuit Court for the
County of York, the 2nd day of oct 1995
was presented with the certificate annexed
and admitted to record at 2:06 o'clock PM
by Larry E. Kapa, Clerk
James S. Berry, Deputy Clerk

PG0613 JUL 19 06



LR060017168

This instrument was prepared by Vandevanter Black LLP, 500 World Trade Center, Norfolk, Virginia 23510

AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SMITHY GLEN TOWNHOMES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SMITHY GLEN TOWNHOMES, made as of May 23, 2006, by SMITHY GLEN TOWNHOMES OWNERS ASSOCIATION, INC., a Virginia nonstock corporation and property owners association (the "Association") (Grantor and Grantee for recording purposes).

Recorded
2006 JUL 14 PM 2:58

WITNESSETH:

WHEREAS, the Declaration of Covenants, Conditions and Restrictions For Smithy Glen Townhomes dated April 1, 1988, was recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, in Deed Book 516, at Page 619, as amended (the "Declaration");

WHEREAS, the Declaration may be amended by an instrument in writing signed and acknowledged by the Owners of record of two-thirds (2/3) of the Lots in the Project;

WHEREAS, it is in the best interest of the Association to amend Article Twelve, Section One D of the Declaration to remove the requirement of first mortgagee consent ~~except~~ as to amendments which alter the priority of the lien of such mortgagee or which materially impair or affect a lot as collateral or the right of such mortgagee to foreclose on a lot as collateral as set forth herein, which is consistent with Va. Code Section 55-515.1;

WHEREAS, it is in the best interest of the Association to amend Article Eleven, Section One of the Declaration to make it consistent with Va. Code Section 55-515.1D and F to allow amendment of the Declaration by a two-thirds vote of the owners, with such agreement being evidenced by execution of the amendment or ratifications thereof;

WHEREAS, written authorization for this amendment has been obtained from the County Administrator of the County of York, Virginia; and

WHEREAS, notice having been given, a meeting having been duly called and held and the requisite approval and acknowledged signatures of Owners having been obtained.

GPIN # See attached

2006 JUL 19 PM 1:11

NOW, THEREFORE, pursuant to the rights given to and reserved by the Association and the Owners to amend the Declaration and in accordance with the Virginia Property Owners Association Act, Va. Code Ann. Section 55-79.508 *et. seq.*, as amended (the "Act"), the Declaration is hereby amended as follows:

Article Twelve, Section One D is hereby amended and restated as follows:

D. Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage) of individual Lots have given their written consent, the Association shall not be entitled to:

1. Change the method of determining the obligations, assessments, dues or other charges that may be levied against an Owner;
2. Alter the priority of the lien of first mortgagees;
3. Materially impair or affect a lot as collateral;
or
4. Change the right of first mortgagees to foreclose on a lot as collateral.

Article Eleven, Section One is hereby amended and restated as follows:

Section One. General Provisions. Except as provided herein, the provisions of this Declaration may be amended by a two-thirds vote of the owners, which agreement shall be evidenced by their execution of the amendment, or ratifications, thereof. Any such amendment shall become effective when a copy of the amendment is recorded in the Clerk's Office of the Circuit Court of the County of York, Virginia, together with a certification meeting the requirements set forth in Va. Code Section 55-515.1F, as amended or replaced.

Except as modified by this Amendment, the Declaration, as amended, is expressly ratified, affirmed and shall remain in full force and effect.

This Amendment shall be filed in the Clerk's Office of the Circuit Court of the County of York and attached to the Declaration of the Association upon recordation.

SMITHY GLEN TOWNHOMES OWNERS
ASSOCIATION, INC.

By Kathleen Aiello
Kathleen Aiello, President

**CERTIFICATION PURSUANT TO
VIRGINIA CODE §55-515.1**

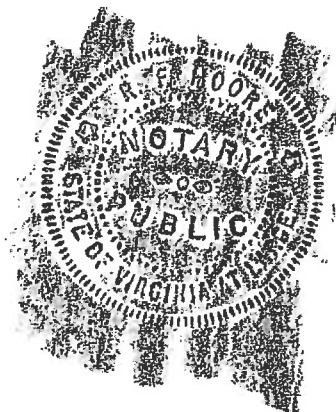
COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF YORK, to-wit:

The foregoing instrument was acknowledged before me, the undersigned Notary Public, by Kathleen Aiello, President of Smithy Glen Townhomes Owners Association, Inc., who did state that Owners of record of 2/3 of the Lots in the Project signed and acknowledged the foregoing amendment or ratifications thereof.

Given under my hand this 7 day of June, 2006.

Ronald F. Moore
Notary Public

My commission expires: Feb 28, 2010



[Acknowledged signatures of owners follow on multiple pages]

GPIN # See attached

PG0616 JUL 19 06

AUTHORIZATION FOR
AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR SMITHY GLEN TOWNHOMES
Dated May 23, 2006

YORK COUNTY, VIRGINIA

By


James O. McReynolds, County
Administrator

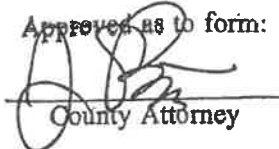
STATE OF Virginia
CITY/COUNTY OF York, to-wit:

The foregoing instrument was acknowledged before me, the undersigned Notary Public, on this 3rd day of July, 2006, by the County Administrator of the York County, Virginia.


Notary Public

My commission expires: 12-31-2008

Approved as to form:


County Attorney