

**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
MILL CREEK
PHASE TWO**

THIS DECLARATION, made on the date hereafter set forth by GEORGE HARRISON GILLIAM, Trustee for the Reynovia Land Trust under trust agreement dated March 15, 1985, hereafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Albemarle, State of Virginia, which is more particularly described as:

Lots 1 - 51, Phase 2, Section 5, Mill Creek
P.U.D., as shown on the attached Subdivision
Plat thereof made by R. W. Ray, R. O. Snow &
Assoc., Inc., Dated December 26, 1989, revised
February 19, 1990.

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

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

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to Mill Creek Phase Two P.U.D. Home Owners Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Declarant or the Association for the common use and enjoyment of the members of the Association and shown on said subdivision plat as "Common Area" or as "Open Space."

Section 4. "Lot" shall mean and refer to any plot of with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as securities for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to George Harrison Gilliam, Trustee for the Reynovia Land Trust under trust agreement dated March 15, 1985, its successors and assigns if such successors

or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II ANNEXATION OF ADDITIONAL PROPERTIES

The restrictions contained herein as well as all of the rules, regulations and controls herein provided shall be applied to such future land as may be platted by the Declarant, or its assigns, so long as said land is either a portion of the remaining properties originally conveyed to the Declarant by deed of Clifton J. Reynolds, Jr., et al., dated December 30, 1985, of record in the Clerk's Office of the circuit Court of Albemarle County, Virginia, in Dee Book 866, page 21, or is adjoining any of said property conveyed to Declarant, by the aforesaid deed, and the application of these restrictions to said adjoining land shall commence upon the platting of said adjoining lands as a part of this subdivision and the recordation of a Declaration imposing the easements, covenants, restrictions and conditions contained in this Declaration on such adjoining property or properties. Nothing contained herein, however, shall apply to the properties now, formerly, or hereafter owned by the Mill Creek Industrial Land Trust, the Mill Creek Commercial Land Trust nor the Mill Creek Multi-Family Land Trust.

ARTICLE III MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

ARTICLE IV VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership in Article III. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant. The Class B member(s) shall be entitled to two (2) votes for each Lot in which it holds interest required for membership by Article III, provided that the Class B membership shall cease and be converted to Class A membership on a section by section basis at such time that more than seventy-five percent (75%) of the Lots in that section have been sold by the Declarant to individual purchasers, provided that the Declarant shall retain his Class B membership as to other sections where less than seventy-five percent (75%) of the Lots have been sold to individual purchasers.

ARTICLE V COMMON AREA PROPERTY RIGHTS

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

- (a) the right of the Association to limit the number of guest members, if applicable;

- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area, if the need arises;
- (c) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;
- (d) the right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid; and
- (e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than 10 days nor more than 60 days in advance.

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

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

Section 4. Easements. The Association by normal corporate action may convey and grant any easements in addition to those shown on recorded subdivision plats, so long as such easements do not cross and buildings on any Lot.

ARTICLE VI COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expresses in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided, and (3) assessments for correction of noncompliance with Article VII and Article VIII. The assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made in the manner as hereinafter provided, and subject to prior liens upon the property as herein provided. Each such assessment, together with such interest, costs and reasonable attorney's fees shall be the personal obligation of the person who was eth Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in eth Properties and in particular for the improvement and maintenance pf the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area.

The Association shall use such assessments and levies for the general purpose stated above, and in addition thereto shall be required to maintain and operate the following:

- (a) The Association shall maintain all Common Area.
- (b) The Association shall operate recreational facilities as it deems fit and proper and make such extra charges as it deems proper for the use of these recreational facilities.
- (c) The Association shall further be in charge of the general policing and control of the entire subdivision, and can make any reasonable regulation for control of such and prevention of nuisances.
- (d) The Association shall make the necessary liability insurance for Common Areas and pay any and all taxes on the Common Area as levied by the appropriate jurisdictional agency.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Dollars (\$4.00) per month per improved Lot (improved by completed structure), and the assessment on unimproved Lots shall be One Dollar (\$1.00) per unimproved Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased up to ten percent (10%) per year effective January 1 of each year without a vote of the membership, by the Board of Directors of the Association, which Board may fix such annual increases up to the maximum of ten percent (10%) after due consideration of current maintenance costs and needs of the Association.
- (b) Any increases requested by the Board of Directors in the usual monthly assessments above the annual ten percent (10%) increase must be approved by a two-thirds (2/3) vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. For this purpose a quorum shall be constituted by a majority of the total votes authorized.

Section 4. Special Assessments for Capital Improvements. The Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment must be approved by a three-quarter (3/4) vote of the total membership, Class A and B members, with Class B members casting two (2) votes per Lot and Class A members casting one (1) vote per Lot, and for this purpose a quorum shall be constituted by a majority of the total votes authorized. Said vote is to be taken in person or by proxy at a meeting duly called for this purpose, pursuant to the normal notice required for meetings as provided under the Bylaws of the Association or under Virginia state law, if none is so provided.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all improved and unimproved Lots and may be collected on a monthly basis.

Section 6. Date of Commencement of Annual Assessment Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. Unless otherwise established by the Board of Directors, the annual assessments shall be due in twelve (12) equal installments on the first day of each month, unless other due dates are established by the Board of Directors, and the annual assessments shall be prorated where sale is made between the annual January 1 assessment dates. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable

charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum interest rate provided by law, and the Association may bring an action at law against the Owner personally obliged to pay the same, or foreclose the lien against the property, and interest costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Lien for Payment of Assessment and Subordination of Lien to First and Second Mortgages. There shall be a continuing lien on each of the Lots herein, in order to secure the payment of any of the assessments provided under this Declaration, but such lien shall be at all times subject and subordinate to any first or second mortgages or deed of trust placed on the property at any time. However, at such time as the Association places to record a notice of delinquency as to any particular Lot on a form prescribed by the Board of Directors, then, of time of recordation of said notice the lien of such delinquent assessments in the amount stated in such notice shall from that time become a lien prior to any first or second mortgages or deeds of trust placed of record subsequent to the date of said filing of notice in the same manner as the lien of a docketed judgment in the State of Virginia.

The lien of the assessments provided for herein, whether or not notice has been placed of record as above provided, may be foreclosed by a Bill in Equity in the same manner as provided for the foreclosures of mortgages, vendor's liens, and liens of similar nature. A statement from the Association showing the balance due on any assessment shall be prime facie proof of the current assessment balance and delinquency, if any, due on particular Lot.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Virginia. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VII ARCHITECTURAL CONTROL

Section 1. Plans and Specifications Generally.

- (a) No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration (including color) therein be made until the plans and specifications showing the nature, size, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board (the "Committee"). In addition to the items hereinafter required to be shown on the said plans and specifications, and such items and details as may be required by the Board or the Committee, all attachments to a dwelling (including storm windows and doors) shall be shown and described. In the event said Board or the Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such plans and specifications shall be deemed to have been approved.
- (b) Every building, fence, wall or other structure, including additions or alterations thereto, constructed by Craig Builders of Albemarle, Inc., Charlottesville, Virginia, shall be exempt from the provisions of Section 1, Article VIII hereof.

Section 2. Fences. No fence may be erected upon any Lot except behind a line describing the front margin of a dwelling unit, unless this restriction shall be waived by the Committee. The "front" shall be that side of a dwelling facing, or most nearly facing, a platted street, road or cul-de-sac.

Section 3. Trash Containers. Trash cans, barrels and containers must be maintained within screened bins. No plans and specifications will be approved without such screened bins.

Section 4. Antennas. No exterior or roof antennas of any kind or description may be erected or maintained on any Lot or dwelling house or other structure thereon.

Section 5. Maintenance of Trees. No living tree with a diameter greater than three inches upon any Lot of Common Area may be cut down without the prior express written permission of the Board or Committee. A landscape plan shall be submitted with the plans and specifications referred to above, such plan to show existing trees and shrubs and to clearly indicate those to be removed.

Section 6. Clothes Lines. The location of all clothes lines must be shown upon the plans and specifications submitted to the Board. No plans and specifications shall be approved which show the location of any clothes line other than in the rear of a dwelling house.

ARTICLE VIII USE RESTRICTIONS

Section 1. Limitation on Use of Lots and Common Area. The Lots and Common Area shall be occupied and used as follows:

- (a) No Owner shall occupy or use his Lot, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's Lessees or guests.
- (b) There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior consent of the Association.
- (c) Nothing shall be done or kept in any Lot or the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his Lot or in the Common Area which will result in the cancellation of insurance on any Lot or any part of the Common Area, or which would be in violation of any law. No waste will be permitted in the Common Area.
- (d) No sign of any kind (including "For Sale" signs) shall be displayed to the public view on or from any Lot or the Common Area, except those used by Craig Builders of Albemarle, Inc. for construction and model home directions.
- (e) No animals, livestock or poultry of any kind shall be raised, bred, or kept in any Lot or in the Common Area, except that dogs, cats or other domesticated household pets may be kept on Lots, subject to rules and regulations adopted by the Association. No household pet shall be permitted off the Lot occupied by such pets' Owner except on a leash.
- (f) No noxious or offensive activity shall be carried on in any Lot or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to any other Owner.
- (g) Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the association.
- (h) There shall be no violation of rules for the use of the Common Area adopted by the Association.

- (i) No unlicensed vehicles of any kind or description (including boats, automobiles, trucks, recreational vehicles, etc.) shall be kept or maintained or stored on any platted street or cul-de-sac or on any Lot or in the Common Area. The maximum number of vehicles which may be maintained or stored on any Lot (excluding those stored in garages) shall be three (3).
- (j) All toys, bicycles, yard and garden implements, tools and the like shall be kept and stored out of sight from platted streets and cul-de-sacs from sunset to sunrise each day.
- (k) No trucks larger than ¾ ton pickup trucks shall be principally garaged or kept on any street within Mill Creek, or upon any Lot or within any Common Area.
- (l) All woodpiles shall be either uncovered or covered with tarpaulins of dark (green or black) color, and shall be properly secured.
- (m) Every Owner shall be responsible for maintaining a good exterior appearance of his or her Lot and improvements thereto including, but not limited to, exterior painting and staining, and reasonable maintenance of lawn and property.

Section 2. Charges and Liens for Compliance Herewith. In the event that any Owner shall violate any one or more of the Use Restrictions set forth in Section 1 of this Article VIII, or in the event such Owner shall have been notified by the Association or its agents, employees, or attorneys (in writing sent by registered or certified mail to the Owner's residence address) of such violation, and in the event such violation is not stopped, halted or corrected (as set forth in such written notification) and continues, then, without further notice, the Association may cause such violation to be stopped, halted or corrected, without liability for doing so, and may cause any and all costs incurred (including attorneys' fees) in connection therewith to be charged as an assessment to such Owner. Such assessments may be collected in any of the manners specified on Article VI hereof, including suit at law or in equity or by filing a notice of assessment lien as herein provided. The remedy herein provided shall be in addition to any other remedy provided or allowed by law or in equity and shall not be deemed an exclusive remedy. Election or one remedy (whether herein specified or allowed or otherwise) shall not act as a bar to the subsequent or concurrent use of other available remedies.

ARTICLE IX GENERAL PROVISIONS

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

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

Section 3. Easements. Declarant hereby reserves for itself, its successors and assigns, (a) a ten foot (10') easement along each side of every property line of every Lot, such easement for electric, cable television, telephone, water and other utilities; and (b) the right to grant easements for any lawful purpose over and across each and every Lot, so long as the course of such easement does not cross any buildings on any such Lot, such grant(s) to be in writing and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants

shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty-five (25) year period by an instrument signed by not less than two-thirds (2/3) of the Lot Owners, and thereafter by an instrument signed by not less than two-thirds (2/3) of the Lot Owners. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this 21st day of February, 1990.

REYNOVIA LAND TRUST

/s/ George Harrison Gilliam, Trustee

By: */s/ Robert J. Kroner, Attorney-in-fact*

George Harrison Gilliam, Trustee for the Reynovia Land Trust under agreement dated March 15, 1985, by Robert J. Kroner, his attorney-in-fact

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Charlottesville, to-wit:

The foregoing was acknowledged before me this 21st day of February, 1990 by Robert J. Kroner, attorney-in-fact for George Harrison Gilliam, Trustee for the Reynovia Land Trust under agreement dated March 15, 1985.

My commission expires: September 23, 1990.

/s/ Pamela A Hauser

Notary Public

cpe/re.7

mcsec5.cov

**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
MILL CREEK
PHASE TWO, SECTION SIX
(LOTS 52 – 84)**

THIS DECLARATION, made on the date hereafter set forth by CRAIG BUILDERS OF ALBEMARLE, INC., a Virginia corporation, hereafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Albemarle, State of Virginia, which is more particularly described as:

Lots 52 - 84, Phase Two, Section Six, Mill Creek PUD, as shown on a subdivision plat thereof made by R. W. Ray & Associates, Inc., dated November 16, 1990, of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, recorded immediately prior hereto.

AND WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereafter set forth.

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

**ARTICLE I
REIMPOSITION OF COVENANTS**

1. The covenants, conditions, restrictions and easements, rules, regulations and controls imposed by the Declaration of Covenants, Conditions, Restrictions and Easements, Mill Creek, Phase One (which is of record in the Circuit Clerk's Office aforesaid in Deed Book 924, Page 425 as Amended by instrument in Deed Book 934, Page 32 and supplemented in Deed Book 955, Page 11, Deed Book 1005, Page 114, Deed Book 1010, Page 31, Deed Book 1042, Page 411 and Deed Book 1089, Page 152) are hereby imposed upon Phase Two, Section Six, Mill Creek, and all of said covenants, conditions, restrictions, and easements, rules, regulations and controls are to be applied to Section Six as and to the same extent as if set forth herein.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this 2nd day of July, 1991.

CRAIG BUILDERS OF ALBEMARLE, INC.
By: /s/ Hunter E. Craig

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to-wit:

The foregoing instrument was acknowledged before me this 2nd day of July, 1991, by Hunter E. Craig, as Vice President of Craig Builders of Albemarle, Inc.

My commission expires: October 18, 1991.

/s/ Teresa S. McDonald
Notary Public

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF ALBEMARLE.

THIS DEED WAS PRESENTED, AND WITH CERTIFICATE ANNEXED, IS ADMITTED TO RECORD ON
July 2, 1991, AT 3:55 O'CLOCK PM.

STATE TAX	\$ _____	(039)
LOCAL TAX	\$ _____	(213)
TRANSFER FEE	\$ _____	(212)
VSLF	\$ <u>1.00</u>	(145)
CLERK'S FEE	\$ <u>12.00</u>	(301)
PLAT	\$ _____	

SEC.58.1-802:		
STATE TAX	\$ _____	(038)
LOCAL TAX	\$ _____	(220)
LOCAL TAX	\$ _____	(223)

TOTAL	\$ <u>13.00</u>	
-------	-----------------	--

TESTE: SHELBY J. MARSHALL, CLERK

BY: /s/ Pam Gibson
DEPUTY CLERK

**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
MILL CREEK
PHASE TWO, SECTION SIX
(LOTS 85 – 132)**

THIS DECLARATION, made on the date hereafter set forth by CRAIG BUILDERS OF ALBEMARLE, INC., a Virginia corporation, hereafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Albemarle, State of Virginia, which is more particularly described as:

Lots 85 - 132, Phase Two, Section Six, Mill Creek PUD, as shown on a subdivision plat thereof made by R. W. Ray & Associates, Inc., dated October 25, 1991, of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1202, Page 82.

AND WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereafter set forth.

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

**ARTICLE I
REIMPOSITION OF COVENANTS**

1. The covenants, conditions, restrictions and easements, rules, regulations and controls imposed by the Declaration of Covenants, Conditions, Restrictions and Easements, Mill Creek, Phase One (which is of record in the Circuit Clerk's Office aforesaid in Deed Book 924, Page 425 as Amended by instrument in Deed Book 934, Page 32 and supplemented in Deed Book 955, Page 11, Deed Book 1005, Page 114, Deed Book 1010, Page 31, Deed Book 1042, Page 411 and Deed Book 1089, Page 152, and Deed Book 1163, Page 532) are hereby imposed upon Lots 85 – 132, Phase Two, Section Six, Mill Creek, and all of said covenants, conditions, restrictions, and easements, rules, regulations and controls are to be applied to Section Six as and to the same extent as if set forth herein.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this 11th day of March, 1992.

CRAIG BUILDERS OF ALBEMARLE, INC.
By: /s/ Hunter E. Craig

COMMONWEALTH OF VIRGINIA
CITY OF CHARLOTTESVILLE, to-wit:

The foregoing instrument was acknowledged before me this 11th day of March, 1992, by Hunter E. Craig, as Officer of Craig Builders of Albemarle, Inc.

My commission expires: October 31, 1995.

/s/ illegible signature
Notary Public

cbd/decl.cb

**AMENDED
DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
MILL CREEK
PHASE TWO, SECTION SIX
(LOTS 85 – 132)**

THIS AMENDED DECLARATION, made on the date hereafter set forth by CRAIG BUILDERS OF ALBEMARLE, INC., a Virginia corporation, hereafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Albemarle, State of Virginia, which is more particularly described as:

Lots 85 - 132, Phase Two, Section Six, Mill Creek PUD, as shown on a subdivision plat thereof made by R. W. Ray & Associates, Inc., dated October 25, 1991, last revised March 20, 1992, attached hereto and recorded herewith.

AND WHEREAS, Declarant will convey the said properties subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereafter set forth.

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

**ARTICLE I
REIMPOSITION OF COVENANTS**

1. The covenants, conditions, restrictions and easements, rules, regulations and controls imposed by the Declaration of Covenants, Conditions, Restrictions and Easements, Mill Creek, Phase One (which is of record in the Circuit Clerk's Office aforesaid in Deed Book 1089, Page 152), are hereby imposed upon Lots 85 – 132, Phase Two, Section Six, Mill Creek, and all of said covenants, conditions, restrictions, and easements, rules, regulations and controls are to be applied to Section Six as and to the same extent as if set forth herein.

This Amended Declaration replaces and superseded the Declaration dated March 11, 1992, of record prior hereto in Deed Book 1209, Page 457, none of the lots affected thereby having been sold or transferred.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this 7 day of April, 1992.

CRAIG BUILDERS OF ALBEMARLE, INC.
By: /s/ Hunter E. Craig

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

The foregoing instrument was acknowledged before me this 7th day of April, 1992, by Hunter E. Craig, as Officer-Vice President of Craig Builders of Albemarle, Inc., on behalf of the corporation.

My commission expires: February 28, 1994.
/s/ Cindy B. Dudley
Notary Public

**SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
MILL CREEK
PHASE TWO, SECTION SEVEN
(LOTS 133 – 162)**

THIS SUPPLEMENTAL DECLARATION, made this 6th day of August, 1993 by CRAIG BUILDERS OF ALBEMARLE, INC., hereafter the "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property (herein the "Property") located in the Scottsville Magisterial District of Albemarle County, Virginia, more particularly described as:

Lots 133 through 162, inclusive, Phase 2, Section 7, Mill
Creek P.R.D. as more particular shown and described on
"Subdivision Plat Mill Creek P.R.D. Phase 2 – Section 7 Lots
133 Thru 162 Scottsville District Albemarle County, Virginia"
made by Roger W. Ray & Assoc., Inc., dated July 23, 1993
(hereinafter the "Plat"); and

WHEREAS, the Property shown on the Plat is a portion of the property which was conveyed to the Declarant by deed dated May 8, 1991 from George Harrison Gilliam, Trustee for the Reynovia Land Trust under trust agreement dated March 15, 1985 or record in the aforesaid Clerk's Office in Deed Book 1152, page 573; and

WHEREAS, the Declarant (or its predecessor as Declarant) has previously put to record a Declaration of Covenants, Conditions, Restrictions and Easements for Mill Creek Phase Two dated February 21, 1990 of record in the aforesaid Clerk's Office in Deed Book 1089, page 152, as amended or supplemented by instruments recorded in Deed Book 1163, page 532; Deed Book 1209, page 457; Deed Book 1216, page 210, and Deed Book 1243, page 304, all of which are collectively herein referred to as the "Declaration"; and

WHEREAS, the Declarant has the right pursuant to Article II of the Declaration to bring the Property within the plan and operation of the Declaration and the jurisdiction of the Mill Creek Phase Two P.U.D. Home Owners Association, Inc., which the Declarant deems to be desirable.

NOW THEREFORE, in consideration of the premises, the Declarant hereby declares that all of the Property in Section 7 Mill Creek as shown on the attached "Subdivision Plat Mill Creek P.R.D. Phase 2 – Section 7 Lots 133 Thru 162 Scottsville District Albemarle County, Virginia", including lots, roads, easements, rights of way and open space as shown thereon shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, rules, regulations, charges and liens set forth in the original Declaration of Covenants, Conditions, Restrictions and Easements, Mill Creek Phase Two, dated February 21, 1990 and of record in the aforesaid Clerk's Office in Deed Book 1089, page 152, as amended and supplemented to date. Furthermore, all rights of way, roads and easements for drainage of water and sewer as shown on the Plat are hereby dedicated by the Declarant.

In all other respects, the Declarant, as amended and supplemented to date, remains in full force and effect.

WITNESS the following signature and seal:

CRAIG BUILDERS OF ALBEMARLE, INC.
By: /s/ Hunter E. Craig
Hunter E. Craig, Vice President

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

The foregoing instrument was acknowledged before me this 16th day of August, 1993, by Hunter E. Craig as Vice President of Craig Builders of Albemarle, Inc. on behalf of the corporation.

My commission expires: October 31, 1995.
/s/ illegible signature
Notary Public

**SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
MILL CREEK
PHASE TWO, SECTION EIGHT
(LOTS 163 – 196 AND 199 - 207)**

THIS SUPPLEMENTAL DECLARATION is made this 29th day of June, 1994 by CRAIG BUILDERS OF ALBEMARLE, INC., a Virginia corporation, hereinafter the "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property (herein the "Property") located in the Scottsville Magisterial District of Albemarle County, Virginia, more particularly described as:

Lots 163 through 196 and Lots 199 through 207, inclusive,
Phase 2, Section 8, Mill Creek P.R.D. as more particular
shown and described on "Subdivision Plat Mill Creek P.R.D.
Phase 2 – Section 8 Lots 163 Thru 196 and Lots 199 Thru
207 Scottsville District Albemarle County, Virginia" made by
Roger W. Ray & Assoc., Inc., dated March 16, 1994, last
revised June 2, 1994 (hereinafter the "Plat"); and

WHEREAS, the Property shown on the Plat is a portion of the property which was conveyed to the Declarant by deed dated May 8, 1991 from George Harrison Gilliam, Trustee for the Reynovia Land Trust under trust agreement dated March 15, 1985 or record in the aforesaid Clerk's Office in Deed Book 1152, page 573; and

WHEREAS, the Declarant (or its predecessor as Declarant) has previously put to record a Declaration of Covenants, Conditions, Restrictions and Easements for Mill Creek Phase Two dated February 21, 1990 of record in the aforesaid Clerk's Office in Deed Book 1089, page 152, as amended or supplemented by instruments recorded in Deed Book 1163, page 532; Deed Book 1209, page 457; Deed Book 1216, page 210, and Deed Book 1243, page 304, and Deed Book 1336, page 48, all of which are collectively herein referred to as the "Declaration"; and

WHEREAS, the Declarant has the right pursuant to Article II of the Declaration to bring the Property within the plan and operation of the Declaration and the jurisdiction of the Mill Creek Phase Two P.U.D. Home Owners Association, Inc., which the Declarant deems to be desirable.

NOW THEREFORE, in consideration of the premises, the Declarant hereby declares that all of the Property (except for Parcel X) in Section 8 Mill Creek as shown on the attached "Subdivision Plat Mill Creek P.R.D. Phase 2 – Section 8 Lots 163 Thru 196 and Lots 199 Thru 207 Scottsville District Albemarle County, Virginia", including lots, roads, easements, rights of way and open space as shown thereon shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, rules, regulations, charges and liens set forth in the original Declaration of Covenants, Conditions, Restrictions and Easements, Mill Creek Phase Two, dated February 21, 1990 and of record in the aforesaid Clerk's Office in Deed Book 1089, page 152, as amended and supplemented to date.

All rights of way, roads and easements for drainage of water and sewer as shown on the Plat are hereby dedicated by the Declarant, provided however, that the Declarant reserves the right to change by no more than ten (10) feet, the location of any such easements within unimproved (by dwellings) portions of lots and further, the Declarant reserves the right to change the location of or grant easements for utilities, drainage or any easements for public use within any of the property shown on the Plat as open space.

In all other respects, the Declarant, as amended and supplemented to date, remains in full force and effect.

WITNESS the following signature and seal:

CRAIG BUILDERS OF ALBEMARLE, INC.
By: /s/ Samuel D. Craig
Samuel D. Craig, III
Vice President

STATE OF VIRGINIA
~~CITY~~/COUNTY OF Albemarle, to-wit:

The foregoing instrument was acknowledged before me this 30th day of June, 1994, by Samuel D. Craig, III as Vice President of Craig Builders of Albemarle, Inc. on behalf of the corporation.

My commission expires: April 30, 1996.
/s/ Constance L. Rassic
Notary Public

BYLAWS

MILL CREEK PHASE TWO P.U.D. HOME OWNERS ASSOCIATION, INC.

ARTICLE I DEFINITIONS

Section 1.01. "Association" shall mean and refer to Mill Creek Phase Two P.U.D. Home Owners Association, Inc., a nonstock, corporation organized and existing under Chapter 10 of Title 13.1, Code of Virginia, 1950, as supplemented and amended, its successors and assigns. Association may file a fictitious name certificate and trade as (and be referred to as) "Mill Creek South Homeowners Association."

Section 1.02. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.03. "Properties" shall mean and refer to "Mill Creek South," platted as "Mill Creek, Phase Two" on plats of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, and any other land subject to the "Restrictions" or "Covenants," as the same may be amended from time to time. Property which has not been subdivided or record, but is a portion of the planned development known as Mill Creek lying south of Lake Reynovia, shall be deemed included in the affected Properties. Notwithstanding the foregoing, no lot approved for multi-family housing, whether known a "Village Homes" or otherwise, shall be deemed to be a portion of the Properties.

Section 1.04. "Common Area" shall mean all the real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners.

Section 1.05. "Lot" shall mean and refer to any plot of land upon any recorded subdivision map of the Properties with the exception of the "Common Area." Until such lots are platted of record, "Lots" shall include lots shown on the preliminary subdivision plan approved by the County of Albemarle.

Section 1.06. "Developer" shall mean and refer to Craig Builders of Albemarle, Inc.

Section 1.07. "Unimproved Lot" shall mean and refer to all Lots prior to their sale by the Developer, except that any Lot owned by the Developer with a completed but unoccupied dwelling unit shall be deemed an Unimproved Lot.

Section 1.08. Restrictions or Covenants. "Restrictions" or "Covenants" shall, unless the context otherwise indicates, mean and refer to any or all of those restrictions and covenants contained in the Declaration of Covenants, Conditions, Restrictions and Easements, Mill Creek, Phase Two of record in the Clerk's Office of the Circuit Court of Albemarle County in Deed Book 1089, at pages 0152 ff., those of record in Deed Book 1163, page 532 ff., and thereby imposed on the Properties, and any recorded hereafter and imposed on the Properties.

ARTICLE II MEMBERSHIP AND VOTING RIGHTS

Section 2.01. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2.02. The Association shall have two classes of voting membership.

Class A. Class A members shall be all those Owners as defined Section 1.02 hereof with the exception of the Developer. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership, by Article III of the Declaration. When more

than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no such event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Developer. It shall be entitled to two (2) votes for each Lot in which it holds the interest for membership required by Article III of the Declaration. At any such time as more than one-half of the Lots in a Section have been sold by the Developer to individual purchasers, the Developer shall have only one (1) vote for each lot remaining in such Section. Developer shall retain his Class B membership with two (2) votes per lot as to other Sections (including Sections not yet platted of record) where less than one-half of the Lots have been sold to individual purchasers.

ARTICLE III MEETINGS OF THE MEMBERS

Section 3.01. Annual Meetings. An annual meeting of members of the Association shall be held. Such meeting shall commence at 7:30 o'clock P.M. on the second Wednesday of March each year, or if such date shall fall on a legal holiday in Virginia, then at the same hour on the first business day thereafter. The Board of Directors shall be elected at such annual meeting, and such other business as may properly come before the meeting be transacted. (*Amended April 25, 2000*).

Section 3.02. Special Meetings. The President of the Association, or a majority of the Board of Directors, or members holding 10 percent of the votes entitled to be cast at such a meeting may call a special meeting of the members of the Association, on due notice at any time.

Section 3.03. Notice Required. The officer, or other person calling a meeting of the members of the Association, shall give, or cause to be given, written notice of such meeting. The notice shall contain the place, day, and hour of the meeting, and if a special meeting, the purpose or purposes for which it is called. A copy of such notice shall be mailed or personally delivered to each member entitled to vote at the meeting, not less than 10 nor more than 25 days before the scheduled date of the meeting. A notice mailed to a member at his address as it appears on the official records of the Association shall be conclusively presumed to comply with the requirements of this section.

A member appearing at a meeting of the Association shall be conclusively presumed to have received due notice of such meeting unless he makes such appearance solely for the purpose of protesting his lack of notice thereof.

Section 3.04. Place of Meeting. Each meeting of the members of the Association shall be held within the State of Virginia. It may be held either at the principal office of the Association, or at any other place in the State, so long as the place is in either case specified in the notice of such meeting.

Section 3.05. Quorum. Except where a greater percentage is required by law, the presence at any meeting of members holding 25 percent the voting rights of all classes of membership combined, Class A and Class B, shall constitute a quorum, whether such presence be in person or by proxy. If no quorum be had, a majority in voting power of those members present may adjourn the meeting from time to time and place to place until a quorum may be had. (*Amended April 25, 2000*).

Section 3.06. Conduct of the Meeting. The President of the Association shall act as chairman at each meeting of the members. In his absence, the Vice President, or should he be also absent, then a member chosen by a majority vote of the members present and entitled to vote, shall act as chairman of the meeting. The Secretary of the Association, or an Assistant Secretary, or in their absence, any member designated by the Chairman, shall act as secretary of the meeting.

The Chairman shall determine the order of business at each meeting of the members of the Association, but such order may be changed by a majority in voting power of the members present, either in person or by proxy, and entitled to vote at such meeting.

Section 3.07. Action Without a Meeting. If a consent in writing, setting forth the action taken or to be taken, shall be signed by all of the members entitled to vote, such consent shall have the same force and effect as a unanimous vote of the members of the Association, but no meeting need be held. Such consent may be secured either prior or subsequent to the action sought to be validated thereby.

ARTICLE IV OFFICERS

Section 4.01. Officers. The Association shall have a President, one or more Vice Presidents, a Treasurer, a Secretary, and such other officers as the Board of Directors may from time to time designate and establish pursuant to Section 4.03 of this Article. The same person may hold any two or more offices, excepting only those of President and Secretary, which shall never be held simultaneously by the same person.

Section 4.02. Qualifications, How Elected, Term. The President shall, but no other officer need be, also a director of the Association. The Board of Directors shall elect a slate of officers annually, such election to be held as soon as practicable after each annual election of the Board of Directors. An officer so elected shall serve and hold office for one (1) year or until the election and qualification of his successor, or until his own death, resignation or removal, as provided hereafter.

Section 4.03. Other Offices. Such other offices as the efficient conduct of the business of the Association may require from time to time shall be established by the Board of Directors. The Board of Directors may elect persons to hold such offices and it may delegate to such persons those duties and responsibilities as to it deems proper.

Section 4.04. Removal. The Board of Directors may remove any officer of the Association at any time either with or without cause. Such action shall be by resolution of the Board of Directors declaring such removal to be in the best interest of the Association and adopted at any regular or special meeting of the Board by a majority of the directors in office at that time.

Section 4.05. Resignations. Any officer of the Association may resign at any time. Such resignation may be tendered either orally or in writing, and shall be directed to any member of the Board of Directors. If an effective date is specified, the resignation shall not be effective until such date, but otherwise it shall be effective on notification of any director. Unless it is so specified in the resignation, acceptance by the Board of Directors shall not be necessary to make effective any resignation.

ARTICLE V BOARD OF DIRECTORS

Section 5.01. Powers of the Board. The Board of Directors shall have and exercise all the corporate powers of the Association, and except as may otherwise be expressly required by law, the Articles of Incorporation, or these Bylaws, the Board shall manage the day-to-day affairs of the Association.

Section 5.02. Qualifications, Number, and Term of Directors. The Association shall have a Board of Directors consisting of seven (7) directors. Any person, whether a member of the Association or not, may be elected and serve as a director of the Association. Directors shall be elected annually as hereinafter provided. A director so elected shall serve and hold office for a two-year term or until the election and qualification of his successor or until his death, resignation, or removal in the manner prescribed hereafter. (*Amended April 25, 2000.*)

Section 5.03. Election of the Board of Directors. There shall be held at each annual meeting of the Association an election of directors; four directors shall be elected in years ending with an odd digit, and three directors shall be elected in years ending with an even digit. If such elections for whatever reasons be not held, then the Board of Directors shall cause the election to be held as soon as thereafter practicable, at a special meeting of the members called for that purpose. A quorum being present, in any

election of directors, those persons receiving the greatest number of votes shall be the directors of the Association. (*Amended April 25, 2000.*)

Section 5.04. Annual Meeting of the Board. The Board of Directors may meet in order to elect officers and to transact other business at any time after their election as directors. No notice shall be required for such meeting if it be held on the same date, and at the same place, and as soon as practicable after such election of directors. Pursuant to such notice as would suffice for special meetings of the Board, however, the annual meeting of the directors may also be held at any other time or place specified in such notice.

Section 5.05. Regular Meetings. The Board of Directors may from time to time by resolution fix the time and place of their regular meetings. Notice of such meetings shall not be required unless by resolution of the Board.

Section 5.06. Special Meetings. The President of the Association or any two or more directors may at any time call a special meeting of the Board of Directors. Notice of each such special meeting shall be required and it shall contain the time and place of the proposed special meeting. Such notice shall be sent to each director; if by mail, addressed to him at his residence or usual place of business and postmarked at least seven (7) days before the scheduled date of the meeting; or, if by personal delivery or telegram, at least five (5) days before the scheduled time of the meeting.

Section 5.07. Waiver of Notice. Any director may waive the notice required by the proceeding section by written waiver either before or after the date of the meeting. Any director who attends a meeting, even without notice, shall however be conclusively presumed to have had timely and proper notice thereof unless he attends such meeting for the express purpose of objecting to the improper convening of the meeting.

Section 5.08. Place. The Board of Directors may by resolution determine the place or places where their meetings shall be held. If no such resolution be passed, a meeting may be held in the place or places specified in the notice thereof.

Section 5.09. Conduct of the Meeting. The President of the Association or a director chosen by a majority of the directors present should the President be absent, shall act as chairman of each meeting of the Board of Directors. The Chairman shall determine the order of business at each meeting. The Secretary of the Association, or in his absence, any person appointed by the Chairman, shall act as Secretary of the meeting.

Section 5.10. Quorum, Voting. A majority of the directors shall constitute a quorum if present at any meeting of the Board of Directors. Any business that may properly come before such meeting may thereafter be transacted by the vote of a majority of the directors present at the meeting, and such vote shall be considered the act of the Board. Directors shall have no power as individuals, but shall only act as a Board.

Should a quorum not be present, a majority of the directors present may adjourn the meeting from time to time and from place to place until a quorum may be had.

Section 5.11. Action Without a Meeting. If a consent in writing, setting forth the action proposed to be taken shall be signed by all the directors, such consent shall have the same effect as a unanimous vote of eth directors taken at a duly convened meeting thereof, so long as the consents all be signed prior to the taking of the action sought to be validated thereby.

Section 5.12. Committee. The appointment of a director to any committee, if not sooner terminated, shall automatically terminate upon the expiration of his term as a director of the Association, or upon the earlier cessation for any reason of his membership on the Board of Directors.

Section 5.13. Summary of Minutes of All Board of Directors' Meetings. The Secretary shall be required to send out a written summary of the minutes of each meeting held by the Board of Directors to all members of the Association in a timely fashion after any such meeting.

ARTICLE VI PROPERTY

Section 6.01. General. The Association shall have the power to acquire and hold property, both real and personal, for the aesthetic, recreational and general civic benefit of the community.

Section 6.02. Common Area. The Association shall have the power to accept the transfer of the legal title to the common area from the Developer.

Section 6.03. Recreational and Other Facilities. The Association shall have the power to purchase , construct, maintain and operate recreational or other facilities for the use and enjoyment of residents of the Subdivision.

Section 6.04. Easements. The Association shall have the right to grant easements for public utility purposes to any municipality or public utility for the purpose of installation or maintenance of utilities to serve the Common Area or to serve any Lot located in the Subdivision including the extension of said utility to adjacent Properties, provided, however, that such public utility easements shall not be inconsistent with the use of the Common Area.

Section 6.05. Maintenance. The Association shall maintain all the Common Area. The Association may provide street lighting where not provided by public authorities and may provide a service for the collection of garbage and trash and the cutting of grass and snow removal on the individual Lots.

Section 6.06. Policing. The Association shall be charged with general public policing and control of the Subdivision and its Common Area and the Board of Directors of the Association shall have the power to make any reasonable regulations for the control of such and the prevention of nuisances within the Subdivision and its Common Area.

ARTICLE VII ARCHITECTURAL CONTROL

Section 7.01. Committee Composition. When the Developer has conveyed the Open Space land to the Association (or Association's unincorporated predecessor), the Board of Directors of the Association shall appoint the members of the Architectural Control Committee, consisting of three or more members.

Section 7.02. Purpose. The Committee shall exercise the powers set forth in Article VII of the Covenants.

Section 7.03. Power. Applications for approval of any item requiring approval pursuant to the Covenants shall be made to the Architectural Control Committee in writing accompanied by complete plans and specifications. The Committee is empowered to reject any plans and/or specifications which it does not deem adequate. The Committee's approval or disapproval shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and related covenants shall be deemed to have been fully complied with. Every building which has been completed and occupied as of the date of adoption of these Bylaws shall be deemed to have been in full compliance herewith.

Section 7.04. Enforcement. The Association shall have the power to enforce, if necessary, the decisions of the Committee as to any "request for approval" whether by injunction or other appropriate action.

ARTICLE VIII
MAINTENANCE ASSESSMENTS

Section 8.01. Creation of the Lien and Personal Obligation of Assessment. The Developer, for each Lot owned within the Properties, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be a 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 8.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, protection, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 8.03. Maximum Annual Assessment. Until January 1, 1997, the maximum annual assessment shall be (\$4.40) per month per improved Lot on each Lot sold by the Developer to a purchaser.

- (a) From and after January 1, 1997, the maximum annual assessment may be increased each year by the Board of Directors not more than 15% above the maximum assessment for the previous year without a vote of the membership.
- (b) The Board of Directors shall fix the annual assessment at an amount not in excess of the maximum.

Section 8.04. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto (and including repaving of roads), provided that any such assessment shall have the assent of more than fifty percent (50%) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 8.05. Notice and Quorum for Any Action Authorized Under Sections 8.03 and 8.04. Written notice of any meeting called for the purpose of taking action authorized under Section 8.03 and 8.04 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 8.06. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, and may be collected on a monthly, quarterly, semi-annually or annual basis.

Section 8.07. Date of Commencement of Annual Assessments: Due Dates. The annual assessment provided for herein shall commence as to all Lots upon decision by the Board of Directors. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a

specific Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8.08. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8.09. Lien for Payment of Assessments and Subordination of Lien to First and Second Lien Deeds of Trust. There shall be a continuing lien upon each of the individual Lots in order to secure payment of any of the assessments provided under these Bylaws, but such lien shall be at all times subject and subordinate to any first or second mortgages or deeds of trust placed on the Lot at any time. However, at such time as the Association places to record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, a notice of delinquency as to any particular Lot on a form prescribed by the Board of Directors, then, from the time of recordation of said notice, the lien of such delinquent assessments in the amount stated in such notice shall be a lien prior to any subsequently recorded first or second mortgages or deeds of trust in the same manner as the lien of a docketed judgment in the State of Virginia.

The lien of assessments provided for herein, whether or not notice has been placed on record as above provided, may be foreclosed by a Bill in Equity in the same manner as provided for the foreclosure of mortgages, vendor's liens, and liens of similar nature. A statement from the Association showing the balance due on any assessment shall be prima facie proof of the current assessment balance and delinquency, if any, due on a particular Lot.

Section 8.10. Records and Receipts. The Association shall keep and maintain detailed, accurate records in chronological order of the receipts and specifying and itemizing the expenses incurred. Such records and vouchers authorizing the payment shall be available for examination by members and others with an interest such as encumbrances or prospective lenders at convenient hours of weekdays upon reasonable notice. The person or entity keeping such records may be paid such reasonable compensation by the Association as may be determined by the Board of Directors of the Association.

Declarant with a completed but unoccupied dwelling unit shall be deemed an Unimproved Lot for the purposes of these Bylaws.

ARTICLE IX PROPERTY RIGHTS

Section 9.01. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of 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 for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 9.02. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on his property.

ARTICLE X CONTRACTS, CHECKS, DRAFTS, BANK ACCOUNTS, ETC.

Section 10.01. Power of Board, Agents to Bind Association. Except as prohibited by law, the Articles of Incorporation, or these Bylaws, the Board of Directors may authorize any agent or agents to enter into any contract, or to execute any instrument in the mane of and on behalf of the Association. Any authority so conferred on such agent may be either general or special.

Section 10.02. Manner of Signing Required. The Board of Directors may from time to time by resolution determine the officers whose signatures must appear on the various checks, drafts, and other orders for payment executed on behalf of the Association.

Section 10.03. Deposits. The Board of Directors may from time to time by resolution determine and designate the various banks, trust companies, or other depositories in which the funds of the Association not otherwise employed or invested shall be deposited.

Section 10.04. Contracts for Management and Maintenance Services. The Board of Directors may, in its discretion, arrange to have the maintenance and care-taking functions of the Association or any part thereof performed by a third party or parties pursuant to contract.

ARTICLE XI RESTRICTIONS AND COVENANTS

Section 11.01. General. The Association, or any Owner, shall have the right to enforce by a proceeding at law or in equity, the restrictions, conditions and covenants imposed by the Covenants. Failure by the Association or by any Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XII AMENDMENTS

Section 12.01. By the Directors. The Board of Directors by a majority vote thereof shall have the power to make, alter, amend or repeal the Bylaws of the Association at any regular or special meeting of the Board. This power shall not be exercised by the Executive Committee or any other committee of directors.

Section 12.02. By the Members. At any annual or special meeting, Bylaws may be adopted, and all Bylaws shall be subject to amendment, alteration, or repeal by a majority of all members entitled to vote. Pursuant to resolution adopted by a majority of the members entitled to vote, the members may provide that certain Bylaws adopted, approved, or designated by them may not be amended, altered, or repealed, except by a certain specified vote of the members.

ARTICLE XIII MISCELLANEOUS PROVISIONS

Section 13.01. Seal. The Association shall have a corporate seal which seal shall contain the corporate name of the Association, the year of its incorporation and the word "Virginia" and which shall be in such form as may be approved by the Board of Directors.

Section 13.02. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the last day of December in each year.

Section 13.03. Offices. The Association shall establish a principle and a registered office. The principal office may, but need not, be at the same place as the registered office. Such additional offices as the business of the Association may require may also be established, and the establishment of all offices shall be pursuant to resolution adopted by the Board of Directors.

The foregoing Bylaws were adopted by the Board of Directors at a duly held meeting on _____.

Secretary