

COVENANTS, CONDITIONS & RESTRICTIONS

REHERD ACRES HOMEOWNERS ASSOCIATION "A", INC.

The following document is a facsimile of the original document recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia and recoded in Deed Book 455 Pages 729 through 748. Any reference to this document should be verified with the original recorded document.

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
REHERD ACRES, SECTION III**

THIS DECLARATION, made on the date hereinafter set forth by Reherd Acres, Inc., hereinafter referred to as "Declarant".

WITNESSETH:

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

That certain parcel of land containing 0.875 acres, situate in the city of Harrisonburg, being described by a survey of Robert E. Funk as a portion of the Reherd Farm with metes and bounds given therein and being the same property conveyed by William G. Blos and wife by deed dated January 30, 1975, to Reherd Acres, Inc., Declarant, and recorded in the Clerk's Office of Rockingham County, Virginia in Deed Book 448, at page 634; and

WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter 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 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 and rights, 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 Reherd Acres Homeowners Association "A", Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinafter 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 Association for the common use and enjoyment of the members of the Association.

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

Section 5. "Member" shall mean and refer to any person or entity who owns one or more properties.

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 security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to Reherd Acres, Inc., 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 INTO REHERD ACRES HOMEOWNERS ASSOCIATION "A", INC.

Section 1. Annexation of additional townhouse properties to be constructed by Declarant or its assigns to the future along Meadowlark Drive into this Association shall be automatic upon the sale and conveyance of such property.

Declarant specifically covenants that it and its assigns shall convey any such properties with the same covenants, conditions and restrictions as contained in this declaration.

Section 2. Annexation of any additional townhouse, or appurtenant properties by the Declarant or its assigns, other those townhouses fronting on Meadowlark Drive, shall require the assent of two-thirds (2/3) of the Class A members and two-thirds (2/3) of the Class B Members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. Class A and B memberships are defined in Article IV. The presence of members who actually reside in

Section III of Reherd Acres Subdivision or of the proxies of such members who are entitled to cast fifty-one percent (51%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

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 forgoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one 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 an interest required for membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

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

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

- (b) on January 1, 1977, unless additional lands are annexed in accordance with Article IX, Section 2 of Articles of Incorporation, and in that event, the effect of this subsection shall extend for two (2) years after any such annexation.

ARTICLE V

PROPERTY RIGHTS

Section 1. Member's Easement 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 guests of members;
- (b) the right of the Association to charge reasonable admission and other fees for the use of the recreational facility situated upon the Common Area;
- (c) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereto 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 for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (e) the rights of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership and 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 thirty (30) days nor more than sixty (60) days in advance; and
- (f) the right of the individual owners to the exclusive use of the parking spaces as provided in the Article.

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

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

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

ARTICLE VI

COVENANT FOR MAINTAINING 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 acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association; (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs 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. Each such assessment, together with such 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 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 recreation, health, safety and welfare of the residents of the Properties and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. Basis of Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the annual assessment shall be Sixty Dollars (\$60.00) per Lot, unless changed by the Board of Directors of the Association.

(b) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment.

(c) On all unimproved lots or lots on which a dwelling has not been completed so as to be ready for sale, the maximum annual assessment shall be fifty percent (50%) of the maximum annual assessment.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the costs 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 thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

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

Section 6. Quorum for any Action Authorized Under Section 3 and 4. At the first meeting called, as provided in Section 3 and 4 hereof, the quorum requirements for Class A members shall be the same as set out in the ~~second sentence of Section 1 of Article II above~~ first sentence of Section 2 of Article II above¹. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: 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 as least 30 days in advance of the annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specific lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of the payment of any assessment therein stated to have been paid.

¹ There exists a reference error in the original document. The strikethrough text is the original text. The text following the strikethrough is the appropriate reference.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the 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 current legal rate, and the Association may bring an action at Law against the Owner personally obligated 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 9. Subordination of the Lien to Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any first deeds of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any deed of trust, pursuant to a deed of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which becomes due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt property. The following property subject to this Declaration shall be exempt from assessments created herein: (a) all properties dedicated to and accepted by a local 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

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon the Properties 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.

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

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use

without prejudice, however, to the right of such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other 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.

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

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

ARTICLE VIII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change, including paint and trim, or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color of paint, 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. 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, approval will not be required and this Article shall be deemed to be fully complied with.

ARTICLE IX

EXTERIOR MAINTENANCE

Reherd Acres Homeowners Association "A", shall maintain the common area within said subdivision not maintained by the City of Harrisonburg, Virginia, or other agency or governmental authority, and may erect or make improvements thereon. To this end, it shall have the power to levy assessments as herein contained and in accordance with the Charter and By-Laws of the Reherd Acres Homeowners Association "A", Inc.

In the event an owner of any Lot shall fail to maintain the premises and the improvements thereon in a manner satisfactory to the board of directors of Reherd Acres Homeowners Association "A", Inc., after the approval by two-thirds (2/3) decision of the board of directors, the Association shall have the right, through its agents and employees to enter upon said parcel and repair, maintain, and restore the Lot and the exterior of the buildings and other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the annual assessment to which such Lot is subject, and the expense of such exterior maintenance shall become a lien upon the subject property. It is a condition of these covenants that Reherd Acres Homeowners Association "A", Inc., and shall be, deemed a general contractor for the purpose of qualifying to file a mechanic's lien, and every lot owner so in default, by the acceptance of his deed, and those claiming under him, hereby agrees to pay such expense and grants permission to Reherd Acres Homeowners Association "A", Inc., to enter upon such lot and make such exterior maintenance without being guilty of trespass, and said Association, its agents and employees, shall not be liable in damages to any lot owner except for willful and tortuous acts committed beyond the scope hereof. Any assessments under this Paragraph and preceding Paragraph hereof, shall constitute subordinate only to liens for taxes and first deeds of trust in favor of the recognized lending institution, upon filing of notice in the Clerk's Office of Rockingham County, Virginia.

ARTICLE X

USE RESTRICTIONS

1. ~~No lot shall be used, except for residential purposes, or for builder's construction sheds and sales administrative offices during the construction and sales period, and not more than one principal building shall be permitted on any residential lot shown on said plat, and no such lot shall be re-subdivided so as to produce a building site of less area or width than the minimum required Subdivision Ordinance of the County of Rockingham or the City of Harrisonburg, Virginia, or otherwise specified by the County Health Officer.~~ See "Supplemental Declaration"

2. No building, garage, trailer, tent, driveway, or structure may be erected, built, or permitted to remain on any lot other than one detached or town house dwelling not to exceed three stories in height.

3. No trailer, bus, commercial equipment, or disabled or unlicensed vehicle or material portion thereof, may be parked on any street or parking area, lot or common area within said land area, unless, in the case of commercial equipment, it shall be temporarily within such subdivision for the purpose of performing work therein.

4. No noxious or offensive use or activity shall be carried on upon any lot, parking area, or common area, nor shall any practice be engaged in by any Owners of lots, their tenants, agents, guests, or assigns, that shall become an annoyance or a nuisance to the neighborhood.

5. No exterior clothesline or hanging device, except for that of an umbrella type, shall be allowed upon any lot, and no antenna shall project more than ten feet above the peak of the roof in height or ten feet in width.

6. No sign of any kind shall be displayed on any lot, except one sign of not more than five (5) square feet advertising the property for sale or rent, except signs used by the developer and its agents to advertise the property during the construction and sales period.

7. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other usual household pets may be kept, provided that they are not kept, bred, or maintained for commercial or charitable purposes, or in unusual numbers.

8. No trash, garbage or other refuse shall be burned upon the premises except within the interior of the residence, except that the builder or developer may burn debris for the purpose of cleaning the land or preparing any dwelling for occupancy.

9. Easements for installation and maintenance of utilities, walkways, driveways, drainage facilities and access to all lots are reserved as shown on the plat recorded herewith. Within these easements, no structure planting, or other material shall be placed or permitted to remain which may obstruct or interfere with the installation and maintenance of said utilities or access to lots. The easement area within each lot shall be maintained constantly by the owner of said lot, except those easements for which a public authority, utility company, or municipality is responsible.

10. No hedge shall be placed or permitted to grow over three and one-half feet (3 ½) high along the property line, nor shall any growth be permitted by any lot owner or tenant to extend beyond his property line.

11. There is reserved to Reherd Acres Homeowners Association "A", Inc. and its successors or assigns, which shall have title to the common areas within the subdivision, the right and power to erect such fences, structures, buildings, playground equipment, swimming pools, or other facilities, improvements and appurtenances, for recreation, parking or other civic and/or public purposes, as, in the discretion of the owner of such areas may be appropriate.

12. Every violation of the covenants contained herein is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable thereto, and such remedies shall be deemed cumulative and not exclusive.

13. Inasmuch as the enforcement of the provisions hereof is deemed essential for the implementation and preservation of the general plan of development, and for the protection of the undersigned and all of the owners and inhabitants of said subdivision, it is hereby declared that any

violation of the provisions hereof shall constitute irreparable harm not adequately compensable by recovery of damages, and any person, firm or corporation shall be entitled, in addition to all other remedies, to relief by way of injunction for enforcement of the provisions hereof.

14. The cost and expenses incidental to the abatement of any violation hereof, and the removal and correction of any offending structure or condition shall be paid by the owners of the offending property, and the amount thereof until paid shall constitute a lien upon such offending property, in favor of Reherd Acres Homeowners Association "A", Inc., inferior only to the liens for taxes and any first deed of trust in favor of the recognized lending institution then or to be placed upon the premises, enforceable as hereinfore set forth.

ARTICLE XI

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 hereinafter imposed by the provisions of this Declaration. Failure by the Association or 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 wise effect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot owners. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the said Reherd Acres, Inc., a Virginia corporation, being the Declarant herein, has caused this Declaration to be executed in the corporate name by its President, and its corporate seal to be hereto affixed and attested by its Secretary, said officers being thereunto duly authorized, all as of the 12th day of August, 1975.

REHERD ACRES, INC.

By: _____ (Signature)
President

Attest:

(Signature)
Secretary

STATE OF VIRGINIA,
COUNTY OF ROCKINGHAM, to-wit:

The forgoing writing was acknowledged before me this 12th day of August, 1975 by Jack F. Depoy, President of Reherd Acres, Inc., a Virginia Corporation, on behalf of said corporation.

My commission expires December 4, 1976.

(Signature)
Notary Public

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