
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SHADY CREEK SUBDIVISION

This Declaration of Covenants, Conditions and Restrictions made this 10th day of August, 2011, by GROTTOES, LLC, a Virginia limited liability company (hereinafter "Declarant"), Grantor.

WITNESSETH

The Factual Background. Declarant is the owner of certain real property located in the Town of Grottoes, Rockingham County, Virginia, more particularly shown and described as all those certain lots or parcels of land lying and being situate in the Town of Grottoes, Rockingham County, Virginia, consisting of approximately 10.584 acres, more or less. Declarant has subdivided this property as shown on the following two plats: (1) plat entitled "Shady Creek Subdivision, Phase 1, Section 1", by Hal T. Benner, L.S., dated July 20, 2010, and recorded in the Clerk's Office of the Circuit Court for Rockingham County, Virginia, in Deed Book 3749, Page 427, which plat shows and describes Lot 1 and Lot 2, and (2) plat entitled "Shady Creek Subdivision, Phase 1, Section 2", by Hal T. Benner, L.S., dated August 24, 2010, and recorded in the aforesaid Clerk's Office in Deed Book 3824, page 24, which plat shows and describes Lots 3-10, 111-120, 1A-1B, 2A-2B, 3A-3B, 4A-4B, 43A-43B, 44A-44B, 45A-45B, 46A-46B, 47A-47B, 48A-48B, 49A-49B, and 50A-50B (hereinafter "the Subdivision Plats"). Declarant desires to subject the above lots shown on the Subdivision Plats to the Covenants, Restrictions, Conditions and Easements set forth herein, each of which are for the benefit of the Owners of these Lots.

NOW THEREFORE, the Declarant declares that the real property as shown on the Subdivision Plats shall be held, transferred, sold, conveyed and occupied subject to the Restrictions, Covenants, Conditions and Easements herein. These Restrictions, Covenants, Conditions and Easements shall be Covenants running with the land and shall be binding upon any and all parties who have or acquire title to all or any part of Shady Creek Subdivision, and shall inure to the benefit of each of the Owners thereof.

ARTICLE I

DEFINITIONS

Section 1.01. **Association.** The term Association as used herein shall mean the Shady Creek Subdivision Homeowners Association, Inc., its successor and assigns.

Section 1.02. **Board of Directors.** The term Board of Directors as used herein shall mean the Board of Directors of the Association.

Section 1.03. **Committee.** The term Committee as used herein shall mean the Architectural Review Committee as set forth in Article VI, and during the applicable time period it shall reference both sub-committees thereunder.

Section 1.04. **Common Area.** The term Common Area as used herein shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Members, and shown on the Subdivision Plats as "Common Area" or as modified as set out herein.

Section 1.05. **Declarant.** The term Declarant as used herein shall mean Grottoes, LLC, its successors and assigns. The Declarant may appoint a successor Declarant by an instrument recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, said instrument shall set out the rights hereunder being transferred.

Section 1.06. **Declaration.** The term Declaration as used herein shall mean the restrictions, covenants, conditions and easements, and all other provisions herein set forth in this document, as it may from time to time be amended.

Section 1.07. **Lot.** The term Lot as used herein shall mean and refer to any plot or parcel of land designated as one of the Lots shown on the Subdivision Plats of Shady Creek Subdivision.

Section 1.08. **Owner.** The term Owner as used herein shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding purchasers who have not yet taken title, and further excluding those holding such interest solely as security for the performance of an obligation. In the case where a Lot is held by one or more persons for life, with the remainder to another or others, the term Owner shall mean and refer only to such life tenant or tenants until such time as the remainderman or remaindermen shall come into use, possession, or enjoyment of such Lot. If more than one (1) person or entity is the record Owner of a Lot, the term "Owner" as used herein shall mean and refer to such owners collectively, so that there shall be only one (1) Owner of each Lot.

Section 1.09. **Subdivision.** The term Subdivision as used herein shall mean and refer to the aforesaid Lots and Common Area as shown on the Subdivision Plats of Shady Creek Subdivision.

ARTICLE II

MEMBERSHIP

Section 2.01 Every Owner of a Lot shall be a Member of the Association as set out herein. 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 III

VOTING RIGHTS

Section 3.01. 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 II 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 by Article II. 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 determine among themselves, but in no event shall more than one vote be cast with respect to any Lot. For so long as the Class B Member exists, the Class A Members are non-voting Members.

Class B. The Class B Member shall be Grottoes, LLC, a Virginia corporation, its successors and assigns. The Class B Member shall be entitled to one (1) vote for each Lot it owns. The Class B Membership shall cease upon the happening of the earlier of (i) Grottoes, LLC, or a successor declarant, no longer owning any Lots, or (ii) the surrender of the Class B Membership by Grottoes, LLC, a Virginia corporation, its successors and assigns, which Membership shall be converted to Class A Membership, evidenced by the recordation of a written instrument in the Clerk's Office of Rockingham County, Virginia.

ARTICLE V

PROPERTY SUBJECT TO THE DECLARATION

Section 5.01. Subject Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Grottoes, Rockingham County, Virginia, and is shown and described as Lots 1-10, 111-120, 1A-1B, 2A-2B, 3A-3B, 4A-4B, 43A-43B, 44A-44B, 45A-45B, 46A-46B, 47A-47B, 48A-48B, 49A-49B, and 50A-50B on the Subdivision Plats.

Section 5.02. Subdivision. These Lots shall not be further subdivided except by the Declarant as provided in Article VII.

Section 5.03. Additions. The Declarant shall have the absolute and unqualified right (but shall not be obligated) to bring within the terms of this Declaration additional property, so long as such property is adjacent to the property shown on the Subdivision Plats or on later plats brought within the Declaration. Such additions shall be made by recording a supplemental declaration in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, indicating what additional property shall be subject to this Declaration. Any additional property added to this Declaration shall be treated for all purposes as part of the Subdivision, except as may otherwise be provided in such supplemental declaration.

ARTICLE VI

ARCHITECTURAL REVIEW

Section 6.01. Committee Composition. The Architectural Review Committee, hereinafter the "Committee", will be composed of three individual members. So long as the Declarant or successor declarant is a Class B Member, the Committee shall be composed of three individuals designated by the Declarant. After the time that the Declarant is no longer a

Class B Member, the Committee shall be composed of three Owners, who shall be appointed by the Board of Directors.

Section 6.02. Purpose. The Committees shall regulate the external design, appearance, use, site, elevation and location of all improvements on the Lots thereon in such a manner as to preserve and enhance the value of the Lots, maintaining a harmonious relationship among the structures, landscaping, and natural vegetation and topography of the Subdivision and to conserve the existing natural amenities.

Section 6.03. Removal, Vacancies and Officers. After the Declarant is no longer in control of the Committee, members of the Committee may be removed by the Board of Directors at any time with or without cause. Appointments to fill vacancies in unexpired terms shall be made in the same manner as the original appointment. The Committee shall elect from among themselves a chairperson, a vice-chairperson and a secretary who shall perform the usual duties of their respective offices.

Section 6.04. Conditions. No improvements, alterations, repairs, excavations, changes in grade, major landscaping, clearing, tree cutting or other work which in any way alters the exterior appearance of any Lot or improvement located thereon from its natural or improved state shall be made or done until the construction plans, site plans, landscaping plans, specifications, working drawings, and proposals for the same showing the nature, kind, shape, color, type, materials, elevations and location thereof, shall have been submitted and approved in writing by the Committee. No building, fence, wall, structure, alteration, landscaping or other improvement shall be commenced without prior written approval of the Committee. Written approval shall also be obtained for the location of the house, driveway and any other structure. Refusal of approval of plans, location, etc., may be based upon any ground, including purely aesthetic

reasons, in the sole discretion of the Committee. No shrubbery, bushes or trees shall be planted, installed or allowed within any access easement, drainage easement or storm water management easement. Site plan approval requires that one (1) set of building permit ready working drawings must be submitted to the Committee and shall include the following:

- (a) Site Plan Information Required For Approval
 - (i) Accurate building footprint including elevations for proposed finished floor and garage floor, decks, porches, stoops, or other detached secondary structures such as storage buildings, etc.
 - (ii) Accurate "hardscape" information including driveways, parking areas, walkways, and on-site storm water drainage (NOTE: where needed, standard CMP road pipes must be a minimum of 15" x 24")
 - (iii) Landscaping plan
- (b) House Plan Information Required For Approval
 - (i) Floor plans;
 - (ii) House elevations at $\frac{1}{4}$ " = 1'-0" scale with notes indicating all exterior finishes and materials, and with all accurate grade lines shown;
 - (iii) One wall section at $\frac{1}{4}$ " = 1'-0" scale fully noted
 - (iv) Indicate location for HVAC unit, electric, and gas hookups.

Final approval will not be granted until plans are submitted specifying exterior textures, including siding and/or brick, stone or drivet, roofing material, foundation facing material, windows, and doors. Colors may be submitted at this time or later, but must be submitted and approved prior to application. After reviewing the properly submitted plans, the Committee will return one copy to the Owner with comments and maintain the other for its files. Approval to

build, additional information, or required modifications will be made in writing by the Committee within thirty (30) days after submittal.

Section 6.05. Procedure. The Committee shall promptly review and act on all requests for approval of improvements submitted pursuant to Section 6.03. In the event that the Committee fails to approve, modify, or disapprove in writing a request for approval required herein within thirty (30) days after the plans, specifications, and other required materials have been received by the Committee, approval will be deemed to have been granted; provided, however, nothing specifically prohibited by this Declaration shall be deemed to be approved and said failure to act shall not constitute a waiver by the Committee except as set out in Section 6.07. All actions shall be by majority vote.

Section 6.06. Enforcement. Any exterior addition, change or alteration made without application to, and approval of, the Committee shall be deemed to be in violation of these covenants and may be required by the Board of Directors (or by the Declarant during such time as there is a Class B Member) to be restored to its original condition at the offending Owner's sole cost and expense.

Section 6.07. Exceptions. Notwithstanding the foregoing, the provisions and requirements of this Article shall be deemed waived if no suit in equity or action at law has been filed with notice of lis pendens, in the Circuit Court of the County of Rockingham, Virginia, with respect to any violation of this Article within six (6) months after the initial occurrence of the violation.

Section 6.08. Appeal. Any aggrieved party may appeal a decision of the Committee to the Board of Directors by giving written notice of such appeal to the Association or any director within twenty (20) days of the adverse ruling.

ARTICLE VII

BUILDING AND USE RESTRICTIONS

Section 7.01. The Lots shall be occupied and used as follows:

- (a) No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that:
 - (i) Dogs, cats and other common and normal household pets may be kept on any Lot subject to reasonable rules and regulations adopted by the Board of Directors.
 - (ii) Such pets shall be confined to the Owner's Lot or on leashes, and be under the control of a responsible person and obedient to the person's command at all times.
 - (iii) The Board may prohibit keeping certain types or breeds of animals which the Board reasonably believes to be unsafe.
- (b) No building or buildings of any kind whatsoever shall be erected or maintained on any Lot except one private dwelling house, designed for use and used by a single family and a private garage and utility building for the sole use of a single family upon the Lot on which they are located. Lots shall be used for single family residential purposes only; provided, however, that the use of a portion of a residence as an office by the occupant shall be allowed if such use does not create employee, customer, client, or other traffic to and from the Lot. In addition, notwithstanding other provisions herein, the Declarant or anyone approved by Declarant may use one or more residences as model homes.

- (c) All dwellings shall have minimum living space area requirements, which requirements shall be established from time to time by the Committee. "Living space" as used herein shall exclude porches, decks and garages.
- (d) No sign of any kind, with the exception of a standard real estate "For Sale" or "For Rent" sign no more than seven square feet in area shall be displayed to the public view from any Lot without prior written consent of the Committee.
- (e) No obnoxious, boisterous, or offensive activities shall be permitted on any Lot, nor shall anything be done thereon that may be an annoyance or nuisance to the Owners of other Lots in the Subdivision.
- (f) No burning of paper, household trash, cardboard, construction materials or other refuse shall be permitted on any Lot.
- (g) The Declarant may subdivide Lots and rearrange boundary lines without the consent of the Committee.
- (h) No structures of a temporary character, tent, or trailer shall be used as a residence on any Lot at any time.
- (i) No radio antennas or television reception antennas over 36 inches in diameter shall be installed on any Lot.
- (j) No driveway entrance requiring a culvert pipe shall be installed unless such pipe is at least 15" in diameter and 24' in length with the location and top of the culvert to be placed in a manner to meet the Virginia Department of Transportation regulations allowing acceptance of the adjacent road into the state highway system.

(k) No unlicensed or inoperable vehicles, trucks with gross vehicle weight over $\frac{3}{4}$ ton, school busses, other busses, wreckers, or other large commercial vehicles shall be parked on any Lot or road bordering a Lot over night unless within a garage.

(l) No RV's, boats, or other recreational equipment shall be stored on any Lot unless housed in a garage or shielded from view of adjoining lots as approved by the Architectural Review Committee.

(m) It shall be the responsibility of each Owner and tenant to prevent the development of any unclean, unsightly, or unkept conditions of buildings or ground on their Lot.

(n) Should any dwelling unit or other structure on any Lot be destroyed in whole or in part, it shall be reconstructed, or the debris therefrom removed and the Lot restored to a neat and sightly condition within six (6) months of the damage or loss.

(o) All driveways shall have a paved or concrete surface which has been approved by the Committee.

(p) All exterior finishes must be brick, stone, stucco, Hardiplank or vinyl.

(q) There shall be no manufactured or modular homes placed on any Lot and there shall be no flat roofs, except for porches, and no roof with a primary pitch of less than a ratio of 4 to 12.

(r) No structure of a temporary character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor during the construction of the main

dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the Lot after completion of construction of the main dwelling house. The design and color of structures temporarily placed on a Lot by a contractor shall be subject to reasonable aesthetic control by the Committee.

(s) Any and all exterior lighting shall be subject to approval by the Committee. No lighting fixtures or devices shall be installed in any tree. No lighting fixture shall be directed toward a road or adjoining Lot.

(t) There shall be no exterior clothes lines erected on any Lot.

(u) Fences will be allowed on property lines. All fences must be approved by the Committee as provided in Article VI. Fences are to be no higher than six feet tall and must be behind the front-most portion of the residence.

(v) The exterior of all residences and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner and builder due to strikes, fires, national emergency or natural calamities. During the continuance of construction, the Owner of the Lot shall require the contractor to maintain the Lot in a reasonably clean and uncluttered condition.

(w) Each Owner shall provide a screened area in which garbage receptacles and fuel tanks shall be placed or stored in order to conceal them from view of the road. Plans for such screened areas delineating the size, design, texture, appearance and location must be approved by the Committee prior to construction.

- (x) No part of any Lot shall be used as a right-of-way, easement or road for access to any property outside the Subdivision.
- (y) Preserving the existing terrain, using native vegetation and minimizing disturbance of the natural setting shall be focal points for landscaping. All houses must incorporate a minimum landscape plan, which is to be reviewed by the Committee. Minimum requirements:
 - (1) Seed and straw on all disturbed areas.
 - (2) One (1) 6' to 8' tall tree.
 - (3) Six (6) each 1.5' to 2.5' medium evergreen shrubs.

ARTICLE VIII

EASEMENTS

Section 8.01. Existing Easements. The Lots shall be conveyed subject to easements shown on the Subdivision Plats, and such other easements as may exist of record at the time of conveyance. All easements shown on the Subdivision Plats are reserved for the benefit of the Declarant, its successors and assigns, which easements may be conveyed by the Declarant to one or more Grantees.

Section 8.02. Utility Easements. In addition to all other easements provided for on the Subdivision Plats and in this Declaration, the Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right of way on, above and underground through all areas of each Lot, excepting only such land either designated by the Committee as approved building sites or upon which a structure other than trees, shrubbery, or fences approved by the Committee is constructed. The purpose of said easement shall be to construct, maintain, inspect, re-grade, replace, and repair vegetation, road shoulders, lines, wires,

cables, conduits, sewers, pipes, water mains, and other suitable equipment and facilities for the conveyance of water, sewer, gas, telephone, electricity, television cable, exterior lighting, storm water, and other utilities and public conveniences, for any purpose required by the County of Rockingham or Virginia Department of Transportation in conjunction with the acceptance of the Subdivision streets into the state system for maintenance, and for storm and surface water drainage including pipes, ditches, culverts, swales, and other suitable facilities for the disposition of storm and surface drainage together with the right of ingress and egress to all such facilities and easements for the construction and maintenance thereof.

The phrase "land designated by the Committee as approved building sites" shall mean (i) the area under buildings, patios, walks, decks, porches, or other improvements not including driveways, fences, shrubs and trees constructed by Declarant or its agents, contractors, or sub-contractors; (ii) the area under other buildings, patios, walks, decks, porches, or other improvements not including driveways, fences, shrubs, and trees; the location of which is approved by the Committee in accordance with Article VI of this Declaration.

The easements provided for herein shall include the right to cut any trees, brush, and shrubbery; dig or grade any soil; and take any other similar action as reasonably necessary for the use of the easement.

The rights herein reserved may be exercised by any licensee, successor or assignee of Declarant but shall not be deemed to impose any obligation upon Declarant to provide, maintain, or be responsible for the lapse or temporary interruption of services except as herein otherwise provided. Any damage to the property resulting from the use of the easements hereby reserved shall be promptly repaired at the expense of the party causing such damage. The rights herein

reserved shall include the right to temporarily interrupt utility service as necessary or appropriate upon reasonable notice to the Owner of the servient property.

Section 8.03. Entrance Structure Easement. The Declarant reserves unto itself, its successors and assigns, perpetual and alienable easements for the construction and maintenance of an entrance sign.

Section 8.04. Drainage Easements and Drainage and Storm Water Management Easements. The Declarant reserves unto itself, its successors and assigns, perpetual and alienable drainage as shown on the Subdivision Plats. These easements are solely for surface and storm water drainage purposes and are not to be used for access or any other purpose by the public or any other Lot Owner. The maintenance of the portion of each of these easements within each Lot shall be the responsibility of the Owner of that Lot except for the biofilters designated on a subdivision plat to be maintained by the Association.

Section 8.05. Maintenance Responsibilities. The Owner of each Lot shall be responsible for the maintenance of the surface area of any portion of any easement within the boundaries of that Lot.

ARTICLE IX

ROADS

Section 9.01. Subdivision Roads. The roads shown on the Subdivision Plats serving the Lots within the Subdivision shall be constructed by Declarant to applicable Virginia Department of Transportation standards and the Declarant shall arrange for the roads' acceptance into the Virginia Highway System. All driveways serving the Lots shall be private and shall be subject

to approval by the Committee pursuant to Article VI of this Declaration and shall be maintained by and at the expense of the Owner of the Lot which they serve.

ARTICLE X

SET BACK

Section 10.01. Building Set Backs. Building set backs from Lot boundaries shall be 25' from rear and 10' from the sides and the set backs shown on the Subdivision Plats.

ARTICLE XI

SITE PLANS, LANDSCAPING AND CLEARING

Section 11.01. Plans. Prior to initiating any work on a Lot, the Owner shall submit to the Committee one (1) complete sets of the following: Complete plans for the construction of all improvements on the Lot, site plan showing the location of all improvements on the Lot, landscape plan showing all clearing to be done and landscaping to be installed on the Lot, and grading plan showing all grading to be done on the Lot and the finished grade thereof.

Section 11.02. Perimeter Trees. No trees of a caliper of two inches or greater located within fifty feet of the exterior boundary of the Subdivision shall be cut without approval of the Committee.

Section 11.03. Other Trees. No trees on a Lot having a caliper of four inches or greater shall be cut unless approved by the Committee.

ARTICLE XII

HOMEOWNERS ASSOCIATION

Section 12.01. Formation. The Declarant shall form a non stock corporation, to be known as the "Shady Creek Homeowners Association, Inc.", not later than the time it conveys to a third party its interest in the last Lot it owns within the Subdivision. The membership in the

Association shall be as set forth in Article II. Declarant may, but shall not be required to, assign to the Association all of Declarant's rights and responsibilities under this Declaration.

The Declarant's responsibility for maintaining the easements under Article VIII shall be assigned to the Association at the discretion of the Declarant, and upon the assignment the Declarant shall have no further responsibilities for such maintenance.

Section 12.02. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot by 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 each Lot 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 Lot at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them, although it shall remain a lien on the Lot.

Section 12.03. Determination of Assessments. The Association shall, in November of each year, after Declarant has assigned its rights and responsibilities with respect to the easements and Common Area under this Declaration to the Association, estimate the amount of money which shall be required during the next calendar year to maintain the surface of all easements located therein, the easement and sign at the entrance to the Subdivision and create a

reserve for the maintenance, repair or replacement of any improvements to the Common Area, and shall allocate this amount equally among the Lots not owned by the Declarant and assess the Owners of each such Lot for their proportional share. However, no assessment or allocation shall be made to any Lot owned by the Declarant. In the event that two or more Lots should be combined into a single Lot, this shall not affect the allocation and assessment of such costs to the Owner, and the Lots which have been combined shall be allocated and assessed for the same amount as they would have been had the Lots not been combined. The Association shall notify each Owner in writing of the assessment not later than December 31 of each year, and of the date upon which payment of the assessment is due. Payment of the assessment shall be due at such time and location as the Association shall determine from year to year, which time shall not be earlier than February 1 each year. Should natural causes, requirements imposed by Rockingham County or the Town of Grottoes or any other circumstances require a level of maintenance during a year which exceeds the estimate previously determined by the Association or for any other cost incurred by the Association, the Association shall determine the additional funds that will be required in addition to those already assessed for the year, and assess an equal portion of such additional required funds upon each Lot in the same manner provided above. Notice of the assessment shall be given in writing as soon as reasonably practical to each Owner, and the Owner shall be given a minimum of thirty days from the date of mailing of the notice within which to pay the assessment.

Section 12.04. 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 current legal rate, there shall be a late fee as set by the Board of Directors and

the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, 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 the Lot.

Section 12.05. 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 deed 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 by a first deed of trust, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability from any assessments thereafter becoming due or from the lien thereof.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.01. Notice. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postage prepaid to the address of the Owner shown on the real estate tax records of the County of Rockingham, Virginia.

Section 13.02. Enforcement. Enforcement of the provisions of this Declaration shall be by proceedings at law or in equity against any person or persons violating or attempting to violate said provisions, either to restrain violation or recover damages, or both. Such action may be brought by the Declarant, any Owner, or the Association. In addition, the Declarant and/or

the Association shall have the power to suspend an Owner's (i) voting rights, (ii) right to hold office on the Board of Directors or Committee, and (iii) right to use the Common Area, facilities or services provided directly through the Declarant or the Association to the extent that access to the Lot through the common areas is not precluded and provided that such suspension shall not endanger the health, safety or property of the Owner, tenant or occupant and to assess charges against any Lot Owner for any violation of the provisions of this Declaration for which the member or his family members, tenants, guests or other invitees are responsible. Before any action is taken hereunder, the Owner shall be given an opportunity to be heard by the Declarant and/or the Association and to be represented by counsel. Notice of a hearing, including the charges or other sanctions that may be imposed shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the Owner at the address of record with the Association, at least 14 days prior to the hearing. The amount of any charges so assessed shall not be limited to the expense or damage to the Declarant or the Association caused by the violation, but shall not exceed \$150.00 for a single offense or \$10.00 per day for any offense of a continuing nature. The total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days. A suspension or assessment of charges may be enforced through an action filed in the Courts for Rockingham County, Virginia. The Declarant, Association or any Owner bringing a successful action pursuant to this paragraph shall be entitled to recover its court costs and reasonable attorneys' fees.

Section 13.03. Costs. Should the Association, Declarant or any Owner prevail in any action at law or in equity enforcing any of the restrictions, conditions, covenants, reservations, liens and charges imposed hereunder, the Association, Declarant or Owner shall also be entitled to an award for reasonable attorney's fees incurred by the Association, Declarant or Owner in

consulting with an attorney regarding enforcement and in the enforcement action. The award for attorney's fees shall be assessed against the Lot against which the action is taken and shall be added to and become a part of such annual assessment or charge to which such Lot is subject under Article XII hereof; and as a part of such annual assessment or charge, shall be a lien or obligation of the Owner and shall become due and payable in all respects as provided in Article XII hereof.

Section 13.04. Severability. Invalidation of one or more of the provisions of this Declaration by judgment, court order or otherwise, shall in no way affect any other provisions, which shall remain in full force and effect.

Section 13.05. Amendments. This Declaration may be modified or amended in whole or in part by recorded instrument bearing the signature of the Declarant, until such time as the Declarant has conveyed its interest in all of the Lots in the Subdivision to a third party, not to include a successor declarant. After said termination of Declarant's amendment rights, this Declaration may be amended only by an affirmative vote of two-thirds (2/3) of the Owners present at a duly convened meeting of the Association. Any amendment must be properly executed and acknowledged by the Declarant or the Association (in the manner required by law for the execution and acknowledgment of deeds) and recorded among the appropriate land records.

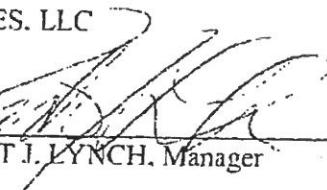
Section 13.06. Duration. The provisions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date hereof, and thereafter shall be renewed automatically for successive periods of ten (10) years each, unless modified or amended as provided in the foregoing Section 13.05.

Section 13.07. **Waiver.** The Declarant, as the present most interested party in maintaining the high quality of development which by these covenants is sought to be assured for the Subdivision, hereby expressly reserves unto itself, so long as these restrictions are in effect, the unqualified right to waive or alter from time to time such of the herein contained restrictions as it may deem best, as to any one or more of the Lots.

Section 13.08. **Dissolution.** The Association may be dissolved with the approval of more than two-thirds (2/3) of all the votes cast at a meeting at which a quorum exists in accordance with Title 13.1, Chapter 10, Article 13 of the Code of Virginia.

IN WITNESS WHEREOF. Grottoes, LLC., a Virginia limited liability company, being the Declarant herein, has caused this Declaration to be executed in its name by its duly authorized Manager on this 10th day of August, 2011, and Dean M. Nichols, Sole-Acting Trustee, and Farmers and Merchants Bank, Noteholder, join herein to evidence their consent to this Declaration.

GROTTOES, LLC

By: 
ROBERT J. LYNCH, Manager (Seal)

STATE OF VIRGINIA AT LARGE, to-wit:
CITY/COUNTY OF Harrisonburg

I, the undersigned, a Notary Public in and for the State of Virginia at Large, do hereby certify that ROBERT J. LYNCH, as Manager of Grottoes, LLC, has on this 10th day of August, 2011, acknowledged the same before me in the City or County aforesaid.

Given under my hand and seal this 10th day of August, 2011.

My commission expires: 3/31/2014
Notary Registration Number: 240814

Commonwealth Of Virginia
Tanya P Dinges - Notary Public
Commission No 268814
My Commission Expires 3/31/2014

Tanya P. Dinges
Notary Public


DEAN M. NICHOLS, Sole-Acting Trustee (Seal)

STATE OF VIRGINIA, AT LARGE, to-wit:
CITY/COUNTY OF Harrisburg

I, the undersigned, a Notary Public in and for the State of Virginia at Large, do hereby certify that DEAN M. NICHOLS, Sole-Acting Trustee, has on this 10th day of August, 2011, acknowledged the same before me in the City or County aforesaid.

Given under my hand and seal this 10th day of August, 2011.

My commission expires: 3/31/2014

Notary Registration Number: 2666Y14

Commonwealth of Virginia
Tanya P. Dingess, Notary Public
Commission No. 2666Y14
My Commission Expires 3/31/2014

Tanya P. Dingess
Notary Public

FARMERS & MERCHANTS BANK

By: J. L. S. - J. L. S. (Seal)
Its: Vice President

STATE OF VIRGINIA AT LARGE to-wit:
CITY/COUNTY OF Richmond

I, the undersigned, a Notary Public in and for the State of Virginia at Large, do hereby certify that J. L. S., President, as Vice President on behalf of FARMERS & MERCHANTS BANK, has on this 14 day of August, 2011, acknowledged the same before me in the City or County aforesaid.

Given under my hand and seal this 14 day of August, 2011.

My commission expires: 8/31/2012

Notary Registration Number: 151101

Janice Paige Sweeker
Notary Public

C: CLIENT REAL ESTATE GROUP LLC RESTRICTIVE COVENANTS CLEAN

JANICE PAIGE SWECKER
Notary Public
Commonwealth of Virginia
288029
My Commission Expires Aug 31, 2012