

AMENDMENT 1

**AMENDMENT ATTEMPTED TO REPLACE
ORIGINAL COVENANTS. AMENDMENT 1 WAS
LATER CANCELLED BY AMENDMENT 2.**

OLDE HERMITAGE SUBDIVISION

THIS AMENDMENT TO DECLARATION, made this 2nd day of April, 1990, by OLDE HERMITAGE ASSOCIATION, INC., a Virginia corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in the County of Henrico, Virginia, which is more particularly described and set forth on attached Schedule "B"; and

WHEREAS, it is the Declarant's responsibility to promote the health, safety and welfare of the residents of Olde Hermitage Subdivision, which is more particularly described and set forth on attached Schedule "A";

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, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Section 1. "Association" shall mean and refer to Olde Hermitage Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Subdivision" means and refers to that certain real property described on Schedule "A".

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common area is more particularly described on Schedule "B" attached hereto and by this reference made a part hereof.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Subdivision with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Olde Hermitage Association, Inc., a Virginia corporation, its successors and assigns.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' 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 Common Area 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 conditions as may be agreed to by a majority of voting members present or by proxy, at a meeting duly called for this purpose;

(d) the right of the Association to promulgate reasonable rules and regulations relating to the use of the Common Area.

MEMBERSHIP AND VOTING RIGHTS

Section 1. 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.

Section 2. The Association shall have one class of voting membership:

Class A. Class A members shall be all Owners and shall be entitled to one (1) vote for each Lot owned. 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 event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressly stated in such deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; and (b) 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 attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' 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.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Subdivision and for the improvement and maintenance of the Common Area.

The Association shall pay any real and personal property taxes and other charges assessed against the Common Area.

The Association shall maintain a policy or policies of liability insurance, insuring the Association and its agents, guests, permittees, and invitees, and the Owners of the Lots against liability to the public or to the Owners, their guests, permittees or invitees incident to the Ownership or use of the Common Area, in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for any one person injured, One Million Dollars (\$1,000,000.00) for any one accident and One Hundred Fifty Thousand Dollars (\$150,000.00) for property damage. Said limits shall be reviewed at reasonable intervals and adjusted if necessary to provide such coverage and protection as the Association may deem prudent.

Section 3. Maximum Annual Assessment. Beginning January 1, 1990, the annual assessment shall be Thirty Six and 75/100 Dollars (\$36.75) per Lot.

(a) For the years subsequent to January 1, 1990, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year, without a vote of the membership. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(b) For the years subsequent to 1990, the maximum annual assessment may be increased above ten percent (10%) by a vote of the majority of voting members present or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessment for Capital Improvements. 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, landscaping, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such special assessment shall have the

assent of a majority of voting members present or by proxy, at a meeting duly called for this purpose.

Section 5. Notice for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than fourteen (14) days nor more than thirty (30) days in advance of the meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments shall be due and payable by January 31 of each year; provided, however, that upon the conveyance of a Lot by the Owner, the purchaser of the Lot shall pay to the Association at that time his pro-rata portion of the annual assessment for that calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot by November 30 of each year and 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 specified Lot have been paid.

Section 8. 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 eighteen percent (18%) per annum. If the annual assessment remains unpaid for four (4) consecutive months from the due date, the Association may bring an action at law, to include attorneys' fees, court costs and interest at the legal rate, against the Owner personally obligated to pay the same. Thereafter, the Association may cause a lien to be recorded against the Owner and Lot, and proceed with collection of the lien by all remedies available to it by law. 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. Until such time that unpaid assessments

plus interest and applicable costs are paid, voting privileges of the Owner are suspended. Failure by the Association to enforce this Section shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Subordination of the Lien to Mortgages and Taxes. The lien of the assessment provided for herein shall be subordinate to the lien of any bona fide duly recorded first mortgage and real estate taxes, and the Association shall have a lien upon the proceeds from foreclosure junior only to the foreclosed first mortgage and aforementioned taxes. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to foreclosure on a first mortgage or any proceeding in lieu thereof shall not extinguish the lien of such assessments as to payments which become 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.

ARTICLE V

LOT RESTRICTIONS

Section 1. No use shall be made of the Lots, or any part thereof, that will constitute a nuisance or injure the value of the neighboring Lots. No stables, swine, cows, sheep, chickens, wild animals or the like shall be permitted in the Subdivision. Fences, kennels, or animal pens constructed of chain link or the like shall not be permitted in the Subdivision. No fence shall be permitted to project closer to the front street line than the line of the front walls of the respective dwellings on said Lot. No board fence, excluding lattice, picket, or ranch, shall be permitted within ten (10) feet of a side street in the case of a corner lot. No fence shall be permitted over four (4) feet high unless around a patio, tennis court, or swimming pool.

Section 2. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which must be covered at all times. All trash receptacles must be screened from street view.

No incinerators or other equipment for the storage or disposal of rubbish shall be permitted in the Subdivision.

Section 3. All of the Lots shall be known and described as residential lots, and no structures shall be erected on any Lot other than one (1) detached single family dwelling, provided, however, that the usual outbuildings, including a private garage, may be erected on any Lot. Storage sheds must be of the same type and quality construction as the dwelling on any respective Lot.

Section 4. No structure of a temporary character, trailer, recreational vehicle, basement, tent, shack, garage, barn, or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently. No trailer, motor home, or recreational vehicle with sleeping accommodations over five (5) feet in height shall be parked on any Lot closer to the street than the rear line of the dwelling on the Lot.

Section 5. Single family dwellings of less than two (2) stories are not permitted. The total floor area of the main structure, exclusive of one-story porches, shall not be less than eighteen hundred (1800) square feet for a dwelling of two or more stories, with a minimum of eight hundred fifty (850) square feet on the first story level.

Section 6. Declarant reserves unto itself, its successors and assigns, the right and privilege to lay gas, water, sewers, storm sewers, sewer pipes, electric light, telephone and telegraph poles, lines and wires, and other utilities in the streets and roads of the Subdivision and along the property line of the Lots and to install water and sewer connections under and in the Subdivision and lay such light, telephone and telegraph poles, lines and wires along the property line of the Lots, and to give other persons, companies or corporations any or all of such rights and privileges, however, there being no obligation so to do, they reserving the right to make necessary charges upon the purchaser therefor.

Section 7. All plans for construction and erection of any residences, outbuildings, patios, swimming pools, fences, animal

pens, additions, or modifications to any residence as hereinabove provided to be built on the Lots shall be submitted to the Architectural Review Committee of the Association for its approval. The Committee is comprised of not less than three (3) nor more than five (5) members of the Association and membership on the Committee must be approved by a majority vote of the Board of Directors of the Association. Such conditions shall be strictly complied with and the Declarant, upon recommendation by the Architectural Review Committee, shall have the full right and privilege to enforce this and all other restrictions and conditions herein by appropriate injunctive and restraining orders to prevent violations together with damages sustained.

ARTICLE VI 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. In the event that the Association employs an attorney to advise, interpret or enforce the provisions of this Declaration, whether or not such actions result in litigation, the Association shall be reimbursed for such attorneys' fees and court costs, if any, by the person who is allegedly violating the 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 effect any other provisions which shall remain in full force and effect.

Section 3. Term: Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date of this Amendment to Declaration is recorded. This Declaration may be amended by the Board of

Directors of the Association, its successors or assigns; provided, however, that such amendment must be first approved by the County Attorney for the County of Henrico, Virginia. Any amendment must be recorded in the Clerk's Office of the Circuit Court of Henrico County, Virginia.

IN WITNESS WHEREOF the undersigned Declarant has caused this Amendment to Declaration to be executed by Michael D. Hall, its President, this 5th day of April, 1990.

OLDE HERMITAGE ASSOCIATION, INC.,
a Virginia corporation

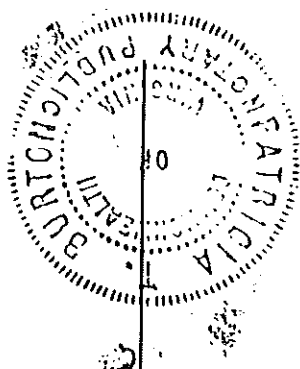
By Michael D. Hall, President
Michael D. Hall, President

STATE OF VIRGINIA

CITY OF RICHMOND, to-wit:

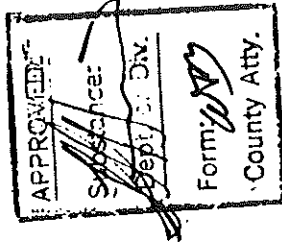
The foregoing instrument was acknowledged before me this 5th day of April, 1990, by Michael D. Hall, in his official capacity as President of Olde Hermitage Association, Inc.

My commission expires: August 3, 1991.



Patricia J. Buntoro
Notary Public

ALL those certain lots, pieces or parcels of land, together with all improvements thereon and appurtenances thereto belonging, located in Brookland District, Henrico County, Virginia, containing approximately 23 acres known as Olde Hermitage, as shown on the subdivision plat entitled "Olde Hermitage", dated February 22, 1988, made by Lewis & Associates, P.C., Consulting Engineers, Land Surveyors & Planners, Richmond, Virginia, recorded in the Clerk's Office, Circuit Court, Henrico County, Virginia.



SCHEDULE "B"

BOOK 2240 PAGE 0215

ALL those parcels of land, containing approximately 5.6 acres, designated as "Common Area" on the subdivision plat of "Olde Hermitage," Henrico County, Virginia, dated February 22, 1988, made by Lewis & Associates, P.C., Consulting Engineers, Land Surveyors and Planners, Richmond, Virginia, recorded in the Clerk's Office, Circuit Court, Henrico County, Virginia.

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY OF HENRICO
This Deed was presented, and with the Certificate annexed admitted to record
on MAY 1 1990, at 9:07 o'clock A. M.

State Tax	_____
County Tax	_____
Grantor's Tax (120)	_____
(220-A)	_____
Transfer Fee	<u>11.00</u>
Clerk's Fee	<u>17.00</u>
Total	\$ <u>28.00</u>

[Signature]
Clerk

Mail to: Old Hermitage Assoc.