

000008 MAY 11 2017

**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (the "Amendment") is made as of this 15th day of May, 2017 by D.R. HORTON, INC., a Delaware corporation, (the "Declarant") Grantor; and BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION, a Virginia non-stock corporation, its successor and assigns (the "Association"), Grantee.

WHEREAS, Declarant is the owner of Lots 119 through 140, both inclusive, and Lots 142 through 161, both inclusive, BLUE RIDGE SHADOW, PHASE 5 (collectively, the "Age-Restricted Lots"), which are duly subdivided, platted and recorded as Instrument Number 070000033 among the land records of Warren County, Virginia (the "Land Records"); and

WHEREAS, the Age-Restricted Lots are subjected to a certain Declaration of Covenants, Conditions and Restrictions for Blue Ridge Shadows Subdivision, recorded as Instrument Number 050013986 among the Land Records, as the same has been amended from time to time (collectively, the "Declaration"); and

WHEREAS, Warren County has approved a new Proffer Statement for the Age-Restricted Lots, pursuant to Rezoning # R2016-09-01, which has been approved by the Warren County Board of Supervisors as of January 17, 2017 (the "Active Adult Proffers"); and

WHEREAS, Article XII, Section 4 of the Declaration provides the Declarant with the unilateral right to amend the Declaration, among other things, to bring the Declaration into compliance with the requirements of Warren County, Virginia; and

WHEREAS, it is necessary to amend the Declaration in order to bring the Declaration into compliance with the Active Adult Proffers; and

WHEREAS, it is the desire of the Declarant to amend the Declaration, to bring the Declaration into compliance with the Active Adult Proffers; and

WHEREAS, the Association joins herein to evidence its consent to this Amendment.

NOW THEREFORE, the Declarant, in its capacity as the Declarant under the Declaration and as the fee simple owner of the Age-Restricted Lots, with the consent of the Association, hereby declares that the Declaration is amended as follows:

1. The following is added as a new ARTICLE XIII to the Declaration:

"ARTICLE XIII

HOUSING FOR OLDER PERSONS: AGE RESTRICTIONS

13.1 The provisions of this Article XIII are subject to the requirements of the Proffer Statement approved as a part of Rezoning # R2016-09-01, which may be amended from time to time (the "Active Adult Proffers"). Notwithstanding anything to the contrary contained in this Declaration, the provisions of this Article XIII shall not encumber, govern or restrict or be binding upon any portion of the Property other than Lots 119 through 140, both inclusive, and Lots 142 through 161, both inclusive, BLUE RIDGE SHADOW, PHASE 5, which are duly subdivided, platted and recorded as Instrument Number 070000033 among the Land Records; provided, however that the Declarant reserves the right to record one or more amendments to the Declaration to unilaterally subject other Lots to which the Active Adult Proffers apply to the provisions of this Article XIII (each such Lot is an "Age Restricted Lot", and collectively, the "Age Restricted Lots"). Use and development of the Age Restricted Lots is subject to the terms and conditions of the Active Adult Proffers.

13.2 Occupancy Restrictions. For purposes of this Article XIII, The Age Restricted Lots are intended to provide housing for occupancy by at least one person 55 years of age or older per Lot, subject to the permitted exceptions specifically set forth in this Section. The Age Restricted Lots shall be operated as an age restricted community in compliance with all applicable state and federal laws, to the extent required by the Fair Housing Act, 42 U.S.C. Sec. 3601, et seq., and the Virginia Fair Housing Law, Va. Code Ann. § 36—96.7, et seq., as such laws are amended from time to time, including, but not limited to, amendments to the Fair Housing Act contained within the Housing for Older Persons Act of 1995 (collectively, the "Fair Housing Acts"). Notwithstanding anything to the contrary contained in this Declaration or elsewhere, the provisions of this Article may be enforced by the Board of Directors by an action in law or in equity, including, without limitation, an injunction requiring specific performance hereunder. In accordance with The Fair Housing Acts, the following restrictions on ownership, use, and occupancy are hereby imposed on the Owners, and the Age Restricted Lots, and the Dwelling Units located therein:

(a) Unless the context otherwise specifies or requires, the following words and phrases when used in this Article will have the meanings hereinafter specified:

"Age Qualified Occupant" means a person of not less than fifty-five (55) years of age.

"Applicable Law" means all statutes, laws, common law, rules, regulations, ordinances, codes and other legal requirements of any governmental authority, and any judgment, injunction, order, directive, decree or other judicial or regulatory requirement of any court or governmental authority of competent jurisdiction affecting or relating to the person or property in question.

"Disregarded Resident" means any Occupant who is either: (i) an employee of the Association, provided that such person performs substantial duties related to the management of the Association or maintenance of any Common Area; or (ii) necessary to provide reasonable accommodation to disabled Age Qualifying Occupants.

"Occupant" means any person from time to time entitled to the use and occupancy of a Lot under an ownership right, deed or other instrument of conveyance, lease, sublease, assignment, license, concession, or other similar agreement.

(b) Generally. Each Age Restricted Lot shall be occupied by either: (i) Disregarded Residents; or (ii) at least one (1) Age Qualified Occupant. Except as otherwise set forth in Section 13.2(c), and in accordance with the Active Adult Proffers, all other Occupants of Age Restricted Lots must be a spouse of, or a cohabitant with, or one who provides primary physical or economic support to, an Age Qualified Occupant; provided, however, that no children under the age of eighteen (18) shall be permitted to reside permanently within an Age Restricted Lot.

(c) Exceptions. Notwithstanding the provisions of Section 13.2(b) to the contrary, an Age Restricted Lot may be occupied by any of the persons set forth below; provided, however, that, in any event, no person may occupy an Age Restricted Lot if occupancy by such person would result in fewer than eighty percent (80%) of all occupied Age Restricted Lots being occupied by at least one (1) Age Qualified Occupant:

(i) Guests under the age of 55, including persons under the age of eighteen (18), provided that such guests do not occupy the Lot for more than a maximum period of thirty (30) days within any consecutive twelve (12) month period.

(ii) Any person who takes title to a Lot through a conveyance or change of interest by reason of death of the prior Owner of the Lot, whether provided for in a will, trust or decree of distribution.

(iii) Any person granted an exception by the Board of Directors, in its sole discretion.

(d) For purposes of calculating the percentage of occupied Age Restricted Lots in accordance with Section 13.2(c), Age Restricted Lots occupied solely by Disregarded Residents shall be excluded from such calculation.

(e) The requirements contained in this Article are intended to comply with the exemption requirements under the Fair Housing Acts and any regulations

issued thereunder. Notwithstanding ~~anything~~ ^{66001 MAY 11 11} contained herein to the contrary, all Owners acknowledge and agree that although it is the intent of the Developer that the Age Restricted Lots are to be operated in compliance with the Fair Housing Acts, which exempt "housing for older persons" from the prohibitions against discrimination because of familial status, no representation or warranty is made that the Age Restricted Lots comply or will comply with the Fair Housing Acts, and if for any reason the Age Restricted Lots are deemed not in compliance with the Fair Housing Acts and, therefore, not exempt from the prohibitions against discrimination because of familial status, neither the Developer, nor the Declarant, nor the Association nor their respective directors, officers, agents or employees shall have any liability in connection therewith. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, during the Development Period, and thereafter the Board of Directors, may amend the provision of this Article from time to time to the extent that it deems it necessary or appropriate, without the approval of the Members, in accordance with applicable local and state regulations governing age restricted housing and the Federal Fair Housing Act so long as the substantive intent as set forth herein is maintained.

(f) Sale, Lease or Transfer. Each Owner of an Age Restricted Lot shall be responsible for including the statement that the Age Restricted Lots are intended for occupancy by Age Qualified Occupants, as set forth above, in conspicuous type in any purchase and sale agreement, lease agreement or transfer documents relating to such Owner's Lot, which agreements or contracts shall be in writing and signed by the purchaser or lessee, as applicable..

(g) Notice of Transfer. In the event of any proposed change in occupancy of any Age Restricted Lot, as a result of transfer, sale, gift, assignment, death, birth, marriage, separation, divorce or otherwise, the Owner of such Age Restricted Lot shall immediately notify the Board in writing and provide to the Board the names and ages of all current and proposed Occupants of the Lot and such other information as the Board may reasonably require to verify the age of each Occupant. No voluntary change in occupancy shall occur unless such change complies with the provisions of this Article. Persons purporting to acquire title or a right of possession to an Age Restricted Lot by sale, gift or other transfer that do not comply with the restrictions set forth in this Article shall not be entitled to occupy the Lot in question. The Board shall be entitled to bring an action to evict any disapproved Occupant and such person shall be liable for the Board's legal fees and costs, at trial and upon appeal, in connection with any and all legal action taken to enforce the provisions of this Article.

(h) Maintaining Age Records. The Board of Directors will maintain age records of all Occupants of Age Restricted Lots. The Board of Directors shall publish and adhere to policies, procedures and rules to monitor and maintain compliance with this Article and Applicable Law, including policies regarding verification of compliance with Applicable Law. The Association shall develop procedures for determining the occupancy of each Age Restricted Lot. The Association may require Occupants to produce copies of birth certificates, driver's

000012 MAY 11 2011

licenses, passports, immigration cards, military identifications and other official documents containing birth date of comparable reliability. In furtherance of the foregoing, at least once every two (2) years, the Association shall conduct a survey of the Occupants of all Age Restricted Lots to determine whether the community is in compliance with the provisions of this Article and Applicable Law.

(i) The Dwelling Unit on each Age Restricted Lot shall contain no less than 1650 square feet of finished space above ground.

13.3 Association Maintenance – Service Assessment. The Association shall have the right but not the obligation to maintain the following landscaping of un-fenced yard areas on the Age Restricted Lots: i) mowing of grass; ii) weeding; semi-annual turning of beds; semi-annual mulching of beds; semi-annual pruning. The cost of such on-lot landscape maintenance shall be assessed as an Annual Service Assessment against each applicable Age Restricted Lot in accordance with Article V, Section 3 of this Declaration. The Association is hereby granted an easement over and through all or any portions of the Property, except for dedicated rights-of-way (and also excluding any areas occupied by a Dwelling Unit, a structure or any other similar improvements) for the foregoing purposes. Notwithstanding anything to the contrary, the Association shall not be responsible for maintaining fenced-in yard areas, which shall be maintained by the Owner of such Lot at such Owner's sole cost and expense."

2. RECITALS. The recitals above are incorporated herein by this reference as though the same had been set forth at length. Any capitalized term used in this instrument and not defined herein shall have the definition given to it in the Declaration.

3. BINDING AFFECT. The covenants, conditions, restrictions, easements, agreements and benefits contained herein shall be binding upon and inure to the benefits of the parties hereto, their successors and assigns, and shall run with title to the land. Except as modified by this Amendment, all of the terms and provisions of the Declaration are hereby expressly ratified and confirmed and shall remain in full force and effect.

4. GOVERNING LAW. This instrument shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia.

5. COUNTERPARTS. This instrument may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

The Declarant and Association have caused this instrument to be signed as of the date described above.

[SIGNATURE PAGES FOLLOW]

000013 MAY 11 2017

D.R. HORTON, INC., a Delaware corporation

By: [Signature]
Name: Patrick J. Williams
Title: Vice President

STATE OF Virginia :
COUNTY/CITY OF Fairfax :

The foregoing instrument was acknowledged before me this 1st day of May, 2017 by Patrick J. Williams, Vice President of D.R. Horton, Inc., on behalf of said corporation.

[Signature]
Notary Public

My commission expires: 10/31/19

LAUREN E WORTHINGTON
NOTARY PUBLIC
REGISTRATION # 328997
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
10/31/19

[SIGNATURE PAGES CONTINUE ON THE FOLLOW PAGE]

000014 MAY 11 2017

**BLUE RIDGE SHADOWS
HOMEOWNERS ASSOCIATION, INC.,** a
Virginia non-stock corporation

By: *[Signature]*
Name: Patrick J. Williams
Title: President

STATE OF Virginia :
COUNTY/CITY OF Fairfax :

The foregoing instrument was acknowledged before me this 1st day of
May, 2017 by Patrick J. Williams, President of Blue Ridge
Shadows Homeowners Association, Inc., on behalf of said corporation.

[Signature]
Notary Public

My commission expires: 10/31/19

LAUREN E WORTHINGTON
NOTARY PUBLIC
REGISTRATION # 326997
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
10/31/19

INSTRUMENT 170002429
RECORDED IN THE CLERK'S OFFICE OF
WARREN COUNTY ON
May 11, 2017 AT 09:07 AM
DARYL L. FUNK, CLERK
RECORDED BY: AVS

AVS