

Changes: pages 8, 14

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THIS DEED OF DEDICATION, made and dated this 16th day of September, 1987, by and between CHARLES C. LONGERBEAM and ELAINE B. LONGERBEAM, his wife, parties of the first part, hereinafter called the DECLARANTS, whether one or more, and COUNTY OF FREDERICK, VIRGINIA, party of the second part.

WHEREAS, the DECLARANTS are the owner in fee simple of the real estate shown on the attached plats drawn by H. Bruce Edens, C.L.S., dated March 20, 1987, known as Section One, Carlisle Estates. This is a portion of the real estate conveyed to the DECLARANTS by Deed dated May 22, 1987, of record in the Office of the Clerk of the Circuit Court of Frederick County, Virginia, in Deed Book 648, at Page 384; and,

WHEREAS, said real estate, as shown on the aforesaid attached plats, has been subdivided into lots, and the attached plats show accurately the metes and bounds of the subdivided land, together with the dimensions of each lot thereof (and also show those certain Easements reserved for installation and maintenance of water and sewer facilities for said lots), and further show a public street designated Woody's Circle which shall constitute a portion of said development and further additions/lot owners shall become members of the Carlisle Estates Homeowners Association upon the same terms and conditions herein; and,

WHEREAS, the DECLARANTS now desire to subdivide the same into lots to be known as Section One, Carlisle Estates, Lot Nos. 1-19. The subdivision of said real estate, as it now appears on the aforesaid attached plats, it with the free consent and in accordance with the desires of the undersigned DECLARANTS and the parties hereto further desire to subdivide the aforesaid real estate in accordance with the provisions of "The Virginia Land Subdivision Act" as are applicable and in force and effect as of the date of execution of this Deed of Dedication.

NOW, THEREFORE, THIS DEED OF DEDICATION

WITNESSETH: That for and in consideration of the premises and the benefits which will accrue by reason of this Dedication, the DECLARANTS do hereby subdivide, grant and dedicate in fee simple all of that certain tract or parcel of land designated Section One, Carlisle Estates, Lot Nos. 1-19, lying and being situate in Shawnee Magisterial District, Frederick County, Virginia, and being more particularly described by the aforesaid plats of H. Bruce Edens, C.L.S., dated March 20, 1987, attached hereto and made a part hereof and by this reference incorporated herein as if set out in full.

All of the lots shown on the plats attached hereto shall be subject to the following restrictions and covenants and Articles which are covenants running with the land, and

shall be binding upon all parties having any right, title and interest in and to the aforesaid lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

A R T I C L E I

DEFINITIONS

Section 1. "Association" shall mean and refer Carlisle Estates Homeowners Association, a non stock Virginia Corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described on the attached plat as aforesaid as Open Space and such additions thereto as may hereafter be brought within the jurisdiction of the Corporation.

Section 3. "Lot" shall mean and refer to any of the lots designated upon the plat of Carlisle Estates, with the exception of the Open Space.

Section 4. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 5. "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 party of the Properties, including contact sellers, but excluding those

having such interest merely as security for the performance of an obligation.

Section 6. "Declarants" shall mean and refer to Charles C. Longerbeam and Elaine B. Longerbeam, their successors and assigns.

ARTICLE I I

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 assessments by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. One membership per Lot. 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 I I I

VOTING RIGHTS

Each Member of the Association shall have one vote for each lot owned in which said Member shall hold the interest required for membership in 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 among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of not less than three (3) directors, who must be members of the Association. The initial Board of Directors shall be appointed by the Association and serve until the first annual meeting following conveyance of the first Lot in the Properties; thereafter, the Board of Directors shall be elected by the Membership as determined in the By-laws of the Association.

ARTICLE IV

PROPERTY RIGHTS IN COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment:

Every Member shall have a right and easement of enjoyment in and to the Open Space, specifically including but not limited to the rights of ingress and egress across the aforesaid Open Space and such easement shall be appurtenant

to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) The rights of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the aforesaid Open Space and in aid thereof to mortgage said property and the rights of such mortgagee in said Properties shall be subordinate to the rights of the Homeowners hereunder.
- (b) The rights of the Association to suspend the voting rights and the right to the use of the Open Space 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.
- (c) The rights of the Association to dedicate or transfer all or part of the Open Space 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 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 twenty-five (25) days nor more than fifty (50) days in advance.

Section 2. Delegation of Use: Any Member may delegate, in accordance with the By-Laws, his right of enjoyment to the Open Space to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Open Space(s): The DECLARANTS hereby covenant for their heirs and assigns, that

they will convey fee simple title to the Open Space to the Association, prior to the conveyance of the first Lot.

A R T I C L E V

COVENANTS FOR MAINTENANCE

ASSESSMENTS FOR THE ASSOCIATIONS

Section 1. Assessments: The DECLARANTS for each Lot owned within the Properties, hereby covenant, and each Owner of any Lot by acceptance of a deed therefor, 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 assessments 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 fee, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fee was due. The personal obligation shall not

pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and, in particular, for the improvement and maintenance of the Properties, payment of real estate taxes, repairs, snow removal, and service and facilities devoted to this purpose and related to the use of and enjoyment of the Open Space.

Section 3. Basis and Maximum of Annual Assessments: Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$70.00 per year per Lot; *

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment per Lot may be increased above that set forth hereinabove by a vote of the Members for the next succeeding year and at the end of each year's period, for each succeeding period of one year, provided that any such change shall have the assent of two-thirds (2/3) of the votes 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. The limitations hereof shall not apply to any change in the maximum and basis of the assessment undertaken as an incident to a

merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

- (b) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessments at an amount not in excess of the maximum.

Section 4. Special Assessments 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 or reconstruction, unexpected repair or replacement of a described capital improvement upon the Open Space, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes 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.

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Section 6. Quorum for any Action Authority

Under Section 3 and 4: At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting of Members or of proxies entitled to cast sixty-seven percent (67%) of all votes 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 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 \$70.00

Assessments: DUE DATE: The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Open Space. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The 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 specified 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 payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association: Any assessments which are not paid when due shall be delinquent. If the assessment which is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, 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 on 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 Open Space or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinated to the lien of any mortgage or mortgages now or hereafter encumbering any Lot. 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 mortgage, pursuant to a decree of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfers shall relieve such Lot from liability for any assessments thereafter becoming due from the lien thereof.

Section 10. Exempt Property: The following property subject to this Declaration shall be exempt from the assessments created herein; (a) the Open Space; (b) all properties dedicated to and accepted by a local public authority; and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Virginia. However, no residence occupied as a dwelling shall be exempt from these assessments..

Section 11. Failure to Maintain Open Space: In the event that the Association, or its successors, shall fail to maintain the Open Space in reasonable order and condition, the County of Frederick may take such action as authorized by the Frederick County Zoning Ordinance. The Frederick County Zoning Ordinance is by this reference made a part hereof as if set out in full.

A R T I C L E V I

USE, RESTRICTIONS AND COVENANTS

This Subdivision shall be subject to the following restrictions which are constituted covenants real to run with the land:

1. No building shall be located nearer than 25 feet to the front property line nor nearer than 10 feet to the side property lines of any Lot, unless a different distance is shown on the said plat, in which event the building line shown thereon shall govern.
2. Nothing but a single private dwelling or residence designed for the occupancy of one family shall be erected on any Lot in this Subdivision. The Lots shall be used for residential purposes only, except that this restriction shall not prohibit professional offices.
3. No dwelling may be erected or maintained on any of said Lots to have a ground floor space for ranch-type or single-story homes of less than 1,175 square feet; two story homes, or multilevel homes shall not have less than 775 square feet or main living area of first floor; split-foyer homes, cape cod homes and homes with one and one-half stories shall not have less than 775 square feet on main living area of first floor, exclusive of any portion thereof used for garage or for an outside porch; upper level of a split-foyer shall have not less than 920 square feet.
4. No outside privy or toilet may be constructed or maintained on any of said Lots.
5. No trailers or temporary buildings shall be erected or maintained on any Lot in this Subdivision.
6. No horse, cow, hog, goat, fowl or livestock shall be kept or maintained on any of the Lots in this Subdivision.
7. No trucks or tractor-trailers may be parked on any Lot or street in this Subdivision.

NO dead cars

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8. No unlicensed, uninspected or inoperative motor vehicles shall be parked, kept or maintained upon any Lot or street in this Subdivision.
9. No fence erected on any of said Lots shall be greater than 6 feet in height, except for swimming pool enclosures, ~~do~~ as dictated by safety requirements. *
10. DECLARANTS and their immediate successor-in-interest, Hamilton-Stafford Homes, shall reserve the right to waive any or all of the covenants and restrictions contained herein except restriction No. 2 as pertains to land use, and restriction No. 3 as pertains to total finished space of dwellings. This right of waiver shall not affect the binding effect of the covenants and conditions upon any Lot.
11. DECLARANTS and their immediate successor-in-interest, Hamilton-Stafford Homes, further reserves the right alone to impose additional restrictive covenants and restrictions as to the sale and transfer of any Lot or Lots owned by it and such imposition shall not affect the binding effect of these provisions upon any other Lot. Invalidation of any one of the covenants or restrictions contained herein by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect. The failure of the lot owners or the DECLARANTS to enforce any covenant or restriction shall not be deemed to be a waiver of the right to do so thereafter as to a default occurring prior or subsequent thereto.

A R T I C L E V I I

EASEMENTS

Section 1. Sewer and Water Easements: The property dedicated hereby is subject to that certain

easement or right of way designated Sanitary Sewer Easement/Utility Easement on the aforesaid attached plat. The DECLARANTS do hereby grant and convey unto the Frederick County Sanitation Authority a perpetual right of way or easement over the aforesaid rights of way for the installation and maintenance of water and sewer lines and any related facility designated on the aforesaid plat as Sanitary Sewer Easement.

Section 2. Surface Drainage Easement: The property dedicated hereby is subject to those certain easements or rights of way designated Drainage Easement on the aforesaid plat, for the purpose of surface water drainage easement. No structures of any kind which substantially impede or obstruct the flow or ponding of surface drainage water may be placed within said surface water drainage easements designated on the aforesaid attached plat. Said surface water drainage easements may not be altered or modified without the prior consent of the County of Frederick, and the DECLARANTS do hereby grant and convey unto the County of Frederick a perpetual right of way or easement over the aforesaid designated surface drainage easements for the purpose of so providing surface drainage. DECLARANTS do further agree that the County of Frederick shall be under no obligation to maintain said surface drainage easements, provided, however, that in the event the

Association fails to maintain said surface drainage easements, then, and in that event, the County of Frederick shall have the right to maintain the same and charge the Association pursuant to the provisions of ARTICLE V, Section II, hereinabove.1

Section 3. Reservations: The DECLARANTS reserve unto themselves, their successors or assigns, the right to erect, maintain, operate and replace underground and above ground telephone and electric light conduits, related equipment, and other facility, sewer, gas, water, and television lines and related equipment, and other utility equipment where such utility lines and equipment are now located and along the strip 10 ft. along the front and rear of each Lot and a 10 ft. strip centered on the side line of each adjoining Lot, and a 10 ft. strip along the boundary of all non-adjoining Lots and over the Open Space, as needed, provided that such easement shall not interfere with the use and enjoyment of the Open Space.

Section 4. Reservation of Easement and Open Space(s): DECLARANTS reserve unto themselves, their successors or assigns, an easement of any width selected by DECLARANTS over and under the Open Space(s) herein conveyed, for the purposes of installation, maintenance and reconstruction of utilities and/or drainage easements in the

Open Space(s), provided that such easements shall not interfere with the use and enjoyment of the Open Space(s).

any owner shall enforce

A R T I C L E V I I I

GENERAL PROVISIONS

X

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

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

Section 3. Amendment: The covenants and restrictions of this Declaration shall run with the land 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 thirty (30) 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 thirty (30) 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.

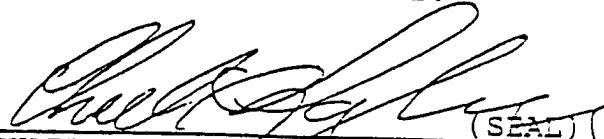
Section 4. Dissolution: Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created or for general welfare of the residents of Carlisle Estates. In the event that such dedication is refused acceptance, such assets shall be deemed vested in the Members of the Association as tenants in common.

The Dedication and Subdivision of the land as shown on the attached plats is with the free consent and in accordance with the desire of the undersigned DECLARANTS and Proprietors, of the land being subdivided, and is in conformity with the provisions of "The Virginia Land Subdivision Act" as are applicable, together with the

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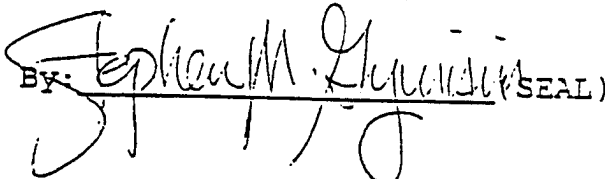
applicable ordinances and regulations of the governing body of the County of Frederick, Virginia.

WITNESS the following signatures and seals:

 (SEAL)
CHARLES C. LONGERBEAM

 (SEAL)
ELAINE B. LONGERBEAM

COUNTY OF FREDERICK, VIRGINIA

BY:  (SEAL)

STATE OF VIRGINIA, AT-LARGE:

CITY/COUNTY OF Winchester, TO-WIT:

I, Thomas J. Winge, a Notary

Public in and for the State and jurisdiction aforesaid, do hereby certify that CHARLES C. LONGERBEAM and ELAINE B.

LONGERBEAM, his wife, whose names are signed to the foregoing Deed of Dedication, dated September 16, 1987, have personally appeared before me and acknowledged the same in my State and jurisdiction aforesaid.

GIVEN under my hand this 16th day of September, 1987.

My Commission expires June 24, 1991.

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Marion J. Stinger
NOTARY PUBLIC

STATE OF VIRGINIA, AT-LARGE:

CITY OF WINCHESTER, TO-WIT:

I, Patricia A. Firesheets, a Notary Public in and for the State and City aforesaid, do hereby certify that Stephen M. Gyurisin, who is Deputy Director of the Department of Planning and Development of the County of Frederick, Virginia, whose name is signed to the foregoing Deed of Dedication, dated September 16, 1987, has personally appeared before me and acknowledged the same in my State and City aforesaid.

GIVEN under my hand this 16th day of September, 1987.

My Commission expires October 1, 1989.



Patricia A. Firesheets
NOTARY PUBLIC