

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by RICHMARR CONSTRUCTIONS COMPANY, a Virginia limited partnership [hereinafter referred to as Declarant]; LAWTON E. INABINET and ROBERT A. BARTON, Jr. , Trustees (hereinafter referred to as Trustees) and INTERSTATE FEDERAL SAVINGS AND LOAN ASSOCIATION, (hereinafter referred to as Beneficiary).

**\*\*\*\*WITNESSETH\*\*\*\***

WHEREAS, Declarant is the own of certain property located in the County of Fairfax, State of Virginia, containing 7.44086 acres, as more particularly described by reference to the metes and bounds description and the plat of subdivision attached to the Deed of Declaration and Subdivision of which this Declaration is a part; and

WHEREAS, Declarant will convey the said property to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth; and

WHEREAS, the Trustees and Beneficiary are the Trustees and Beneficiary on a certain Deed of Trust encumbering the said property, which Deed of Trust is recorded in Deed Book 4174 at page 607; among the land records of Fairfax County, Virginia.

NOW, THEREFORE, Declarant, with the consent and joinder of the Trustees and Beneficiary, hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and restrictions, 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  
DEFINITIONS**

Section 1. **“Association”** shall mean and refer to KINGS PARK WEST COMMUNITY ASSOCIATION, 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 Properties, including contract Sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. **“Properties”** shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. **“Common Area”** shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 5. **“Lot”** shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. **“Declarant”** shall mean and refer to RICHMARR CONSTRUCTION COMPANY, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II  
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 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 recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (c) **the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.**

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

ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS

**Section 1.** Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

**Section 2.** The Association shall have two classes of voting membership:

**Class A.** Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one persons 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 vote be cast with respect to any Lot.

**Class B.** The Class B Members shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall terminate on the happening of either of the following events, whichever occurs earlier.

- (a) When the Declarant no longer owns any Lots in the subdivision.
- (b) On December 31, 1977,
- (c) Upon annexation by the Declarant of additional properties pursuant to Article VII, Section 5, Class B membership shall be revived and/or extended for a period of three (3) years from the date of recordation of the Deed of Dedication and Subdivision for such annexed property.

ARTICLE IV  
COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation of Assessments.**

The Declarant, for each Lot owned with the Properties, hereby covenants, and each Owner of an Lot by acceptance of a deed therefor, **whether or not it shall be so expressed in such deed 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 be established and collected as**

hereinafter provided. Such assessments with respect to any particular lot shall commence to be due upon conveyance of a lot to an "Owner" from the Declarant, its successors and assigns. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, 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 interest, costs, and reasonable attorney's fees, shall also be the **personal obligation of the person who was the Owner** of such property at the time when the assessment fell due. **The personal obligation for delinquent assessments 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 to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes, situated upon the Properties.

**Section 3. Maximum Annual Assessment.** Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be TWELVE DOLLARS (\$12.00) 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 may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessment 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, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.** **Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.** At the first such meeting called, the presence of members or of proxies entitled to cast **sixty percent (60%) of all the votes** of each class of membership shall constitute a quorum. If the required quorum is not present, **another meeting** may be called subject to the same notice requirement, and the required quorum at the 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 6. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

**Section 7. Date of Commencement of Annual Assessments.**

**Due Dates.** The annual assessments provided for herein shall commence as to each lot on the first day of the month following the conveyance of that particular lot to an Owner from the Declarant, his successors or assigns. 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, and for a reasonable charge, furnish a certificate signed by an officer or the association setting forth whether the assessment 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 six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of Common Area or abandonment of his Lot.

**Section 9. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to first mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became 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

**ARCHITECTURAL CONTROL**

**No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee** as to quality of workmanship, materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered in any lot nearer to any street than the minimum building set back line unless similarly approved. The Architectural Control Committee is composed of Richard A. Kirstein, Marvin L. Key and Leonard I. Abel, all of 1725 DeSales Street, N.W., Washington, D.C. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative, shall be entitled to any compensation for services performed pursuant to the covenants. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the relative covenants shall be deemed to have been fully complied with.

ARTICLE VI

**PROTECTIVE COVENANTS AND RESTRICTIONS**

In order to conserve the natural beauty of the subdivided property, to insure its best use and most appropriate development and to prevent the erection of poorly designed or constructed improvements, the entire area shown on the attached plat shall be subject to those protective covenants and restrictions, as more specifically set forth in Exhibit I, attached hereto and made a part hereof by reference.

## ARTICLE VII 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. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed to a waiver of the rights 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. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) years 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 (75%) of the Lot Owners. Any amendment must be recorded.

**Section 4.** Annexation of other additional property not provided for herein shall require the assent of two-thirds (2/3) of the Class A members and two thirds (2/3) of the Class B members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting, setting forth the purpose of the meeting. The presence of members or of proxies entitle to cast sixty-seven percent (67%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

**Section 5.** If within five (5) years of the date of incorporation of this Association, the Declarant should develop additional lands within the area described in Deed Book 3890 at page 451, of the records of Fairfax County, Virginia, such additional lands may be annexed to said Properties without the assent of the Class A members provided however, that the development of the additional lands described in this section shall be in accordance with a general plan submitted to the Federal Housing Administration and the Veterans Administration, should such agencies be involved. If such agencies are involved, detailed plans for the development of additional lands must be submitted to the Federal Housing Administration and the Veterans Administration prior to such development. If either the Federal Housing Administration and the Veterans Administration determine that such detailed plans are not in accordance with the general plan on file and either agency so advised the Association and the Declarant, the development of the additional lands must have the assent of two-thirds (2/3) of the Class A 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 ten (10) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting. At this meeting the presence of members or of proxies entitled to cast sixty-seven percent (67%) of all of the votes of the Class A membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at any 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.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set their hands and seals this 5<sup>th</sup> day of May, 1975.