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STONE SPRING VILLAGE, SECTION ONE

**DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS**

This Declaration, made this 27th day of February 1995, by Harrisonburg Community Associates, L.C., a Virginia limited liability company, hereinafter referred to as the "Declarant"

Witnesseth:.

**The Factual Background.** Declarant is the owner of certain real property situated in the City of Harrisonburg, Virginia, more particularly shown and described as all those certain lots or parcels numbered as Lots B3 through B10; Lots C1 through C5; Lots D1 through D17; Lots E1 through E7, all inclusive and Lot F1, shown and described on a subdivision plat made by Benner and Associates, Inc., dated February 27, 1995, entitled "Stone Spring Village, Section One" which subdivision plat is to be recorded immediately prior hereto. The Declarant desires to subject Stone Spring Village to the covenants, restrictions, conditions, and easements herein set forth, each and all of which are for the benefit of the owners of lots in Stone Spring Village.

NOW, THEREFORE, the Declarant declares that said real property consisting of the aforesaid lots, herein called "Stone Spring Village, Section One" shall be held, transferred, sold, conveyed and occupied subject to the restrictions, covenants, conditions, and easements hereinafter set forth, and to any and all valid amendments hereto. 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 Stone Spring Village, Section One, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1.01. **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 1.02. **Subdivision.** The term Subdivision as used herein shall mean and refer to the all lots as shown on the subdivision plat of Stone Spring Village, Section One.

Section 1.03. **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 said subdivision plat of Stone Spring Village, Section One.

Section 1.04. **Owner.** 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.

Section 1.05. Declarants. Declarants, as used herein, shall mean Harrisonburg Community Associates, LC, a Virginia Limited Liability Company or any successor in interest to it so designated by instrument duly recorded in the Office of the Clerk of the Circuit Court of the County of Rockingham, Virginia.

## ARTICLE II

### PROPERTY SUBJECT TO THE DECLARATION

Section 2.01. Subject property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the City of Harrisonburg, Virginia, and is shown and described as Lots B3 through B10; Lots C1 through C5; Lots D1 through D17; Lots E1 through E7, all inclusive and Lot F1, of Stone Spring Village, Section One on the plat of Benner and Associates, Inc.

Section 2.02 Additions. The Declarant reserves the right to supplement this Declaration by amendment hereto, unilaterally, to accomplish the addition of one or more lots, from time to time, to the provisions hereof.

## ARTICLE III

### ARCHITECTURAL REVIEW

Section 3.01. Board Composition. The Architectural Review Board, hereafter the "Board," will be composed, initially, of two members of the Declarant. When the Declarant has conveyed ownership of all of the lots of Stone Spring Village, or at such time as Declarant may deem appropriate, the Board shall be composed of three individuals who are owners. At that time, the three initial Board members shall be designated by Declarant. Thereafter, in the event of a vacancy on the Board, by reason of resignation, death, or otherwise, the remaining members of the Board shall designate owner(s) to fill any such vacancy or vacancies. At any time after the designation of owner members of the Board by Declarant, Board members may be elected by a majority of owners attending a meeting for such purpose held upon thirty (30) days written notice sent at the call or request of three or more owners. No more than one such election meeting shall be held in any twelve (12) month period unless such a meeting is necessary to fill a vacancy or vacancies on the Board. At such a meeting, a quorum shall consist of owners of 10 or more lots. No Board member shall be liable for any judgment rendered for money damages by reason of his or her action or inaction as a member of the Board.

Section 3.02. Purpose. The Architectural Review Board shall regulate the external design, appearance, use, site, elevation and location of the lots and all improvements thereon in such a manner as to preserve and enhance the value of lots, maintain a harmonious relationship among the structures, landscaping, and natural vegetation and topography in Stone Spring Village and to conserve the existing natural amenities.

Section 3.03. Scope. The aforesaid Architectural Review Board shall have full, absolute and complete discretion to approve or disapprove proposed buildings and

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improvements on any of said lots in the exercise of its discretion. Said Board shall not be bound to approve any proposed building and improvements solely because such comply with the other restrictions and covenants herein contained or are equal in cost or value to buildings or improvements on other lots. Said Board shall also have the further discretion to approve any proposed buildings or improvements on any of said lots even though said improvements do not meet the requirements of the other provisions of this instrument, if, in the absolute discretion of said Board, such variations are not harmful to the value of the adjoining property. In no event, however, shall said Board be empowered to permit use of any of said lots other than as provided in Section 4.01 as follows.

Section 3.04. Conditions. No improvements, alterations, repairs, excavations, changes in grade, major landscaping, or other work which in any way alters the exterior appearance of any lot or improvements 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 of materials, elevation, and location thereof, shall have been submitted and approved in writing by the Board pursuant to Section 3.04. No building, fence, wall, structure, or alteration shall be commenced without prior written approval of the Board. Written approval must also be obtained for the location of the house and driveway and any other structure.

Section 3.05. Procedure. In the event that the Board fails to approve, modify, or disapprove in writing a request for approval required herein within sixty (60) days after the plans, specifications, or other appropriate materials have been received in writing by it, approval will be deemed to have been granted.

Section 3.06 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.

## ARTICLE IV

### USE RESTRICTIONS

Section 4.01. The lots shall be occupied and used as follows:

a. The aforesaid lots shall be used for single family residential purposes only. No buildings shall be erected, altered, placed or permitted to remain on any of said lots other than one detached dwelling not to exceed two and one-half (2 1/2) stories in height and a private garage for not more than three (3) cars and such other outbuildings as may be approved by the Architectural Review Board.

b. No buildings or other improvements shall be erected, placed, or altered on any of said lots until construction plans and specifications and a plat showing the location of the structures have been submitted in writing and approved by the Architectural Review Board as to external design and materials, harmony of external design with existing structures and as to location on the lot. No fence or wall shall be erected, placed or altered on any of said lots unless similarly approved.

c. The Architectural Review Board shall be privileged, in its absolute discretion, to specify building setback lines from any street upon which any of said lots abut, but such setbacks shall meet the minimum requirements of the City of Harrisonburg subdivision ordinance.

d. Except as may be required by legal proceedings, no sign of any kind shall be erected or maintained on any lot by anyone including, but not limited to, an owner, a tenant, a realtor, a contractor, or a subcontractor, until the proposed sign size, color, content, number of signs and location of sign(s) shall have been approved in writing by the Board.

e. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except for dogs, cats and other common and normal household pets, which may be kept, subject to reasonable rules and regulations adopted by the Board.

f. No obnoxious, boisterous, or offensive activities shall be carried on in any lot, nor shall anything be done thereon that may be an annoyance or nuisance to the other owners.

g. No radio, television, or other type of antennae or dish shall be affixed to or maintained on any lot or improvements thereon without the prior written consent of the Board. The Board may withhold permission for T.V. Antennae or T.V. dishes unless the dish is positioned so as to be unobtrusive from any road or other Lots.

h. There shall be no further subdivision of any lot by any owner other than the Declarant resulting in the creation of a new lot without the prior written consent of the Board.

i. No structures of a temporary character, tent, or trailer shall be used on any lot at any time as a residence.

j. All driveways must be paved.

k. No hardwood trees 6 inches or greater in diameter three (3) feet above the ground, shall be removed without permission of the Board, unless within fifteen (15) feet of a residence, garage, or utility building, or unless said tree is diseased, dead, or grossly misshapen or part of a cluster of two or more identical trees located so close to each other that none will develop as attractive mature plants without removal of one or more.

l. No trucks, wreckers, motor homes, boats, or trailers shall be parked on any lot, or road, unless within a garage, provided that motor homes of guests may be so parked, temporarily, for periods of not more than 14 days.

m. There shall be no exterior clotheslines erected on any lot.

n. No post design system for mailboxes other than that approved by the Board may be used.

o. None of said lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary and closed containers and all containers shall be appropriately screened from view from any street or road on which any of the said lots front. No motor vehicles shall be kept on any lot unless it bears a current inspection sticker.

## ARTICLE V

### EASEMENTS

Section 5.01. Existing Easements. The lots shall be conveyed subject to easements for utilities of record at the time of conveyance and to such utility, drainage, sight, and access easements as are shown on the subdivision plat of Stone Spring Village, Section One, which easements are reserved for the benefit of the Declarant, its successors, and assigns, and which easements may be conveyed by the Declarant to one or more grantees.

Section 5.02. Reservation of Utility Easement. The Declarant reserves unto itself, its successors and assigns, perpetual and alienable easements and rights-of way, within all roads and within ten (10) feet of all boundary lines of lots to lay, construct, operate, maintain, inspect, replace, and repair suitable equipment and facilities including, but not limited to, wires, cables, and pipes for the conveyance of all underground utilities and for storm and surface water drainage, together with the rights of ingress and egress to all such facilities, easements, and rights-of-way for the construction and maintenance thereof. Included in all of the foregoing reservation of easements shall be the right to cut any trees, brush, and shrubbery, to make any grading of soil, and to take other similar action reasonably necessary to provide economic and safe utility installation and drainage facilities installation, and to maintain appropriate sight distances for vehicles using the roads, subject to the private conservation easements. The right herein reserved may be exercised by any licensee, assignee, or grantee of the Declarant, but shall not be deemed to impose any obligation upon the Declarant to provide or maintain any utility drainage services, or maintenance of sight agreements.

## ARTICLE VI

### ROADS

Section 6.01. Subdivisions Roads. The entire cost of the construction and maintenance of the roads shown on the subdivision plat of Stone Spring Village shall be borne by the Declarants, or its successor, until said roads have been accepted in the public road system by the City of Harrisonburg, Virginia.

ARTICLE VII

SET BACK

Section 7.01. Building Set Backs. Building set backs from front, side and rear boundaries shall conform to the current City of Harrisonburg ordinance.

ARTICLE VIII

GENERAL PROVISIONS

Section; 8.01 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 last known address of the owner as it appears on the real estate tax records of the City of Harrisonburg, Virginia.

Section 8.02. 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 Declarants.

Section 8.03. 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 8.04 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 all of said lots. After the Declarant has conveyed all of said lots, this Declaration may be amended by a majority of the owners.

Section 8.05 Duration. The provisions of this Declaration shall run with and bind the land for a term of twenty five (25) 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 8.04.

WITNESS the following signatures and seals:

HARRISONBURG COMMUNITY ASSOCIATES, L.C., a Virginia  
limited liability company

BY: David G. Frackelton

DAVID G. FRACKELTON, Manager

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COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Harrisonburg, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid  
this 28<sup>th</sup> day of April, 1995, by DAVID G. FRACKELTON, Manager  
of Harrisonburg Community Associates, L.C., a Virginia limited liability company.

My commission expires: 1-31-99.

Diana C. Parker NOTARY PUBLIC

006184

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RECORDED  
INDEXED

VIRGINIA: In the Clerk's Office of the Circuit Court of Rockingham County,  
the foregoing instrument was this day presented in the office aforesaid, and is  
together with the certificate of acknowledgment annexed, admitted to record the  
27 day of April, 1995 at 11:00 A.M. I certify that  
taxes were paid when applicable:  
Sec. 58-54 - State \_\_\_\_\_ County \_\_\_\_\_ City \_\_\_\_\_  
Sec. 58-54.1 - State \_\_\_\_\_ County \_\_\_\_\_ City \_\_\_\_\_ Transfer \_\_\_\_\_  
Recording 16.00  
TESTE  
L. WAYNE HARPER  
CLERK  
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