

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Kings Highway Associates Limited Partnership, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in County of Fairfax, State of Virginia, which is more particularly described as:

First Addition to Stoneybrooke more particularly described in Schedule A attached hereto and made a part hereof.

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 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 The Vantage Homes Association and 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 herein before 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 owners more fully described in Schedule A attached hereto and made a part hereof [Amendment of 10/1019/72]*

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 Kings Highway Associates Limited Partnership, its successors and assigns if such assigns acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Private Street" shall mean and refer to any ingress/egress easement providing access from a lot to a public street as shown on any Plat subdividing the Properties.

ARTICLE II - PROPERTY RIGHTS

Section I. Owners Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in 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 recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 day 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 ($\frac{2}{3}$) 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 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 vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership, equal the total votes outstanding in the Class B membership, or,
- (b) on December 31, 1974.

ARTICLE IV - COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any 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 to be established and collected as hereinafter provided. 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. *No assessments levied by the Association shall be used for the construction, improvement or maintenance of a swimming pool.* [Amendment of 10/10/1972]

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 One Hundred and Fifty Dollars (\$150.00) per Lot except for Declarant which shall pay 25 percent (25%) of the assessment of Class A members.

(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 3% above the maximum assessment for the previous year without a vote of the membership, or at the option of the Board of Directors the maximum increase shall be determined in accordance with the Cost of Living Index as determined by the Bureau of Labor Statistics, U.S. Department of Labor.

(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 3% by a vote of two-thirds ($\frac{2}{3}$) 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 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, 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 ($\frac{2}{3}$) 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 Section 2 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 30 days nor more than 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 ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 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 all Lots on the first day of the month following conveyance of the Common Area. 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 hereto. 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 of the Association setting forth whether the assessments on a specific 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 of 6 per cent per annum. The Association may bring an act 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 assessments provided for herein by non-use of the 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 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.

Section 10. Class C Assessments. In addition to any other assessment created herein, the owner of any lot which has the right of access to a public street by way of a private street as defined herein shall pay a special assessment to be known as a Class C assessment in the amount of Two Dollars (\$2.00) each month which sum shall be placed in a separate account and which sum shall be used solely for the repair, maintenance and upkeep of the private streets in the Properties. The Board of Directors of the Association shall appoint a Committee to be known as the Private Street Committee composed solely of owners of lots affected by this assessment, which committee shall be responsible for the administration of this Section. The Class C assessment may be increased or decreased by a vote of two-thirds ($\frac{2}{3}$) of the members affected by this assessment. *The Class C assessment shall be a special assessment within the meaning of Article IV, Section 1 (2) of these covenants. The owner of any lot affected by this assessment shall maintain an insurance policy covering liability due to property damage or bodily injury occurring on that portion of the ingress/egress easement which he owns in fee. [Amendment of 10/10/1972]*

ARTICLE V - ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration including changing of colors therein be made until the plans and specifications showing the nature, kind, shape, height, materials, colors, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI - GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a 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 a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect 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 period of ten (10) years. This Declaration may be amended during the first twenty (20) 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 approved by the appropriate officials of Fairfax County, Virginia, and must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/HA Approval. As long as there is a Class B membership, the following actions will require approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 26th day of November 1971.

KINGS HIGHWAY ASSOCIATES LIMITED PARTNERSHIP -
Berlage-Berstein Builders, Inc.

General Partner

(SEAL) ATTEST:

Declarant

By: /s/ Bruce I. Berlage
Bruce I. Berlage - Secretary

/s/ Carl Berstein
Carl Bernstein - President

STATE OF VIRGINIA
AT LARGE, to wit:

I, RICHARD T. HORAN, A Notary Public for the State of Virginia, At Large, whose commission expires on the 20th day of April 1974, do certify that CARL BERNSTEIN, which name as President of BERLAGE - BERNSTEIN BUILDERS, INC., General Partner of KINGS HIGHWAY ASSOCIATES LIMITED PARTNERSHIP, is signed to the foregoing and hereunto annexed Declaration being date on the 26th day of November, 1971, has this day acknowledged the same before me in my State aforesaid as the act and deed of said Corporation on behalf of said Partnership, and made oath that the corporate seal thereunto affixed is the true corporate seal of said corporation and has been thereunto affixed by due authority.

GIVEN under my hand this 26th day of November, 1971.

/s/ Richard T. Horan
Notary Public

AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

This Amended Declaration made this 10th day of October, 1972, by Kings Highway Associates Limited Partnership, hereinafter referred to as "Declarant,"

WITNESSETH:

WHEREAS, the Declaration recorded in Deed Book 3547 and on Page 710 among the land records of Fairfax County, Virginia, Declarant subjected certain property more fully described therein to certain covenants, conditions and restrictions, and

WHEREAS, Declarant, owner of ninety per cent of the Lots affected thereby wishes to amend said covenants as hereinafter set forth and to subject the properties to the following covenants, Declarant does hereby amend as follows:

Article I Section 4 to read as follows: "Common Area shall mean all real property owned by the Association for the common use and enjoyment of the owners more fully described in Schedule A attached hereto and made a part hereof,"

and Article IV Section 2 by the addition of the following sentence: "No assessments levied by the Association shall be used for the construction, improvement or maintenance of a swimming pool,

and Article IV Section 10, by adding the following sentence: "The Class C assessment shall be a special assessment within the meaning of Article IV, Section 1 (2) of these covenants. The owner of any lot affected by this assessment shall maintain an insurance policy covering liability due to property damage or bodily injury occurring on that portion of the ingress/egress easement which he owns in fee.

IN WITNESS WHEREOF, Kings Highway Associates Limited Partnership has caused these presents to be executed in its behalf by its General Partner, Berlage-Berstein Builders, Inc., a Virginia Corporation, which corporation has caused these presents to be executed in its behalf by its President and its corporate seal to be hereunto affixed by its secretary on the day and year above written.

Kings Highway Associates Limited Partnership
By Berlage-Berstein Builders, Inc.
General Partner

By: /s/ Carl Bernstein
President

/s/ Bruce L. Berlage
Secretary

STATE OF VIRGINIA
COUNTY OF FAIRFAX to-wit

I, Ann Bent Bogat, a Notary Public for the County and State aforesaid whose commission expires the 6th day of April, 1974, do certify that Carl Berstein, whose name as President of Berlage-Berstein Builders, Inc., General Partner of Kings highway Associates Limited Partnership is signed to the foregoing and hereunto annexed presents bearing date on the 10th day of October 1972, has this day acknowledged the same before me in my county aforesaid as the act and deed of said Corporation on behalf of said Partnership and made oath that the seal thereunto affixed is the true corporate seal of said Corporation and has been thereunto affected by due authority.

Given under my hand this 10th day of October 1972.

/s/ Ann Bent Bogat
Notary Public

I was commissioned as Ann B. Bent