

DECLARATION OF PROTECTIVE COVENANTS***Kentshire Estates***

THIS DECLARATION is made this 8th day of March, 2002, by **SCAKL, L.C.**, a Virginia limited liability company, "Declarant," as grantor.

P R E A M B L E

A. Declarant is the owner of three (3) lots (the "Property") situate in Central District, Rockingham County, Virginia, designated on a subdivision plat dated March 1, 2002, made by Benner & Associates, Inc. entitled **Kentshire Estates, Section One**, which is recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia just prior to the recordation hereof.

B. Declarant desires to develop the Property as a residential community with a common architectural theme and design review process, but without common elements or common expenses, as those terms are typically used. The purpose of this Declaration is to set forth limitations and restrictions with respect to the use and design of improvements on the Property with the goal of (a) maintaining the Property as a pleasant and desirable environment; (b) establishing and preserving a harmonious design for the subdivision; and (c) protecting and enhancing the value of the Property.

NOW THEREFORE, Declarant declares that all of the Property shall be held, transferred, sold, conveyed and occupied subject to the following limitations, restrictions and uses which shall run with the Property and shall be binding on and inure to the benefit of all present and future Owners thereof. This declaration, however, shall not apply to any other "phases" or sections of **Kentshire Estates** or any other land owned by Declarant, except for such land as may be added under § 4.6 hereof.

ARTICLE 1

Definitions

§ 1.1 "**Declarant**" shall mean SCAKL, L.C., and its successors and assigns, but shall not include the purchaser of any Lot.

§ 1.2 "**Lot**" shall mean and refer to the individually numbered plots of land shown upon the recorded subdivision plat of the Property.

§ 1.3 "**Owner**" shall mean or refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, whether acquired by purchase, gift, foreclosure or otherwise, but excluding those persons or entities having such interest merely as a security for the performance of an obligation. The address of an Owner (or Owners in case a Lot is owned by more than one person) for the purpose of notices required herein shall be the address as indicated on the tax records for the current year maintained by Rockingham County, Virginia, unless an Owner notifies the sender of such notice of a different address.

§ 1.4 "**Property**" shall mean and refer to all of the real estate dedicated to **Kentshire Estates, Section One**, and subsequent sections added to this Declaration pursuant to § 4.6 hereof.

ARTICLE 2

Design Review

§ 2.1 No building, fence, or other improvements shall be erected or placed, no exterior addition, change or alteration to any existing improvements shall be made, and no grading or other site preparation (including without limitation, tree cutting or clearing) shall be done on any Lot until plans and specifications showing the nature, color, kind, shape, height and materials or improvements to be made or changed and a plat showing the location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee ("ACC"). The ACC shall be composed of three voting members who shall be appointed or removed by the Declarant until the earlier of the following:

- (a) The date on which the last Lot in the Property is sold by the Declarant, or
- (b) Assignment by the Declarant of its right to appoint the committee to the Lot Owners, as evidenced by a recorded instrument.

After such time, the Owners shall appoint the members as provided in § 2.2 hereof. The members appointed by the Declarant shall hold office until removed by the Declarant or their successors are elected.

§ 2.2 (a) The Declarant shall give notice to all Owners of the election of members of the ACC. If the Declarant for any reason fails to do so, then any Owner may give notice. The notice shall be in writing and mailed first-class at least thirty (30) days in advance of the proposed election to each Owner at the address listed with the Treasurer of Rockingham County, Virginia. A ballot shall be attached to the notice which shall contain the names of at least three persons suggested by the Declarant or other mailing party with the right reserved to each Owner to nominate and vote for additional or other persons if desired.

(b) The ballots shall be counted and certified by the person calling the election.

(c) The three persons receiving the highest number of votes shall be elected.

(d) Following the first election by the Owners, the person receiving the highest number of votes shall serve a term of three years; the person receiving the next highest number of votes shall serve a term of two years; and the person receiving the third highest number of votes shall serve a term of one year. Thereafter, all persons elected shall serve for a term of three years. Vacancies, whether caused by resignation, removal or expiration of term, shall be filled by the remaining members of the ACC. If all three offices are vacant, any Owner may request an election to be held as earlier provided. All matters decided by the ACC shall be determined by majority vote.

(e) Each Lot shall be entitled to one (1) vote for each position then open on the ACC, even if the Lot is owned by more than one person. Cumulative voting shall not be allowed. If a Lot has more than one owner and those owners cannot agree as to how to cast their vote, then no vote from that Lot shall be counted. A vote cast on behalf of a Lot with multiple owners shall be valid as if fully consented to by all of that Lot's owners, unless objected to at the meeting by another owner of that Lot.

(f) Other than for the initial election (for which Declarant provides notice), the ACC shall provide at least twenty (20) days' prior written notice to each Owner of the date, time and place of each election.

§ 2.3 Applications for approval by the ACC shall include detailed plans, specifications and surveys. The ACC may also require, where applicable to its review, topographical maps of

the Lot and grading plans, or other items relevant to the requested approval. Three (3) copies of all required items shall be submitted to the ACC.

The ACC shall have full and complete discretion to approve or disapprove proposed buildings, fences, and other improvements and alterations on the Lots and in the exercise of its discretion, the ACC shall not be bound to approve any proposed buildings and improvements solely because they comply with the other restrictions and covenants or are equal in cost or value to buildings and improvements on other Lots. In the event the ACC fails to approve or disapprove the plans and specifications within thirty (30) days after submission, the plans and specifications shall be deemed to be approved, but the failure of the ACC to act shall not be construed to waive any violation of these covenants.

§ 2.4 The ACC may base its approval or rejection of plans or specifications upon any grounds, including purely aesthetic considerations the ACC, in its sole discretion, deems sufficient. Representatives of the ACC shall have the right to inspect the building during construction to insure that it complies with the approved plans and specifications. Where discrepancies exist, the ACC may require corrective work, or, where warranted in its opinion, issue a notice to cease construction until compliance is assured to the ACC's satisfaction. Failure to heed such a notice from the ACC shall operate as a default under this covenant and shall give the ACC, in addition to any rights under general law, all of the rights and powers set out in this Declaration.

§ 2.5 The exterior of any dwelling or building constructed on any Lot shall be completed within nine (9) months after the commencement of construction.

§ 2.6 Except as later provided in this paragraph, the ACC shall have the power to approve any proposed buildings or improvements on any of the Lots even though the buildings or improvements do not meet the requirements of this instrument, if, in the discretion of the committee, such deviations are not harmful to the value of the adjoining property. The ACC shall be under no duty to exercise this power, however. The ACC shall have no power to permit a deviation from § 3.1 of this instrument.

§ 2.7 The plans and specifications of any improvements shall be deemed approved under § 2.1 if the ACC has not notified the Owner of a violation of this Article within six (6) months after issuance of an occupancy permit or final inspection in the case of improvements to an existing structure.

General Use Restrictions

§ 3.1 No Lot shall be used except for residential purposes for only one (1) single family dwelling. No townhouse, duplex, mobile home, double-wide manufactured home, house trailer or modular home shall be constructed or placed on any Lot.

§ 3.2 No dwelling exceeding two and one-half stories in height above ground and only a private garage for not more than three vehicles and such other outbuildings as may be approved by the ACC shall be erected on any Lot.

§ 3.3 For all Lots the minimum above-ground square footage (excluding porches, decks and garages) of any one-story dwelling shall be 2,200 square feet and shall be 1,500 square feet for the first (main) floor for any dwelling with more than one-story, provided such dwelling shall have a minimum total finished floor area (exclusive of porches and garages) of 2,500 square feet. Dwellings on all Lots shall have an attached or in-basement garage. Carports are not permitted on any Lot.

§ 3.4 No dwelling having a flat roof comprising more than 25% of the total roof area shall be constructed upon any Lot. All roofing material must have an expected life of at least 25 years.

§ 3.5 No dwelling shall be permitted on any Lot with any type of exterior finish except brick, stone, faux stucco, wood siding, Mastic Barkwood, Brentwood or equivalent vinyl siding, a sample of which shall be submitted to the ACC for approval prior to construction, provided, however, that aluminum soffits, guttering, and fascia boards are permitted. Chimneys and exposed foundations shall be constructed or veneered with brick, stone or faux stucco.

§ 3.6 No antennae or satellite receiving devices of any kind larger than 18 inches in diameter shall be erected on any Lot or on any structure located thereon, except as approved by the ACC.

§ 3.7 Chain link fences, except those enclosing tennis courts and permissible swimming pools, are prohibited on Lots.

§ 3.8 Above-ground swimming pools (which shall not include hot tubs, jacuzzis and portable pools) are prohibited.

§ 3.9 Each Lot shall have an all-weather surface driveway within one (1) year after issuance of the certificate of occupancy for the dwelling erected on such Lot. After such one (1) year period, dirt and gravel driveways are prohibited on any Lot.

§ 3.10 No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by the builder to advertise the property during construction. Nevertheless, one sign not exceeding one-half square foot displaying the name of the Owner or occupant of the property shall be permitted on any Lot.

§ 3.11 No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

§ 3.12 Whenever animals are permitted outside a building or other enclosed area approved by the ACC for the maintenance and confinement of animals, they must be secured by a leash, lead or an underground fence.

§ 3.13 All Lots shall be kept at all times in a sanitary, healthful, attractive and safe condition, and the Owners and occupants of all Lots shall keep all weeds, grass and dead trees thereon cut.

§ 3.14 None of the Lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary enclosed containers. All containers shall be appropriately screened from view from any street or road on which the Lot fronts.

§ 3.15 No motor vehicle shall be kept on any Lot unless it bears a valid state license plate and current inspection sticker unless within a structural enclosure.

§ 3.16 No individual sewage disposal system shall be constructed, maintained or used on any Lot.

§ 3.17 No dwelling shall be permitted on any Lot unless adequate off-street parking for at least two vehicles is provided on the Lot. No trailer, basement, tent, shack, barn or other outbuilding erected on any Lot shall be used at any time as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.

§ 3.18 No trailer, bus, camper, motor home, truck larger than three-quarter ton, commercial equipment, commercial vehicle (including, but not limited to, any tractor-trailer or combination of tractor and trailer), or disabled or unlicensed vehicle, or any portion thereof may be parked or stored within Kentshire Estates except for commercial equipment and vehicles temporarily located therein for the purpose of performing necessary construction or repairs. No stripped-down or junk vehicles (licensed or unlicensed) or any sizable parts thereof shall be parked on any street or Lot.

§ 3.19 No more than two unrelated persons may occupy any dwelling on any Lot. As used herein, "unrelated persons" shall mean persons unrelated by either blood or marriage.

§ 3.20 No noxious or offensive use or activity shall be carried on upon any Lot, nor shall any practice be engaged in by the Owners of the Lots, their tenants, agents, guests or assigns, that shall become an annoyance or nuisance to the neighborhood.

§ 3.21 No improvement which has been partially or totally destroyed by fire or other casualty shall remain in such condition for more than three months from the date of such destruction.

§ 3.22 The drying of clothes in public view is prohibited. The Owner or occupants of any Lot at the intersection of streets where the rear yard or a portion of the Lot is visible to the public may construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view.

§ 3.23 No skateboard ramps or structures of any kind shall be constructed, placed or used on any Lot.

§ 3.24 No exterior watch light shall be erected on any Lot without the prior approval by the ACC. For the purposes of this section, a watch light is an exterior light of a type typically mounted on a telephone, utility, or street light pole or any other light which the ACC determines casts an unacceptable level of light on neighboring properties.

§ 3.25 No dirt bikes, ATVs, three or four wheelers or other non-licensed vehicles shall be operated on any Lot, common area, street or driveway.

§ 3.26 No incinerator or other device for the burning of trash shall be permitted on any Lot, common area, street or driveway within Kentshire Estates.

§ 3.27 No propane, oil or other storage tank or cylinder shall be permitted on any Lot, common area, street or driveway within Kentshire Estates unless it is enclosed within the residential dwelling, buried or appropriately screened from public view.

§ 3.28 No Lot or any portion of any Lot shall be used as an access way or right-of-way for ingress or egress to any Lot, piece or parcel of land in the Property, or any other lot, piece or parcel of land, without the prior written consent of the ACC.

ARTICLE 4

Miscellaneous Provisions

§ 4.1 No Lot shall be re-subdivided into smaller lots, nor shall any portion of any Lot be sold or conveyed by the Owner thereof without the prior approval of the ACC.

§ 4.2 All drainage and utility easements shown on the subdivision plat are hereby reserved to Declarant. A release by Declarant to any Lot Owner of any easement so reserved shall operate as a complete release to such Lot and no other party shall be entitled to assert any claim or right to the use of such easement.

§ 4.3 The Declarant reserves the right to amend this Declaration at any time within one (1) year after recordation of this Declaration without the consent of any other Owner. Otherwise, these restrictions, conditions, covenants and limitations shall continue in force until December 31, 2021, at which time they will expire. Nevertheless, upon the expiration of this term and any subsequent term, they shall be automatically renewed for ten (10) year periods unless terminated or amended by the Owners (with each Lot having one (1) vote) of at least 75% of the Lots. If the Owners elect to terminate or amend these restrictions, conditions, covenants and limitations, they shall record a writing summarizing the termination or amendment in the Clerk's Office of the Circuit Court of Rockingham County, Virginia.

§ 4.4 Any water drainage or detention system traversing or abutting any Lot shall be maintained by the Owner of the Lot.

§ 4.5 The Declarant intends to dedicate the access street shown on the Plat into the public highway system administered by the Virginia Department of Transportation ("VDOT"). VDOT requires that adequate drainage be maintained on the sides of the streets and that driveways intersect public streets at an acceptable grade as specified by VDOT standards. Each Owner shall construct his driveway in compliance with VDOT requirements. In addition, no Owner may alter the grade or condition of the drainage areas on the sides of the streets as constructed by the Declarant. Each Owner shall correct any problems noted by VDOT with regard to the installation of such Owner's driveway or any changes made by such Owner in the drainage areas in front of his Lot. If an Owner does not make the corrections within fifteen (15) days after requested to do so by the Declarant to comply with VDOT specifications, the Declarant may make the changes at the cost and expense of such Owner and the Owner shall reimburse the Declarant, on demand, for the costs and expenses incurred by the Declarant in making such changes.

§ 4.6 The Declarant shall have the absolute and unqualified right (but shall not be obligated) to bring within the terms of this Declaration, additional property, so long as the property is adjacent to the property shown on the subdivision plat or on later plats brought within the Declaration. Such additions shall be made by recording a supplemental declaration in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, describing the additional property to be subjected to this Declaration. Property subjected to this Declaration shall be treated for all purposes as if it had been shown on the original subdivision plat, but the added property may be subject to other restrictions in addition to those in this Declaration.

§ 4.7 The Declarant may appoint a successor Declarant by an instrument recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia. The sale of Lots to a successor Declarant shall not be deemed a sale for purposes of § 2.1 (a).

§ 4.8 Neither Declarant, the ACC, nor any of their respective members, managers or agents shall not be responsible or liable for any defects in any plans or specifications which are approved pursuant to this Declaration, or for any defects in construction pursuant to such plans and specifications, or for any claim, liability, expense, loss, damage or injury suffered or incurred by or threatened against an Owner or other person arising out of or in any way connected with the performance of the design review functions stated in this Declaration, including without limitation, any review, acceptance, inspection, permission, consent or required approval from the Declarant or ACC, whether given, granted or withheld. When reviewing any matter, the ACC shall not be responsible for reviewing safety issues, and its approval of any project shall not be deemed to be approval of the project with respect to safety, whether structural or otherwise. Approval of plans and specifications pursuant to this Declaration shall not relieve any Owner of his responsibility to comply with any and all applicable governmental laws or regulations.

§ 4.9 If any part of any provision of this Declaration shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of such provisions or the remaining provisions of this declaration.

ARTICLE 5

Validity and Enforcement

§ 5.1 The Declarant's or any Owner's failure to enforce any restrictions contained in this instrument shall not be deemed a waiver of the right to do so thereafter for the same breach or one occurring prior or subsequent thereto.

§ 5.2 The Declarant or any Owner may enforce this instrument by proceedings at law or in equity against any persons or other entities violating or attempting to violate any covenant, either to restrain violation or to recover damages therefor. In any such proceeding, an Owner found to have breached any covenant contained in this instrument shall be responsible for the cost of the enforcement proceeding, including the prevailing party's attorney's fees.

IN WITNESS WHEREOF the Declarant has caused this writing to be executed on its behalf by its duly authorized officer.

SCAKL, L.C.
By: Sam F. Huffman
Sam F. Huffman, sole manager

COMMONWEALTH OF VIRGINIA
CITY OF HARRISONBURG

The foregoing instrument was acknowledged before me this 11th day of March, 2002, by Sam F. Huffman, sole manager of SCAKL, L.C. on behalf of the company.

My commission expires 10/31/04

Deirda S. Crawford
NOTARY PUBLIC

02 MAR 11 PM 2:33
ROCKINGHAM COUNTY
CIRCUIT COURT
L. WAYNE HARPER, CLERK

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 acknowledgement annexed, admitted to record this 11 day of March, 20 02 at 233rd M. I certify that taxes were paid when applicable:
Sec. 58-54 - State _____ County _____ City _____
Sec. 58-54.1 - State _____ County _____ City _____ Transfer _____
Recording 19.00 TESTE

L. WAYNE HARPER
CLERK

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