

Prepared by and return to:
Susanna B. Hickman, Esquire (VSB 35882)
Geddy, Harris, Franck & Hickman, L.L.P.
1177 Jamestown Road, Williamsburg, VA 23185

Parcel IDs:

AMENDMENT TO
DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS
HOLLY HILLS SUBDIVISION – PHASES I, II, III, IV & V

THIS AMENDMENT to Declaration of Covenant, Conditions and Restrictions for HOLLY HILLS SUBDIVISION – PHASES I, II, III, IV & V is made as of the 5th day of November, 2018, by HOLLY HILLS HOMEOWNERS ASSOCIATION, INC., a Virginia nonstock corporation (hereinafter called the “Association”), and the Members of the Association who have signed and acknowledged this instrument with respect to the Declaration originally made by McCale Development Corporation, a Virginia Corporation.

RECITALS:

A. To provide for the preservation and enhancement of property value and for the maintenance and care of certain common areas and easement areas within the community, and to enhance the general health, safety and welfare of the property owners and residents therein, the following instruments have previously been recorded in the Clerk’s Office of the Circuit Court for the City of Williamsburg and the County of James City as follows:

1. Declaration of Covenants, Easements and Restrictions, dated November 17, 1993, and recorded November 24, 1993, in the City of Williamsburg Deed Book 106, at Page 662;
2. Supplemental Declaration of Covenants, Easements and Restrictions, Holly Hills, Phase II, dated November 29, 1994, and recorded November 29, 1994, in Williamsburg Deed Book 111, at Page 623;
3. Supplemental Declaration of Covenants, Easements and Restrictions – Lots 23 and 24 Phase I – Holly Hills, dated March 7, 1995, and recorded March 10, 1995, in Williamsburg Deed Book 112, at Page 872;
4. Supplemental Declaration of Covenants, Easements and Restrictions, Holly Hills, Phase III, Lots 4 – 22, dated March 17, 1995, and recorded May 1, 1995, in Williamsburg Deed Book 113, at Page 584;

5. Supplemental Declaration of Covenants, Easements and Restrictions, Holly Hills, Phase III, Lots 1-3 and 23-25, dated November 16, 1995, and recorded November 30, 1995, in Williamsburg Deed Book 116, at Page 615;

6. Amendment to Declaration of Covenants, Easements and Restrictions, Holly Hills, dated August 27, 1996, and recorded October 2, 1996, in Williamsburg Deed Book 121, at Page 376;

7. Amendment to Declaration of Covenants, Easements and Restrictions, Holly Hills, dated September 30, 1996, and recorded October 2, 1996, in Williamsburg Deed Book 121, at Page 382;

8. Supplemental Declaration of Covenants, Easements and Restrictions, Holly Hills, Phase IV, dated September 30, 1996, and recorded October 2, 1996, in Williamsburg Deed Book 121, at Page 384;

9. Amendment to Declaration of Covenants, Easements and Restrictions, Holly Hills Subdivision, City of Williamsburg, Virginia, dated April 1, 1997, and recorded July 25, 1997, as Williamsburg Instrument #970000839;

10. Amendment to Declaration of Covenants, Easements and Restrictions, Holly Hills Subdivision, City of Williamsburg, Virginia, dated April 1, 1999, and recorded May 21, 1999, as Williamsburg Instrument #990689;

11. Supplemental Declaration of Covenants, Easements and Restrictions, Holly Hills, Phase V, dated February 17, 1999, and recorded February 25, 1999, as Williamsburg Instrument #990248;

12. Amendment to Declaration of Covenants, Easements and Restrictions, Holly Hills Subdivision – Phases I, II, III, IV & V, dated October 9, 2000 and recorded October 18, 2000 in City of Williamsburg as Instrument Number 001108;

13. Amendment to Declaration of Covenants, Easements and Restrictions Holly Hills Subdivision – Phases I, II, III, IV & V, dated August 15, 2008 and recorded October 15, 2008 in City of Williamsburg as Instrument Number 082420 (collectively referred to as “the Declaration”).

B. By the Declaration, Declarant subjected the Submitted Land described on Exhibit A attached hereto and incorporated herein by this reference, to certain covenants, restrictions, easements, charges, liens, and other provisions, all of which are for the benefit of the community and the owners of lots therein.

C. Section 11.2 of the Declaration, as in effect immediately prior to this Amendment provides that the Declaration may be amended by vote of two thirds (2/3) of the Member votes

or proxies. The Declarant Control Period has ended as confirmed by the Amendment to Declaration of Covenants, Easements and Restrictions dated October 9, 2000. The Declarant does not own any property subject to the Declaration.

D. As of the date of this Amendment there are One Hundred Sixty-Seven (167) Members in the Association subject to the Declaration.

E. The "Members" of the Association who are defined in the Declaration as "Owners" of the Lots within the Submitted Land seek to foster and maintain a community that is attractive, safe, welcoming to all, neighborly, peaceful and conducive to optimal property values and in full compliance with applicable laws. "Members" and "Owners" are referred to herein interchangeably.

F. In furtherance of those objectives the Owners of more than two thirds (2/3) of the Lots subject to the Declaration who constitute more than two thirds (2/3) of the Members hereby agree to amend the Declaration in certain respects as set forth herein, as confirmed by the certification of the principal officer of the Association set forth below that they have voted in favor of this Amendment and have signed and acknowledged this instrument in ratification hereof.

G. Pursuant to such agreement, the Declaration is amended as set forth below, and it is hereby declared that the Members' property and all lots in Holly Hills (the "Property") shall be held, sold and conveyed subject to the following amendment which is for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties, their heirs, successors, or assigns, having any right, title or interest therein or in any part thereof, and shall inure to the benefit of each owner thereof.

AMENDMENT TO DECLARATION:

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Except as expressly modified herein, all of the provisions of the Declaration as in effect immediately prior hereto are reaffirmed in their entirety.
2. Section 6.1 USE, shall be deleted in its entirety and the following is hereby substituted in lieu thereof:

Section 6.1. Use.

(a) Residential. All Lots shall be used only for residential uses as permitted by the Applicable Zoning, City Ordinances, generally accepted case law, and the Association Documents.

(b) Short Term Lease or Rental. No Lot, including Improvements, (hereafter Lot/Improvements), or any portion thereof, shall be used or occupied by non-Owners for transient or hotel purposes or in any event leased or rented by non-Owners for a term of less than twelve (12) months, even when the Owner is present. This prohibition includes any provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, in exchange for a charge or other consideration. No Lot/Improvements, or portion thereof, shall be subjected to or used for any timesharing, cooperative, licensing or similar arrangement that would entail daily, weekly, monthly or any other type of revolving or periodic occupancy by multiple Owners, occupants, cooperators, licensees, lessors, renters, or timesharing participants. The Board of Directors may, from time to time, permit temporary occupancy for real estate closing agreements, or renewal of a previous lease, (established per paragraph (c) below), on a month to month basis.

This paragraph (b) is intended and worded to prohibit the operation of a rental business, and does not prevent Owners from sharing their Lot/Improvements with family or friends, where the primary purpose is companionship or personal assistance.

(c) Long Term Lease Long term use of a Lot/Improvements by other than an Owner, shall be in the form of a lease. Leases shall be for a minimum term of one (1) year. All leases shall be for single family occupancy and no more than one lease may be entered into for the same Lot/Improvements for the same term. Subleasing and/or assignment of leases is not permitted. All leases must be for the entire Lot/Improvements and no Owner may avoid this provision by ownership through another entity. No Owner shall lease a Lot/Improvements other than on a written form of Lease: (1) that includes all clauses customary for such leases in the State of Virginia; (2) requiring the lessee and any visitors or additional occupants to comply with all Association rules, regulations, and the Governing Documents; (3) providing that the failure to comply with such documents shall constitute a material default under the lease; (4) providing for an initial obligatory term of twelve (12) months; and (5) providing that subleases and/or assignments shall be prohibited. Owners who lease their Lot/Improvements must: (a) be current in the payment of assessments to the Association; (b) have no outstanding violation of the Governing Documents at the time of leasing and throughout the lease; and (c) provide a copy of the signed lease to the Board of the Association if requested.

If any of the foregoing language in this Section 6.1 conflicts with any applicable federal, state or local law or regulation in effect or which may be adopted from time to time, the conflict shall be interpreted in the manner needed to comply with such laws or regulations, (but no broader than is needed to comply with such laws or regulations).

3. All Capitalized terms used in this Amendment not expressly defined herein shall have the meaning accorded to them in the Declaration.

IN WITNESS WHEREOF, this Amendment is signed and acknowledged on behalf of the Association and by the Members identified in the principal officer's certification.

Holly Hills Community Association

By: _____
President

STATE OF VIRGINIA

CITY OF WILLIAMSBURG, to-wit:

This instrument was acknowledged before me by _____,
President of Holly Hills Community Association, a Virginia corporation, this _____ day of
_____, 2018.

_____(SEAL)
NOTARY PUBLIC

My Commission Expires: _____

CERTIFICATION OF HOLLY HILLS COMMUNITY ASSOCIATION

The undersigned President of Holly Hills Community Association hereby certifies that the Owners of Lots identified in EXHIBIT B attached hereto constituting the Owners of record of at least two thirds of the Lots and also constituting at least two thirds of the Members in the Association have voted in favor of the foregoing amendment, and have signed the foregoing amendment or ratifications thereof.

Holly Hills Community Association

By: _____
President

STATE OF VIRGINIA

CITY OF WILLIAMSBURG, to-wit:

This instrument was acknowledged before me by _____,
President of Holly Hills Community Association, a Virginia corporation, this _____ day of
_____, 2018.

_____(SEAL)
NOTARY PUBLIC

My Commission Expires: _____

LOT OWNER'S SIGNATURE PAGE

SEE NEW VERSION by Toby