Villages at Westminster Homeowners Association

**Proposed Amendments of the Declaration of Covenants**

(Amended and Restated Declaration of Covenants, Conditions and Restrictions)

Purpose/Goal: Update language; make gender neutral; remove obsolete provisions; clarify enforcement for noncompliance; clarify responsibilities for required notices

Original Declaration dated 8/22/1997; Supplemental First, Second, Third, Fourth, and Fifth Declarations, and Corrected Fourth and Corrected Fifth Supplemental Declarations primarily addressed only completed phases of development; other minor changes to grantor’s and declarant’s names

**Recitals**: Add historical context and states amendment process and final vote to adopt amendments was done in accordance with our governing documents

 Reason: Affirms the validity of the amendments; removes obsolete language about the construction phase of development

**Article I. Definitions**. Removes Builder, Declarant, HUD, VA; updates Lot, Mortgagee, and Properties

Reason: Removes obsolete terms; addresses mortgagee rights; encompasses all Lots now that development is completed; streamlines use of subdivision” and “association”

**Article II**. **Property Rights as to Common Areas**. **{Need homeowner input}** Removes reference to Class B memberships; allows the Association to assess violation charges or suspend Owner’s rights for violations.

Reason: Removes obsolete language and aligns with usage and form of other governing documents; empowers the Board to enforce compliance with the Declarations; moves provisions related to encroachments into another Article

**Article III. Membershp and Voting Rights.** Removes references to Class B membership.

Reason: There is only one class of membership since completion of all home construction. Removes obsolete language.

**Article IV. Covenant for Maintenance Assessment**.

**Section 1 Creation of Lien and Personal Obligation of General Assessments.** Removes references to Declarant; removes statutory citation; changes “shall” to “will” throughout document; changes “him” to “their”;

Reason: Removes obsolete reference to Declarant; cleans up language to make for easier readability and to be general neutral

**Section 2 Purpose of General Assessments.** Adds phrase “and for such other reasonable purposes” to how funds can be used

Reason: Ensures the Board can use reserve funds for other purposes than repair and replacement (such as hiring an attorney).

**Section 3 Maximum General Assessment**. cleans up outdated provisions related to pro-rating assessments according to construction phases

Reason: Removes obsolete language to make more readable

**Section 4 Working Capital Contribution Fund**. changes the Working Capital Fund to Capital Contribution and expands amount from six months to twelve months.

 Reason: Applies only to new purchasers of property, not existing homeowners. Allows replenishment of funds that are used for large dollar expenses on aging assets. Has potential to reduce need for Special Assessments.

 **Section 5 Special Assessment for Capital Improvements**. Cleans up wordy language; changes “shall” to “must”

 Reason: Makes for better readability; makes language consistent throughout all documents

 **Section 6 Notice and Quorum for Any Action Authorized under Sections 3 and 4 through 5**. Deletes this section.

 Reason: Removes redundant language; relies on standard notice and quorum provisions for membership meetings.

**Section 7 Uniform Rate of Assessment**. No changes

**Section 8 Date of Commencement of General Assessments**: **Due Dates**. Deletes complex formula for determining dues based on construction. Changes “shall” to “must” or “will.” Eliminates estoppel certificate.

Reason: Aligns all governing language in terms of modern usage, and removes obsolete provisions.

**Section 9** **Effect of Nonpayment of General Assessments: Remedies of the Association.** Changes interest rate determination from prime + 4 to whatever the statutory rate. Adds provision for late fee of 10% of amount due (or at Board’s discretion) on dues unpaid for 30 days or more, and for acceleration of amounts due.

Reason: Cleans up ambiguity in calculation of amount of interest. Specifically allows assessment of a late fee, which was a sporadic practice that caused confusion due to legal interpretation of language.

**Article V Property Restrictions and Architectural Control.**

 **Section 1 Land Use and Building Type**. Changes “shall” to “may” or “will,” clarifies application to Common Area and Lots.

 Reason: Makes more readable and consistent across all governing documents.

 **Section 2 (home based businesses)** Changes “shall” to “may;” strikes prohibition against marked vehicles, rephrases language on traffic streams; removes reference to model and sales trailers; requires appropriate permits or licenses

 Reason: Allows appropriately-licensed or permitted home-based businesses and work vehicles that advertise a business, but requires that traffic or noise not impose on neighbors.

 **Section 3 (subdividing lots)** Removes language about Declarant’s (Developer’s) right to subdivide Lots.

 Reason: All construction is complete. Obsolete.

 **Section 4 (Animals)** Adds “aggressive acts” to what is considered a nuisance.

 Reason: Clarifies expectations of pet and owner responsibility.

 **Section 5 (Dumping grounds)** Removes reference to construction debris. Wordsmiths other language.

 Reason: Obsolete language is removed. Language is consistent with other documents.

 **Section 6 (Open Space use)** Changes “shall be” to “is,” and deletes “Declarant”

 Reason: Readability and alignment with other language use.

 **Section 7 (ARC review)** {**Need Homeowner Input}** Changes scope of what ARC approval is needed for; clarifies that ARC is committee of the Board and does not act independently of the Board; changes response requirements from 15 to 30 days; clarifies when time for approval or rejection starts, and right to appeal to Board

 Reason: Clarifies ambiguities and streamlines the process for ARC approval.

 **Section 8 (underground utilities)**. “Shall” is changed to “must.”

 Reason: Readability and consistency among documents.

 **Section 9 (additional restrictions).** Eliminates satellite dish and solar panel placement restrictions, allows exceptions to window air conditioners, removes Builder references; changes “shall” to “may,” “property” to “lot,” and “Subdivision” to “Association.”

 Reason: Readability, consistency; alignment with state and federal laws.

 **Section 10 Vehicles**. Changes “premises” to “property” and allows for ARC exceptions to parking limits.

 Reason: Consistency; reflect practice to allow recreational vehicles to be maintained at home where electricity and water is available, or when storage lot needs maintenance.

 **Section 11. Easements.** Changes “Declarant” to “Association,” removes references to Declarant.

 Reason. Removes obsolete wording.

 **Section 12. Leasing.** **{Need Homeowner Input}** Changes “his” to “their,” and “shall” to “must.” Adds requirement for Owners to notify management company if property is rented out

 Reason: Consistency, general neutral language. Also affirms Owner’s responsibility to ensure tenant’s compliance with Declaration provisions, and allows for timely notice to a tenant of community events or notice of infractions.

**Article VI. Insurance.**  Adds requirement for Board to maintain liability and fidelity coverage for claims against directors or officers , and public liability and hazard insurance covering common areas and easements.

 Reason: This is our current practice. There is a conflict between one document authorizing but not requiring such insurance, and one requiring it. This clarifies the requirements and makes our documents consistent with each other.

**Article VII General Provisions**.

 **Section 1. Enforcement**; **Section 2, Severability**; and **Section 4, Association Documents**. Changes “shall” to “will” or “must.”

 Reason: Consistency and readability.

 **Section 3. Amendment**. Removes 51% vote of first mortgage holders for passage of future amendments, and removes notice to and approval from HUD and VA.

 Reason: Definition of Mortgagee is changed earlier in this document; mortgage holders have to notify us of their desire for notification. We don’t know who these mortgage holders are without a title search, so this requirement has a significant fiscal impact on the Association, as well as an administrative burden.

 **Section 5. Management Agreement**. Adds authority to enter into such an agreement.

 Reason: This is allowed under Virginia law, and is (and has been) our practice since the Association was created. This removes any ambiguity.

 **Section 6. Additional Covenants.** Changes “shall” to “will” or “must” in several places; clarifies notice requirement to mortgagee; changes “First Mortgagees” to Mortgagees.”

 Reason: Readability and consistency. Also, these are now aligned by defining Mortgagee and giving only some rights to those who have indicated that they are Mortgagees to the Association in writing.

 **Section 7. Easement for Public Necessity**. Removes Declarant’s right to conduct storm water management facilities.

 Reason: Obsolete language.

**Article VIII. Declarant’s Rights and Responsibilities.**. Deletes this Article in whole.

Reason: Obsolete, since we no longer have a Declarant/Developer.

**Article VIII. Condemnation**. Changes Article IX to VIII. Changes “shall” to “will.”

Reason: Aligns numbering. Makes more readable and consistent within document.

**Article IX**. **Annexation.** Article number is changed from X to IX. Sections 1 and 2 on Annexation are deleted. Section 3 subtitle is deleted, but provision on encroachments remains as is. “Shall” is replaced with “will.”

 Reason: The annexation sections are obsolete, as the development is completed. The language is made consistent with rest of documents.

 **Signature block is added at end.** This clarifies when the amended and restated document was approved.