

BY-LAWS
OF
BURGOYNE FOREST WEST
HOMES ASSOCIATION

ARTICLE I

NAME AND LOCATION

The name of the corporation is BURGOYNE FOREST WEST HOMES ASSOCIATION, hereinafter referred to as the "Association".

The principal office of the corporation shall be located at 4084 University Drive, Fairfax, Virginia, but meetings of members and directors may be held at such places within the State of Virginia, County of Fairfax, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Burgoyne Forest West Homes Association, its successors and assigns.

Section 2. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Clerk of the Circuit Court of Fairfax County, Virginia.

Section 3. "Properties" shall mean and refer to that certain real property described in the "Declaration" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereon) owned by the Association for the common use and enjoyment of the members of the Association.

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 and areas dedicated as public streets.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "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 8. "Declarant" shall mean and refer to Richard D. Goodman, his successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association.

The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

ARTICLE IV

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article II with the exception of the Declarant.

Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds such 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 shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in which he holds the interest required for membership by Article III; provided, that 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 January 1, 1985.

ARTICLE V

PROPERTY RIGHTS IN COMMON AREAS

Section 1. Members' Easement of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed 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 facilities situated upon the Common Area;

(b) the right of the Association to limit the number of guests of members;

(c) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and to acquire property encumbered by the lien or liens of the deed or deeds of trust securing improvements on said property;

(d) the right of the Association to suspend the voting rights and right to use of the Common Area and the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(e) the right of the Association at any time upon a dissolution 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, provided that any such dedication or transfer shall have the assent of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

(f) The right of any public utility to acquire, without the payment of damages to the Association, easements for the construction, reconstruction, installation, repair and/or necessary maintenance of utility lines through or over any portion of the Common Areas. The foregoing shall not be construed, however, to permit any such public utility to acquire or damage any improvements situated upon the Common Areas, or other structures or installations thereon which would otherwise be deemed to be part of the realty, without the payment of damages, including severance or resulting damages, if any to the Association, all in accordance and in a manner now or hereafter governing proceedings for the acquisition of private property for public use by condemnation in this state.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the member's Lot.

ARTICLE VI

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of five (5) directors, who need not be members of the Association and such number can be changed only by amendment of the Articles of Incorporation.

Section 2. Election. At the first annual meeting the members shall elect two directors for a term of one year, two directors for a term of two years and one director for a term of three years; and as the terms of such directors expire, new directors shall be elected for terms of three years.

Section 3. Removal. Any director may be removed from the board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VII

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VIII

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The person receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE IX

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power:

(a) to adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) to suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) to exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) to declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) to employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors:

(a) to cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) to supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same;

(d) to issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) to procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) to cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) to cause the Common Area to be maintained.

ARTICLE X

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Duties. The duties of the officers are as follows:

President

- (a) The president shall preside at all meetings of the Board of Directors;
- (b) shall see that orders and resolutions of the Board are carried out;
- (c) shall sign all leases, mortgages, deeds and other written instruments; and
- (d) shall co-sign all checks and promissory notes.

Vice-President

The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; and shall perform such other duties as required by the Board.

Treasurer

The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE XI

COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XII

MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 8:00 o'clock p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE XIII

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XIV

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. 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.

ARTICLE XV

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: BURGOYNE FOREST WEST HOMES ASSOCIATION.

ARTICLE XVI

AMENDMENTS

These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

ARTICLE XVII

MISCELLANEOUS

Section 1. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 2. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BURGOYNE FOREST WEST

THIS DECLARATION, made this ____ day of _____, 19, by Richard D. Goodman, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Fairfax, State of Virginia, which is 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 in 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 Burgoyne Forest West Homes Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the 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 hereinbefore 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 (including the improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

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 Richard D. Goodman, his successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to 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 sixty (60) days 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.

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 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 January 1, 1985.

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 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 for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Common Area.

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 Sixty Dollars (\$60.00) per Lot.

(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 ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(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 ten percent (10%) by a vote of two-thirds (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 (2/3) 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 Sections 3 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 thirty (30) days nor more than sixty (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 (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (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 the conveyance of the Common Area to the Association. 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 thereto. 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 specified 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 at the rate of six percent (6%) per annum. The Association may bring an action 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.

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 therein be made until the plans and specifications showing the nature, kind, shape, height, materials 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 Control 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

USE RESTRICTIONS

Section 1. **Residential Use.** All Lots shall be used for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height and a private garage for not more than two (2) cars.

Section 2. **Nuisances.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently.

Section 4. **Signs.** No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 5. **Livestock and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 6. **Garbage and Refuse Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 7. **Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot.

Section 8. **Septic Tanks.** No individual sewage-disposal system shall be permitted on any Lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the State of Virginia and Fairfax County. Approval of such system as installed shall be obtained from such authority.

Section 9. **Clotheslines.** No outside clotheslines shall be erected or maintained on any Lot.

Section 10. **Antennas.** No exterior television or radio antenna of any sort shall be placed, allowed or maintained upon any portion of the Improvements or Lots without the prior written consent of the Architectural Control Committee.

Section 11. **Driveways and Parking.** No vehicle may be parked on any Lot except in the garage or driveway serving such Lot. No commercial vehicles, boats, trailers, campers, motor homes, or other recreational vehicles shall be parked on any Lot except within a fully enclosed garage.

Section 12. **Easements.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

Section 13. **Maintenance of Lots.** Each Owner shall keep his Lot in a neat and orderly condition and shall maintain all improvements thereon in good repair.

ARTICLE VII

GENERAL PROVISIONS

Section 1. **Enforcement.** The Association, or any Owner, shall have the right to enforce, by any 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 any one 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 periods 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 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.

SCHEDULE ADESCRIPTION OF PORTIONS OF THE LAND OF RICHARD D. GOODMAN
SPRINGFIELD DISTRICT
FAIRFAX COUNTY, VIRGINIA

BEGINNING at a point in the northerly line of POHICK ROAD (Route #641), said point being the southwesterly corner of THE LAND OF GREEN;

THENCE running with the northerly line of POHICK ROAD the following courses and distances:

S 86° 03' 18" W 57.82 feet to a point, S 82° 50' 22" W 157.04 feet to a point and S 81° 04' 17" W 224.66 feet to a point, said point being the southeasterly corner of THE LAND OF POPOVICH;

THENCE departing the northerly line of POHICK ROAD and running with the easterly line of POPOVICH and continuing with the easterly line of THE LAND OF GREEN N 13° 13' 46" W 608.61 feet to a point;

THENCE departing the easterly line of GREEN and running through THE LAND OF GOODMAN the following courses and distances:

N 55° 02' 10" E 227.17 feet to a point, N 76° 46' 14" E 44.01 feet to a point, S 58° 13' 46" E 66.08 feet to a point, S 13° 13' 46" E 62.92 feet to a point and N 76° 46' 14" E 209.43 feet to a point in the westerly line of THE LAND OF GREEN;

THENCE running with the westerly line of GREEN S 07° 22' 57" E 630.72 feet to the point of BEGINNING CONTAINING 7.1689 ACRES.

SCHEDULE B

BEGINNING at a point in the southerly line of THE LAND OF FOUSE AND BILD, INC., said point being the northwesterly corner of THE LAND OF DE LUCA;

THENCE departing the southerly line of FOUSE AND BILD, INC. and running with the westerly line of DE LUCA S09° 48' 58" E 680.00 feet to a point;

THENCE departing the westerly line of DE LUCA and running through THE LAND OF GOODMAN S82° 02' 17" W 630.26 feet to a point and continuing through THE LAND OF GOODMAN and with the easterly line of THE LAND OF POOLE N 09° 51'33" W 655.48 feet to a point in the southerly line of THE LAND OF BLESSLEY, said point being the northeasterly corner of POOLE;

THENCE running with the southerly line of BLESSLEY and continuing with the southerly lines of THE LANDS OF FLEMING and FOUSE AND BILD, INC. N 79° 48' 30" E 630.44 feet to the point of BEGINNING CONTAINING 8.6601 ACRES.

This instrument with certificate annexed,
admitted to record-Office of Circuit Court

Fairfax County, Va. FEB 24 1978 at 2:58 p

Tested:

Janna E. Hooper Clerk

4515 173

STATE OF VIRGINIA
COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public, in and for the County and State aforesaid, whose commission expires on the 18th day of JANUARY, 1981, do hereby certify that RICHARD D. GOODMAN, whose name is signed to the foregoing Declaration of Covenants, Conditions and Restrictions, has personally acknowledged the same before me in my State and County aforesaid.

GIVEN under my hand and seal this 21st day of NOVEMBER, 1977.

Michel Ante Marshall
Notary Public

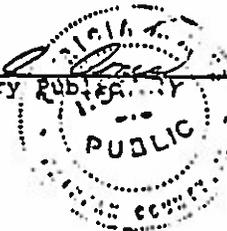


STATE OF VIRGINIA
COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public, in and for the County and State aforesaid, whose commission expires on the 31st day of Nov, 1981, do hereby certify that Richard D. Goodman and Michelle E. Proceller, whose names are signed to the foregoing Declaration of Covenants, Conditions and Restrictions, as President and Secretary, respectively, of BURGUYNE FOREST WEST HOMES ASSOCIATION, have acknowledged the same before me in my State and County aforesaid to be the act and deed of said corporation.

GIVEN under my hand and seal this 31st day of November, 1977.

Patricia A. Proceller
Notary Public



HAZIL,
HECKMORN & MANIS
Attorneys at Law
P. O. Box 347
Chesapeake, Virginia 23026

AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDMENT AGREEMENT made this 24th day of JULY, 1978, by RICHARD D. GOODWIN, party of the first part; and BURGoyNE FOREST WEST HOMES ASSOCIATION, a Virginia non-stock corporation, hereinafter referred to as "Association", party of the second part.

W I T N E S S E T H :

WHEREAS, the party of the first part subjected Lots One (1) through Forty-One (41), inclusive, and Parcels "A" and "B", Section One (1), Burgoyne Forest West to the covenants and restrictions contained in the Declaration of Covenants, Conditions and Restrictions dated November 21, 1977 and recorded in Deed Book 4815, at page 760, of the land records of Fairfax County, Virginia; and

WHEREAS, the parties hereto agree that it is in the best interest of the Burgoyne Forest West Subdivision to amend the Restrictive Covenants of the Declaration as hereinafter provided; and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions provides in Article VIII, Section J, for amendment by an instrument duly recorded among the land records of Fairfax County, Virginia, and executed by not less than ninety percent (90%) of the Lot Owners; and

WHEREAS, the party of the first part is the sole owner and proprietor of all the lots in the subdivision, having acquired title thereto by Deeds recorded in Deed Book 4383, at Page 249, and in Deed Book 4303, at Page 252, of the land records of Fairfax County, Virginia.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the party of the first part, together

WAZL
SCHEPPI & HANES
Attorneys at Law
P. O. Box 347
Arling, Virginia 22200

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J. O. H. D. 10/16
2:53 PM
26-72

with the party of the second part which joins herein to acknowledge its consent to this amendment, does hereby amend the Declaration of Covenants, Conditions and Restrictions dated November 21, 1977, and recorded in Deed Book 4815, at Page 760, of the aforesaid land records by addition of the following section to Article VIII, entitled General Provisions:

Section 6. FHA/VA Approval. After initial approval of the Lots for FHA or VA financing for so long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration.

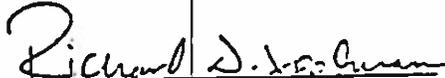
a) Annexation of additional properties except the land within that certain tract acquired by the Declarant by Deeds recorded in Deed Book 4383, at Page 249 and in Deed Book 4383, at Page 252, among the land records of Fairfax County, Virginia;

b) Dedication of Common Area; and

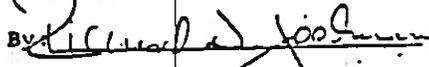
c) Amendment of the Declaration of Covenants, Conditions and Restrictions.

It is understood and agreed that except as herein amended, all terms and provisions of the Declaration of Covenants, Conditions and Restrictions shall remain in full force and effect and nothing contained herein shall be deemed or construed to impair or affect the validity of the Declaration.

WITNESS the following signatures and seals:


RICHARD D. GOODMAN

BURGOYNE FOREST WEST
HOMES ASSOCIATION

By 

STATE OF VIRGINIA
COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public, in and for the State and County aforesaid, whose commission expires on the 28th day of January, 1981, do hereby certify that RICHARD D. GOODMAN, whose name is signed to the foregoing, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

HAZEL
SCHEIDT & MATHEIS
Attorneys at Law
P. O. Box 347
Arling, Virginia 22030

BURGOYNE FOREST WEST HOMES ASSOCIATION

POLICY RESOLUTION NO. 95-1

**(Policies and Procedures Relative to the Collection
of Routine and Delinquent Assessments)**

WHEREAS, Article IX, Section 1 of the Bylaws empowers the Board of Directors to set policies and to adopt Rules and Regulations for the Association;

WHEREAS, Article XIII, Section 1 of the Bylaws personally obligates each lot owner to pay an annual assessment to fund the common expenses of the Association; and

WHEREAS, the Board of Directors deems it necessary and in the best interest of the Association to establish orderly procedures for the billing and collection of assessments.

NOW, THEREFORE, BE IT RESOLVED THAT the following assessment procedures be adopted:

I. ROUTINE COLLECTIONS

- A. All quarterly installments of the annual assessment shall be due and payable on the first day of the applicable quarter ("Due Date").
- B. The Board shall mail a notice to every lot owner to inform the lot owner of the amount of the lot owner's fee; however, no lot owner will be excused of the obligation to pay the assessment if notice is not received. Each lot owner is under a legal duty to seek out information from the Association about the assessment if the notice is not received.
- C. Non-resident lot owners must furnish the Board with a telephone number and address where they can be contacted; otherwise, all notices shall be sent to the property address within the Association and members shall be responsible for the information contained therein.
- D. Questions regarding the assessment may be directed to the Association's Treasurer, who is currently Robert Morgan, (703) 455-2569.

II. REMEDIES FOR NON-PAYMENT OF ASSESSMENTS

- A. Late Charge - Any installment of the assessment which is not fully paid to the Association within 15 days of the Due Date shall be considered delinquent and a late charge in the amount of \$5.00 shall be posted to the

account. Additional late charges in the amount of \$5.00 shall be posted to the account every 30 days thereafter until the installment and all associated late charges are fully paid.

- B. Returned Check Charge - If the Association receives a check from a member which fails to clear the lot owner's account, an administrative fee of \$20.00 may be posted to the account.
- C. Acceleration and Suspension of Privileges - Whenever any lot owner fails to pay any portion of the assessment, the following action may be taken by the Board:
1. The entire balance of the annual assessment may be accelerated and declared due in full; a lien in the accelerated amount may be recorded against the title of the lot; and/or a lawsuit may be filed against the lot owner in the Fairfax County Courts.
 2. The Board may suspend a lot owner's privileges and benefits of membership in the Association. If imposed, the suspension shall continue until payment in full on the account is received by the Board of Directors. Such suspension may include, but is not limited to, revocation of parking privileges. The lot owner shall be responsible for all costs which the Association incurs while effectuating the suspension or reinstatement of privileges and benefits of membership.
- D. Method of Crediting Payments - Payments received by the Association from delinquent lot owners shall be credited in the following order of priority, as applicable:
1. Any legal fees or costs of collection;
 2. Late charges and interest;
 3. All other charges and fees incurred by the Association as a result of any violation by a member, his family, employees, agents, tenants or licensees of the regulations of the Association;
 4. Any and all special assessments; and
 5. The monthly assessment for that lot.

III. ASSISTANT SECRETARY

A. The Board of Directors hereby appoints Juan R. Cardenas and Mitchell N. Roth, counsel for the Association, as Assistant Secretaries for the purpose of signing Memoranda of Lien.

This Resolution was duly adopted by the Board of Directors this 13th day of June, 1995.

BURGOYNE FOREST WEST HOMES
ASSOCIATION

By: Joseph A. Monte
Joseph Monte, President

BURGOYNE FOREST WEST HOMES ASSOCIATION

POLICY RESOLUTION NO. 95-2

**(Creation of Procedures to Ensure
Due Process in Enforcement Cases)**

WHEREAS, the Virginia Property Owners' Association Act provides the Board of Directors with the power to assess monetary charges against members of the Association who are responsible for violations of the rules and regulations of the Association;

WHEREAS, the Virginia Property Owners' Association Act requires the Board of Directors to formally adopt and publish a written resolution to enact the statutory power to assess monetary charges against members for violations of the rules and regulations of the Association; and

WHEREAS, for the benefit and protection of all of the members of the Association, the Board of Directors deems it desirable to formally adopt a resolution to enact the statutory power to assess monetary charges and to establish a procedure for enforcement of the rules and regulations of the Association which are consistent with principles of due process and Virginia law.

NOW, THEREFORE, BE IT RESOLVED THAT the following procedures to ensure due process in enforcement cases are enacted:

I. ENFORCEMENT STEPS

- A. On behalf of the Association, the Board of Directors may undertake enforcement action upon its own detection of a violation of any rules and regulations of the Association or upon its confirmation of a violation reported by any source. At the discretion of the Board of Directors, initial enforcement action may take the form of verbal or informal written notification to the offending member.
- B. When informal notification is not elected or proves unsuccessful, the Board of Directors may issue a formal notice in writing. The formal notice shall be delivered by hand or mailed by registered or certified mail, return receipt requested, to the member at the member's address listed on the records of the Association, and to the property address, if different. NOTIFICATION WILL BE DEEMED EFFECTIVE IF ANY MEMBER FAILS OR REFUSES TO SIGN FOR ANY REGISTERED OR CERTIFIED MAILING FROM THE ASSOCIATION.
- C. Formal written notice to the member will generally advise the member of the nature of the offense, the citation of the specific provision within the

Association's governing documents which has allegedly been violated, the specific remedy required, and the number of days in which corrective action must be completed in order to preclude the possible imposition of a monetary charge.

- D. When formal written notice does not result in correction of the violation, the Board of Directors may impose monetary charges against the offending member. The decision shall be made by the Board of Directors at a duly convened meeting, and the decision shall be recorded in the minutes.

II. NOTICE AND HEARING GUIDELINES

Before the monetary charge may be made legally effective, the member shall be informed in writing of his/her right to request a hearing to contest the citation or the imposition of the monetary charge. The following guidelines apply to the notice and hearing procedure:

- A. A written notice delivered by hand or mailed by registered or certified mail, return receipt requested from the Board of Directors to the member shall advise the member of his/her right to contest the monetary charge at a hearing before the Board of Directors. Such notice will request the member to confirm in writing by a certain date his/her desire for a hearing to contest the monetary charge. The Board of Directors shall set all hearing dates at its discretion.
- B. WHEN NO RESPONSE IS RECEIVED FROM THE MEMBER BY THE DATE WHEN THE MEMBER MUST CONFIRM HIS/HER REQUEST FOR HEARING, OR WHEN THE MEMBER REQUESTS A HEARING BUT FAILS TO ATTEND THE HEARING WITHOUT PROVIDING REASONABLE AND SATISFACTORY EXPLANATION, THE MEMBER SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO REQUEST A HEARING. THE BOARD OF DIRECTORS SHALL NOT BE REQUIRED TO CONDUCT A HEARING UNLESS THE MEMBER CONFIRMS HIS/HER INTENTION TO ATTEND THE HEARING IN WRITING, AND THE BOARD OF DIRECTORS MAY IMPOSE A MONETARY SANCTION IN THE ABSENCE OF THE MEMBER.
- C. When hearings are conducted, the Board will provide the member with a reasonable amount of time to present any and all defenses to the alleged violation.
- D. Following such hearing, the Board may meet in executive session to discuss whether satisfactory proof of the alleged violation exists, and, if so, whether monetary charges should be levied.

III. ENFORCEMENT REMEDIES

When the determination of the Board of Directors is unfavorable to the member, the Board will undertake the administrative actions required to effect a charge as an assessment against the member's lot. Monetary charges may not exceed \$50.00 for a single offense or \$10.00 per day for any offense of a continuing nature.

The Board of Directors shall use the following definitions:

- A. Single offense: A one-time act or omission by a member (or his family, tenant, guest or invitee) determined by the Board of Directors to constitute a violation of any provision of the Association's rules and regulations. Members shall be legally responsible to ensure that their tenants, guests, or invitees comply with the Association's regulations.
- B. Continuing Offense: The failure of a member (or his family, tenant, guest or invitee) to rectify an act or omission determined by the Board of Directors to constitute a violation of any provision of the Association's rules and regulations for more than one day after receipt of any written notice from the Board of Directors, or the reoccurrence of a single offense within six months of the date of the receipt of the written notice of the imposition of monetary charges for the single offense. Daily charges for continuing offenses may accrue up to the date when the member notifies the Board of Directors in writing that correction of the violation has occurred (subject to later confirmation by the Board of Directors). If the correction of a continuing offense has been confirmed by the Board, the monetary charge levied against the member's lot through the day of correction will remain in place.
- C. Applicability: The procedures outlined in this Resolution may be applied to all offenses of legal restrictions of the Association, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's legal documents, including, but not limited to, suspension of privileges, initiation of suit or self help remedies.

The effective date of this Resolution shall be June 13, 1995.

I hereby certify that this Policy Resolution was duly adopted by the Board of Directors on June 13, 1995.

BURGOYNE FOREST WEST HOMES
ASSOCIATION

By: Joseph A. Monte
Joseph Monte, President

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The association may impose and collect a charge reflecting the actual cost of the preparation of the disclosure packet, but shall not exceed ten cents per page for copying costs, and the total cost may not exceed \$100. The association is legally bound by its statements in the packet regarding 1) status of the assessment account and, 2) violations of architectural guidelines on the property. If the association fails to provide the packet on time, it will likely be unable to collect delinquent assessments attributable to the seller. The purchaser cannot be held accountable for actions and violations of the former owner. If the seller is financially harmed due to the association's failure to provide the packet on time, the association may also be liable for damages of up to \$500. Sample forms for requesting a disclosure packet are at the end of this chapter.²

In 1995, section 55-516.2 was added to the Act to empower an association to negotiate with local governments for monetary awards when the association's common area is taken or damaged by eminent domain. This provision also stops individual members from contesting the association's (negotiation) actions in such matters.³ The Property Owners Association Act is available from the Virginia Real Estate Board and in the reference section of the County Public Libraries. It can also be downloaded from the Internet at <http://leg1.state.va.us/000/src.htm> (enter 55-508 in the search window, press submit or enter, and click the same section number which is displayed as a link).

Burgoyne Forest West Home Owners Association
Architectural Review Committee (ARC)
PO Box 2488 Springfield VA 22152
bfwha@hotmail.com

Application for Work Activity Approval

Name: _____

Address: _____

Lot Number: _____

Telephone: _____

Type of Home: _____

Date Work is Scheduled to Begin: _____

Date of Anticipated Completion: _____

Describe in detail the work to be performed. Include type and color of siding, windows, or doors:

Blueprints, brochures, or legible drawings must accompany this application in order for the ARC to consider approval. All structures must be inspected by Fairfax County Government upon completion.

Contractor/Company Name: _____

Contractor/Company Address: _____

Contractor/Company Telephone: _____

To be completed by the ARC

Approved By: (Print name and title) _____

Signature: _____ Date: _____