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**DECLARATION OF PROTECTIVE
COVENANTS AND CONDITIONS
OF
MONTE VISTA ESTATES, SECTION ONE**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, SMS Land Company, LLC, a Virginia limited liability company, is the owner and proprietor of certain lots of land situate and designated on a plat entitled "Monte Vista Estates, Section One", made by Michael W. Mars L.S., which plat is to be recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, immediately prior to the recordation hereof;

WHEREAS, the aforesaid owner of the aforesaid lots of land, in order to insure purchasers of said lots a uniform mode of development, desires that all of the lots in said subdivision, but specifically excluding all of the other lands of SMS Land Company, LLC, whether now owned or hereinafter acquired, be sold subject to the following restrictions, conditions, covenants, limitations and easements, these restrictions being designed to limit use of the land to residential purposes, to promote pleasing and harmonizing architectural designs, and to protect lot owners against undesirable uses by other lots owners;

NOW, THEREFORE, SMS Land Company, LLC, covenants and agrees for itself, its successors and assigns, that each and every one of said lots shown on said plat shall be sold and held by the purchasers thereof, their heirs, successors, devisees and assigns, subject to the following restrictions, conditions, covenants, limitations and easements which shall run with the title to said lots, to wit:

- 1) That each lot be used for single family residential purposes and for no other purpose. No trailer, double wide, basement, tent, shack, barn or other outbuilding

erected on any of said lots shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted. No house trailer shall be permitted on any of said lots at any time.

- 2) No building or other improvements shall be erected, placed, or altered on any of said lots until construction plans and application, and a plat showing the location of the structure have been submitted in writing and approved by the Architectural Review Committee as to external design and materials, harmony of external design with existing structures and as to location on the lot. No fence, wall or storage accessory building shall be erected, placed or altered on any of said lots unless similarly approved. No wall, fence or hedge exceeding three feet (3') in height shall be constructed or planted forward to the front elevation of the dwelling.
- 3) The Architectural Review Committee hereinabove referred to is composed of three (3) persons designated by the members of SMS Land Company, LLC, a Virginia limited liability company. A majority of the committee may designate a representative to act for it. The Architectural Review Committee approval or disapproval as required in these covenants shall be in writing. In the event that the Committee or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin construction has been commenced prior to the completion thereof, approval will not be required and the covenants herein provided shall be deemed to have been fully complied with. At such time as SMS

Land Company, LLC, chooses, or in any event no later than the date on which the last of all lots in all sections of the subdivisions to be called Monte Vista Estates Subdivision is sold by said limited liability company, the Architectural Review Committee shall consist of at least three (3) in number elected by the record title owners of all lots in said subdivision, each lot having one (1) vote in such election. Such election may be called by any one lot owner in this subdivision by giving thirty (30) days written notice to all other lot owners at the address then listed with the Treasurer of the governmental subdivision having real estate taxing jurisdiction over said subdivision.

- 4) The aforesaid Architectural Review Committee shall have full, absolute and complete discretion to approve or disapprove all exterior street lighting, proposed buildings and improvements on any of said lots and in the exercise of its discretion said Committee shall not be bound to approve any proposed buildings and improvements solely because such comply with the other restrictions and covenants herein contained or are equal in cost or value to buildings and improvements on other others. Said committee shall also have the further discretion to approve any proposed buildings or improvements on any of said lots even though said improvements do not meet the requirements of the other provisions of this instrument, if, in the value of the adjoining property. In no event, however, shall said Committee be empowered to permit any use of said lots other than as provided in paragraph 1 above.

- 5) No residence or other building shall be constructed upon said lot nearer the front of said lot or nearer the other boundaries of said lot than the distance set forth in the zoning ordinance of the governmental body having jurisdiction over the real estate.
- 6) No dwelling shall be permitted to be erected on any of said lots unless adequate provisions for off-street parking for at least two (2) vehicles be provided upon such lot.
- 7) No dwelling shall be erected or placed on said lot which has an exterior construction of stucco or concrete block aggregate, basement and foundation walls excepted, and exposed foundation or basement walls shall be brick, stone or equivalent veneer. The exterior shall be completed within nine (9) months after start of construction. All driveway entrances shall be constructed of concrete from street to property line. All driveways shall be constructed of concrete or blacktop as approved by the Architectural Review Committee.
- 8) No sign of any kind shall be displayed to be public view on any of said lots except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by the builder to advertise the property during construction. One sign not exceeding one-half ($\frac{1}{2}$) square foot displaying the name of the owner of the property shall be permitted on any of said lots. No directional or pointer signs will be allowed anywhere within said subdivision.

- 9) No satellite receiving devices shall be erected between the dwelling unit and any street or streets bordering the lot. Installation of the same shall be as unobtrusive as possible.
- 10) No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said lots, except that dogs, cats or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose. All exterior kennels or fencing for pets must be approved by the Architectural Review Committee.
- 11) No stripped down, partially wrecked, or junk motor vehicle or sizable part thereof, shall be permitted to be parked on any street or any lot in such manner as to be visible to the occupants of other lots or to the users of any street or road. No commercial vehicle or truck larger than a pick-up truck shall be parked for overnight (or longer) storage on any street or on any lot in such a manner as to be visible to the occupants of other lots or the users of any street or road, except those vehicles which will be necessary during the actual period of construction.
- 12) All lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such a manner as to prevent their becoming unsightly by reason of unattractive growth on such lot or the accumulation of rubbish or debris thereon.
- 13) None of said lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary and closed containers, and all incinerators or other containers shall be appropriately screened from view of

any street or road on which any of said lots front. Said lots shall be mowed and properly maintained at all times.

- 14) None of said lots shall be re-subdivided into small lots, nor shall any portion of any lot be sold and conveyed by the owner thereof without the prior approval of the Architectural Review Committee. The right to approve such re-subdivision of lots and to relocate lot lines of any unsold lots is reserved to the Architectural Review Committee and to SMS Land Company, LLC.
- 15) Easements for drainage and for the installation, repair, replacement and *maintenance of underground water and sewer pipes and mains and for overhead or underground electric power and telephone lines* are reserved to SMS Land Company, LLC over, through, and across the strips of land designated on the aforesaid plat as drainage and utility easements for a width of ten feet (10'), unless noted for a larger width on the aforesaid plat. Such easements are expressly reserved to the use of Monte Vista Estates Subdivision and no third party shall be or become entitled to the use thereof, nor shall any other party, except the lot owner, have any vested interest in or to the use of such easements except SMS Land Company, LLC or such utility company as may be granted specific rights over, through or across such easements. Except as such rights are granted to a utility company by a recorded easement or right-of-way or by the Owner's Consent and Dedication, a release by SMS Land Company, LLC to any individual lot owner of any easements so reserved shall operate as a complete release to such

lot owner and no other party shall be entitled to exert any claim or right to the use thereof.


- 16) There is hereby reserved unto the owner of owners of a majority of all lots in all Sections of Monte Vista Subdivision if additional sections are developed, the right, privilege and option to create a homeowner's association designed to promote the orderly administration of housing affairs within the Subdivision, and in the event such an association is formed, each lot shall be subject to the rules and regulations as promulgated by said association including periodic assessments as may be deemed necessary.
- 17) These restrictions, conditions, covenants, limitations and easements shall run with the title to the land and shall be binding upon all parties owning said lots and all persons claiming under them until *June 1, 2010*, at which time they shall be automatically renewed for five (5) successive additional ten (10) year period, unless sooner terminated by the written consent of all parties in interest.
- 18) The failure on the part of the Grantor to enforce any restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto.

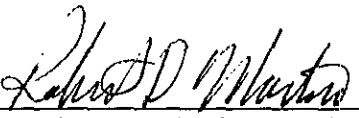
Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain the violation or to recover the damages, or both. One or more owners in the subdivision shall be proper parties to institute such proceedings.

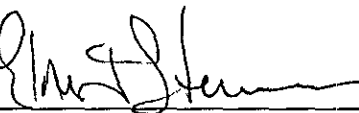
Invalidation of any one of the provisions of this instrument by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, SMS Land Company, LLC, a Virginia limited liability company, has caused its name to be hereunto affixed this 10th day of October, 2001.

SMS Land Company, LLC,
a Virginia limited liability company,

BY:  (SEAL)
Fred R. Showalter, Member

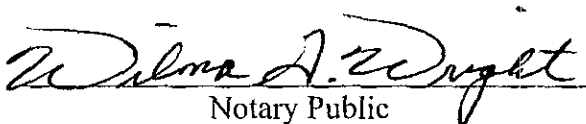
BY:  (SEAL)
Robert D. Martin, Member

BY:  (SEAL)
Elam J. Steiner, Member

STATE OF VIRGINIA
CITY/COUNTY OF Harrisonburg, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this 16th day of October, 2001, by Fred R. Showalter, as Member of SMS Land Company, LLC, a Virginia limited liability company.

My commission expires: March 31, 2004.


Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF Harrisonburg, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this 16th day of October, 2001, by Robert D. Martin as Member of SMS Land Company, LLC, a Virginia limited liability company.

My commission expires: March 31, 2004

William J. Wright
Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF Harrisonburg, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this 17th day of October, 2001, by Elam J. Steiner as Member of SMS Land Company, LLC, a Virginia limited liability company.

My commission expires: March 31, 2004

William J. Wright
Notary Public

OCT 25 11 4:20
CIRCUIT COURT
L. WAYNE HARPER, CLERK

GMH:56498:1:TFG0240.WPD

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The foregoing instrument was duly acknowledged to me in the jurisdiction aforesaid, and together with the certificate of acknowledgment annexed, admitted to record on the 25 day of Oct, 2001 at 4:20 P.M. I certify that taxes were paid when applicable:
Sec. 58-54 - State _____ County _____ City _____
Sec. 58-54.1 - State _____ County _____ City _____ Transfer _____
Recording 190 TESTE
L. WAYNE HARPER
CLERK

Deed Book No 1985 Page 244
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