

THE RETREAT
FORCE MAIN SEPTIC SYSTEM DECLARATION

THIS DECLARATION is made and entered into this the 5th day of November, 2002, by Plyler Development, Inc., a Virginia Corporation, hereinafter referred to as the Developer.

WITNESSETH:

WHEREAS, the Developer is the owner and developer of The Retreat Subdivision, located on Smith Mountain Lake in Franklin County, Virginia; and

WHEREAS, a plat of said subdivision, prepared by Philip W. Nester Inc., Land Surveyor, dated August 21, 2002 and revised September 23, 2002 and recorded in the Clerk's Office of Circuit Court of Franklin County, Virginia, in Deed Book 758 at page 592; and

WHEREAS, certain lots of said subdivision are required by the Franklin County Health Department to have off site septic drain fields served by force mains; and

WHEREAS, The County of Franklin, through its subdivision regulations, requires a maintenance agreement for force mains and off site drain fields.

NOW THEREFORE THIS DECLARATION OF COVENANTS:

That the Developer, Plyler Development, Inc., being the owner of the aforesaid lots of The Retreat Subdivision, hereby imposes covenants on certain lots in the aforesaid subdivision as follows:

1. All lots needing off site pump back systems are hereby encumbered with a maintenance covenant requiring each of those lot owners to maintain the individual force main and septic line which serves the residence to be located on each respective lot from its point of origination on the aforesaid lot, along with septic easements on the aforesaid plat to and including the designated drain field area. Said maintenance requires underground maintenance only and it does not require surface maintenance such as mowing grass.
2. When individual force mains are located in a common septic easement and it cannot be determined which septic line or force is defective, the lot owners, as a group, utilizing a pump back system, shall guarantee the repairing contractor payment to locate and correct the defective septic line so that the contractor can proceed to correct the defect. However, if it can be determined that an individuals septic line or force main was defective, the lot owner whose septic line was defective, shall be responsible for the entire payment and reimbursement to the other lot owners for any cost incurred by them.

3. If damage shall occur to one or more septic lines or force mains and it cannot be determined which one was defective, then the cost the repair shall be prorated, among the lot owners that are affected, proportionate to the damages sustained to the septic lines and force mains. The Developer, its successors or assigns, shall be the governing authority.
4. The covenants contained herein shall be construed as a covenant running with the land and not a personal contract or covenant with the present lot owners and shall obligate all future lot owners of the aforesaid lot, to the covenant herein.
5. It shall be the duty of each lot owner to maintain, repair or replace the septic system servicing his or her respective lot in The Retreat, including all septic lines, force mains and drain fields not located within the septic easement. If a property owner fails to keep his or her septic system, septic lines, and/or force main in a good and serviceable condition and acceptable state of repair, the Developer, its successors or assigns, or any lot owner of the herein affected lots are hereby authorized to give ten (10) days notice by mail, addressed to the offending property owner requiring the lot owner to correct the defective septic system, force main or septic line in order to keep the subdivision attractive and in good healthy condition. Each of the aforesaid lot owner's respective shares of the determined repair cost, if unpaid, shall constitute a lien, which shall run perpetually with the offending lot in the subdivision.

ENFORCEMENT

In the event of the failure of a lot owner to comply with any of the provisions in these maintenance covenants regarding septic system maintenance, it shall be lawful for the Developer, its successors or assigns, or any lot owner of the herein affected lots, to institute any proceeding at law or at equity against the person or persons failing to comply with this covenant, either to recover damages or to enforce the terms of this covenant; or to prevent him or her from doing any action violating this covenants; or to take any other action at law or in equity which may be necessary to legally enforce the covenants herein.

MUTUALITY OF BENEFIT AND OBLIGATION

This maintenance covenant set forth herein is made for the mutual and reciprocal benefit of each and every lot owner of lots set forth herein and is intended to create mutual, equitable serviceable servitude's upon each of the lots in favor of each land all of the other lots set forth herein; to create reciprocal rights between the respective owners of all of the lots in The Retreat Subdivision; to create a privity of contract and estate between the grantees of the lots, their heirs, successors or assigns, which shall insure to the owner of each lot set forth herein, his or her heirs, successors or assigns and operate as covenants running with the land for the benefit of each and all other lots set forth herein and owners.

BK 0758 PG 00994

WITNESS the following signatures and seals:

The Retreat Subdivision, by
Plyler Development, Inc.

By: E. Derrick Plyler
E. Derrick Plyler, President

By: Erik L. Plyler
Erik L. Plyler, Vice-President

State of Virginia,
County of Franklin, to-wit:

The foregoing instrument was acknowledged before me this 5th day of
November, 2002, by the above named; E. Derrick Plyler, President of Plyler Development, Inc. and
Erik L. Plyler, Vice-President of Plyler Development, Inc.

Tanya Register
Notary Public
TANYA Register
315583

My Commission Expires September 30, 2006