

DECLARATION OF RESTRICTIONS

This Declaration made this 7th day of October, 1993, by Clear Creek Development Co., a Delaware limited liability company (hereinafter called 'Declarant').

WHEREAS, Declarant is the owner of certain lots or parcels of land situated in Pencader Hundred, New Castle County and State of Delaware, as shown on the record Major Subdivision Plan of Clear Creek, at Lexington Farms, being more particularly described in EXHIBIT A attached hereto and made a part hereof;

WHEREAS, Declarant is desirous of imposing upon said land certain restrictions and covenants regarding the use thereof;

NOW, THEREFORE, the Declarant WITNESSETH: that for and in consideration of the premises hereby declares that the land described in Exhibit A shall be held, sold and conveyed subject to the following restrictions, reservations, covenants, limitations, and conditions:

1. Private Residences

Each lot shall be used for private residential purposes only, and no building shall be erected or maintained thereon except a private dwelling house, each house being a single family detached home, and being designed for occupancy by a single family.

2. Animals and Pets

No animals of any kind other than usual household pets shall be kept or maintained on any part or portion of the properties or lots and no horses, cows, goats, hogs, poultry, pigeons, rabbits or similar animals shall be kept on any portion of the properties or lots. No building(s) or improvement(s) shall be erected or maintained on any lot which shall be used for the habitation or enclosure of any animal(s) expecting that usual household pets may be housed within the dwelling houses.

3. Trade, Business, Etc.

No trade or business of any nature whatsoever nor any building designed or intended for such purposes or for industrial or manufacturing purposes or for any dangerous or offensive trade whatsoever shall be erected, permitted, maintained or operated on any of the land included in said tract, neither shall any nuisance, dangerous or offensive thing, condition, trade or business whatsoever be permitted or maintained upon any of the said lands.

4. Architectural Control

No building, shed, fence, wall, retaining wall, pond, post, cover, swimming pool or other construction shall be commenced, erected or maintained upon any lot nor shall any exterior addition to or change or alteration thereof including but not limited to exterior façade color change and/or change in grade or drainage be made until the plans and specification showing the nature, kind, shape, color, height, materials and proposed location of same shall have been submitted to and approved in writing by Declarant. In granting or withholding any such approval, Declarant shall consider whether such request is in harmony with respect to design and location to surrounding structures and topography. In the event the Declarant or its successors and assigns fail to approve or disapprove such design and location within (30) days after said plans and specifications have been submitted to it, approval thereof will be deemed to have been given by the Declarant. The Declarant shall have the right to assign the power to approve or disapprove at any time in its discretion, to a maintenance corporation, the members of which shall consist of lot owners, or to an Architectural Control Committee (Committee) which shall consist of three owners of record in the subdivision who will be appointed by the Declarant. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the Committee or to withdraw powers and duties from the Committee or restore to it any of its powers and duties.

The following standards shall apply with respect to the approval of fences and swimming pools:

- a) Fences No fence shall be erected on any lot closer to the front street line than the rear face of the principal building on said lot. No fence, except a privacy fence as described below, shall be of a height of more than four (4) feet and all such fences shall be post and rail, wood constructed and with no more than (3) horizontal split rails. The height and width of the entire interior perimeter of such fences may be required by Declarant to be fully covered with wire mesh. In any event, no fence shall be constructed or maintained upon any lot until plans for the design and exact location of the same have been approved by Declarant, its successor or assigns.
- b) Privacy Fences Privacy fences are fences which enclose only a small portion of the rear yard close to the building itself; for example, a privacy fence may enclose a rear patio. A board on board type privacy fence may be permitted provided it does not exceed a height of six (6) feet and is constructed of wood. In no event shall any privacy fence enclose an area in excess of 500 square feet, nor shall any section thereof exceed 25 feet in length. In any event, no privacy fence shall be constructed or maintained upon any lot until plans for design, color and exact location for the same have been approved by Declarant, its successors or assigns.

- c) Swimming Pools and Swimming Pool Fences No above-ground swimming pool shall be constructed or maintained on any lot. One in-ground pool on each lot may be permitted to be constructed and maintained. Any in-ground swimming pool must be enclosed with a post and split rail fence no higher than (4) feet and no more than three (3) horizontal rails. The height and width of the entire interior perimeter of a swimming pool fence must be fully covered with wire mesh. In any event, no such swimming pool or swimming pool fence shall be constructed or maintained upon any lot until plans for the same have been approved by Declarant, its successors and assigns.

No construction, alteration or improvements shall be commenced without written approval by the Declarant or its designated committee. Fences must comply with specified height and materials regulations.

5. Trees, Shrubs and Landscaping

No live trees exceeding eight inches (8") in diameter and a height of three feet (3') from the ground shall be cut without the prior written consent of the Declarant. In the event any such trees are so cut without having first obtained said consent, the owner of the lot on which said tree is so cut shall forthwith replace it with a tree of like size and variety. The consent required herein shall not be unreasonably withheld and shall be deemed to have been given if not denied within thirty (30) days after receipt by the Declarant of request for same. In granting or withholding any such approval, Declarant shall consider whether such request is in harmony with respect for same. In granting or withholding any such approval, Declarant shall consider whether such request is in harmony with respect to designs and location to surrounding structures and topography and whether or not such request is consistent with the policy of leaving trees, shrubs and/or landscaping provided or done by Declarant undisturbed for a period of ten (10) years, except for ordinary maintenance, feeding and disease control.

6. Television and Radio Antennas

No television satellite dish, no radio or television receiving or transmitting antenna or other similar device, (except a normal consumer television receiving antenna mounted on a roof or chimney), shall be constructed, placed or maintained on the outside of any building or dwelling house on any lot.

7. Trash Receptacles

Trash receptacles shall be kept in enclosed areas, hidden from view, excepting that on regular collection days trash receptacles may be placed temporarily at the curb for trash collection purposes. Each owner or occupant shall take all reasonable steps to prevent his garbage and refuse from omitting odors sufficient reasonably to annoy any other occupant or owner.

8. Prohibited Vehicles

No tracks, buses, vans (except those pickup trucks and van described below) travel trailers, boat trailers or any other kind of trailers, campers, boats, recreational vehicles as defined in Title 21 of the Delaware Code as amended from time to time, disabled vehicle of any lot, street, driveway within the premises, except that such vehicles may be kept wholly within a closed garage. Pickup trucks up to and including $\frac{3}{4}$ ton and enclosed vans not exceeding 7,500 lbs. G.V.W. and a height of 7 feet are permitted provided such vehicles do not contain commercial lettering on the outside of the truck or van. Vehicle repairs, except tire changes and battery service, shall not be conducted within the premises.

9. Clothes Lines and Laundry

No permanent outside clothes line or clothes line posts are permitted. Portable outside clothes line, which are approved by Declarant, shall be permissible, provided such portable outside clothes lines are used for drying clothes during daylight hours only.

10. Maintenance of Lawns, Shrubs, Sidewalks and Drainage Swales

All grass, shrubs, hedges, etc. shall be trimmed and maintained in a neat manner. All sidewalks shall be repaired when required and kept free of snow and ice. Each owner of any lot by acceptance of the deed therefor is deemed to covenant and agree to fully maintain at such owner's sole cost and expense any and all drainage swales located on his property, free of debris and obstructions with grass and/or plant growth properly cut and trimmed so that drainage water will properly flow through such swales.

11. Right of Way

Each lot owner, if required by Declarant or any governmental agency, shall remove any permanent installations, including but not limited to mailboxes, ornaments, gates, etc. which shall have been installed within the right of way.

12. Signs

No signs of any nature whatsoever shall be erected, placed or maintained on any lot within the premises described, except that a standard single real estate "FOR SALE" sign may be so placed and maintained.

13. Vegetable Gardens

No vegetable garden shall be kept or maintained in the side or front yard area of any lot. Any such garden in the rear yard area of any corner lot shall be screened by shrubbery on the street side.

14. Window Treatment

All windows from the exterior shall show white or off-white fabric or color compatible with color of exterior finish of dwelling. Any disputes regarding color selection or compatibility will be determined in the sole discretion of Declarant, or its assigns.

15. Ornaments

No statues, sculptures, painted trees, bird baths, replicas of animals, personal or other like objects, except temporary holiday decorations and flags, may be affixed to or placed on any lot or building where such object would be visible from any street.

16. Term

These covenants and restrictions shall run with and bind the land and shall inure to the benefit of and be enforceable by the owners of the land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of ten (10) years from the date hereof after which time said covenants shall be automatically extended for successive periods of ten (10) years unless mollified by instrument signed by the then owners of two-thirds of the lots and recorded in the Office of the Recorder of Deeds in and for New Castle County and State of Delaware.

17. Amendment

These covenants and restrictions may be changed, altered or modified, in whole or in part at any time, by an instrument in writing signed by the owner or owners of two-thirds (2/3) of the lots described hereinabove recorded in the Office aforesaid.

Notwithstanding the foregoing at the time of the conveyance of a dwelling in the subdivision to any owner, each owner of a dwelling by acceptance of a deed therefor covenants and agrees that the Declarant, so long as it is the owner of any lots within the premises described in EXHIBIT A, shall have the absolute right to amend this Declaration without the joinder of any other owners by executing and recording such amendment in the Office aforesaid, if such amendment is:

- (a) required by Federal, State, County or local law, ordinance, rule or regulation; or
- (b) required by any mortgagee of improved lots and dwelling houses in the premises; or
- (c) required by any title insurance company issuing title insurance to owners and/or mortgagees of same; or
- (d) required by the Federal Housing Administration, Department of Housing and Urban Development, Veterans Administration, Farmers Home Administration, Delaware State Housing Authority, Federal National Mortgage Association, Government National mortgage Association, Federal Home Loan Mortgage Corporation, or by any like public or private institution of financial assistance with respect to dwelling units in the premises.

This power of amendment is in addition to and not in limitation of Declarant's right to amend as provided in paragraph 21 hereof.

18. Remedies

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or

restriction herein contained. Each person, firm or corporation who is found by a court, in any action to enforce these restrictions and covenants, to have violated any of these restrictions or covenants shall be liable for reasonable attorney's fees and other expenses incurred in the prosecution of such action. Failure to so enforce any such violations shall in no event be deemed a waiver of the right to do so thereafter.

19. Declarant

The term "Declarant" includes the person executing this instrument. However, if any other person, firm or corporation engaged in the business of developing the premises and/or construction of homes on the lots contained therein acquires title to more than 50% of the lots in the premises, then such other person, firm or corporation shall by the terms hereof be substituted for the undersigned as "Declarant".

20. Development and Construction

Moreover, Declarant and any person, firm or corporation with the permission of Declarant and upon such terms as Declarant may impose, may engage in activities prohibited by the terms of this Declaration, so long as such person, firm or corporation is engaged in development of the premises and/or construction of homes on the lots contained therein.

21. Amendment by Declarant

Notwithstanding anything herein to the contrary, any Declarant reserves unto itself, which shall be deemed to be a personal reservation for so long as Declarant shall own title to any portion of Clear Creek at Lexington Farms, the right during such time to amend this Declaration without notice to any party by appropriate instrument in writing signed by Declarant and recorded in the Office of the Recorder of Deeds, in and for New Castle County, State of Delaware.

22. Severability

Invalidation of any one of these covenants or restrictions or portion thereof by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF the Declarant has set its hand seal the day and year aforesaid.

BE IT REMEMBERED that on this 21st day of October, 1993, personally came before me, the Subscriber, a Notary Public, for the State and County aforesaid, Mark L Handler, President of CLEAR CREEK DEVELOPMENT CO., L.L.C., a limited liability company of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of said corporation, and that the signature affixed is that of the President thereto, in his own proper handwriting and the seal affixed is the common and seal of said limited liability company and that his act of sealing, executing, acknowledging and delivering said Indenture was duly authorized by a resolution of the Members of said limited liability company.

GIVEN under my hand and seal of office the day and year aforesaid.

