

DECLARATION OF
RESTRICTIVE COVENANTS
FOR
KNOB CREEK PROPERTIES, INC.

THIS DECLARATION is made on July 11, 1974, by KNOB CREEK PROPERTIES, INC., a North Carolina corporation.

RECITALS

Knob Creek Properties, Inc. is the owner and developer of that certain real property located in Transylvania County, State of North Carolina, known as KNOB CREEK (the Development), described in the Supplemental Declaration, attached hereto as Exhibit "A" and made a part hereof.

Knob Creek Properties, Inc. intends to sell and convey the Lots and Parcels situated within the Development and before doing so, desires to impose upon them mutual and beneficial restrictions, covenants, equitable servitudes and charges under a general plan or scheme of improvements for the benefit of all of the Lots and Parcels in the Development and the owners and future owners thereof.

NOW, THEREFORE, Knob Creek Properties, Inc. declares that all of the Lots and Parcels in the Development are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the provisions of this Declaration, all of which are declared and agreed to be in furtherance of a plan for the development, improvement and sale of said Lots and Parcels and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness thereof. The provisions of this Declaration are intended to create mutual equitable servitudes upon each of said Lots and Parcels in favor of each and all other Lots and Parcels; to create reciprocal rights between the respective owners of all such Lots and Parcels; to create privity of contract and estate

between the grantees of such Lots, their heirs, successors and assigns; and shall, as to the owner of each such Lot or Parcel, his heirs, successors or assigns operate as covenants running with the land for the benefit of each and all other such Lots and Parcels in the Development and their respective owners, present and future.

I. Definitions. The following terms as used in this Declaration are defined as follows:

(a) "Board" means the Board of Directors of Knob Creek Home Owners' Association.

(b) "By-Laws" means the By-Laws of the Association.

(c) "Common Area" means all of the real property designated as such in the Supplemental Declaration; all real property which may be later annexed to the Development as Common Area; and, all real property acquired by the Association whether from the Declarant or otherwise, together in each instance with all improvements which may be at any time constructed thereon, including, but not limited to, recreational and community facilities, lakes, parks, and streets.

(d) "Association" means the Knob Creek Home Owners' Association, a North Carolina not-for-profit corporation.

(e) "Declarant" means Knob Creek Properties, Inc., its successors and assigns.

(f) "Declaration" means this Declaration of Restrictive Covenants for Knob Creek, dated the 11th day of July, 1974, as the same may be supplemented or amended from time to time.

(g) "Developer" means Knob Creek Properties, Inc.

(h) "Development" means Knob Creek as the same may be shown on the maps thereof recorded from time to time.

(i) "Improvement" means all buildings, outbuildings, streets, roads, driveways, parking areas, fences, retaining and other walls, hedges, poles, antennae and any other structure of any type or kind.

209

(j) "Lot" means any numbered lot designated on the plat or any apartment or living unit in a multiple family dwelling.

(k) "Multiple Family Dwelling" means a residential dwelling, such as a duplex, apartment house or condominium complex containing two or more individual apartments or living units and constructed on a lot or parcel whose use is designated in the Supplemental Declaration as multi-family residential.

(l) "Owner" means:

1. Any person, including Knob Creek Properties, Inc., who holds fee simple title to any lot.
2. Any person or legal entity who has contracted to purchase fee simple title to a lot pursuant to a written agreement, in which case seller under said agreement shall cease to be the owner while said agreement is in effect.

(m) "Parcel" means any named, lettered tract shown on the plat.

(n) "Plat" means the maps or plats of Knob Creek as they are from time to time recorded.

(o) "Single Family Dwelling" means a residential dwelling for one or more persons, each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) adult persons not so related together with his or their domestic servants maintaining a common household in such dwelling, which dwelling is constructed on a lot designated in the Supplemental Declaration as a single family residential lot.

(p) "Supplemental Declaration" means:

1. The recorded Supplemental Declaration of the Declarant attached hereto as Exhibit "A" or,
2. In the case of real property being annexed to Knob Creek, the recorded Supplemental Declaration of Declarant which incorporates the provisions of this Declaration therein by reference.

In either event the Supplemental Declaration shall include a description of the real property in Knob Creek, subject to the provisions of this Declaration and shall designate the permissive uses of such property.

II. Land Use. Lots and Parcels in the Development shall be designated in the Supplemental Declaration as to their permissible uses and shall thereupon become subject to the restrictive or other provisions of this Declaration relating to such uses. In the event a use is designated for which no such provisions are contained herein (e.g., commercial, governmental, school, etc.), the same may be set forth in such Supplemental Declaration.

A. Single Family Residential. Only single family dwellings and such outbuildings as are usually accessory thereto shall be permitted on any Lot designated as single family residential. Lot size and set back requirements shall be as designated on each recorded plat and/or any supplemental plat but in all events shall be controlled by any county zoning requirements appearing of record at that time.

1. Set Backs. Each such dwelling shall be controlled by the plat plan filed for each area.

B. Multiple Family Residential. Only multiple family dwellings and such outbuildings as are usually accessory thereto shall be permitted on any Lot or Parcel designated as multiple family residential, and shall be subject to existing zoning and land use regulations of Transylvania County.

1. Carport or garage. A carport, garage or parking space shall be constructed for each dwelling unit constructed.

2. Type of Construction. Subject to the approval of the Developer, multiple family dwellings may be of single or multiple story construction, and may be detached or joined by common walls.

3. Set-backs and elevations. Set-backs and elevations for multiple family dwellings shall be the same as for single family dwellings as set forth in recorded plats from time to time placed of record.

C. Common Areas. All Lots or Parcels in the Development designated as Common Areas are and shall remain private property and Declarant's recordation of a Plat shall not be construed as a dedication to the public or any such Common Areas located therein.

1. Ownership. Subject to the provisions of an agreement dated _____, Declarant from time to time will convey all Common Areas to the Association free and clear of all liens and encumbrances (other than liens for taxes) but subject to such easements, rights-of-way and restrictions as then appear of record.

2. Use. The use and enjoyment of Common Areas and improvements thereon, whether before or after conveyance to the Association, shall be subject to the powers of the Association as set forth in its Articles and By-Laws and to rules and regulations governing the use of such property and improvements as may from time to time be adopted by the Association. Provided, however, Declarant reserves the right to reasonable use in connection with its sales and development programs.

3. Maintenance. Maintenance of common property and repairs to any improvements thereon shall be the obligation and responsibility of Declarant until conveyance to the Association; thereafter the Association shall have sole responsibility therefor.

4. Improvements. All improvements must be approved by the Developer as hereinafter provided.

III. Residential Restrictions. The following shall be applicable to all Lots and Parcels within the Development designated as residential in character, whether single family or multiple family, and each Owner, as to his Lot or Parcel, covenants to observe and perform the same:

A. Accessory outbuildings. Without the approval of the Developer no accessory outbuildings shall be erected on any Lot or Parcel prior to the erection thereon of a dwelling. In no event shall any such accessory outbuildings, partially completed or temporary structure ever be used for human occupancy or habitation.

B. Completion of construction. Construction of any improvements, once commenced, shall be completed within nine months. Improvements not so completed or upon which construction has ceased for 90 consecutive day or which have been partially or

totally destroyed and not rebuilt within nine months shall be deemed nuisances. Declarant or the Association may remove any such nuisance or repair or complete the same at the cost of the Owner.

C. Prohibition against used structures. Without the approval of the Developer no used buildings or structures, intended for use as a dwelling, shall be placed on any Lot.

D. Maintenance of Lots. All Lots and Parcels, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent their becoming unsightly, unsanitary or a hazard to health. If not so maintained, the Association shall have the right, through its agents and employees, to do so, the cost of which shall be added to and become a part of the annual assessment to which such Lot is subject. Neither the Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work as performed.

E. Disposal of sanitary waste. No outside toilet shall be constructed on any lot. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to a septic tank or other sewage system approved by the Developer and the appropriate governmental authority.

F. Fences. All property lines shall be kept free and open and no fences, hedges or walls shall be permitted thereon without Developer's approval.

G. Nuisances. No noxious or offensive activities or nuisances shall be permitted on any Lot.

H. Signs. No person, except the Declarant, shall erect or maintain upon any Lot or Improvement any sign or advertisement.

I. Animals. No animals shall be kept or maintained on any lot except the usual household pets which shall be kept reasonably confined so as not to become a nuisance.

J. Garbage and refuse disposal. No owner shall burn trash, garbage or other like household refuse without a permit from the

Association, nor shall any owner accumulate on his Lot junked vehicles, or litter, refuse or garbage, except in receptacles provided for such purposes.

K. Concealment of fuel storage tanks and trash receptacles.

Fuel storage tanks on any Lot shall be either buried below the surface of the ground or screened to the satisfaction of the Developer. Every receptacle for ashes, rubbish, or garbage shall be installed underground or be so placed and kept as not to be visible from any street or Common Area within the Development except at the times when refuse collections are made.

L. Restrictions on temporary structures. No travel trailers, mobile home or tent shall be placed or erected on any Lot nor shall any overnight camping be permitted on any Lot.

M. Removal of Trees. No tree over four inches in Diameter may be removed from any Lot without the prior written consent of the Developer.

N. Limited access. There shall be no access to any Lot on the perimeter of the Development except from designated streets or roads within the Development.

O. Ditches and swales. Each owner shall keep drainage ditches and swales located on his Lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon his Lot as may be reasonably required for proper drainage.

P. Resubdivision of Lots. No Lot or Parcel shall be further subdivided except those designated multiple family residential and then only to the extent required or permitted by governmental authority.

Q. Drilling and mining. No drilling, refining, quarrying or mining operations of any kind shall be permitted on any Lot.

R. Water Services and Sewage Disposal Services. Subject to the approval of the appropriate governmental agencies, Declarant intends to construct or cause the construction of a waterworks system in the Development. Declarant intends that said waterworks system shall be owned and operated by a Privately Owned Public

Utility authorized by a Certificate of Public Convenience and Necessity issued by the North Carolina Utilities Commission in accordance with the provisions of Article I of Chapter 62 of the General Statutes of North Carolina, as now or hereafter amended, revised or superseded, to acquire, maintain and/or operate a waterworks system and conduct a public utility business in the area occupying the Knob Creek Development.

In consideration therefor, the Owners of each Lot agree to pay to said Privately Owned Public Utility, its successors, assigns, lessees and/or licensees, a MINIMUM MONTHLY AVAILABILITY CHARGE OF FIVE DOLLARS (\$5.00) for water, water service and the accommodations afforded said Owners by said waterworks system commencing upon availability of water in a waterworks system distribution main provided for the Lot and continuing thereafter so long as water is available for use, whether or not tap or connection is made to a waterworks system distribution main and whether or not said Owners actually use or take water. Said AVAILABILITY CHARGE shall and will be charged for each Lot of each said Owner and will be the only charges for water except as otherwise herein provided. However, it is understood that the Developer shall not be charged for water under these provisions unless houses using water are constructed on lots. The aforesaid amount of said AVAILABILITY CHARGES, including special provisions for said AVAILABILITY CHARGES with respect to contiguous Lots or the same Owner, times and methods of payment thereof by said Owners and other matters shall be provided in Schedules of Rates and Rules.

Regulations and Conditions of Service for water services filed and published by said Public Utility with said North Carolina Utilities Commission or any successor regulatory body in the State of North Carolina in accordance with law and passed of file or formally approved by said Commission as the then effective Schedule of Rates and Rule, Regulations and Conditions of Service of said Public Utility. Upon any said owner making a written request therefor, and paying said Public Utility not less than Two Hundred Fifty Dollars (\$250.00) in cash therewith in accordance with said Rules, Regulations and Conditions of Service for Water Service, or such other amount as is approved or passed to file therefor by said North Carolina Utilities Commission or its successor, a tap to a waterworks system distribution main in connection to Owner's lot line will be installed. The amount of said AVAILABILITY CHARGES and other charges are subject to change hereafter by order of the North Carolina Utilities Commission or its successor in accordance with then existing law, and the structure of said AVAILABILITY CHARGES are likewise and in the same manner subject to change from Availability Rates to another type of rate or rates. Unpaid charges shall become a lien upon the Lot or Lots to which they are applicable as the date the same become due. Nothing in this paragraph set forth shall be construed as a limitation on the rights of any Public Utility to sell and assign in accordance with law its property and assets to a North Carolina municipal corporation or to a governmental subdivision of the State of North Carolina.

Subject to approval of the appropriate governmental agencies, Declarant further intends to construct or cause the construction within the Development, to serve some of the Lots in the Development, a sewage disposal system. Declarant intends that said sewage disposal system shall be owned and operated by a Privately Owned Public Utility

authorized by a Certificate of Public Convenience and Necessity issued by the North Carolina Utilities Commission in accordance with the provisions of Article 1 of Chapter 62 of the General Statutes of North Carolina, as now or hereafter amended, revised or superseded, to acquire, maintain and/or operate a sewage disposal system and conduct a public utility business in the area occupying the Knob Creek.

In the event that a Lot is one served by said central sewage disposal system, the Owners of such Lot agree to pay to said Privately Owned Public Utility, its successors and assigns, lessees and/or licensees a MINIMUM MONTHLY AVAILABILITY CHARGE OF TEN DOLLARS (\$10.00) for sewage disposal and treatment and the accommodations afforded said Owners by said sewage disposal system commencing upon the availability for use of a sewage collection main provided for that Lot which leads to an operable sewage treatment facility and continuing thereafter so long as such sewage collection main is so available for use, irrespective of whether or not connection is made to or use made of said sewage collection main in connection with or for the purposes of any said Lot. Said AVAILABILITY CHARGES shall and will be charged for each Lot of said Owner and will be the only charge for sewage disposal and treatment except as otherwise herein provided, provided that no charge shall be made to Developer until a house is constructed on any lot by it. The aforesaid amount of said AVAILABILITY CHARGES including special provisions for said AVAILABILITY CHARGES with respect to contiguous Lots of the same Owner, times and methods of payment thereof by said Owners, and other matters shall be provided in schedules of Rates and Rules, Regulations and Conditions of Service For Sewer Service files and published by said public utility with said North Carolina Utilities Commission, or any successor regulatory body of the State of North Carolina, in accordance with law or passed to file or formally approved by said Commission as the then effective Schedule of Rates and Rules, Regulations and Conditions of Service of said Public

Utility. Upon any said Owner making written request therefor and paying said Public Utility not less than Three Hundred Fifty Dollars (\$350.00) in cash therewith in accordance with said Rules, Regulations and Conditions of Service for sewer service, or such other amount as is approved or passed to file therefor by the North Carolina Utilities Commission or its successors, a tap to a sewage collection made and connection to said Owner's Lot line will be made. All sewer lines and appliances necessary in connection therewith, such as sewage ejectors, on each Owner's Lot or Lots shall be installed, repaired, and replaced at the sole expense of each said Owner under supervision and with approval of designated agents of said Public Utility. The amount of said AVAILABILITY CHARGES and other charges are subject to change by order of the North Carolina Utilities Commission or its successors in accordance with then existing law and the structure of said AVAILABILITY CHARGES are likewise and in the same manner subject to change from AVAILABILITY RATES to another type of rate or rates. Unpaid charges shall become a lien upon the Lot or Lots to which they are applicable as of the date the same become due. Nothing in this paragraph set forth shall be construed as a limitation on the rights of any Public Utility to sell and assign in accordance with law its property and assets to a North Carolina municipal corporation or to a governmental subdivision of the State of North Carolina.

V. Architecture And Environmental Control By Developer.

A. General Powers. All improvements constructed or placed on any Lot must first have the written approval of the Developer. Such approval shall be granted only after written application has been made to the Developer in the manner and form prescribed by it. The application, to be accompanied by two sets of plans and specifications, shall show the location of all improvements, if any, existing upon said Lot, the location of the improvement proposed to be constructed,

the color and composition of all exterior material to be used, proposed landscaping, and any other information which the Developer may require, including soil, engineering and geologic reports and recommendations.

B. Grounds for Disapproval. The Developer may disapprove any application:

1. If such application does not comply with this Declaration;
2. Because of the reasonable dissatisfaction of the Developer with grading plans, location of the proposed improvements on a Lot, finished ground elevation, color scheme, finish, design proportions, architecture, shape, height or style of the proposed improvement, the materials used therein, the kind, pitch or type of roof proposed to be placed thereon; or
3. If, in the judgment of the Developer, the proposed improvement will be inharmonious with the Development, or with the improvements erected on other Lots.

D. Variances. The Developer may grant reasonable variances or adjustments from the provisions in this Declaration where literal application thereof results in unnecessary hardship and if the granting thereof will not be materially detrimental or injurious to owners of other Lots.

E. Certification of Compliance. At any time prior to completion of construction of an improvement, the Developer may require a certification, upon such form as it shall furnish, from the contractor, owner or a licensed surveyor that such improvement does not violate any set-back, ordinance or statute, nor encroach upon any easement or right-of-way of record.

F. Liability. Notwithstanding the approval by the Developer of plans and specifications or its inspection of the work in progress, neither it, Declarant, the Association, nor any person acting in behalf of any of them shall be

responsible in any way for any defects in any plans or specifications or other material submitted to the Developer, nor for any defects in any work done pursuant thereto. Each person submitting such plans or specifications shall be solely responsible for the sufficiency thereof and the adequacy of improvements constructed pursuant thereto.

G. Restriction on Construction of Model Homes. Model or exhibit homes shall be built only with the prior written permission of the Developer.

VI. KNOB CREEK Home Owner's Association

A. General. The Association is a North Carolina not-for-profit corporation organized to further and promote the common interest of property owners in the Development. The Association shall have such powers in the furtherance of its purposes as are set forth in its Articles and By-laws.

B. Membership. Membership in the Association shall be as set out in its By-laws, but all lot owners must be members.

C. Rights, privileges and obligations. The rights, duties, privileges and obligations of membership in the Association are as set forth in its Articles and By-laws.

VII. Assessments.

A. General. Pursuant to the powers granted to it in its Articles and By-laws, the Association is hereby expressly authorized and empowered to levy annual assessments against all Lots in the Development. Provided, however, except as may be otherwise indicated, no assessment shall be levied against Lots owned by Declarant.

B. Collection and Lien. The amount of the assessment levied by the Association shall be paid to it on or before the date or dates fixed by resolution of the Board. If not so paid to it on or before the date or dates fixed by resolution of the Board, the amount of such assessment, plus any other charges thereon, including interest at the maximum

limit provided by law per annum from date of delinquency and costs of collection, including attorney's fees, if any, shall constitute and become a lien on the Lot so assessed when the Board causes to be recorded in the office of the appropriate County Recorder Deeds, a notice of assessment which shall state the amount of such assessment and such other charges and a description of the Lot which has been assessed. Such notice shall be signed by the Secretary of the Association on behalf of the Association. Upon payment of said assessment and charges, or other satisfaction thereof, the Board shall, within a reasonable time, cause to be recorded a further notice stating the satisfaction and the release of said lien.

C. Priority of Lien. Conveyance of any Lot shall not affect any lien for assessments provided herein. Such lien shall be prior to all other liens recorded subsequent to said notice of assessment.

D. Enforcement. The lien provided for herein may be foreclosed by suit by the Association in like manner as a mortgage and, in such event, the Association may be a bidder at the foreclosure sale. The Association may also pursue any other remedy against any owner owing money to it which is available to it by law or equity for the collection of debt.

E. Proof of Payment. Upon request, the Association shall furnish a statement certifying that all assessments then due have been paid or indicating the amount then due.

F. Suspension. The Association shall not be required to transfer memberships on its books or to allow the exercise of any rights or privileges of membership on account thereof to any owner or to any persons claiming under them unless or until all assessments and charges to which they are subject have been paid.

VIII. EASEMENTS.

A. Reservations. The following easements over each Lot

or Parcel and the right to ingress and egress to the extent reasonably necessary to exercise such easements, are reserved to Declarant and its licensees:

1. Utilities. A five foot wide strip running along the inside of all Lot lines except those Lot lines coincident with street right of way lines, in which case such strip shall be 10 feet wide, for the installation, maintenance and operation of utilities, including radio and TV transmission cables, and the accessory right to locate guy wires, braces or anchors or to cut, trim or remove trees and plantings wherever necessary upon such Lots in connection with such installation, maintenance and operation.

2. The Developer assumes no responsibility for any drainage problems affecting any lot.

3. Slope and Drainage. A 30 foot wide easement running along the inside of all Lot lines coincident with street right of way lines for the purpose of cutting, filling, drainage and maintenance of slopes and drainage courses.

4. Private Streets. An easement on, over and under all streets in the Development for the purpose of installing, maintaining and operating utilities thereon or thereunder; for purposes of drainage control; for access to any Lot or Parcel; and for purposes of maintenance of said streets.

5. Other easements. Any other easements shown on the Plat.

B. Use of and Maintenance by Owners. The areas of any Lots affected by the easements reserved herein shall be maintained continuously by the Owner of such Lot, but no structures, plantings or other material shall be placed or permitted to remain or other activities undertaken thereon which may damage or interfere with the use of said easements for the purpose herein set forth. Improvements within such areas shall be maintained by the Owner except those for which a public authority or utility company is responsible.

C. Liability for use of easements. No Owner shall have any claim or cause of action against Declarant or its licensees arising out of the exercise or non-exercise of any easement reserved hereunder or shown on the Plat except in cases of willful or wanton misconduct.

IX. RETAINED PARCELS.

Declarant may retain ownership of certain parcels within the Development shown on the Plats, for use for commercial purposes. Declarant reserves the right and privilege to develop said Parcels for such commercial purposes as it may deem appropriate and compatible with the Development. It further reserves the right to conduct all commercial enterprises of any type or kind whatsoever which may at any time be lawfully conducted within the Development. This reservation shall include the right to conduct commercial enterprises on Common Areas both before and after transfer to the Corporation and the right to free and unrestricted access thereto for such purposes. These rights may be exercised by Declarant or assigned by it to whomever it may see fit. At the sole election of Declarant, those rights may be assigned to the Association at any time hereafter upon such terms and conditions as Declarant may deem appropriate at the time of assignment, but unless the Corporation acting through its Board, shall otherwise agree, such assignment shall be without cost to the Association and shall be free and clear of all liens and encumbrances (other than liens for taxes), but subject to such easements, rights-of-way, and restrictions as then appear of record. Any assignment of these rights, whether to the Corporation or otherwise may be of all or any part of said rights and, may, include transfer or conveyance of some of all of said Parcels.

Declarant reserves for itself, agents, employees, successors and assigns full rights of access across all Common Areas required to implement this reservation. By

reservation of these rights, Declarant assumes no affirmative duties to establish or maintain any commercial enterprise whatsoever.

X. ANNEXATION.

A. Property to be Annexed. Declarant may, from time to time and in its sole discretion, annex to the Development any other real property owned by Declarant which is contiguous or adjacent to or in the immediate vicinity of the Development.

B. Manner of Annexation. Declarant shall effect such annexation by recording a Plat of the real property to be annexed and by recording a Supplemental Declaration which shall:

1. Describe the real property being annexed and designate the permissible uses thereof;
2. Set forth any new or modified restrictions or covenants which may be applicable to such annexed property, including limited or restrictive uses of Common Areas; and
3. Declare that such annexed property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the provisions of this Declaration. Upon the recording of such Plat and Supplemental Declaration, the annexed area shall become a part of the Development, as fully, as if such area were part of the Development on the date of recording of this Declaration.

XI. REMEDIES.

A. Enforcement. Declarant and each person to whose benefit this Declaration inures, including the Association, may proceed at law or in equity to prevent the occurrence, continuation or violation of any provisions of this Declaration, and the court in such action may award the successful party reasonable expenses in prosecuting such action, including attorney's fees.

B. Suspension of Privileges. The Board may suspend, all

voting rights, if any, and all rights to use the Association Common Areas of any Owner for any period during which any Association assessment against such Owner remains unpaid, or during the period of any continuing violation of the provisions of this Declaration by such Owner after the existence thereof has been declared by the Board.

C. Cumulative Rights. Remedies specified herein are cumulative and any specifications of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law or in equity. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect of a violation of any provision of this Declaration shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of said violation or the occurrence of a different violation.

XII. GRANTEE'S ACCEPTANCE.

Each grantee or purchaser of any Lot or Parcel shall, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot or parcel, accept such deed or contract upon and subject to each and all of the provisions of this Declaration and to the jurisdiction, rights, powers, privileges and immunities of Declarant and of the Association. By such acceptance such grantee or purchaser shall for himself, his heirs, devisees, personal representatives, grantees, successors and assigns, lessees and/or lessors, covenant, consent and agree to and with Declarant and the grantee or purchaser of each other Lot to keep, observe, comply with and perform the covenants, conditions and restrictions contained in this Declaration.

XIII. SUSPENSION OF RESTRICTIONS. The provisions on improvements, use and occupancy set forth herein shall be suspended as to any Lot Parcel or other area while and so long as the same is owned by or leased to the State of North Carolina or any governmental agency, public or private utility, whenever and to the extent, but only to the extent, that such provisions shall prevent the reasonable use of

208

100

such Lot, Parcel or area for said purposes. On cessation of such use, such provisions shall become applicable again in their entirety. While owning or leasing and using, such Owner shall have no rights as a member of the Association, nor shall it be liable for any Association assessments.

XIV. SEVERABILITY. Every provision of this Declaration is hereby declared to be independent of and severable from every other provision hereof. If any provision hereof shall be held by a court of competent jurisdiction to be invalid, or unenforceable, all remaining provisions shall continue unimpaired and in full force and effect.

XV. CAPTIONS. Paragraph captions in this Declaration are for convenience only and do not in any way limit or amplify the terms or provisions hereof.

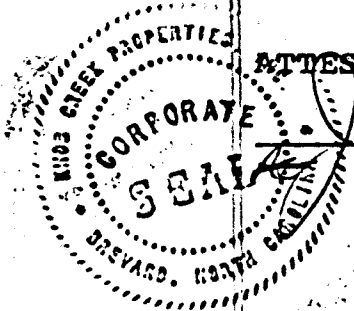
XVI. TERM AND AMENDMENT. The provisions of this Declaration shall affect and run with the land and shall exist and be binding upon all parties claiming an interest in the Development until January 1, 2000, after which time the same shall be extended for successive periods of 10 years each. This Declaration may be amended by the affirmative vote of a majority of the Owners of all Lots in the Development entitled to vote recording an amendment to this Declaration duly executed by (a) the requisite number of such Owners required to effect such amendment or (b) by the Association, in which latter case such amendment shall have attached to it a copy of the resolution of the Board attesting to the affirmative action of the requisite number of such Owners to effect such Amendment, certified by the Secretary of the Association.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 11th day of July, 1974.

KNOB CREEK PROPERTIES, INC.

By: *John E. Spant*
President

ATTEST:
Janice J. Bryant
Secretary

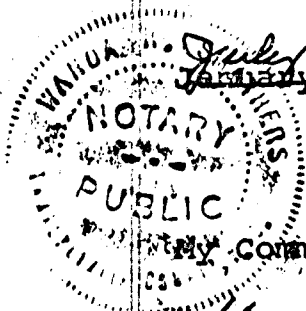


208 102

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

This 11th day of July, 1974, personally came before me, Wanda R. Smathers, a Notary Public for said County, JACK E. BRYANT, who, being by me duly sworn, says that he is President of KNOB CREEK PROPERTIES, INC., and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Corporation, and that said writing was signed and sealed by him in behalf of said Corporation, by its authority duly given. And the said JACK E. BRYANT acknowledged the said writing to be the act and deed of said Corporation.

WITNESS my hand and Notarial Seal, this the 11th day of July, 1974.



Wanda R. Smathers
Notary Public

My Commission expires:
10-27-75

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

The foregoing certificate of Wanda R. Smathers Notary Public, is certified to be correct. This instrument was presented for registration and recorded in this office in Book 208, Page 82.

This 11 day of July, 1974, at 4:00 o'clock P.M.

Fred H. Israel
Register of Deeds

By: _____
Deputy Register of Deeds

EXHIBIT "A"

SUPPLEMENTAL DECLARATION OF RESTRICTIVE COVENANTS

OF

KNOB CREEK PROPERTIES, INC.

SUPPLEMENTAL DECLARATION NO. I

This Supplemental Declaration is made, this the 11th day of July, 1974, by KNOB CREEK PROPERTIES, INC., (Declarant).

Declarant has recorded on the 11th day of July, 1974, in the office of the Register of Deeds of Transylvania County, North Carolina, in Deed Book 208 at page _____ et. seq. a certain Declaration of Restrictive Covenants for Knob Creek Properties, Inc.; and said Declaration of Restrictive Covenants subjects Knob Creek Properties, Inc., (The Development) to the provisions thereof pursuant to an incremental plan of development.

NOW, THEREFORE, DECLARANT DECLARES THAT:

1. The development includes all of the real property set forth in that certain plat entitled "Section 1, Knob Creek Subdivision", recorded in the office of the Register of Deeds for Transylvania County, North Carolina, on the 24th day of June, 1974, in File Number 1 at Slide 4A, except for Lot No. 27, which is specifically excluded from the provisions of the said restrictive covenants.

2. All of the real property described in the plat, except for Lot No. 27, as aforesaid, is made subject to the provisions of the Declaration of Restrictive Covenants, as and for and to the extent applicable, the provisions of which are incorporated herein by reference.

3. Pursuant to the provisions of the Declaration of Restrictive Covenants, all of the numbered lots shown on the plat, except for Lot No. 27 in Section 1, as aforesaid, are designated single family residential as to permitted use. The minimum fully enclosed floor area of each dwelling con-

structed thereon shall be not less than 1000 square feet. In the case of one story dwelling, all 1000 square feet shall be situated on the first floor of said dwelling. In the case of a multi-storied dwelling, there shall be a minimum of 850 square feet on the first floor. Except with the express approval of the committee in determining the amount of square footage contained within a dwelling, there shall not be taken into consideration any area which is wholly or substantially below ground level.

4. Each of said lots shall carry with it as an appertency a membership in the Knob Creek Homeowner's Association subjecting said lot and the owner thereof to the privileges and obligations pertaining to such membership as set forth in the association's articles and by-laws.

5. Pursuant to the provisions of the Declaration of Restrictive Covenants, the following property in the development as shown on the plat is designated as common green areas and shall be used as such, and, likewise, the following shall be used as streets and roads:

Knob Creek Road
Cherry Ridge Road
Holly Ridge Road
Willow Ridge Road

6. Pursuant to the provisions of the Declaration of Restrictive Covenants, the following property in the development as shown on the plat is designated as common green areas:

Green Area D.D.
Green Area E.E.
Green Area C.C.
Green Area B.B

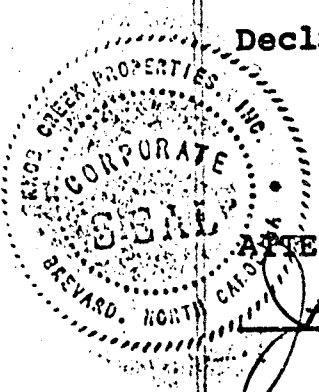
IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration of Restrictive Covenants this 11th day of July, 1974.

KNOB CREEK PROPERTIES, INC.

BY: John E. [Signature] President

ATTEST:

Janice S. Bryant Secretary



STATE OF NORTH CAROLINA,)
COUNTY OF TRANSYLVANIA.)

This 11th day of July, 1974, personally came before me, Wanda R. Smathers, a Notary Public for said County, JACK E. BRYANT, who, being by me duly sworn, says that he is President of KNOB CREEK PROPERTIES, INC., and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Corporation, and that said writing was signed and sealed by him in behalf of said Corporation, by its authority duly given. And the said JACK E. BRYANT acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and Notarial Seal, this the 11th day of _____ 1974.



Wanda R. Smathers
Notary Public

October 27, 1975
My Commission Expires

STATE OF NORTH CAROLINA,)
COUNTY OF TRANSYLVANIA.)

The foregoing certificate of Wanda R. Smathers, Notary Public, is certified to be correct. This instrument was presented for registration and recorded in this office in Book 208, page 82 CONTINUED

This 11 day of July, 1974, at 4:00 o'clock P. M.

Frank H. Israel
Register of Deeds