

**CLARK'S CROSSING HOMES ASSOCIATION
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, was made this 12th day of March, 1974, by the MCCARTHY COMPANY OF VIRGINIA-MARYLAND, a California Corporation, hereinafter known as "Declarant," and CLARK'S CROSSING HOMES ASSOCIATION, a Virginia Non-Stock Corporation, hereinafter known as "Association," and was revised and ratified by the Association, November, 1986.

WHEREAS, Declarant was the sole owner of certain real property located in Centreville District, Fairfax County, Virginia, known as CLARK'S CROSSING and as the same is duly dedicated, platted, and recorded immediately prior hereto among the land records of Fairfax County, Virginia; and

WHEREAS, Declarant has created thereon a residential community with permanent open spaces and other common facilities for the benefit of the community and provided for the preservation of the values and amenities of said community and such other area as may be subjected to this Declaration by Declarant, its successors or assigns, and for the maintenance of said open spaces and other facilities; and, to this end, desired to subject the real property as hereinafter described to the covenants, restrictions, easements, conditions, charges, and liens hereinafter set forth. It being intended that the easements, covenants, restrictions, and conditions shall run with said real property and shall be binding on all persons or entities having or acquiring any right, title, or interest in the properties or any part thereof, and shall inure to the benefit of each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities of said community to create an agency to which shall be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the Commonwealth of Virginia, as a non-stock corporation, CLARK'S CROSSING HOMES ASSOCIATION, for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Declarant, for and in consideration of the premises and the covenants contained herein, does hereby grant, establish, and convey to each owner of a lot mutual, non-exclusive rights, privileges, and easements of enjoyment on equal terms in common with all other owners of lots, in and to the use of the Common Area; and FURTHER, does hereby declare the real property described in the deed of Dedication and Subdivision recorded immediately prior hereto and designated as Lots One (1) through One Hundred Forty-Two (142) inclusive, and Parcel "F" to be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions,

easements, conditions, charges, and liens (hereinafter referred to as "Covenants and Restrictions") which are as follows.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to CLARK'S CROSSING HOMES ASSOCIATION, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property herein above described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 6. "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.

ARTICLE II 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. No owner shall have more than one membership. 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 III VOTING RIGHTS

The Association shall have voting membership as follows:

Members shall be all those owners as defined in Article II. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds 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.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Members' Easements 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 limit the number of guests of members;
- b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- c) The right of the Association, in accordance with its Articles of Incorporation 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 the right of 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 ninety (90) days for any infraction of its published rules and regulations;
- e) The right of the Association at any time or upon dissolution to dedicate or transfer, subject to approval of the Director of County Development for Fairfax County, Virginia, or his successor, 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 the votes of the member 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. And upon such assent and in accordance therewith, the officers of the Association shall execute the necessary documents.

Section 2. Delegation of Use. Any members may delegate in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the immediate members of his family, his tenants, or contract purchasers who reside on his property.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of any Lot located within this Association, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed, is deemed to agree to pay to the Association:

- a) General assessments and charges, and
- b) Special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The general and special assessments, together with such interest thereon and costs of collections thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with such interest penalties (as defined in Article V, Section 8), costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at time when the assessment fell due and 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 payment of taxes, improvements, and maintenance of services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area.

Section 3. Maximum of General Assessments. The maximum amount for each general assessment shall be one hundred dollars (\$100.00) per annual assessment period.

Section 4. Special Assessments for Capital Improvements. In addition to the general 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 or reconstruction, unexpected repair, or replacement of a capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members present 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.

Section 5. Uniform Rate of Assessment. Both general and special assessments must be fixed at a uniform rate for all Lots, except as provided in Sections 3 and 4 of this Article.

Section 6. Quorum for Any Action Authorized Under Section 4. For the purpose of the meetings called, as provided in Section 4 thereof, the Presence at the meeting of members or proxies entitled to cast sixty (60) percent of all the votes shall constitute a quorum.

Section 7. General Assessments Period. The general assessment period shall commence on January 1st and run through December 31st of the calendar near. Written notice of the general assessment shall be delivered to every owner subject thereto at least 10 days in advance of the commencement of the annual assessment period.

Section 8. Remedies of the Association in the Event of Default. If any 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 two dollars (\$2.00) per month or twelve (12) percent per annum (whichever is greater), for each full month of delinquency, and the Association may bring an action at law against the owner personally obligated to pay the same and/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 assessment 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 trust or mortgage and Fairfax County real estate taxes. However, the sale or transfer of any Lot pursuant to a foreclosure sale shall extinguish the lien of such assessment as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter become due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all properties owned by charitable or other organizations exempt from taxation by the laws of the Commonwealth of Virginia. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

RESTRICTIVE COVENANTS

1. No portion of the Properties shall be used for any professional, industrial, mining, or commercial activities except as are permitted from a single-family residence by the Code of the County of Fairfax, Virginia.

2. No clothing, laundry, or wash shall be aired or dried on any portion of the Lots in any area other than in the rear yards of the Lots.
3. No tree, hedge, or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic.
4. No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon or permitted to remain on any Lot which may be or become a nuisance or annoyance to the neighborhood. The Board of Directors of the Association shall determine what is and is not an offensive activity within the meaning of this section on a case-by-case basis.
5. No sign of any kind that is illuminated and/or larger than two square feet shall be displayed to the public view of any Lot, except temporary real estate signs not more than four square feet in area advertising the property for sale or rent and except for temporary signs erected in connection with the development, construction, lease, or sale of improved Lots.
6. No horse, pony, cow, chicken, pig, hog, sheep, goat or other domestic or wild animal shall be kept or maintained on any Lot; however, common household pets may be kept or maintained in accordance with Fairfax County regulations.
7. No storage of litter, new or used building materials, or unreasonable accumulation of trash shall be permitted on any Lot.
8. No person shall paint the exterior of any building a color different than the original color of said building without the proposed color having been approved by the board of Directors of the Association, or by an Architectural Control Committee appointed by the board.
9. No change to an existing structure shall be erected, placed, or altered on any Lot until the plan and specifications, including elevations, material, color, and texture and a site plan showing location of improvement with grading modifications shall be filed with and approved in writing by the Board of Directors of the Association or an Architectural Control Committee appointed by the Board. Structure changes shall be defined to include modification to any building or portion thereof; fence, pavement, driveway, or appurtenances to any of the aforementioned.
10. No fences shall be erected in the front of any dwelling.
11. No new permanent dwellings or enclosed structures shall be placed on any Lot without prior approval of the Architectural Control Committee.
12. No unregistered motor vehicle or any house trailer shall be kept on any Lot. No storage of boats, boating equipment, travel trailers, or camping equipment shall be visible from the street.
13. 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.

14. These restrictive covenants shall be enforced by the Architectural Control Committee, (a standing committee consisting of three (3) or more persons) appointed by the Directors of the Association. Applications for committee approval shall be in writing. Approval or Disapproval by the Committee shall also be in writing. Failure of the Committee to approve or disapprove a request within thirty (30) days of receipt shall be construed as Committee approval of the request.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provision of this Declaration. Failure by the Association or by any owner to enforce any right, provision, covenant, or condition which may be granted by this Declaration shall not constitute a waiver of time right of the Association or an owner to enforce such right, provision, covenant, or condition in the future. All rights, remedies, and privileges granted to the Association or any owner pursuant to any term, provision, covenant, or condition of this Declaration shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by this Declaration, or at law or in equity.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect 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, and shall inure to the benefit of and be enforceable by the Association, or the owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended in whole or in part, provided that any such amendment shall have the assent of three-fourths (3/4) of the votes of the membership entitled to vote 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. Any amendment must be properly executed and acknowledged (in the manner required by law for the execution and acknowledgment of deeds) by the Association and recorded among the land records of Fairfax County, Virginia.

Section 4. Annexation of Additional Properties. (a) The Association may, at any time, annex additional areas and provide for maintenance, preservation and

architectural control of residence Lots, and so add to its membership under the provisions of Article II, provided that any such annexation shall be authorized by the assent of two-thirds (2/3) of the membership of the Association.

Section 5. Preservation of Common Area. Common Area or open space not contained in Lots and Streets shall not be denuded, defaced, or otherwise disturbed in any manner at any time without the approval of the appropriate County Departments and in concurrence with the County Planning Engineer.

This Declaration of Covenants, Conditions and Restrictions has been amended and ratified by the membership as of November, 1996. In witness hereof, we, being all of the Directors of the Clark's Crossing Homes Association, have hereto set our hands this 19th day of November, 1986.