

Declaration of Restrictions

Conditions, Covenants, Restrictions, Reservations and Easements Affecting the Property of

The Lakes Limited Partnership, and Ohio Limited Partnership

THIS DECLARATION made this 1st day of October 1990, by the Lakes Limited Partnership (hereafter called "Grantor")

WITNESSETH:

WHEREAS, Grantor is the owner of the real estate hereinafter described and is desirous of subjecting such real estate to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, each and all of which is and are for the benefit of said real estate and for each owner thereof and shall inure to the benefit and pass with said real estate and each and every sub lot thereof and shall apply to and bind the successors in the interest of any owner thereof.

NOW, THEREFORE

REAL ESTATE SUBJECT TO RESTRICTIONS

The real estate which is and shall be held, conveyed, transferred, occupied and sold subject to the conditions, covenants, restrictions, reservations and easements hereinafter set forth is described as follows:

Situated in the township of Bainbridge, County of Geauga, State of Ohio, and know as Peppermill Chase Subdivision, as shown by the recorded plat in Volume 861, Pages 347 through 359 of the Geauga County Records.

RESERVATIONS AND RESTRICTIONS

WHEREAS, Grantee, hereinafter called "Developer", and Grantor desire to create on the property hereinafter conveyed a residential community with permanent parks, open spaces and other common facilities for the benefit of the said community; and

WHEREAS, Grantor and Developer desire to provide for the preservation of values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other common facilities for the benefit of the said community; and

WHEREAS, Grantor and Developer desire to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, open spaces and other common facilities as well as the Lots and Living Units in the community; and, to this end, desire to subject the real property herein conveyed together with such additions as may hereafter be made thereto (as provided in article II) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof: and

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

WHEREAS, Developer has caused to be incorporated under the laws of the State of Ohio, as a non-profit corporation, Peppermill Chase Owners Association for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the real property herein conveyed be made pursuant to article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (Sometimes referred to as "covenants and restrictions") hereinafter set forth, which covenants and restrictions are intended to run with the land;

Article I

Definitions

Section 1. The following words when used in this Deed or any Supplemental Deed (unless the context shall prohibit) shall have the following meanings:

- (a) "**Association**" shall mean and refer to Peppermill Chase Owner Association, and Ohio non-profit corporation.
- (b) "**The Properties**" shall mean and refer to all such existing properties, as are subject to these covenants and restrictions or those in a Supplemental Deed under the provisions of Article II hereof.
- (c) "**Common Properties**" shall mean and refer to those areas of land shown on the recorded Plat and know as Block A, B, or C, those so designated in any Supplemental Deed under the provisions of Article II hereof, and those Lots and Living Units hereafter conveyed to Association and designated in such conveyance as Common Properties, and intended to be devoted to the common use and enjoyment of the owners of The Properties.
- (d) "**Lot**" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined.
- (e) "**Living Unit**" shall mean and refer to any portion of the building situated upon the Properties designated and intended for use and occupancy as a residence by a single family.
- (f) "**Owner**" shall mean and refer to the recorded owner, whether one of more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties but, notwithstanding an applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to the foreclosure or any proceeding in lieu of foreclosure.
- (g) "**Member**" shall mean and refer to all those Owners who are members of Association as provided in Article III, Section 1 hereof.
- (h) "**Supplemental Deed**" shall mean and refer to deeds recorded in the future which bring other parcels within the operation of the covenants and restrictions contained herein, or which modify or add to the covenants and restrictions.

ARTICLE II

Property Subject to These Covenants and Restrictions; Additions Thereto

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to these covenants and restrictions in the property hereinafter be referred to as "Existing Property":

Section 2. Additions to Existing Property. Additional items become subject to these covenants and restrictions in the following manner.

- (a) Upon approval in writing of Association pursuant to vote of its members as provided in its Articles of Incorporation, the owner of any property who desires to add it to the scheme of these covenants and restrictions and to subject it to the jurisdiction of Association, may file for record a Supplemental Deed of covenants and restrictions, as described in subsection (h) Article I.
- (b) Developer may have sub lots subdivided into several lots with township and county approval; these sub lots are part of these covenants and restrictions.
- (c) Upon a merger or consolidation of Association with other association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligation of Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this deed with Existing Property together with the covenants and restrictions established upon any other properties as once scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Deed with Existing Properties except as hereinafter provided.

Article III

Membership and Voting Rights in the Association

Section 1. Membership. Every person or entity who is a recorded owner of a fee or undivided fee, interest in any Lot or Living Unit which is subject by covenants of record to assessments by Association shall be a member of Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. Association shall have two classes of voting membership:

Class A. Class A members shall be all those owners as defined in Section 1, with the exception of the Developer. Class A members shall be entitled to one vote for each lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any lot all such persons shall be members, and the 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 such Lot.

Class B. Class B members shall be Developer. The Class B member shall be entitled to three votes for each lot in which it holds the interest required for membership by Section 1 and for every Living Unit in any Single Family Attached Dwelling owned by it until such Living Unit is first sold, provided that Class B

membership shall cease and become converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on January 1, 2000

From and after the happening of these events, whichever occurs earlier, the Class B shall be deemed to be a Class A member entitled to one vote for each Lot of Living Unit in which it holds the interests required for membership under Section 1.

ARTICLE IV

Property Rights in the Common Properties

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to Common Properties. Also each member whose lot abuts Block "B" herein, hereby grants and acknowledges an easement for maintenance purpose only to Association. Said easement shall be twenty (20) feet around the perimeter of each lake. There is also hereby granted and acknowledged an emergency easement of twenty (20) feet centered on the lotline between sublots 5 and 6 for access to the dam and spillway of the upper lake in Block "B". Such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit.

Section 2. Title to Common Properties. Developer may retain the legal title to Common Properties until such time as it has completed improvements thereon and until such time as, in the opinion of Developer, Association is able to maintain the same but, notwithstanding any provision therein, Developer hereby covenants, for itself, its successors and assigns, that it shall convey Common Properties to Association not later than January 1, 2000.

Section 3. Extent of Members' Easements. The right and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of Association to take such steps as are reasonably felt necessary to protect the above described properties against foreclosure; and
- (b) the right of Association to charge reasonable admission and other fees for the use of Common Properties; and
- (c) the right of Association to dedicate or transfer all or any part of Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by Members, provided no such dedication, transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action hereunder is sent to every Member at least ninety (90) days in advance of any action taken.

Section 4. Association shall retain Common Properties for park, recreation, and open space purposes and maintain Common Properties. The minimum standard of maintenance shall be the keeping of non-wooded areas mowed, the keeping of wooded area trails in good repair and the keeping of Common Properties free from trash, debris and nuisance. Such recreation purposes shall include the placing or construction of recreational structures upon Common Properties.

ARTICLE V

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal obligation of Assessments. Developer, for each Lot and Living Unit owned by it within the Properties hereby covenants, and each Owner by acceptance of a deed, therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to Association: (1) annual assessments or charges; (2) special assessments for capital improvements. Such assessments are to be fixed, established and collected from time to time as herein provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made.

Each assessment, together with interest thereon and cost or collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of the property at the time the assessment fell due.

Section 2. Purpose of Assessments.

The assessments levied by 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 improvement and maintenance of properties, services and facilities devoted to this purpose and related to use and enjoyment of Common Properties, including but not limited to, the payment of taxes and insurance thereon, repairs, replacements and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments.

Until the year beginning February 1, 1994 the annual assessment shall be \$200.00 per year per lot or living unit accept there will be no charge to the developer for lots, nor for models or houses built for sale until such time as those houses are sold. From and after January 1, 1993 the annual assessment may be increased by a vote of Members, as hereinafter provided, for the next three year period, and at the end of each three year period for succeeding three year periods.

The Board of Trustees of Association may, after consideration of current maintenance costs and future needs of Association, fix the actual assessments for any year at a lesser amount, but in no event shall the assessment be less than is required to fulfill the minimum maintenance obligation of these covenants and restrictions.

Section 4. In the event Association does not fulfill the minimum maintenance obligations required by these covenants and restrictions, Bainbridge Township or it successor municipal entity has the right to enforce zoning regulations requiring such fulfillment.

Section 5. Special Assessments for Capital Improvements. In addition to the assessments authorized by Section 3 hereof, 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 and unexpected repair or replacement of a described capital improvement upon Common Properties 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 each class of Members 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 at least thirty (30) days in advance and shall set forth the purpose of the meeting. However, in the event the capitol improvement is specifically in order to repair or replace a dam or spillway in the area within block "B" those members owning

property contiguous to block "B" shall be assess an amount for this purpose only which is twice the amount assessed those not owning lots contiguous to block "B".

Section 6. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of section 3 hereof, and for the periods therein specified, Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period provided that any such change shall have assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose written notice of which shall be sent all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting; provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of assessments undertaken as an incident to a merger or consolidation in which Association is authorized to participate under its Articles of Incorporation and Code of Regulations and under t Article II, section 2 hereof.

Section 7. Quorum of Any Action Authorized Under Section 5 and 6. The quorum required for any action authorized by Section 5 and 6 hereof shall be the presence at the meeting of Members or of proxies, entitled to cast sixty (60) percent of the votes of each class of Members.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by Trustees of Association to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year shall become due and payable on the first day of March of said year.

The amount of annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve (12). The same reduction in the amount of the assessment shall apply to the first assessment levied against any property, which is hereafter added to the properties not subject to the assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 5 hereof shall be fixed in the resolution authorizing such assessment.

Section 9. Duties of the Trustees. The Trustees of Association shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period of at least thirty (30) days in advance of such date or period and shall, at the time prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of Association and shall be open to inspection by any Owner.

Written notice of the assessment shall be thereupon be sent to every owner subject thereto.

Association shall upon demand at any time furnish to any Owner liable for said assessment or any mortgagee, a certificate in writing signed by an officer of Association, setting forth the amount of u paid of unpaid assessments. Failure of the Association to furnish said certificate within sixty (60) days of written demand therefore accompanied by a fine of \$5.00 sent by registered mail to the last known president, treasurer or statutory agent thereof shall discharge any lien for assessments levied prior to the date of the mailing of said demand.

Section 10. Effect of non-payment of Assessment: The personal Obligation of Owner; The Lien; Remedies of Association. If the assessment is not paid on the date when due (being the specified date in section 8 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. Their personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. In addition to the above, Association may deny use of Common Properties if assessments are delinquent.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest for the date of delinquency at the rate of fifteen percent (15%) per annum, and Association may bring an action at law against Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as provided above and a reasonable attorney's fee be fixed by the Court, together with the costs of the action.

Section 11. Exempt Property. The following property subject to these restrictions shall be exempt from assessments, charge and lien created herein:

- (a) all properties, to the extent of any easement or other interest therein, dedicated and accepted by the local public authority and devoted to public use;
- (b) all Common Properties;
- (c) all properties exempted from taxation by the laws of the State of Ohio, upon the terms and to the extent of such legal exemptions.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VI

Covenants and Restrictions Governing Lots or Living Units

Section 1. Maintenance, Repair, and Nuisance. All structures and premises shall be maintained neatly and in good repair. No activity shall be carried on which thru discretion of Association may be or become an annoyance or nuisance to the neighborhood.

Section 2. Parking of Truck and Temporary Repair of Vehicles. No owner shall park a truck or allow a truck to be parked for a period in excess of 36 hours in front of or on any premises except in an enclosed structure. No owner shall make repairs to a vehicle of any kind for a period exceeding 72 hours in front of or on any premises except in an enclosed structure.

Section 3. Trash and Garbage. No owner shall allow trash or garbage to accumulate on any premises except in containers that are emptied periodically.

Section 4. Garages. All garages are to be attached to a house and shall have the door opening to either the side or the rear of the lot.

Section 5. Mailboxes. Each lot shall have one mailbox and one newspaper receiver. The design shall be the same for each lot in Peppermill Chase Subdivision and shall be designate by the Developer.

Section 6. Street Lights. Each lot shall have one post light, which shall be installed by the lot owner prior to occupancy. The developer shall determine the style and size of said light and each such light is to be installed using a light sensor such that the light will be illuminated during hours of darkness. Said post light shall be installed within fifteen feet of the property line.

Section 7. Trade or Business. No owner shall carry on or permit to be carried on, on any premises, any trade or business that is evident to the public or to other members of Association. No signs shall be permitted except discreet signs which (1) designate the name and address of the occupant, or a "for sale" sign that can be used for an open house for one day a week during the time the house or lot is being offered for sale. This provision does not apply to the builders' houses.

Section 8. Driveways. All driveways in Peppermill Chase shall be hard surfaced.

Article VII

Architectural Control Committee

Section 1. Review by Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon The Properties nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, by the developer as long as it owns lots in Peppermill Chase or sooner at developer's option. When the developer relinquishes his right at his option or when all his lots are sold, the trustee of Association shall appoint an architectural committee, which will have the aforementioned architectural control. In the event said Trustee or designated committee fail to act upon such design and location within thirty (30) days after said plans and specification have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article VII will be deemed to have been fully complied with. This section shall not apply to Developer.

Article VIII

General Provisions

Section 1. Royalty Rights to Gas Well. Beginning July 1, 1991 Association shall be the recipient of any royalties paid on the operation of the gas and oil wells located within The Properties.

Section 2. Duration. The covenants and restriction reserved in this Deed shall run with and bind the land, and shall inure to the benefit of and be enforced by Association, the owner of any land subject to these covenants and restrictions, their respective legal representatives, heirs, successors, and assigns, for a term of 25 years from the date this Deed is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the then Owners of two-thirds (2/3) of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part.

Section 3. Notice. Any notice required to be sent to any Owner or member under the provisions of these reserved covenants and restrictions shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of Association at the time of such mailing.

Section 4. Enforcement. 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, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter.

Section 5. Trustees. Any action to be taken by Association pursuant to these easements, covenants, restrictions, charges and liens shall, unless otherwise specified herein to the contrary, be taken by the Trustees of the Association.

Section 6. Right of Entry Upon Default. Developer reserves and is granted the right, and hereby grants to Association in case of any violation or breach of any of the restrictions, covenants and easements contained in this Deed, the right to enter the property upon as to which such violation or breach exists, and to summarily abate and or remove, at the expense of the Owner thereof, any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, as interpreted by Association, and Association or its agents shall not, by reason thereof, be deemed guilty of any manner of trespass for such entry, abatement or removal. A failure or delay to enforce any of the restrictions, covenants and easements contained in this deed, shall in no event be construed, taken or held to be a waiver thereof or acquiescence in or consent to any new, subsequent, further or succeeding breach or violation thereof.

Section 6b. Rights of Owners Upon Default. Owners, interested parties, occupants, lessees or tenants of Lots or Living Units who are in default as to any of the covenants and restrictions herein contained shall have no right to any use or benefit from any of Common Properties, utilities or assets of Association, but if rights, benefits, utilities or assets are used by or extended to such persons, Association shall not be stopped from a later revocation thereof, nor be liable in damages for such revocation. Any denial of use shall not diminish any obligations of defaulting parties hereunder.

Section 7. Serve ability. The invalidity of any covenant, restriction, easement, charge, lien or any other provision of these easements, restrictions and covenants, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these easements, restrictions or covenants.

Section 8. Perpetuities and Restraints on Alienation. If any of the options, privileges, restrictions, covenants, easements or rights created herein shall be unlawful or void for any violations of (a) the rule against perpetuities of some analogous statutory provision, (b) the rule against perpetuities on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only twenty-one (21) years after the death of the survivor of the now living descendants of George Bush, President of the United States of America.

In WITNESS WHEREOF said Grantor has executed this Declaration of restrictions this 10th day of October 1990 by its duly authorized officers.

Signed and Acknowledged in the presence of:

Mark C. Chapic (signature on file)

Martene Chapic (signature on file)

The LAKES LIMITED PARTNERSHIP

By: Northcrest Home Inc.

General Partner

By: *David A. English* (signature on file)

David A. English, President