

COVENANTS, CONDITIONS AND RESTRICTIONS OF
FOXCROFT ESTATES, SECTION ONE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Ultimate Properties, a Virginia general partnership (Declarant), is the owner and proprietor of certain tracts or parcels of land situate in Ashby District, Rockingham County, Virginia, and shown and designated on a subdivision plat entitled "Foxcroft Estates, Section One", dated March 24, 1997, revised May 14, 1997, and made by Michael W. Mars, L.S., which plat is to be recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, immediately prior hereto;

WHEREAS, the Declarant of the aforesaid tracts or parcels of land, in order to insure purchasers of said lots a uniform mode of development and in order to keep the subdivision desirable and suitable in architectural design and use, and to enhance and protect the value, desirability, and attractiveness of the property, desires that all of the lots or parcels in said subdivision, but specifically excluding all other lands or property of the Declarant, be sold subject to the restrictions, conditions, covenants, limitations, and easements as hereinafter set forth.

NOW, THEREFORE, the Declarant hereby declares that all of the aforesaid lots or parcels shall be held, sold, and conveyed subject to the restrictions, conditions, covenants, limitations and easements as hereinafter set forth and that these restrictions, conditions, covenants, limitations and easements shall run with the title to said lots and shall be binding on all purchasers thereof, and on their heirs, successors, devisees, and assigns and on all parties having or acquiring any rights, title, or interest in the described lots, and shall inure to the benefit of each owner thereof.

ARTICLE I

USE RESTRICTIONS: ARCHITECTURAL APPROVAL; EASEMENTS

All lots or parcels of said subdivision shall be held, sold and conveyed subject to the following restrictions, conditions, covenants, limitations and easements, to-wit:

1. No building or other improvements shall be erected, placed, or altered on any of said lots or parcels until construction plans and specifications and a plat showing the location of the structure have been submitted in writing and approved in writing by the Architectural Review Board (ARB) as to external design, color and materials, harmony of external design with existing structures, and as to location on the lot. After the initial construction, no alterations or changes in the external appearance of any such building or improvement, or portion thereof shall be made unless similarly approved in advance by the ARB. No fence, wall, recreational improvement, satellite dish or other large antenna, or sign of any kind shall be erected, placed, or altered on any of said lots unless and until similarly approved. No landscaping visible from any street shall be undertaken by any owner until plans and specifications showing the nature, kind, shape, and

location of the materials shall have been submitted to and approved in writing by the ARB. The ARB shall have full site plan approval.

2. The ARB shall consist of three (3) members appointed by the Declarant. At such time as the Declarant chooses, but no later than ten (10) years after all lots in Foxcroft Estates have been conveyed by the Declarant, the members of the ARB shall then be elected by the owners of lots in said subdivision, with each lot to be entitled to one (1) vote. Such an election may be called upon thirty (30) days written notice to each lot owner, as identified in the property tax records of the Rockingham County Treasurer.

3. The ARB shall have full, absolute and complete discretion to approve or disapprove proposed buildings and improvements, including any outbuildings, garages, storage sheds, dog houses, playhouses, gazebos and mailboxes, on any of said lots, and in the exercise of its discretion said ARB shall not be bound to approve any proposed buildings and improvements solely because such comply with the other restrictions and covenants herein contained or are equal in cost or value to buildings and improvements on other lots. The ARB shall also have the further discretion to approve any proposed buildings or improvements on any of said lots, even though said improvements do not meet the requirements of the other provisions of this instrument if, in the absolute discretion of said ARB, such variations are not harmful to the value of the adjoining property. In no event, however, shall said ARB be empowered to permit any use of said lots other than as provided in Paragraph 4 below.

4. Each lot or parcel of land shall be used for single-family residential purposes only and for no other purpose.

5. No dwelling shall be constructed on any lot which contains less than 1,500 square feet (measured from the outside wall) of above-ground, habitable, heated floor area.

6. The ARB shall have discretion to specify building setback lines from any street upon which any of said lots abut, providing said requirements equal or exceed the minimum setback requirements of Rockingham County, Virginia.

7. Trash, garbage, or other waste shall be kept in sanitary and closed containers, and all such containers shall be appropriately screened from view from any street or road on which any of said lots front. All lots shall at all times be kept in a sanitary, safe, and attractive condition.

8. No trailer or structure of any kind erected on any of said lots shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.

9. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except for dogs, cats or other typical household pets provided they are not kept, bred or maintained for commercial purposes or in unreasonable numbers. No such animals or pets shall be allowed to run at large or in any other manner be allowed to become a nuisance to the neighborhood.

10. None of said lots shall be resubdivided into smaller lots nor shall any portion of any lot be sold and conveyed by the owner thereof without the prior approval of the ARB. The right to approve such resubdivision of such lots and to relocate lot or boundary lines of any unsold lots is reserved to the ARB.

11. No lot or portion of any lot shall be used as an access way or right-of-way for ingress or egress to any lot, piece or parcel of land within said subdivision, or any other lot, piece or parcel of land, without the prior written consent of the ARB, or its successor or assigns.

12. Easements for drainage, for general utility purposes, and for the installation, repair, replacement and maintenance of underground water and sewer pipes and mains, and for electric power and telephone lines, are reserved to Declarant, over, through and across the strips of land designated or indicated as easements on the aforesaid plat. Such easements are expressly reserved to the use of the Declarant, and no third party shall be or become entitled to the use thereof, nor shall any other party, except the lot owner, have any vested interest in or to the use of such easements except Declarant or such utility company or governmental entity as may be granted specific rights over, through or across such easements. Except as such rights are granted to a utility company by a recorded easement or right-of-way, a release by Declarant to any individual lot owner of any easements so reserved shall operate as a complete release to such lot owner and no other party shall be entitled to exert any claim or right to the use thereof.

13. Some lots in the subdivision are encumbered by drainage easements, and no lot owner shall interfere with the drainage system within that easement, by grading, filling, landscaping, or otherwise, without the written permission of the ARB. Any drainage or water detention system located on or across any given lot shall be maintained by the owner of such lot.

14. The exterior of any building being constructed on any of said lots and the surfacing of any driveway or parking area on the lot, shall be completed within nine (9) months from the commencement of construction. Approved minimum landscaping must be installed within ninety (90) days of occupancy of the dwelling.

15. No noxious or offensive use or activity shall be carried on upon any lot or parcel, nor shall any practice be engaged in by the owners thereof, their tenants, agents, guests or assigns, that shall become an annoyance or nuisance to the subdivision. No hunting shall be allowed at any time on any lot.

16. The ARB reserves the right to grant exceptions or variances from the provisions of these Covenants, except for the use restrictions set forth in Paragraph 4. Every such exception or variance shall be evidenced in writing and signed by the ARB.

17. The side ditch along the public street upon which the lot fronts shall be maintained by such abutting lot owner and, if the side ditch is subsequently disturbed, it shall be restored by such lot owner in accordance with VDOT specifications.

ARTICLE II
GENERAL PROVISIONS

The restrictions, conditions, covenants, limitations and easements set forth in this Declaration, including all Articles hereof, shall run with the title to the land, shall be binding upon all parties owning said lots or parcels and all persons claiming under them until January 1, 2017, at which time they shall be automatically renewed for five (5) successive additional ten (10) year periods, unless sooner terminated. This Declaration may be terminated or modified by the written consent of the owners of two-thirds (2/3) of the lots comprising Foxcroft Estates which are subject to this Declaration, except that, so long as the Declarant owns ten percent (10%) of the property comprising Foxcroft Estates, as defined above, no such termination or modification shall be effective without the written consent of the Declarant.

The failure on the part of the ARB or the Declarant to enforce any restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto.

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages, or both.

Invalidation of any one of the provisions of this instrument by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

The Declarant reserves the right to make this Declaration applicable to other or additional land upon the recordation of a written instrument which refers to this Declaration.

IN WITNESS WHEREOF, Ultimate Properties, a Virginia general partnership, has caused its name to be hereunto affixed this 15 day of August, 1997.

ULTIMATE PROPERTIES

By: Nelson A. Gardner
General Partner

By: David D. Gardner
General Partner

By: Dale A. Gardner
General Partner

STATE OF VIRGINIA
CITY/COUNTY OF Rockingham

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this 15th day of August, 1997 on behalf of Ultimate Properties, a Virginia general partnership, by Nelson J. Gardner, general partner.

My commission expires: 4/30/2000

Carolyn C. Mathis
Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF Rockingham

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this 15th day of August, 1997 on behalf of Ultimate Properties, a Virginia general partnership, by David Gardner, general partner.

My commission expires: 4/30/2000

Carolyn C. Mathis
Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF Rockingham

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The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this
15th day of August, 1997 on behalf of Ultimate Properties, a Virginia general
partnership, by Dale A. Gardner, general partner.

My commission expires: 4/30/2000

Carolyn C. Mathews
Notary Public

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ROCKINGHAM CO. CIRCUIT
COURT
L. WAYNE HARPER, CLERK

VIRGINIA: In the Clerk's Office of the Circuit Court of Rockingham County
The foregoing instrument was this day presented in the office aforesaid, and is
together with the certificate of acknowledgement annexed, admitted to record this
27 day of August, 19 97 at _____ M. I certify that
taxes were paid when applicable
Sec. 58-54 - State _____ County _____ City _____
Sec. 58-54.1 - State _____ County _____ City _____ Transfer _____
Recorder L. W. TESTE
L. WAYNE HARPER
CLERK

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