

DECLARATION OF PROTECTIVE COVENANTS AND COMMON EASEMENTS

BY

DAVID A. HEAD

FOR

ANDROSCOGGIN VALLEY VIEWS

WITNESS THIS DECLARATION OF PROTECTIVE COVENANTS AND COMMON EASEMENTS made this 30th day of January, 1989 by David A. Head West Bethel, County of Oxford, State of Maine (hereinafter called "Declarant"); and

WHEREAS, Declarant owns certain real property located in Gilead, Oxford County, Maine (the "Property") shown upon a certain plan entitled "Androscoggin Valley Views" dated December 30, 1988 and recorded in the Oxford County Registry of Deeds as Plan #2408 (hereinafter called the "Plan"); and

WHEREAS, Declarant desires to assure quality standards for the wholesome development of the Property and to promote the interest and welfare of each owner of a part of the Property and therefore desires to subject the property to protective covenants and common easements as set forth hereinafter;

NOW, THEREFORE, Declarant hereby declares that the property is and shall be held, occupied, improved, transferred, leased and otherwise used and disposed of subject to the protective covenants and common easements set forth herein, all of which are declared to be in furtherance of a uniform scheme of mutual equitable servitude upon each and every portion thereof, in favor of each and every other portion thereof, and to create reciprocal rights and privity of contract and estate between all persons acquiring or owning an interest in any portion thereof, which protective covenants and common easements shall be determined to run with the land and be a burden and benefit upon and to, and be enforceable by, all persons having any interest in any portion of the property.

ARTICLE I

DEFINITIONS

1. Building: "Building" shall mean and refer to any residential structure or other similar improvement.

2. Common Expense: "Common expenses" shall mean and refer to expenditures made by or financial liabilities of the corporation, together with any allocations to reserves.

3. Association: "Association" shall mean and refer to Androscoggin Valley Views Association, its successors and assigns.

4. Home: "Home" shall mean and refer to the individual dwelling constructed on each Lot and any accessory structure located on or about any Lot.

5. Lot: "Lot" shall mean and refer to the individual lots numbered 1 through 14 of Phase I on the Plan and any residential unit or other improvements constructed thereon.

6. Member: "Member" shall mean and refer to those persons entitled to membership in the Association as determined by the Bylaws of the Association.

7. Owners: "Owners" shall mean and refer to the record owner or owners of a fee simple title to any Lot and shall include the Declarant so long as it owns any lot or any other portion of the Property, but shall not include any person or legal entity owning an interest merely as security for an obligation.

8. Residential Unit: "Residential Unit" shall mean and refer to one detached Home designed as a residence for one family either standing alone or combined with either or both of: (i) one garage for private use with such residence and constructed either as an integral part of such residence or as a detached building and adapted for the storage of not more than three automobiles and (ii) garden structures ordinarily appurtenant to single family residences. The term "Residential Unit" shall not include trailers, mobile homes or similar structures containing or suspended upon wheels, axles, or chassis.

9. Road: "Road" shall mean and refer to those roads depicted on the aforesaid plan as follows: Bear Mountain Road, Mount Tumbledown Road and Hydro Road from its intersection with the north road to its intersection with Bear Mountain Road. The Association shall be responsible for the maintenance of all of said roads. The Association has the right, at its option, to maintain Hydro Road from its intersection with Bear Mountain Road past lots 10, 9 and 8 to its intersection with Mount Tumbledown Road.

ARTICLE II

PROTECTIVE COVENANTS AND RESTRICTIONS

Each conveyance of a Lot shall henceforth be subject to the following protective covenants and restrictions:

1. Residential Uses: Subject to the rights of the Declarant to develop and sell the lots and such other rights of the Declarant as are set forth in this Declaration, each Lot shall be used as a single family residence and no commercial enterprise of any nature or description shall be conducted or maintained on any portion of the property, except that an Owner may conduct a home occupation as defined by the Site Plan Review Ordinance of the Town of Gilead employing no more than two (2) persons other than himself and members of his immediate family upon his lot.

2. Residential Unit: Subject to the rights of the Declarant to develop and sell the Lots and such other rights of the Declarant as are set forth in this Declaration, no building or other structure other than a Residential Unit shall be constructed, installed, maintained or occupied on any Lot and no more than one Residential Unit shall be maintained at any time on any one Lot. Such Residential Unit shall be set back fifty (50) feet from all roads abutting the Lot and from all other Lot lines.

3. Exterior of Buildings: No building erected on any Lot shall be covered with tar paper, asphalt siding or corrugated metal siding, but shall be covered with clapboards, shingles, brick, vinyl siding, or similar suitable materials. Further, all Buildings erected on the Lots shall be constructed in compliance with all applicable federal, state and local building ordinances and codes, including, but not limited to any buildings setbacks.

4. Construction of Residential Units: All exterior construction of Residential Units shall be completed within one (1) year from the date that construction, as evidenced by excavation of the foundation, commences.

5. Temporary Structures: No buildings of a temporary character, whether trailer, tent, shack, garage, barn or other outbuilding shall be maintained or used on any lot at any time as a residence, either temporarily or permanently.

6. Animals: No poultry, swine, livestock or other animals shall be kept on the Property, except household pets of the kind and number normally housed in a residence. All pets shall be restrained so as not to become noisome or offensive to other Owners and shall not be allowed off of their owner's Lot, except on a leash or other restraining device. The Board of Directors of the Association shall have the power to adopt reasonable rules and regulations further regulating the keeping of pets on the Property.

7. Trees: No more than twenty-five (25%) percent of the trees on any lot measuring five (5) inches in diameter, or larger, measured at a point three (3) feet above the ground shall be cut in any five (5) year period, except as are necessary for building purposes, lawns, private ways, for removal of dead or diseased trees, or the clearing of a garden area the size sufficient to provide for the private consumption of the occupants of a Lot. Grounds cleared for laws shall be seeded and protected from erosion as soon as the weather permits.

8. Maintenance of the Road. The Association shall maintain and keep in good repair the Road and shall do any and all other things deemed necessary or appropriate by the Board of Directors for the operation and maintenance of the Property.

9. Compliance with Local Ordinance. Owners shall occupy and maintain their Lots in accordance with the rules, regulations and ordinances duly enacted by the town of Gilead.

10. Subdivision and Alteration of Lot Lines.

A. Subdivision. No subdivision of any individual lot shall be made and no greater number of Lots than the number shown on said Plan shall be permitted at any time, provided, however, that any Lot between two other lots may be divided between and conveyed to Owners of the said abutting Lots on either side.

B. Division. If two or more Lots are combined in a single ownership, they may be re-subdivided only in accordance with the Lot lines shown on said Plan, unless a division complies with subparagraph A of this Paragraph 10.

C. Combination. An Owner of adjoining Lots, may combine his Lots and thus eliminate the setback requirements as set forth above, regarding those Lot lines which divide his two Lots. The construction of a Building within fifty (50) feet of an original Lot line of two combined Lots, however, will bind the Owner for the life of that Building to treat, use and resell his multiple Lots as a single Lot.

11. Prohibited Vehicles. Except in the development and sale of the Lots by the Declarant, no more than one (1) unregistered vehicle, or any nature or design, shall be brought upon, or be maintained, or be permitted to remain on any Lot at any time.

12. Signs: No signs, billboards, posters, or advertising of any character shall be erected, permitted or maintained on any Lot except one sign, no greater than three (3) square feet in size, identifying the Owner of the lot or advertising the particular Lot on which the sign is situated for sale or rent. The Declarant reserves for itself and its successors and assigns, including but not limited to, the Association, the right to enter upon a Lot to remove any such signs, billboards, posters or advertising devices that are in violation of this Paragraph, without liability for damages. The right is reserved by Declarant, its successors and assigns, however, to construct and maintain such signs, billboards or advertising devices on any Lot or on the Road as are customary in connection with the general sale of residential property.

ARTICLE III

ROAD

Each conveyance of a Lot shall include as an appurtenance to such Lot a right and easement to use the Road for ingress and egress to and from his Lot for himself, his family, guests and invitees, subject to this Declaration and subject to any restrictions or limitations contained in any deed of the Road to the Association.

ARTICLE IV

INSURANCE

The Association shall maintain as a Common Expense and to the extent reasonably available, Comprehensive Liability Insurance, as set forth in the Bylaws of the Androscoggin Valley Views Association, as the same may be amended from time to time.

ARTICLE V

EASEMENTS

1. Creation of Easements: The following easements are hereby created.

(a) The Declarant reserves the right to use any lots owned or leased by the Declarant as models, and the Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the property and may be relocated or removed, all at the sole discretion of the Declarant. This easement shall continue until the Declarant has conveyed all Lots to Owners other than the Declarant.

(b) The property shall be, and hereby is made subject to easements in favor of the declarant, appropriate utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created by this Section (b) shall include, without limitation, rights of the Declarant, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits and equipment and ducts and vents over, under, through, along and on the property. Notwithstanding the foregoing provisions of this Article, any such easement through a lot shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the lot by the declarant or only on such portions of the lots are not covered by a building. Any such easement shall not materially interfere with the use or occupancy of the lot by its occupants. With respect to any utility lines or equipment serving only the property and located upon the road, the board of directors of the corporation shall have the right and power to dedicate or convey title to the same to any private or public utility company. The Board of Directors of the Association shall also have the right and power to convey permits, licenses and easement over the road for the installation, maintenance, repair and replacement of utility poles, lines, wires, and other equipment to any private or public utility company. In addition, the Board of Directors of the Association shall have the right to grant permits, licenses and easements over the road for its maintenance and for other purposes necessary for the proper operation of the property.

(c) The Declarant reserves for as long as it owns any lot, an easement on, over and under those portions of the property not located within a building for the purpose of maintaining and/or correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance.. The easement created by this Section (c) expressly includes the right to cut bushes, or shrubbery, to grade the soil, or to take any other action reasonably determined to be necessary. The Declarant or the Association, as the case may be, shall restore the affected property as closely to its original condition as is practicable.

(d) The lots shall be and hereby are made subject to an easement in favor of the Declarant, the Association and the agents, employees and independent contractors thereof for the purpose of the inspection, upkeep, maintenance, repair and replacement, if applicable, of the Lots and any improvements and fixtures located thereon, pursuant to its rights to enforce and the provisions of this Declaration.

(e) All easements, rights and restrictions described and mentioned in this Article V are easements appurtenant, running with the land and the property, and (except as expressly may be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

2. Reservation of Easement Rights: So long as the Declarant has title to any other portion of the Property, the Declarant reserves the right to grant to any third party any license or easement, in, on, over or through the Property, in addition to and not in limitation of those set forth above, which license or easement is determined by the Declarant, in its reasonable judgment, to be necessary or desirable for the development or improvement of the Property. Any such license or easement through a lot shall be located only on such portions of the lot as are not covered by buildings and so as not to materially interfere with the use or occupancy of the lot by its occupants. Any such license or easement granted hereunder may be recorded by the Declarant at its sole cost and expense. The Association, at the request of the Declarant, shall execute and deliver in recordable form any instrument or documents necessary or appropriate to confirm the grant of such license or easement.

ARTICLE VI

ANDROSCOGGIN VALLEY VIEWS ASSOCIATION

Each owner, his heirs, successors or assigns shall automatically during the period of and by virtue of such ownership be a member of the Association, so long as it shall be in existence.

1. Purposes. The purpose of the Association shall be: the ownership, operation, maintenance and improvement of the Road; the administration and enforcement of the protective covenants and restrictions created by Article II hereof; the general protection of the property; and the performance of any functions desired by its members for the regulation, use, or maintenance of the property an its natural environment and all as more fully set forth in the By-laws of the Association attached hereto as Exhibit A and made a part hereof.

ARTICLE VII

DURATION

The protective covenants and common easements, the provisions for the Association and the other provisions of this Declaration as set forth herein and as may be amended from time to time, shall run with and burden the Property and shall inure to the benefit of and be enforceable by the Declarant, by the Association and any other Owners of any portion of the property, their respective legal representatives, heirs, successors or assigns, for a term of thirty (30) years from the date this Declaration is recorded after which time all of said provisions shall be automatically extended for successive periods of five (5) years unless an instrument signed by an authorized officer of the Association has been recorded certifying that the Owners of the Association seventy-five per cent (75%) of the lots have agreed to terminate this Declaration as of a specified date following such recording date, provided that the Associations may be dissolved at any time that neither the Declarant nor the Association owns or is responsible for the maintenance of any portion of the road or any other portion of the property.

ARTICLE VIII

SUPPLEMENTAL DECLARATIONS

This Declaration may be amended from time to time, or terminated, subject to the terms of Article VII of this Declaration, by and with (i) a Supplemental Declaration duly executed by the Declarant or the Association pursuant to an affirmative vote of Owners of seventy-five percent (75%) of the lots, except that so long as the Declarant is the owner of fifty per cent (50%) or more of the lots, it may in its sole discretion and without joinder of any Owner amend, revise, or abolish any one or more of the provisions of this Declaration. No such amendment shall render invalid any use or subdivision of and within the property existing in accordance with this Declaration at the time of recording such supplemental declaration, and any such amendment shall be reasonably consistent with the uniform scheme of development established by this Declaration.

ARTICLE IX

DISPUTES

In the event a dispute arises between two or more owners, such owners shall submit the dispute to arbitration in accordance with the rules of the American Arbitration Association and the result thereof shall be binding and conclusive upon the parties. Upon the written request of either party to the dispute, each party to the dispute shall appoint one person as an arbitrator to hear and determine the dispute and if two arbitrators so chosen shall be unable to agree, then they shall select a third arbitrator whose decision shall be final and conclusive upon the parties. The expenses of such arbitration shall be borne by the losing party, or in such proportion as the arbitrators shall decide. The Arbitration shall be conducted as the arbitrators shall decide. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association.

ARTICLE X

DECLARANT'S RIGHTS

The conveyance of the Lots to Owners shall be subject to the following reserved rights:

1. The Declarant reserves the right until the construction, marketing and sale of all lots is completed to:

(a) Locate on the property, even though not depicted on the survey, and grant and reserve easements and rights of way for the installation, maintenance, repair, replacement and inspection of, utility lines, wires, pipes, conduits and facilities, including, but not limited to, water, electric, telephone, fuel oil and sewer.

(b) Connect with and make use of utility lines, wires, pipes and conduits located on the property for construction and sale purposes, provided that the Declarant shall be responsible for the cost of service so used.

(c) Use the Road for ingress and egress and use the property for the storage of construction materials and equipment used in the completion of the subject.

(d) Install and maintain signs and lighting for sales purposes.

(e) With respect to any Lots remaining unsold by Declarant, Declarant may let or lease such lots to any person or persons as Declarant sees fit.

2. The Declarant reserves the right until seven (7) of the Twelve (12) lots have been sold to owners other than the Declarant, to appoint and remove the officers of the Association and members of the Board of Directors of the Association, and to veto any action of the Association or the Board of Directors. Nothing contained in this Article X shall be deemed to affect the Declarant's exercise of its rights as an owner of lots and member of the corporation.

This Article X shall not be amended without the consent of the Declarant so long as the Declarant owns any part of the property.

ARTICLE XI

GENERAL PROVISIONS

1. Enforcement. By the acceptance of a deed to his lot, each owner covenants and agrees to comply with the covenants and restrictions set forth in this Declaration, with the Bylaws of the Association. Any failure to so comply shall be grounds for an action against the offending owners to record damages or for injunctive relief or both. Such action may be maintained by the Association or by any aggrieved Owner or by the Declarant so long as it owns any part of the Property. Any Owner shall have a right of action against the corporation for failure to comply with the covenants and restrictions set forth in this Declaration, the Bylaws, or with any rules and regulations promulgated by it.

2. Waiver. No delay or omission on the part of Declarant, the Association or any owner in enforcing the covenants set forth herein shall be construed as a waiver of any right to enforce or to seek such remedy or acquiescence in such breach.

3. Severability. In the event any one or more of the provision of this Declaration shall be found for any reason by a Court of competent jurisdiction to be unenforceable or null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any other provision of this Declaration.

4. Perpetuities. If any of the covenants, restrictions or other provisions of this Declaration shall be unlawful, void or voidable because of the Rule against Perpetuities, then such provision or provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

5. Pronouns. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the said David A. Head has executed this Declaration of Protective Covenants and Common Easements on the date and year first above written.

WITNESS:

Marcia M. Monk

David A. Head
David A. Head

STATE OF MAINE
OXFORD, SS.

May 7, 19~~89~~⁹⁰

Then personally appeared the above named David A. Head and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Marcia M. Monk
Notary Public

RECEIVED
RECORDED REGISTRY OF DEEDS
90 JUN -6 PM 1:27
OXFORD COUNTY
[Signature]