

CC&Rs

Cabin Creekwood Homeowners Association

**Declaration
Restrictive
Covenants &
Easements**

BOOK 602 Pages 638-651

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by CABIN CREEKWOOD LIMITED PARTNERSHIP, 411 Cedar Road, Suite 7, Chesapeake, Virginia 23320, and WASHINGTON HOMES, INC. OF VIRGINIA, a Virginia corporation, hereinafter referred to as "Declarants" and 1st AMERICAN BANK OF VIRGINIA, One Bank Street, Norfolk, Virginia 23510, hereinafter referred to as "Noteholder".

WITNESSETH:

WHEREAS, Declarants are the owner of a certain property in the County of Stafford, State of Virginia, which is more particularly described as:

All that land encompassed in the Cabin Creekwood Subdivision, Stafford County, Stafford as shown on a Plat of Sections 1 and 2 (and other Sections as may be put to record from time to time) by D. Thomas Basham dated October 23, 1987 and December 9, 1987, recorded in Plat Book 15 at Pages 76-77A and 93-94, respectively, in the Clerk's Office of the Circuit Court of Stafford County, Virginia, including but not limited to Lots 1 through, and including 39, and all "Outlots": "A", "G", "I", "J", "K", "L", "M" and "N" as well as all roads as designated.

NOW, THEREFORE, Declarants hereby declare that all described above shall be held, sold and conveyed subject to the following easement, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

SECTION 1. "ASSOCIATION" shall mean and refer to Cabin Creekwood Homeowners Association, Incorporated", its successors and assigns.

SECTION 2. "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 any obligation.

SECTION 3. "PROPERTIES" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "COMMON AREA" shall mean all real property which shall be used for the common use and enjoyment of the owners. The Common Area for Sections 1 and 2, Cabin Creekwood, shall include, but not be limited to: "Outlots "A", "G", "I", "J", "K", "L", "M", and "N" as set forth on the final plats of Sections 1 and 2, Cabin Creekwood by D. Thomas Basham, dated October 23, 1987 and December 9, 1987 and recorded in the Clerk's Office of the Circuit Court of Stafford County, Virginia in Plat Book 15 at Page 17 and 18 and Pages 93 and 94 respectively. Reference is hereby made to these plats and any amendments and subject to applicable utility and other easements as shown and those streets shown as Cabin Court and Appalachian Drive. Common areas in additional sections of Cabin Creekwood shall be designated by amendment to these restrictions by reference.

SECTION 5. "LOT" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of any common area.

SECTION 6. "DECLARANTS" shall mean and refer to Cabin Creekwood Limited Partnership, its successors and assigns provided such successors or assigns acquire more than one undeveloped Lot from the Declarant for the purpose of development and Washington Homes, Inc. of Virginia as purchaser.

ARTICLE II

PROPERTY RIGHT

SECTION 1. OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the use of any recreational facility situated upon the Common Areas.

(b) The right of the Association to suspend the voting rights and right to use any of the recreational facilities by any owner for any period during which any assessment against this Lot remains unpaid; and for a period not to exceed Sixty (60) days for any infractions of its published rules and regulations.

(c) The right of the Association to dedicate or transfer 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 by the members. No such dedication or transfer shall be effective unless an instrument signed by Two-Thirds (2/3) of each class of

members agreeing to such dedication or transfer has been recorded.

(d) The right of individual Owners to exclusive use of the parking space as provided in Article VII.

SECTION 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP VOTING RIGHTS

SECTION 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

SECTION 2. The Association shall have two classes of voting members:

CLASS A.

Class A members shall be all Owners with the exception of the Declarants and shall be entitled to One (1) vote for each Lot owner. When more than one person holds an 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.

CLASS B.

Class B member(s) shall be the Declarants and shall be entitled to Three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either 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 outstanding; or

(b) on the 1st day of January, 1990.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF

ASSESSMENTS. The Declarants, for each Lot owned within the Properties, hereby covenant, and each Owner, or any owned Lot by acceptance of a Deed, therefore, whether or not is shall be so expressed in such Deed, it is deemed to covenant and agree to pay to the Association: (1) annual assessment charges; (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made.

SECTION 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area and of maintaining the streets entitled Appalachian Drive and Cabin Court and all "outlots" as shown on the recorded subdivision plats by D. Thomas Basham recorded in Plat Book 15 at pages 17, 18, 93 and 94 and such other land as may be added from time to time and deeded to the Association.

SECTION 3. MINIMUM ANNUAL ASSESSMENTS. Until January 1 of the year immediately following the conveyance of the first Lot in Section 1 and 2 to an Owner, the maximum annual assessment shall be \$150 for townhouse Lots at \$12.50 per month.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot in Section 1 and 2 to an Owner, the maximum annual assessment may be increased each year not more than Five Percent (5 %) above the maximum annual assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot in Section 1 and 2 to an Owner, the maximum annual assessment may be increased above Five Percent (5%) by a vote of Two-Thirds (2/3) of each class of members who are voting in person or be proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual 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, reconstruction, repair or replacement of a capital improvement upon the Common Area, including 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.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than Thirty (30) days nor more than Sixty (60) days in advance of the meeting. At the first such meeting called, the presents of members or of proxies entitled to cast Sixty Percent (60%) of all the vote of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be One-Half (1/2) the required quorum at the preceding meeting. No such subsequent meeting shall be held more than Sixty (60) days following the preceding meeting.

SECTION 6. UNIFORM RATE OF ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly or quarterly basis.

SECTION 7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessment provided for herein shall commence as to all Lots on the first date of the first month following the conveyance of a Lot to an individual owner other than the Declarants. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least Thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association, shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid within Thirty (30) days after the due date shall bear interest from the due date at the rate of Eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by the nonuse 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 Deed of Trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a first Deed of Trust of any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer

shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No buildings, signs, except those erected by Declarants or their agent to identify subdivision or to sell lots, fence, wall or other structure shall be commenced, erected or maintained upon 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 or external design and location in relation to surrounding structure and topography by the Board of Directors of the Association, or by an architectural committee composed of Three (3) or more representatives appointed by the Board. In the event said board, or its designated committee, fails to approve or disapprove such design and location within Thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. SEVERABILITY. 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.

SECTION 3. AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the land for a term of Twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of Ten (10) years. This Declaration may be amended during the first Twenty (20) year period by an instrument signed by not less than Ninety Percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than Seventy-Five Percent (75%) of the Lot Owners except for additions to be common area through recording of additional sections of Cabin Creekwood which shall be at the sole discretion of the Declarants. Any amendment must be recorded.

SECTION 4. ANNEXATION. Additional residential property and common area may be annexed to the Properties with the sole consent and discretion of the Declarants or their assigns.

SECTION 5. FHA/VA APPROVAL. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties not shown on the preliminary plan of subdivision approved by Stafford County, dedication of Common Area other than that shown as "outlots" on recorded subdivision plat, and amendment of this Declaration of Covenants, Conditions, and Restrictions.

ARTICLE VII

PARKING

SECTION 1. PARKING RIGHTS. Ownership of each Lot shall entitle owner or owners thereof to the use of not more than Two (2) automobile parking spaces, for currently licensed vehicles on each Townhouse Lot as provided. No owner shall park a camper, trailer, school bus or truck larger than one-half (1/2) ton, on their property or on the private street for longer than Twenty-Four (24) hours. No vehicle under repair, "junk car" or other unsightly vehicle shall be allowed on any lot or street.

ARTICLE VIII

PARTY WALLS FOR TOWNHOUSES

SECTION 1. GENERAL RULES OF LAW TO APPLY. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

SECTION 2. SHARING OF REPAIR AND MAINTENANCE. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

SECTION 3. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or will acts or omissions.

SECTION 4. WEATHERPROOFING. Notwithstanding any other provisions of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 5. RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of an Owner to Contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

SECTION 6. ARBITRATION. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

STAGED DEVELOPMENT

Development of Cabin Creekwood shall be by recording subdivision plats of lots by Section according to preliminary plans as approved by Stafford County, Virginia as may be modified from time to time. Streets, "outlots" and common areas shall be deeded to the Association.

ARTICLE X

EASEMENTS

SECTION 1. There are hereby permanent and exclusive easements designated as common area or utility easements designated on those certain plats by D. Thomas Basham, dated October 23, 1987 and December 19, 1987, recorded along with any by reference made a part hereof; said easements shall be for maintenance, parks, sidewalks, utilities, ingress or egress, and for other purposes as the Association may from time to time prescribe not in consistence with there enumerated uses.

ARTICLE XI

SECTION 1. All residences in Cabin Creekwood shall be used as single family dwellings.

SECTION 2. No swine, cows, horses, fowl, goats or other livestock shall be kept on the premises, nor shall dogs, cats or other pets be kept in numbers totaling in excess of one dog or two cats per lot.

SECTION 3. No commercial or professional signs shall be exhibited on any lot in the subdivision in any manner, except as stated in Article V and no lot in said

subdivision shall be used for business or commercial purposes but shall be used for residential purposes only. This section does not preclude the property owner from posting or having posted a sign of not more than Five (5) square feet advertising the property for sale or rent.

SECTION 4. Owners of lots n said subdivision shall keep their lots free of garbage, trash and untidy debris and litter. The Association is vested with power too enforce this covenant at the expense of the lot owners.

SECTION 5. No commercial vehicles or equipment shall be parked on any parking areas of this subdivision except for pick-up or panel delivery trucks and then only overnight and over weekends when used for the purpose of traveling to and from work. This covenant shall not apply to vehicles and equipment used in the construction of buildings upon the lots in the subdivision or to utility companies vehicles or equipment while installing, maintaining or repairing utilities or utilities easement right-of-way.

ARTICLE XII

ADDITIONAL COVENANTS

SECTION 1. It is further understood and agreed, as follows:

(a) The Association shall provide written notification of any default by an Owner of any lot of such Owners obligation to the Association which is not cured within Thirty (30) days to any first mortgage or first Deed of Trust holder.

(b) Any first mortgage who comes into possession of any Lot pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or Deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal".

(c) Any first mortgage who comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or Deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit which accrue prior to the time such holder comes into possession of the Lot (except for claims resulting from pro-rata reallocation of such assessments or charges to all units including the mortgaged unit).

(d) Unless at least Seventy-Five Percent (75%) of the first mortgages (based upon one vote for each first mortgage) of individual Lots have given their prior written approval, the Association shall not be entitled to:

(1) by act or omission seek to abandon, petition, subdivide, encumber,, sell or transfer real estate or improvements thereon which are owned, directly or indirectly, by such Association, for the benefit of the Owner;

(2) change the method of determining the obligations, assessments, duties or other changes which may be levied against an Owner;

(3) by act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of units;

(4) fail to maintain fire and extended coverage on insurable Common Area on a current replacement cost basis in an amount not less than One Hundred Percent (100%) of the insurable value (based on current replacement cost);

(5) use hazard insurance proceeds for losses to any Common Area for other than repair, replacement or reconstruction of such improvements;

(e) First mortgages shall have the right to examine the books and records of the Association.

(f) First mortgages of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property and first mortgages make such payment shall be owed immediate reimbursement therefore from the Association. Entitlement to such reimbursement is hereby agreed to and this instrument constitutes an agreement between the first mortgages of Lots and the Association.

(g) No provision of the Articles of Incorporation of the Association, or the Declaration of Easements, Restrictions and Covenants, or any similar instrument pertaining to Lots or Common Areas shall give an Owner or any other party priority over any rights of first mortgages of Lots pursuant to their mortgages in the case of a distribution to the Lot Owners of insurance proceeds on condemnation awards for losses to or taking of Common Area properties.

(h) Owners have a right to enjoyment of the Common Areas and such property shall be owned in fee or in an acceptable leasehold estate by the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have hereunto set their hands and seals this 24 day of February, 1988.

CABIN CREEKWOOD LIMITED PARTNERSHIP
A Virginia Limited Partnership, DECLARANT

BY: VIDCORP, INC., (formerly VIDCO OF VIRGINIA,
INC), a Virginia Corporation, General Partner

BY: _____ /S/ _____ (SEAL)
ADRIAN D. BAILEY, JR, PRESIDENT

WASHINGTON HOMES, INC. OF VIRGINIA
DECLARANT

BY: _____ /S/ _____ (SEAL)
JOHN W. SIMMS, VICE PRESIDENT

1ST AMERICAN BANK OF VIRGINIA
NOTEHOLDER

BY: _____ /S/ _____

STATE OF VIRGINIA

CITY/COUNTY OF CHESAPEAKE to-wit:

The foregoing instrument was acknowledged before me this 5th day of February, 1988 by ADRIAN D. BAILEY, JR., President of VIDCORP, INC. (formerly VIDCO OF VIRGINIA, INC.), a Virginia Corporation, General Partner of CABIN CREEKWOOD LIMITED PARTNERSHIP.

My Commission expires: May 6, 1991

/S/ Carol M. Pederson
NOTARY PUBLIC

STATE OF VIRGINIA

CITY/COUNTY OF PRINCE WILLIAM to-wit:

The foregoing instrument was acknowledged before me this 24 day of February, 1988 by JOHN W. SIMMS, VICE PRRESIDENT of WASHIINGTON HOMES, INC. OF VIRGINIA, a Virginia Corporation.

My Commission expires: December 10, 1991

/S/ Becky Leonard
NOTARY PUBLIC

STATE OF VIRGINIA

CITY/COUNTY OF NORFOLK, to-wit:

The foregoing instrument was acknowledged before me this 17th day of February, 1988 by BERNARD H. SIGLINGER, JR. who is (title) Sr. Vice President of 1st American Bank of Virginia and authorized to sign on behalf of 1st American Bank of Virginia.

My commission expires: January 1, 1991

/S/
NOTARY PUBLIC

