

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this 25th day of November, 1974, by FOX MILL, INC., a Virginia corporation, hereinafter known as "Declarant" and FOLKSTONE HOMES ASSOCIATION, a Virginia non-stock corporation, hereinafter known as "Association."

WHEREAS, Declarant is the sole owner of certain real property located in Centreville District, Fairfax County, Virginia, known as FOLKSTONE, SECTION ONE (1), and as the same is duly dedicated, platted and recorded immediately prior hereto among the land records of Fairfax County, Virginia; and as more particularly described by metes and bounds on Schedule "A" attached thereto and incorporated therein by reference; and

WHEREAS, Declarant desires to create thereon a residential community with permanent open spaces and other common facilities for the benefit of the community and to provide 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, desires 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 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 State of Virginia, as a non-stock corporation, FOLKSTONE HOMES ASSOCIATION, for the purposes 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 Eight (8), inclusive, Ten (10), Eleven (11), Thirteen (13), Fifteen (15) through Twenty (20), inclusive, Twenty-four (24), Twenty-five (25), Twenty-seven (27) through Thirty-two (32), inclusive, Thirty-seven (37), Thirty-eight (38), Forty (40) through Forty-nine (49), inclusive, Fifty-two (52), Fifty-four (54) through Fifty-nine (59), inclusive, Sixty-one (61) through Sixty-three (63), inclusive, Sixty-five (65), Sixty-seven (67) through Seventy-one (71), inclusive, Seventy-four (74) Seventy-five (75), Seventy-six through Eighty-seven (87), inclusive, Eighty-nine (89), Ninety (90), Ninety-two (92) through Ninety-four (94), inclusive, One Hundred Thirty-eight (138) through One Hundred Fifty-three (153), inclusive, One Hundred Eighty-seven (187), One Hundred Eighty-nine (189) through One Hundred Ninety-one (191), inclusive, One Hundred Ninety-five (195), One Hundred Ninety-eight (198), One Hundred Ninety-nine (199), Two Hundred (200), Parcels "A", "B" and "E", 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"), hereinafter set forth.

#### ARTICLE I

#### DEFINITIONS

Section 1. "Association" shall mean and refer to FOLKSTONE HOMES ASSOCIATION, its successors and assigns.

Section 2. "Properties" shall mean and refer to certain real property hereinabove 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 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.

Section 7. "Declarant" shall mean and refer to FOX MILL, INC., a Virginia corporation, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## 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 two classes of voting membership:

Class A: Class A members shall be all those Owners as defined in Article II with the exception of the Declarant. Class A 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 such 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: The Class B member shall be the Declarant. the Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article II; provided, however, that 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, or

(b) On January 1, 1982.

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 right to 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 sixty (60) 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 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 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 member 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 V

#### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the

above-mentioned properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

(a) Annual assessments or charges, and

(b) Special assessments for capital improvements,

such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual 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 each such assessment is made. Each such assessment together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the 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 and improvements and maintenance of services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Sixty and no/100 Dollars (\$60.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D. C.) for the year ending the preceding July 1.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot, the maximum annual assessment may be increased above that established by the Consumer Price Index formula by a vote of the members for the next succeeding three (3) years and thereafter for each succeeding period of three (3) years, provided that any such change shall have the assent by a vote of two-thirds (2/3) 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 not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

(c) After consideration of current maintenance costs and further needs of the Association, 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 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 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 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 annual and special assessments shall be fixed at a uniform rate for all Lots.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Sections 3 and 4 thereof, the presence at the meeting of members or proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirements set forth in Sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner. 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 at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

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 eight percent (8%) per annum, 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 assessments 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. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure sale, shall extinguish the lien of such assessments 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; (c) all properties owned by charitable or other organizations exempt from taxation by the laws of the State 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.

5. No sign of any kind that is illuminated and/or larger than two square feet shall be displayed to the public view on 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 or 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, provided that they are not kept, bred or maintained for commercial purposes.

7. Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection. No accumulation or storage of litter, new or used building materials or trash of any other kind 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 structure or addition to be a structure shall be erected, placed or altered on any lot until the plan and specification, including elevation, 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 shall be defined to include any building or portion thereof, fence, pavement, driveway or appurtenances to any of the aforementioned.

10. No junk vehicle or 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. The

location and design of enclosures for boating, camping, traveling (other than automobiles) and related equipment shall be approved by the Architectural Control Committee as required under Paragraph 9 herein.

11. 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 and charges now or hereafter imposed by the provisions of this Declaration of Covenants, Conditions and Restrictions. 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.

12. Invalidation of any one of these covenants or restriction by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

13. The Architectural Control Committee shall consist of the Directors of the Association, or a committee of three persons appointed by them. 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 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 an proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions 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 the 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 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, 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 during the first twenty (20) year period shall have the assent of at least ninety percent (90%) of the Lot Owners, and thereafter any amendment shall have the assent of seventy-five percent (75%) of the votes of the Lot Owners, at a meeting duly called for this purpose, written notice of which shall be sent to all Lot Owners 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 at a duly held meeting at which a quorum is present by the assent of more than two-thirds (2/3) of each class of members; and

(b) if within six (6) years of the date of incorporation of this Association, the Declarant should develop additional lands within that certain tract acquired by the Declarant by Deeds recorded in Deed Book 3871, at page 259, Deed Book 3871, at page 257, Deed Book 3869, at page 173 and Deed Book 3922, at page 508 of the land records of Fairfax County, Virginia, or adjacent thereto, such additional land may be annexed to said Properties without the assent 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.

IN WITNESS WHEREOF, FOX MILL, INC. has caused this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS to be executed in its corporate name and on its behalf by its President and its Corporate Seal to be hereunto affixed and attested by its Secretary, with due authority of its Board of Directors.

FOX MILL, INC.

BY: \_\_\_\_\_  
President

Corporate Seal  
ATTEST:

BY: \_\_\_\_\_  
Secretary

STATE OF VIRGINIA  
COUNTY OF FAIRFAX, to-wit:

I, the undersigned Notary Public, in and for the County and State aforesaid, whose commission expires on the \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_, do hereby certify that \_\_\_\_\_  
and \_\_\_\_\_, as  
President and Secretary, respectively, of FOX MILL, INC., whose  
names are signed to the foregoing DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS bearing date on the \_\_\_\_\_ day of  
November, 1974, have acknowledged the same before me in my State  
and County aforesaid.

GIVEN under my hand and seal this \_\_\_\_\_ day of November,  
1974.

\_\_\_\_\_  
Notary Public

HAZEL,  
CHORN & HANES  
Attorneys at Law  
P. O. Box 547  
Sta. Virginia 22030