

*Hallcrest Heights Associates
Deed & Covenants*

ARTICLE I - DEFINITIONS

1. **Corporation** shall mean and refer to the Hallcrest Associates, Incorporated.
2. **The Properties** shall mean and refer to all property subject to this Deed of Dedication.
3. **Common Properties** shall mean and refer to that area of land shown on the attached plat as Parcel "A" and any other areas of land which may be shown on any subsequent recorded subdivision plat of The Properties as intended to be devoted to the common use and enjoyment of the owners of The Properties.
4. **Lot** shall mean and refer to any plot of land shown on any recorded subdivision map of The Properties with the exception of Common Properties as herein before defined.
5. **Owner** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties, but notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgage has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
6. **Member** shall mean and refer to all those Owners who are members of the Corporation as provided in Article III, Section 1, hereof.

ARTICLE II - PROTECTIVE COVENANTS AND RESTRICTIONS

In order to conserve the natural beauty of the subdivided property, to insure its best use and most appropriate development and to prevent the erection of poorly designed or constructed improvements, the entire area shown in the attached plat shall be subject to the following protective covenants and restrictions, hereinafter referred to as the General Covenants.

1. No building, structure, alteration, addition or improvements of any character other than interior alterations not affecting the external appearance of a building or structure shall be constructed upon any portion of The Properties unless and until a plan of such construction shall have been approved by the Architectural Control Committee of said Corporation as to quality of workmanship and materials, harmony of external design and color with surrounding structure, location with respect to topography and finished grade elevation, the effect of construction on the outlook from surrounding property and all other factors which will in their opinion affect the desirability or suitability of the construction. No construction shall be commenced and no lot shall be graded except in accord with such approved plan or modification thereof similarly approved.
2. The initial Architectural Control Committee is composed of A.R. Lowstuter,, whose terms expires January, 1, 1969; Alexander Feldman whose term expires January 1, 1970 and H.R. Lowstuter whose term expires January 1, 1971. On the expiration of the term of any member of the Architectural Control Committee, the Board of Directors of the Corporation shall name a successor to serve for a term of three years. In the event of the death, resignation, refusal or inability to act of a member of the committee, the Board of Directors of the Corporation shall name a successor to fill the unexpired term. The members of the committee shall not be entitled to any compensation in connection with the performance of their functions as such, unless otherwise agreed between the Board of Directors of said Corporation and the members of said Committee.
3. No lot shall be used except for residential purposes, or (for professional offices, or for a builder's construction of sales office during the construction and sales period).

4. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no tree of a diameter of more than four inches measured two feet above ground level, lying without the approved building drive way and parking areas, shall be removed without the approval of the Architectural Control Committee.

5. No noxious or offensive activity shall be carried on upon any portion of The Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. No exterior lighting shall be directed outside the boundaries of a Lot or other parcel of The Properties.

6. Easements for the installation and maintenance of underground utilities, supply and transmission lines, and drainage facilities are reserved to the Developer through all areas shown on the attached plat, whether within the boundaries of residential Lots or in Common Properties. Such easements shall include repair of an underground utility, supply or transmission line, or drainage facility shall be promptly repaired.

7. No fence or wall of any kind shall be erected, begun, or permitted to remain upon any portion of The Properties unless shown on the attached plat or unless approved by the Architectural Control Committee.

8. No exterior clothesline, or hanging device, except that of an umbrella type nature with a diameter not exceeding seven (7) feet shall be allowed upon any Lot.

9. No wooden screen doors shall be installed on any house in this Subdivision.

10. No sign of any kind larger than one foot square shall be displayed to the public view on any Lot, except temporary signs of not more than four square feet advertising the said Lot for sale or rent and except for temporary signs erected by the Developer in connection with the construction, lease or sale of buildings and lots or other parcels of The Properties.

11. No livestock including horses, cattle and hogs, nor fowl such as chickens and pigeons shall be kept on the property. The breeding of animals for commercial use is prohibited, but nothing contained herein shall be construed to prohibit the keeping of the usual domestic pets. No more than two domestic pets shall be kept at any one time. Pets shall be restrained and controlled as required by ordinance now or hereafter promulgated by Fairfax County, Virginia.

12. The corporation shall have the right (if after 20 days' notice to the Owner of the Lot or Lots involved, setting forth the action intended to be taken, such action has not been taken by the Owner to trim or prune at the expense of the Owner any hedge or other planting that in the opinion of the Architectural Control Committee, by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining property or is unattractive in appearance. The Corporation shall further have the right, upon like notice and conditions, to care for any vacant or unimproved Lot, and to remove grass, weeds, in rubbish therefrom and do any and all things necessary or desirable in the opinion of the Architectural Control Committee to keep such Lot in neat and good order, all at the cost and expense of the Owner, such cost and expenses to be paid to the Corporation upon demand, and, if not paid within ten days thereof, then to become a lien upon the property affected, equal in principal to the lien, provided for in ARTICLE V, Section 10, hereof.

13. No antenna for the transmission or reception of radio or television signals shall be erected or permitted on any building or lot or other parcel of The Properties, except those provided by the Developer and maintained by Hallcrest Heights Associates, Incorporated.

14. No lot shall be used or maintained as dumping ground for rubbish. Trash, garage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. All materials or refuse shall be placed in containers inside the rear fence line and shall not be placed or stored in the front of any house, or on the patio or stoop at any time. All trash and garbage shall be placed in covered trash cans in trash area provided. Hallcrest Heights Associates, incorporated shall have the right to impound any trash can or garbage receptacle which is placed in violation of this paragraph and to enter onto any Lot for this purpose.

15. No truck, bus, camper, trailer, boat or commercial vehicle of any kind shall be permitted to be kept or parked overnight upon any portion of The Properties.

16. No portion of The Properties shall be used for the repair of automobiles, nor shall any vehicle other than a private automobile be parked in any of the parking spaces maintained by the Corporation. After ten (10) days written notice to the Owner of any vehicle parked in violation of this covenant, Hallcrest Heights Associates, incorporated may remove such vehicle at the expense of the Owner thereof.

17. No baby carriages, velocipedes, bicycles, or other articles of personal property shall be deposited allowed or permitted to remain on any Lot except in the enclosed rear area. Hallcrest Heights Associates, Incorporated may impound all such articles and make a charge for their return.

18. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be placed on any Lot in this Subdivision.

ARTICLE III - Membership and Voting Rights in the Corporation

1. 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 Corporation shall be a Member of the Corporation, 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.

2. The Corporation shall have two classes of voting membership: Class A members shall be all those Owners as defined in Section I of the Article with the exception of Class B Members. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section I of this Article. When more than one person holds such interest or interests in any one Lot, all such persons shall be Members, and 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 such Lot.

Class B Members shall be the 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 I of this Article, provided that the 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 Class A membership equal the total votes or standing in the Class B membership, or
- (b) January 1, 1971

From and after the happening of these events, whichever occurs earlier, the Class B members shall be deemed to be Class A Members entitled to one vote for each Lot in which it holds the interest required for membership under Section 1, of this Article.

ARTICLE IV - Property Rights in the Common Properties.

1. Subject to the provisions of Section 3 of this Article, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

2. The Developer may retain the legal title to the Common Properties until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Corporation is able to maintain the same but, notwithstanding any provision herein, the Developer hereby covenants that it shall convey the Common Properties to the Corporation not later than January 1, 1971.

3. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Developer and the Corporation in accordance with its Article and By Laws to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said Common Properties in the event of a default upon any such mortgage the Lender shall have a right after taking possession of such properties to charge admission and other fees as a condition to continue enjoyment of such Common Properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such Common Properties shall be returned to the Corporation and all rights of the Members hereunder shall be fully restored, and

(b) the right of the Corporation to take such steps as are reasonably necessary to protect the above described properties against foreclosure; and

(c) the right of the Corporation is provided in its Article and by-laws, to suspend the enjoyment rights of any Member for any period during which any assessment remain unpaid and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(d) the right of the Corporation to charge reasonable admission and other fees for the use of the Common Properties; and

(e) the right of individual Members to the exclusive use of parking spaces is provided in Section 4 and 5 hereof; and

(f) the right of the Corporation to dedicate or transfer all or any parts of the Common Properties to any public agency, authority or utility for such purposes and subject to such a conditions as may be agreed by the Members, provided that no such dedication of transfer, determination as to the purposes or its conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes 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 thereunder is sent to every member at least ninety (90) days in advance of any action taken.

4. Subject to reasonable rules the Corporation shall designate at least one parking space conveniently located with respect to each living unit for the exclusive use of the Members residing therein, their families and guests. The use of such space by any other Member or person may be enjoined by the Corporation of the Members entitled thereto. The right to the exclusive use of such

parking space and to its maintenance and designation by the Corporation shall be appurtenant to and shall pass with the title to each living unit.

5. The Corporation shall have the power to regulate parking and traffic within The Properties in any manner not inconsistent with the rights of the individual Members granted in Paragraph 4 of this Article in order to provide adequate access for police, fire fighting and other public vehicles, to preserve the orderly flow of traffic, and to maintain roadways and parking areas within The Properties.

To the extent that it may otherwise be empowered by law, the County of Fairfax, Virginia, may enforce the traffic and parking regulations established by the Corporation within The Properties and may erect standard street and traffic signs.

ARTICLE V - Covenants for Maintenance Assessments.

1. The Developer for each Lot owned by it within The Properties and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed of other conveyance, shall be deemed to covenant and agree to pay to the Corporation: (1) regular annual assessments or charges, (2) 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 the costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien against the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the persons obligation of the person who was the owner of the Lot on the date when the assessment fell due.

2. The assessments levied by the Corporation 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 the use and enjoyment of the Common Properties and of the homes situated upon The Properties.

3. Until the year beginning January 1, 1971 the regular annual assessment shall be at the rate of \$9.50 per month per Lot. From and after January 1, 1971 the regular assessment may be increased by vote of the Members, as hereinafter provided, for the next succeeding three years and at the end of such period of three years for each succeeding period of three years. The regular assessment upon each Lot subject to assessment herein shall not exceed in any one year three per cent of the assessed valuation of said Lot (including improvements thereon) for such year as established by the County of Fairfax, Virginia, or its governmental successor for the purpose of levying real estate taxes. The Board of Directors of the Corporation may, after consideration of the current maintenance cost and future needs of the Corporation, fix the actual assessment for any year at a lesser amount than that specified by this section or authorized by the Members.

4. In addition to the regular assessments authorized by Section 3 of this Article, the Corporation 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 described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of each class of Members who are voting in person or by proxy at a meeting dully 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.

5. Subject to the limitations of Section 3 of this Article, and for the periods therein specified, the Corporation may change the maximum and basis of the assessments fixed by Section 3 of this Article prospectively for any such period, provided that any such charge shall have the assent of two-thirds 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.

6. Both annual and special assessments shall be fixed at a uniform rate for all Lots. The Board of Directors may, at their discretion, require the annual and/or special assessments to be paid on a monthly or other convenient periodic basis and may require such payments to be paid to a mortgagee under a deed of trust on the Common Properties or any other collection agent selected by the Board of Directors.

7. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, including proxies, entitled to cast sixty (60) per cent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at such meeting, another meeting may be called, subject to the notice requirement set forth in Section 4 and 5 hereof, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8. The regular assessments provided for herein shall commence on the date (which shall be the first day of the month) fixed by the Board of Directors of the Corporation to be the date of commencement. The due date of any special assessment shall be fixed in the resolution authorizing such special assessment.

9. The Board of Directors of the Corporation shall fix the date of commencement and the amount of the assessment against each Lot of each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the corporation and shall be open to inspection by any Owner.

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

The Corporation shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Corporation, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

10. If the assessments are not paid on the date when due (being the date specified in Section 7 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 Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the period fixed by the statute of limitations and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest at the rate of six per cent (6%) per annum, and the Corporation may bring an action at law against the 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 costs 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 above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of the action.

11. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage or first mortgages now or hereafter placed upon the properties subject to assessment; provided however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments hereafter becoming due, nor from the lien of any such subsequent assessments.

12. The following property subject to this Declaration shall be exempted from the 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 as defined in Article I, Section 1, hereof; (c) all properties exempted from taxation by the laws of the State of Virginia, upon the terms and to the extent of such legal exemption.

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

13. If the Corporation shall fail properly to maintain the Common Properties, the County of Fairfax, Virginia, or its governmental successor, after reasonable notice to the Corporation, shall have the right either through its own employees or through an independent contractor, to enter upon the Common Properties and perform work necessary properly to maintain such area. Upon completion of said work by said County, its successor, or the contractor either, the actual costs of said work shall be prorated among the Lots within The Properties and shall constitute a continuing lien against each such Lot and a personal obligation of the Owner thereof in like amount as the lien and personal obligation described in paragraph 1 of this Article. The amount of the charge by the County or its governmental successor shall not exceed in any one year the maximum assessment which could be made by the Corporation in such year pursuant to this Article.

14. The Corporation hereby covenants and agrees with the County of Fairfax, Virginia, to deposit with the said County on or before the 1st day of January, 1970, the sum of \$1,000.00 which sum the County may use in whole or in part to reimburse itself for work performed pursuant to Section 13 of this Article. If the said County finds it necessary to apply any part or all of said fund to reimburse itself for work so performed, it shall notify the Corporation in writing of the amount so applied and the Corporation covenants and agrees to deposit with the County of Fairfax, Virginia, within three months of the receipt of such notice an additional amount which, together with the unexpended portion of said fund, if any, will equal \$1,000.00

ARTICLE VI Party Walls

1. Each wall which is built as 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 of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

2. 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.

3. 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 Owners thereafter make use of the wall, they 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 willful acts or omissions.

4. The right of any 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.

5. 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.

The decision of a majority of the arbitrators shall be in writing, shall be final and conclusive of the questions involved, and shall be a condition precedent to any right of action.

ARTICLE VII - General Provisions

1. The covenants and restrictions of this Deed of Dedication and Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Corporation of the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the then Owners of two-thirds of the Lots has been recorded agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless made and recorded three years in advance of the effective date of such change, or unless at least ninety (90) days in advance of any action taken.

2. Any notice required to be sent to any Member or Owner under the provisions of this Deed of Dedication shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears of record as Owner at the time of such mailing.

3. 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 those covenants; and failure by the Corporation or 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.

4. Invalidation of any one of these covenants or restrictions by statute, judgment or court order shall in no wise affect any other provisions which shall remain in force and effect.

5. It is understood and agreed that the County has no obligation to maintain or repair any parking areas, streets or sidewalks with The Properties, whether within individual Lots or the Common Properties with the exception of that portion of Old Chain Bridge Road hereby expressly dedicated to public use, after the same has been accepted by the County.

6. It is understood and agreed that the County may impose reasonable regulations and conditions precedent to the collection of trash or the performance of any other municipal function which it may undertake within The Properties.