

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
CLEARBROOKE ESTATES**

Prepared By: WHEATLEY FARMS INC.

BOX 140

Bridgeville, Delaware 19933

WHEATLEY FARMS, INC., hereinafter called Declarants, are owners in fee simple of certain real property located in Nanticoke Hundred, Sussex County, State of Delaware, and know by official plat designation as Clearbrooke Estates, a subdivision pursuant to a plat recorded on March 19, 1990 in the Recorder of Deeds Office of Sussex County, State of Delaware in Plat Book 43 page 350 and is further described as Exhibit "A" attached hereto and desires to develop therein a residential community.

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of common lands and facilities and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens (hereinafter referred to collectively as "the Restrictions"), as hereinafter set forth, for the benefit of the Property and each owner thereof:

WHEREAS, the Developer has deemed it desirable for the efficient preservation of values and amenities in said community, to create an agency to which will be delegated and assigned the powers of maintaining and administering any community facilities, common lands and recreational amenities, and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges, herein after created; and WHEREAS, the Developer will incorporate under the laws of the State of Delaware, as a nonprofit corporation, Clearbrooke Estates Property Owner's Association, Inc., or a similarly named corporation, for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, the Developer hereby declares that the following Restrictions shall run with, burden and bind the Property; and the Developer hereby declares the Property, as described in Exhibit "A" and as shown on the recorded subdivision plot, is and shall be held, transferred, sold, conveyed, occupied, and used to the restrictions hereinafter set forth and during the period of time set forth, and subject to all easements, right of way and restrictions previously placed upon property as recorded in the Office of Recorder of Deeds in and for Sussex County by the Developer and its predecessors of title;

1. Each lot or given land area located in Clearbrooke Estates shall be solely and exclusively used for residential or recreational purposes. No structural or other improvements, except as herein provided, shall be erected, altered, placed, used or permitted to remain upon any such numbered lot in Clearbrooke Estates.
2. Clearbrooke Estates is hereby established as a restrictive development of single-family detached dwellings. For the purpose of these Restrictions, the word "family" shall mean a single person occupying the dwelling unit and maintaining household; two or more persons related by blood or marriage or adoption occupying a dwelling, living together and maintaining a common household; or, not more than three (3) unrelated persons occupying a dwelling, living together and maintaining a common household.
3. No house, dwelling, accessory building or landscape design shall be commenced, erected, nor any addition to, or alteration therein shall be made until house plans, specifications, and landscaping design showing nature, shape, height, materials, floor plan, color scheme, location and approximate cost shall have been submitted to and approved in writing by the Clearbrooke Estates Architectural Committee, its successor or assignee and a copy thereof as finally approved with the said Clearbrooke Estates Architectural Review Committee or its successor or assigned.
4. No lot or given area within Clearbrooke Estates shall be re-subdivided or otherwise alienated into a lesser or smaller portion. A contiguous lot may be divided and each portion assigned to the adjacent lot so as to create a larger lot for the benefit of a single family home.
5. There shall be no hunting or trapping allowed on any part of the land at any time. The use of BB guns, BB pistols, pellet guns, or any air rifles, bullet rifles, shotguns, or any firearm of any type is strictly prohibited. The breach of this restriction by any minor children shall be constituted a breach by their parents under whose direct supervision this restriction applies.

6. The recreation area designated on the plot plan is provided for the use and enjoyment of all Clearbrooke Estates families and their guest. It shall be the responsibility of all parties using said recreation area to remove all litter and properly maintain and respect the rights of wildfowl and wildlife that inhabit this area.
7. The following building setback lines are hereby established and no building nor any part thereof shall be erected within the setback requirements, except as provided herein;
 - (a) The front yard setback of the dwelling on all lots shall be forty (40) feet from the nearest right-of-way line. The dwelling shall front or face toward the street.
 - (b) The rear setback line of the dwelling shall be twenty-five (25) feet from the rear line.
 - (c) There shall be two (2) side yards, each of which shall be at least twenty-five (25) feet in width.
 - (d) All accessory buildings must be reviewed by the Clearbrooke Estates Architectural Review Committee or its successor or assigned.
 - (e) No accessory building shall be located forward of the front dwelling.
 - (f) All dwellings shall have an attached garage, large enough for at least one vehicle.
 - (g) The minimum dwelling size is to be 1250 square feet for a single story and 1500 square feet for two story dwelling.

For purposes of the above setback requirements, eaves, steps and unroofed terraces shall not be considered part of any building or structure.

8. In order to provide unobstructed views of the surroundings and to restrict the erection or placement of improvements or objects that detract from the overall appearance of Clearbrooke Estates, the following restrictions shall apply:
 - (a) Fuel Tanks, gas tanks or similar structures shall be shielded from view by appropriate landscaping measures.
 - (b) Only in-ground swimming pools shall be permitted to be constructed unless otherwise approved in writing by the Clearbrooke Estates Architectural Review Committee its successor or assigned.
 - (c) No structure of any temporary character and no trailer, mobile home, shack or other outbuildings except as provided herein shall be placed on any

numbered lot or given land area within Clearbrooke Estates at any time except during periods of construction for storage of materials shall not in any event be used as living quarters.

(d) No boat trailer, boat, travel trailer or camper of any type shall be semi-permanently or permanently placed or stored forward of the front of the dwelling.

(e) No wholly or partially stripped down motor vehicle or battered motor vehicle shall be permitted to be parked on any lot or on any street in Clearbrooke Estates.

(f) No advertising signs shall be permitted on any numbered lot or given land area in Clearbrooke Estates, except during time of construction. All signs must be removed within ten (10) days after completion of construction. A sign offering the premises for rent, or sale, or both may be displayed upon the lot or given land area which is for sale or rent.

(g) No rubbish, trash, garbage or other waste material shall be kept or permitted on any lot or on the common area except in sanitary containers which are securely fastened to prevent dispersal of such materials by any animals. Such containers shall be kept in an appropriate area which is concealed from public view.

(h) No fence, hedge, wall or other dividing instrumentality over four (4) feet in height for the front yard, and six (6) feet in height for side and rear yards, measured from the ground on which it stands, shall be constructed or maintained on any lot, excepting temporary fences during construction of improvements by Declarants.

(i) Television antennas shall be permitted but must be located on rear roof, or behind an accessory building. Satellite dishes may be installed in rear yards, not closer than fifteen (15) feet to property lines and must be black in color.

9. The following general prohibitions and requirements shall apply to construction or other activities conducted on any numbered lot or given land area in Clearbrooke Estates.

BUILDING PLANS. In order to insure the development and maintenance of Clearbrooke Estates as a residential development of high standard, Clearbrooke Estates Architectural Review Committee, or its successors, shall be vested through its powers to control all buildings, structures, or improvements to be placed upon any lot or other land within Clearbrooke Estates. The Clearbrooke Estates Architectural Review Committee until such time as turned over to the Homeowner's Association will be comprised of E. Dale Wheatley and O. Wayne Eakin.

(a) The owner of each and every lot or other land area within Clearbrooke Estates, by accepting title thereto, or by occupying the same, hereby covenants and agrees that no building, structure, or other improvement shall be erected, altered, rebuilt, placed, or permitted to remain upon any such lot or other land area, unless and until the plans and specifications therefore shall have first been approved in writing by the Architectural Review Committee, or its successors, and that each such building structure, or other improvement shall be erected, altered, rebuilt, placed, or permitted to remain upon any such lot or other land area only in accord with such approved plans and specifications therefore.

Refusal to approve any such plans and specifications by the Association or its successors may be based on any ground whatever, including purely aesthetic grounds, which shall seem sufficient in the sole discretion of such plans and specifications within thirty (30) days after written request, written approval shall be required.

PROVIDED, however, that no building, structure, or improvement shall be erected, altered, rebuilt, placed, or permitted to remain upon any such lot or other land which violates any of these covenants as herein before or hereinafter set forth.

(b) Once construction of any structure has been commenced, such construction shall proceed without delay until the same is completed, unless such delay is attributable to a cause beyond control of the owner, builder, or contractor, as the case may be. Cessation of work before completion of any structure once started and continuance of such cessation for a continuous period of sixty (60) days shall be Prima Facie evidence of an attempt to abandon the structure, which shall thereafter be deemed to be a nuisance and must be removed.

(c) No residence shall be occupied until the same has been substantially completed in accordance with its plans and specifications, and a letter of completion issued by Clearbrooke Estates Architectural Review Committee stating that all building specifications and set backs have met with approval. In conjunction with the letter of approval the Clearbrooke Estates Architectural Review Committee will be permitted to inspect the building site during construction to enforce and monitor restrictions and building guidelines.

(d) The elevation of any given lot or land area shall not be changed so as to materially affect the surface grade of the surrounding lot or land area without first obtaining the prior approval in writing of the Developer herein, its successors or assigns.

10. **PROPERTY MAINTENANCE.** It shall be the responsibility of each lot owner to seed and maintain in a clean and orderly condition the planting area between the paved roadway and the property line of the lot.

Upon initial construction of a new home the contractor or property owner must post a \$300.00 refundable cash bond to be used for maintenance, re-grading and seeding the shoulders in front of each prospective lot upon which the house is being constructed. Upon completion of the home, if the shoulders are found in proper condition the full amount of the deposit will be returned. However, if reseeding and re-grading the shoulders are necessary, the cost will be deducted from the bond.

11. **PARKING SPACE REQUIREMENTS & VEHICLE RESTRICTIONS.** Each lot owner shall provide space for two (2) parking spaces for vehicles off of the ways and roads of Clearbrooke Estates in addition to those spaces required by the section concerning garage requirements. All driveways must either be tar and chip, asphalt, hot mix or concrete. No loose stone driveways will be accepted. No vehicles, except as may be classified as passenger cars, station wagons, vans, motor homes, or pickup trucks of 3/4 ton or less shall be regularly parked upon any lot where they may be seen from the common area.

12. **SANITATION.** No toilet, sewage disposal system, or cesspool shall be maintained or used upon any lot or land area located in Clearbrooke Estates excepting where the same is used in combination with a septic tank. All septic tanks shall be constructed and maintained in accord with the rules and regulations established by those health authorities having jurisdiction over Clearbrooke Estates. Whenever public sewer mains are made available to any lot in Clearbrooke Estates, all premises adjacent to such public sewer mains shall be connected to said mains at the expense of the owners of such lots.

13. **RENTAL OF RESIDENCE.** Any owner of any lot in Clearbrooke Estates development may rent his or her property for the sole purpose of residential occupancy. All covenants, restrictions, rules and agreements are applicable to such rentals and those persons leasing said property must be given, by the owner of the property, copies of all applicable covenants, restrictions, rules and agreements in order that they be served with notice of the same.

14. No portion of any lot shall be used as a street or right-of-way for ingress or egress. This shall not include private access drives or walkways created within the boundaries of the lot for the owners sole use and service thereto.

15. No animals, livestock, reptiles, insects or poultry of any kind shall be raised, bred or kept on any lot. However, dogs, cats, and other common household pets may be kept on lots subject to such rules and regulations as may be adopted by the

Association, so long as they are not kept, bred, or maintained for commercial purposes. Furthermore, the number of domesticated animals shall be limited so as not to constitute a kennel operation.

16. The street, road, entrance area, and recreational area and designated common areas, as shown on the plot of Clearbrooke Estates or as subsequently constructed are hereby dedicated for the use of the residents and property owners of Clearbrooke Estates. Common areas may be altered or improved upon by the Developer, with the consent of the Clearbrooke Estates Architectural Review Committee. The streets, roads, and entrance shall be constructed by the Developer in accordance with applicable standards and such streets, roads and entrance areas will not be maintained by the State of Delaware or Sussex County. Each such resident and property owner by the acceptance of a conveyance of a lot or lots in Clearbrooke Estates hereby agrees to pay their proportionate share for maintaining, repairing and replacing all streets, roads, entrance areas, draining swells, and for the purposes alluded to in paragraph 17 hereof.
17. (a) Every person, firm or corporation who acquired title, legal or equitable, in any lot or given land area in Clearbrooke Estates shall be a member of the Clearbrooke Estates Property Owner's Association; provided, however, that such membership is not intended to apply to those persons, firms or corporations who hold an interest in any such lot merely as security for the performance of any obligation to pay money; namely, mortgages, deeds of trust, or real estate contract purchases. However, if such persons, firms or corporations should realize upon their security and become the real owner or owners of a lot within Clearbrooke Estates, such persons, firms or corporations will then be subject to all the requirements and limitations imposed in these Restrictions on such owners within Clearbrooke Estates and all members of the Association, including those provisions with respect to the payment of an annual charge.
 - (b) The general purpose of the Association is to further and promote the community welfare of the property owners in Clearbrooke Estates.
 - (c) The Association shall also be the means for the promulgation and enforcement of all regulations necessary for the governing of Clearbrooke Estates.
 - (d) The Association shall have all the powers that belong to it be operating law. The Association shall be governed by a Board of Directors of not less than three (3) nor more than five (5) members, all of whom shall be property owners in Clearbrooke Estates. Prior to the sale of seventy-five percent (75%) of the lots laid out by the Developer and designated as Clearbrooke Estates, the Developer,

or its successors or assigns may, in its discretion, appoint a Board of Directors of the Clearbrooke Estates Property Owner's Association, consisting of not less than three (3) nor more than five (5) members, as well as to appoint the respective successors thereof. After the sale of seventy-five percent (75%) of the numbered lots laid out by it in Clearbrooke Estates, such Board of Directors shall be selected, elected and appointed by the vote in person or by proxy of the owners of the majority of the lots located in Clearbrooke Estates, the owner or owners thereof are to have one (1) vote for each lot owned by him, her, them, or it, as the case may be. Upon establishment of the Board of Directors in the manner aforesaid, such Board of Directors shall thereupon succeed to all the powers, privileges, rights and authority reserved by, vested in, or exercised by the Developer, its successors and assigns.

18. Each lot owner in Clearbrooke Estates covenants to pay prior to the establishment of Clearbrooke Estates Property Owner's Association and such association after its formation, and its successors, at settlement and on January 1st of each year thereafter, a maintenance assessment, such assessment to be One Hundred Dollars (\$100) per year to be determined by Clearbrooke Estates or by the Board of Directors of the Clearbrooke Estates Property Owner's Associations, for each and every lot owned by said property owner in Clearbrooke Estates. The proceeds received by Clearbrooke Estates or the Clearbrooke Estates Property Owner's Association, as the case may be, shall be used and expended for the construction and/or maintenance of roads, streets, entrance areas, drainage swales, common areas, lighting for streets, fences and common areas, and other similar purposes including snow removal. If any assessment is not paid on the date when due as hereinabove provided, then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collecting, including reasonable attorney's fees thereof as hereinafter provided, continue as a lien on the lot and any structure built thereon which shall bind such lot in the hands of the then owner to pay such assessment, shall remain this personal obligation and shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the legal interest rate authorized by 6 Del.C § 2301, as amended, and the Association may bring legal action against the owner personally obligated to pay the same or may enforce or foreclose the lien against the lot; and in the event a judgment is obtained, such judgment shall include interest on the assessment above provided and any reasonable attorney's fees to be fixed by the court, together with the cost of the action. No owner of a lot may waive or otherwise escape liability for the assessment provided by nonuse of the roads, streets, or other common areas, or by abandonment or his or its lot. The lien of the assessments provided for herein shall be subordinate to the lien of any

first mortgage on the lot. Sale or transfer of any lot shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

19. Nothing contained herein shall be constructed in any manner so as to impose upon the Developer, its successors or assigns, any liabilities for the property damage and/or persons injury occurring to any person or persons whomsoever for or by reason of the use of the ways, roads, streets, lands, easements, common areas, entrance ways, or similar like conditions, or any of them in Clearbrooke Estates.
20. There is hereby reserved along the side and rear lot line of each numbered lot or given land areas in Clearbrooke Estates and easement of ten (10) feet in width for utilities and drainage. There is also reserved along the front of each numbered lot or given land area in Clearbrooke Estates an easement of five (5) feet in width for utilities.
21. The Restriction and Agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot or given land are in Clearbrooke Estates and are intended to create a mutual equitable servitudes upon each of said lots or given land areas in favor of each and all other lots therein; to create reciprocal rights between the respective owners of all the said lots; to create a privity of contract and estate between the grantees of said lots and given land area, run with the land for benefit of each and all other lots and given land areas and their respective owners.
22. The owner of any lot or given land area to whose benefit these Restrictions inure may proceed at law or in equity to prevent, after fifteen (15) days notification by certified or registered mail, the occurrence, continuation or violation of any of these Restrictions and the court in any such action may award the successful party reasonable attorney's fees. The remedies specified herein are cumulative and a specification of them shall not be taken to preclude any aggrieved party from resorting to any other remedy at law or in equity or under any other statute. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect to a violation of any of these Restrictions shall be held to be a waiver of that party or an estoppel of that party to assert any rights available to him upon the reoccurrence or continuation of such violation or the occurrence of a different violation.
23. The Restrictions may be amended by the Clearbrooke Estates Architectural Review Committee until at least seventy-five percent (75%) of the lots have been sold, and then at such time when the Homeowners Association is turned over to the property owners, and at that point these restrictions may be amended with the written consent of not less than sixty percent (60%) of the owners of all the lots in

Clearbrooke Estates. The required percentage of owners of the various lots or given land areas in Clearbrooke Estates shall have the power to waive, abandon, terminate, modify, alter, change, amend, or add to these Restrictions or any of them at any time hereafter. Any such waiver, abandonment, termination, modification, alteration, change, amendment or addition shall take effect when a copy thereof executed and acknowledged by each of the lot owners who assent thereto in accordance with the usual form of execution and acknowledgment of deeds to land shall have been filed for record in the Office of the Recorder of Deeds, in and for Sussex County, and the same shall be waived abandoned, terminated, modified, altered, change, amended or added to as the case may be. In the taking of any such vote or the obtaining of any such written consents, each owner including the Developer, shall have as many votes or consents as he may own lots or given land areas situated in Clearbrooke Estates. The right and Privilege granted herein to waive, abandon, terminate, modify, alter, change, amend, or add to these Restrictions or any of them does not extend nor apply to the waiver, abandonment, termination, modification, alteration, change, amendment, or addition to the plot of Clearbrooke Estates as the same presently appears of record, nor to the location of the various streets, roads, thoroughfares, or ways shown thereon, neither of which shall be abandoned, terminated, waived, modified, altered, changed, amended, or added to without the express written consent of Clearbrooke Estates first being had and obtained. Furthermore, these Restrictions may not be waived, abandoned, terminated, modified, altered, changed or amended so as to affect in any manner the obligation of the lot owners to the properly maintain, repair and replace the streets, roads and entrance areas shown on the plot of Clearbrooke Estates, unless and until such obligations shall be assumed by the Division of Highways of the State Department of Transportation or by another responsible governmental agency.

24. The invalidating of any one of the foregoing Restrictions by any court or competent jurisdiction shall in no way affect or impair the full force and effect of all other Restrictions set forth herein, and in any such event, all other Restrictions set forth herein, and in any such event, all other Restrictions not expressly invalidated thereby shall remain in full force and effect.