

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, Made on this date hereinafter set forth, by COLEMAN FARMS, INC., a Virginia corporation;

-:WITNESSETH:-

WHEREAS Coleman Farms Inc. is the owner of curtain property in the City of Virginia Beach, State of Virginia, which is more particularly described as:

All those certain lots, pieces or parcels of land, with the buildings and improvements thereon, and the appurtenances thereunto belonging,. situate in the City of Virginia Beach, Virginia, and being known, numbered and designated as lots 1 through 30 in block lettered A, lots 1 through 21 in block lettered B, lots 1 thorough 12 in block lettered C, lots 1 through 37 in block lettered D, lots 1 through 6 in block lettered E, "RECREATION PARCEL '2'", and "GREENBELT 'A'" through GREENBELT 'E'", as shown on the plat entitled "SUBDIVISION OF 'COLLEGE PARK' SECTION ONE, VIRGINIA BEACH, VIRGINIA," made by McGaughy, Marshall & McMillan, and dated June 28, 1968, which plat is intended to be recorded contemporaneously herewith; and lots 38 through 84 in block lettered D, lots 7 through 15 in block lettered E, lots 1 through 25 in block lettered F, lots 1 through 13 in block lettered G, lots 1 through 17 in block lettered H, lots1 through 23 in block lettered J, lots 1 through 16 in block lettered K, and lots 1 through 10 in block lettered L, and GREENBELT 'D', 'E', 'F', 'F-1', 'G', 'J', 'K' and 'L', and shown on the plat entitled "SUBDIVISION OF COLLEGE PARK' SECTION TWO, VIRGINIA BEACH, VIRGINIA", made by McGaughy, Marshall & McMillan, and dated June 28, 1968, which plat is intended to be recorded contemporaneously herewith.

AND WHEREAS Declarant (as hereinafter defined) will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges, as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness thereof. These easements, covenants, restriction, and conditions shall run wit the land and shall be binding on all parties having or acquiring any right, title or interest therein or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I.

DEFINITIONS.

Section 1. "Association" shall mean and refer to College Park First Homes Association, a nonstock Virginia corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property here in before described.

Section 3. "Common Area" shall mean "RECREATION PARCEL '2'" and "GREENBELT 'A'" through "GREENBELT 'L'", as shown on the aforementioned plats..

Section 4. "Lot" shall mean and refer to any numbered lot of land shown upon the aforesaid plats and which is a part of the Properties and does not include any 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 Coleman Farms, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development. The development of a Lot shall mean and refer to the construction of a residence thereon.

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 this Declaration, 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 I 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, and the vote for such Lot shall be exercised as the majority of such persons among themselves determine (at any meeting of the Members, a representation by any of such persons that a majority of such persons have agreed as to the vote for such Lot shall be conclusive unless another of such persons contests such representation at such meeting prior to the casting of such vote).

CLASS B. The Class B member(s) shall be the Declarant. The Class B member(s) shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by ARTICLE II, provided that the Class B membership shall cease and be converted to Class A membership (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, 1973, whichever shall first occur. Notwithstanding anything herein contained to the contrary, if Coleman Farms, Inc. shall, at any time or from time to time, convey more than one Lot to any person, firm or corporation prior to the development of such Lot, Coleman Farms, Inc. shall continue to have and exercise voting rights with respect to each such Lot to the same extent as if it continued to own such Lot until all such Lots are developed and conveyed to purchasers for occupancy.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in an to the Common Area and such easement 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 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 and by-laws, to borrow for the purpose of improving the Common Area and facilities and in aid thereof to mortgage (which term shall include a deed of trust) the Common Area, and the rights of such mortgagee (which term shall include the beneficiary of a deed of trust) in the Common Area shall be subordinate to the rights of the Members hereunder;

(d) the right of the Association to suspend the voting rights and right to use of 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 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 to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless a certificate of the secretary of the Association be also recorded stating that written notice of the proposed action was sent to every Member not less than thirty (30) days in advance of such effective date of such dedication or transfer.

Section 2. Delegation of Use. Any member may delegate, in accordance with the Association's 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 such Member's Lot.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all liens and encumbrances, except drainage and utility easements, prior to the conveyance of the first Lot.

ARTICLE V.

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, 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: (1) annual assessments or charges, and (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 costs of collection thereof, as hereinafter provided, shall be a charge on the Lots and shall be a continuing lien upon the Lot against which each such assessment is made. Sale or transfer of any Lot shall not affect the assessment lien. 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 Lot at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly by them.

Section 2. Purposes 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 through the ownership, improvement, operation and maintenance of the Common Area and the facilities thereon.

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 Eighty-four Dollars (\$84) per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner for occupancy, 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 preceding month of July. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, 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 years and at the end of each such period of three years, for each succeeding period of three years, providing that any such changes 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. After consideration of current operating and maintenance costs and future 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, reconstruction, repair or replacement of a described capitol improvement upon the Common Area, including the necessary fixtures and personnel property related thereto, provided that any such assessments 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 (30) days nor more than sixty (60) days in advance of the meting setting forth the purpose of the meeting; and provided further that no such special assessment shall exceed an amount equal to twice the then current maximum annual assessment.

Section 5. 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 basis.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Sections 3 and 4 of this ARTICLE V, the presence at the meeting of Members or of proxies entitled to cast sixty (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in said Sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the 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 Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors at the Association shall fix the amount of the annual

assessment against each Lot at least thirty (30) days in advance of each annual assessment period; but in the advance of such action by the Board of Directors the annual assessment shall be in the amount last fixed. 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 office of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors 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. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within 30 days after the due date, the assessment shall bear interest from the due date at the rate of six percent (6%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property, and in either case, interest, costs and reasonable attorney's fees incurred shall be added to the amount of such assessment. On owner may waive or otherwise escape liability for the assessments provided for herein by 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 therein shall be subordinate to the lien of any first mortgage or first deed of trust on any Lot. Foreclosure of any such first mortgage or first deed of trust shall extinguish such lien for assessments due prior to such foreclosure (and such lien shall attach to any excess proceeds of the foreclosure) but no such foreclosure shall relieve such Lot for liability for any assessments thereafter becoming 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; and (c) all properties owned by a charitable or nonprofit organization 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.

USE RESTRICTIONS

Section 1. The Lots shall be known and described as residential lots, and no structure shall be erected on any residential building Lot other than one detached single-family dwelling, not to exceed four levels in height and a one- or two-car garage. All garages must conform in architecture to the external design of the dwellings.

Section 2. No building shall be erected on any Lot nearer than 24 feet to, nor farther than 60 feet from, the front lot line, nor nearer than five feet in calculating the aforesaid measurements. The side line restrictions shall not apply to a garage located on the rear one-fourth of a Lot, except that on corner Lots no detached garage shall be permitted nearer than ten feet to the side street line. A carport shall not be deemed a garage within the meaning of this restriction and nothing contained in Section 1 of this ARTICLE VI shall be construed to prevent the erection of a carport.

Section 3. No Lot shall be resubdivided into building lots having less than 8000 square feet of area.

Section 4. No obnoxious or offensive trade shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No business or professional of any kind or nature shall be carried on or practiced in any residential structure without the express written consent of Coleman Farms, Inc.

Section 5. No trailer, basement, tent, shack, garage, barn or other outbuilding erected on any Lot shall at any time be used as a residence of temporary character be permitted.

Section 6. No structure shall be moved onto any Lot unless it meets with the approval of Coleman Farms, Inc. and it shall conform to and be in harmony with existing structures on the other Lots.

Section 7. No dwelling shall be permitted on any Lot at a cost of less than \$12,000, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded, as the minimum cost stated herein, for the minimum permitted dwelling site. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall not be less than 1,000 square feet for a one-story dwelling, nor less than 800 square feet for a dwelling of more than one story.

Section 8. No building, fence, wall or other structure, including trailers, tents, shacks, garages and barns, shall be commenced, erected or maintained on any Lot, nor shall any addition to or material change or alternation thereon be made, nor any change in the present grades of said Lots be made, until plans and specifications therefore have been approved by Coleman Farms, Inc. In the event Coleman Farms, Inc. fails to approve or disapprove, within 60 days after plans and specifications have been submitted to it in writing, approval will not be required and the related covenants shall be deemed to have been fully complied with, except that no fences shall be constructed on any of the Lots other than wooden split-rail fences and this restriction may not be waived.

Section 9. No animal or livestock or poultry shall be raised on any Lot, except that dogs and cats, not in excess of two, can be kept as household pets, but shall not be raised for commercial purposes. Additional dogs and cats born on the premises may be kept until 12 weeks old.

Section 10. No sign of any kind shall be displayed to the public view on any Lot, except that one professional sign of not more than one square foot may be displayed and one sign or not more than five square feet may be displayed advertising the property for sale or for rent, but in no event will such sign be displayed thereon for a period of three years from the date of these covenants, unless permission is first obtained in writing from Coleman Farms, Inc. Nothing therein contained, however, shall prevent any developer in the initial development of any of the Lots from erecting signs of any dimension on any of the Lots from the purpose of advertising the same during the period prior to the initial sale of such Lot to an Owner for occupancy.

Section 11. In any person or persons shall violate or attempt to violate any of the covenants and restrictions herein contained, it shall be lawful for any Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction to prevent him or them from so doing and/or to recover damages therefor.

ARTICLE V11.

EASEMENTS

Coleman Farms, Inc., and any assignee to whom such right is expressly assigned, reserves the right, whether or not such right is expressly reserved in any deed of conveyance of any part of the Common Area to the Association, to grant easements over, along, under and through the Common Area to the City of Virginia Beach or any utility company for drainage or utility purposes. In addition, a five-foot easement (unless greater width is noted) along and adjacent to all side and rear lines of all lots and parcels within this subdivision is hereby reserved by Coleman Farms, Inc. for the installation and/or maintenance of utilities

and drainage facilities.

ARTICLE V111.

GENERAL PROVISIONS

Section 1. Enforcement. Any Owner, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure 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 statute, ordinance or court order shall in no wise affect any other provision, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restriction of this Declaration shall run with and find 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 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. The covenants and restrictions of this Declaration may be amended during the first thirty (30) year period by 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. Any amendment must be recorded.

Section 4. 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 and/or the Veterans Administration: Annexation of additional properties, dedication of any Common Area to public authority, and amendment of this Declaration of Covenants, Conditions, and Restrictions.

ARTICLE IX

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commended, erected or maintained upon the Properties, nor shall may exterior addition to or change or alteration therein be made until the plans and specification showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing, as to harmony of external design and location in relation to surrounding structures and topography, by the Broad of Directors of the Association, or by an architectural committee composed of three 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 (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 dully complied with: provided, however, that not withstanding anything contained in this article to the contrary, the provisions of this Article no apply to the initial development of any of the Lots.

IN WITNESS THEREOF, Coleman Farms, Inc. has caused this Declaration to be signed in its name and behalf by its Vice President, and it corporate seal to be here to affixed and attested by its Secretary, thereunto duly authorized, this 28th day of June, 1968.