

11/43

COMMON LAND CONVEYED

Conveyed herein is an undivided interest in certain common land containing 8.4 (eight and 4/tenths) acres more or less; said interest held in common with owners of record of Lots subdivided within and by Phase III by Mountainside at Newbury Association.

Regulation of the use of the common land consisting of 8.4 (eight and 4/tenths) acres shall be subject to the majority vote of the lot owners. No activity requiring expenditure of funds with regard to the common land shall be undertaken without the unanimous consent of all the lot owners. Should any lot owner cause or suffer expenditures to be incurred on or attributable to the common land without the consent of all lot owners, said owner or owners incurring such expense shall be solely liable therefore.

DECLARATION OF RESTRICTIVE COVENANT

1. Whereas Mountainside at Newbury Association intends to ensure that the use of lots within Phase III are utilized and remain primarily attractive private residential subdivisions and to prevent nuisances, to preserve the peaceful country atmosphere of the subdivision, and to maintain the desired tone of the subdivision including the investment and resale values of the tracts located herein. The following restrictive covenants are declared. Said covenants shall run with, apply to and bind the land as restrictions for a period of fifty (50) years from the date thereof. Upon expiration of the initial fifty (50) year term, these covenants shall be automatically extended for successive periods of ten (10) years, unless the owners of record of the majority of said lots shall agree in writing to change these covenants in whole or in part.

2. Unless otherwise indicated, all restrictions herein are imposed on, charged on and run with the land and bind not only the original purchasers of lots within Phase III, but also their assigns, grantees, legal representatives, heirs and mortgagees. Failure to specifically refer to and include or incorporate this Declaration of Restrictive Covenants in future deeds shall not in any manner affect the validity and effectiveness of the covenants upon any said lots.

3. The premises conveyed hereby shall be used exclusively for residential purposes; except that a "home-type" business or occupation may be conducted so long as there is no obstruction of rights of way, and/or interference with privacy of others. No business signs shall be greater than two feet square in area.

4. The exterior construction of a dwelling and surrounding landscaping must be completed within one year after commencement. Any temporary structures necessary for construction must be removed within one year. No building or structure on said property shall be exposed with tarred paper, sheathing or other temporary wall covering.

5. No trailer, tent, barn, basement or temporary structure shall be used as a residence.

6. No dwelling shall be constructed with less than 1,650 square feet of liveable floor area. Liveable floor area does not include porches, decks, breezeways or garages.

7. The siding on all structures shall be either wood, wood or vinyl clapboard, wood shakes or shingles, real brick, stone or stucco. No visible siding shall be a plywood type composition, such as T-111 siding. The siding shall cover the structure to within eighteen (18) inches of the finished yard grade, i.e., no more than eighteen (18) inches of the foundation or basement wall shall be exposed above the finished yard grade. No building shall be left with an unfinished exterior. The exterior of building shall at all times be kept in a proper state of repair and maintenance.

8. Sewage shall be disposed of by septic system in accordance with State of New Hampshire regulations pertaining to tank size and distance from water supply.

9. The owner of each lot subject hereto whether occupied or unoccupied shall at all times keep and maintain his or her lot in orderly condition and eliminate an accumulation of any garbage, trash, refuse, rubbish, debris and other like material thereon. Containers for such material shall be kept in suitable closed receptacles, which shall be screened from public view. No vehicle unable to pass state inspection nor parts of vehicles shall be left exposed to view.

10. No lot of land shall be stripped of trees. Removal of trees within 50 feet of any private or public roadway abutting or within the subdivision shall be done only with approval of Mountainside at Newbury Association.

11. All building plans and driveway locations shall be approved in advance by the majority of the partners of Mountainside at Newbury. Approval will not be unreasonably withheld.

12. Construction of the residence built on the subject lot shall be on a full foundation or slab with heating and plumbing suitable for year round use. No dwelling shall have less than an eight (8") inch to twelve (12") inch roof pitch.

13. No animals may be kept within one hundred (100) feet of adjacent property boundary. No kennel may be kept which constitutes a nuisance to property owners of Mountainside, no piggeries or chicken coops will be allowed.

14. A garage for a vehicle or vehicles owned by the residents of a lot may be constructed on the premises but said garage must either be fully enclosed by the dwelling constructed on the premises or, if free standing, have four walls bearing a finished exterior siding. No garage having a roof only shall be constructed or placed on any lot.

15. No tank for the storage of fuel shall be maintained on any lot subject hereto unless buried, contained in a building or screened from public view.

A majority of the owners of lots within Phase III may allow a reasonable variance or adjustment to these restrictions, where literal application thereof would result in unnecessary hardship, provided, however, that any such variance or adjustment will not be materially detrimental or injurious to the other lots in the subdivision. The foregoing notwithstanding, the said majority of lot owners shall have the right to determine whether or not unnecessary hardship would result.

The failure to enforce any restriction herein, however long continued, shall not be deemed laches or a waiver of the right to enforce thereafter these restrictions as to similar other violations or as to the same continuing breach or violation.

Each one of the restrictions and covenants herein contained is hereby declared to be independent of and severable from every other restriction and covenant so that if any such restriction or covenant shall be held to be invalid or unenforceable or to not run with the land, that holding shall be without effect upon the validity, enforceability or running of any other restriction or covenant hereinabove set forth.

For the purpose of preventing any violation or threatened violation of the foregoing restrictions and of enforcing compliance with the same, the recorded owners of lots affected shall have the right to institute or prosecute any proceeding at law or in equity. In consideration of the continued interest of Mountainside at Newbury Association and the partners thereof in the subdivision and other phases of proposed development in the area by the partnership, they and each of them shall have the right to institute or prosecute proceedings whether or not they own land in the subdivision.

Mountainside at Newbury Association releases to said grantees all rights of courtesy dower and homestead and other interests therein.

Richard H. Messer, George R. Hambrecht and Karl L. Hambrecht are the sole and exclusive members of the partnership known as Mountainside at Newbury Association.

Witness our hands and seals this _____ day of _____, 1992.

Richard H. Messer

George R. Hambrecht

Karl L. Hambrecht

STATE OF NEW HAMPSHIRE
COUNTY OF _____

Before me, the undersigned officer, personally appeared Richard H. Messer, George R. Hambrecht, and Karl L. Hambrecht known to me or satisfactorily proved to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

Justice of the Peace
Notary Public

My Commission Expires:
