

Restrictions for McPhail Farms Subdivision

Restrictions for McPhail Farms

WHEREAS, Larry L. Elliott is the owner of a certain tract of land situate in the County of Anderson, State of South Carolina to be developed as a residential subdivision and known as McPhail Farms, a subdivision plat of which shows lots One (1) through Five (5) inclusive, Thirteen through Forty Two (42) inclusive and Forty Four through Fifty Eight inclusive made by Dunn & Dunn, Inc., dated May 12, 2000 and of record in the Register of Deeds for Anderson County, South Carolina in Plat Slide 1144 at Page 1 & 2.

WHEREAS, the use of said property is intended for residential purposes only and in order to protect said property as a residential development, the undersigned desires to impose certain restrictive covenants and reserve certain easements,

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that in consideration of the foregoing and the benefits flowing to the present and future owners of the lots included in said subdivision, the undersigned, Larry L. Elliott does hereby impose the following protective and/or restrictive covenants and reserves the following easements:

1. **LAND USE AND BUILDING TYPE:** All lots in the aforesaid subdivision shall be designated as residential lots and shall be used exclusively for single family residential dwellings except any common area as designated by the developer for recreational purposes and streets, roadways, and buffer zones, all of which shall be shown as such on the plat above referred to. No structure shall be erected, altered, placed or permitted to remain on any residential lot other than one detached single family dwelling not to exceed three stories in height and a garage for private passenger automobiles and personal storage.

2. **DWELLING QUALITY AND SIZE:** No residence shall be constructed containing less than nineteen hundred (1900) square feet of heated floor space exclusive of porches, garages and breezeways. No two story residence shall be constructed containing less than thirteen hundred (1300) square feet of heated space on the first or ground floor. One story homes with finished and heated basements must contain not less than nineteen hundred (1900) square feet of heated space on the ground or first floor. All residences must have garages either attached or detached. All residences must contain a minimum of five hundred fifty (550) square feet of area for the storage of vehicles or boats.

3. **RESIDENCE LOCATION:** No residence or structure shall be erected on any lot in violation of any set back lines drawn on the above referenced plat of the subdivision. In the event a set back line is not drawn on said recorded plat, no part of any residence or structure shall be located on any lot nearer than fifty (50)

feet to the front lot line, fifteen (15) feet to an interior lot line and forty (40) feet to the rear lot line. Any variance due to unusual lot size or configuration or any other reason deemed necessary must be in writing and recorded as a variance with the deed from the developer conveying the lot. All residences and structures shall face toward the front lot line and residences and structures including garages to be erected on corner lots shall be located and face in the direction designated by the Architectural Control Committee.

4. ARCHITECTURAL CONTROL COMMITTEE: The developer shall constitute the Architectural Control Committee and may appoint such other persons from time to time to said committee as it deems necessary. No structure, including without limitation residential structures, garages, storage buildings, energy producing devices, greenhouses, pools, tennis courts, fences, out buildings, boundary and patio walls, walks, driveways, or other structures shall be erected, altered, placed or permitted to remain on any lot and common areas in this subdivision unless and until the building plans drawn to one quarter inch scale with front and rear elevations (and side elevations if required by the Architectural Control Committee), specifications, exterior finish schedule and plot plan showing the location of any such building have been approved on the form provided by the Architectural Control Committee in writing as to conformity and harmony of external design with existing structures in the subdivision and as to location of any building with respect to topography, restrictive covenants, finished ground elevation, and relationship with other buildings on the lot and common areas and any surrounding lots and common areas. The Architectural Control Committee shall approve or disapprove any of the foregoing within fifteen (15) days after such plans and specifications or other information have been submitted to it. In addition, a landscape development plan must be submitted and approved by the Architectural Control Committee. All landscaping must be installed within nine (9) months from the date construction is completed. The Architectural Control Committee shall have the right to refuse to approve any such plans, specifications, plot plans or landscape plans which in its opinion and discretion are not suitable or desirable and in so passing upon such plans, specifications, plot plans or landscape plans, the Architectural Control Committee shall take into consideration the suitability of the proposed building improvement, the materials of which it is to be built, whether or not it is in harmony with the surroundings and what effect it will have on the outlook from adjacent or neighboring property. Upon the approval or disapproval by the Architectural Control Committee of any proposed construction or alteration, the Architectural Control Committee shall issue to the applicant a written permit of either approval or disapproval. No construction or alteration of the lot(s) and common areas shall occur until and unless such construction application is obtained and approved.

5. CONSTRUCTION REQUIREMENTS:

(a) All work on any residence or structure placed on any lot or common area in the subdivision must be performed by a building contractor properly licensed by the State of South Carolina and in good standing at the time of construction, and such work must be completed within one (1) year after the issuance of the original building permit,

RESTRICTIONS FOR MCKENNA FARMS SUBDIVISION

(b) All construction must meet all county and state building codes, and in no event shall a structure be placed within the subdivision which does not meet as a minimum the requirements of the Council of American Building Officials (CABO). The exterior of all structures are to be of brick and/or stucco or other exterior finish as approved in writing by the Architectural Control Committee.

(c) Each owner during construction is responsible for requiring the contractor or any subcontractors constructing residences or other structures within the subdivision to keep all materials, scrap materials, paper and trash properly stored and maintained and is additionally responsible for the protection of the public streets of the subdivision from erosion or from mud being carried on the public streets by construction vehicles. Any such mud or other material carried onto the public streets resulting from the construction activity on a lot is to be removed by the owner at the owner's expense within twenty four (24) hours of its appearance on the street.

6. SEWAGE DISPOSAL: Sewage disposal for all lots shall only be by septic tank approved by the South Carolina Department of Health until such time as a public sewage disposal system shall be available in the area.

7. GARBAGE AND REFUSE DISPOSAL: No lot or common area shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in containers and such containers shall be screened so as not to be visible from the streets and public ways.

8. LANDSCAPING AND MAINTENANCE OF SHRUBBERY AND LAWNS:

(a) All new residences are required to install a basic landscaping plan on all sides of the residence facing a street or public way. This plan must be submitted to the Architectural Control Committee simultaneously with the submission of the building and plat plans as described in paragraph four (4) of the within covenants and restrictions.

(b) Each lot owner will be required to maintain shrubbery or hedges so that air circulation or view from the surrounding lots and adjoining property will not be adversely affected and will not impair the view of motorists on curves and intersections or otherwise create a traffic hazard. Lawns shall be kept in a neat manner and free of trash, rubbish and debris.

(c) All lot owners which homes have not been constructed shall be responsible to keep the vegetation cut to a height not to exceed twenty four (24") inches. If the lot is not so maintained the Homeowners Association has the right to so maintain the lot and charge the lot owner for the maintenance. If the lot owner fails to pay for the maintenance service within thirty (30) days after billing, the Homeowners Association may place a lien against the lot.

9. MAILBOXES: The mailbox design shall be designated by the Architectural Control Committee. Any deviation desired there from must be in writing and

approved by the Architectural Control Committee. No separate box or other form of receptacle for the use or delivery of newspapers and magazines shall be permitted.

10. MOBILE AND FACTORY BUILT PRECONSTRUCTED HOMES: No mobile home or factory built preconstructed home of any type whether on wheels, jacks or permanent foundation shall be placed on any lot. No dwelling, residence or other type of structure shall be moved onto any lot and remodeled or erected.

11. CAMPERS AND RECREATIONAL VEHICLES: No trailers, recreational homes or vehicles, motor homes, campers or recreational vehicles of any description shall be parked, maintained or stored on any lot which will be visible from any street or public way.

12. BOATS AND BOAT TRAILERS: All boats and boat trailers of every type and description shall be parked, stored and garaged in such a manner that they are not visible from any street or public way in and under an enclosed area which further prohibits their visibility from any street or public way.

13. MOTOR VEHICLE PARKING AND STORAGE:

(a) No abandoned or non-used motor vehicle of any description shall be allowed to be parked or stored on any lot, driveway, street or public way in said subdivision.

(b) Employees of the lot owner including without limitation domestic employees must park their motor vehicles on the premises owned by the lot owner and no parking of said vehicles will be allowed or permitted on the streets and public ways of the subdivision.

14. TEMPORARY STRUCTURES AND OUTBUILDINGS: No structure of a temporary character, shack, metal storage building or any other type of outbuilding shall at any time be constructed, erected, or used on any lot in the subdivision for any reason whatsoever including a use as a temporary residence. A storage building, outbuilding, pool house or greenhouse may be approved by the Architectural Control Committee upon application submitted with one quarter inch scale drawings and specifications. No such structure shall be permitted prior to construction of the residence.

15. SWIMMING POOLS: No swimming pool, wading pool or any other type structure which contains water used for recreational purposes shall be visible from any street or public way running in front of the lot on which said swimming pool, wading pool or other structure is located. Location of a swimming pool, wading pool or other structure must be approved in writing by the Architectural Control Committee prior to construction and installation. In no event shall any of the above be located beyond the rear lot line of the residence. All swimming pools, wading pools or other structures of a similar type must be constructed and installed below ground level and none shall be permitted above ground level. Each lot owner shall provide a fence surrounding the installation and such fence shall be

RESTRICTIONS FOR McPHAIL FARMS SUBDIVISION

in accordance with the other provision of these restrictive covenants pertaining to fences.

16. NUISANCES: No noxious or offensive activity shall be conducted or carried on upon any residential lot or other property subject to these restrictions nor shall anything be done thereon which may be or may become an annoyance, nuisance or menace to the subdivision and other lot owners.

17. VIDEO AND AUDIO ANTENNAS AND TRANSMITTERS AND ENERGY PRODUCING DEVICES: All antennas, receivers, transmit terminals or any other devices used for the reception and/or transmission of audio or video signals shall not be installed without the prior written approval of the Architectural Control Committee. Likewise, no device for the production of energy or the like shall be installed on the lot or attached to a structure on the lot without the written approval of the Architectural Control Committee.

18. BUSINESS AND COMMERCIAL USE: No lot or any part thereof shall be used for any business, commercial or public purpose.

19. FUEL CONTAINERS: No fuel oil tanks, containers and other receptacles for use in storing products used in heating residences shall be installed or buried on a lot unless required by adverse conditions preventing the normal transmission of such by wire or pipe by a supplier of petroleum products or electricity. The Architectural Control Committee must approve any request for insight storage due to adverse conditions.

20. ANIMALS LIVESTOCK AND POULTRY: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that cats, dogs or other household pets may be kept, provided they are not bred or maintained for any commercial purpose. Any cat, dog or other household pet is the responsibility of its owner who covenants not to allow said pet to be a nuisance to other lot owners and residents nor to allow said pet to prevent lot owners, residents and their guests the quiet enjoyment and beneficial use of the common area and streets of the subdivision.

21. EASEMENTS: The Developer reserves unto himself, his heirs and assigns, the following easements over each lot or parcel in the right to ingress and egress to the extent reasonable necessary to exercise such heirs and/or assigns:

(a) Utilities: A twenty (20) foot easement on all front tract lines for the installation of water lines, power lines and any other utility which may be placed on the property in the future. A twenty (20) foot easement on all side tract lines, ten (10) feet from each side of the line, which such reserved easements shall be for the express purpose of drainage and the further purpose for the installation, maintenance and operation of utilities, including television transmission cables and the accessory right to locate guy wires, braces, or anchors, or to cut, trim or remove trees and plantings wherever necessary upon such lots or parcels in connection with such installation, maintenance and operation.

RESTRICTIONS FOR McPHAIL FARMS SUBDIVISION

(b) Any other easements as shown on the above mentioned plat, including but not limited to, the road right of way.

(c) Use and Maintenance by Owners: The areas of any lots or parcels affected by these easements reserved herein shall be maintained continuously by the owner of such lots, that no structures, plantings, or other materials should be placed or be permitted to remain or any other activities undertaken thereon which may damage or interfere with the use of said easements for the purposes herein set forth. Improvements within such areas shall be maintained by the owner except for which a public authority or utility company is responsible.

(d) Liability for Use of Easement: No owner shall have any claim or cause of action against Developer or its licensees arising out of the exercise or non exercise of any easement reserved hereunder or shown on any plat except in case of willful or wanton conduct or negligence of the Developer or its licensees in exercising or not exercising its right in such easements. Developer reserves unto itself the right to convey the easements hereinabove set forth in the future to Bell South Telephone Company, Duke Power Company, Hammond Water Company, Piedmont Natural Gas Company and other public utility company for the installation of power lines, for the installation of telephone lines, and unto any cablevision company for the installation of lines used for the reception of cable television. Developer further reserves the right to convey any and all drainage easements and road right of ways to Anderson County. Developer also reserves unto itself and for all other lot owners the right to use any and all roads, drainage and utility easements for the installation of water lines.

22. CHANGE OF LOT SIZE: No lot shall be subdivided into lots smaller than 2.0 acres; however, the Developer hereby expressly reserves unto itself, its successors and assigns, the right to re plat any one or more lots shown on the plat of said subdivision and allow changes in the boundary lot lines, as long as any lot subdivided is not less than 2.0 acres in size.

23. DRIVEWAYS: It is the intent and desire of the developer and Architectural Control Committee to have all driveways constructed of asphalt or concrete, the thickness of either of which must be approved by the Architectural Control Committee. Any use of material other than asphalt or concrete for a driveway must be approved in writing prior to installation and construction by the Architectural Control Committee.

24. FENCES: The construction and installation of fences must have prior written approval by the Architectural control committee. Any fence or barrier erected without the prior written approval of the Architectural Control Committee will be removed at the property owner's expenses and permission to do so is herewith expressly granted to the Architectural Control Committee by said lot owner. In no event, shall there be any chain link fences erected in McPhail Farms.

25. IMPROVEMENTS AND ADDITIONS: Any external improvement and/or addition to the original residence or dwelling must be submitted to the

RESTRICTIONS FOR McPHAIL FARMS SUBDIVISION

Architectural Control Committee and written approval must be given prior to the commencement of construction.

26. USE OF MOTORIZED VEHICLES All motorized vehicles including but not limited to four wheeled motorized vehicles, three wheeled motorized vehicles, two wheeled motorized vehicles and by way of further description and not by way of limitation, automobiles, pickup trucks, trucks, go-carts, three-wheelers, motorcycles, motorbikes and mopeds must contain a muffler system to reduce noise in order not to create an annoyance or nuisance to the lot owners and subdivision by reason of their operation In no instance will the aforesaid motorized vehicles be permitted to operate on any of the areas of the subdivision designated as common areas.

27. SIGNS: No sign of any kind shall be displayed to the public view on any lot except a sign advertising the property for sale or rent or the signs normally used by building contractors to advertise during the construction and sales period. Any such sign shall not exceed three (3) feet by three (3) feet in size or area No one shall erect a directional sign on any right of way or entry to advertise any activity, commercial or private, other than the Developer.

28. COMMON AREA, STREETS AND HOME OWNERS ASSOCIATION:
McPhail Farms Home Owners Association, Inc. will be formed and owned by the individual lot owners of the subdivision and will be controlled by the By Laws of the association. The developer will convey, subject to the uses and limitations as contained in the within restrictive covenants, the following property to the Home Owners Association:

(a) A common area or areas, as designated on the aforementioned plat to be recorded, for the use, benefit and enjoyment of all of the owners of the lots of the subdivision, provided, however, that the Developer, its heirs, personal representatives or assigns, reserves the right for the option of first refusal to reacquire said common area or areas at a total cost of One Dollar if the Common area or areas so designated on said plat or plats are ever abandoned, or condemned pursuant to power granted unto a governmental agency, utility company or other cooperative, or other organization, or offered for sale by McPhail Farms Homeowners Association, Inc., or shall be the subject of an action in foreclosure. The development and use of the common area shall first be approved by the Architectural Control Committee as set forth in paragraph four (4) herein and shall be in conformity with the within restrictive covenants.

(b) Upkeep and maintenance of the common area shall be borne by Developer until such time as twenty five (25%) percent of the lots in McPhail Farms are sold at which time Developer shall convey unto The Homeowner's Association the area upon which the common area is located, and all other common areas, and thereafter, all expenses for maintenance and upkeep of said area shall be The Homeowner's Association and specifically any responsibility or expense for maintenance of the pond area pursuant to the Pond Agreement of record in the office of the Register of Deeds in Book 3640 at page 242.

RESTRICTIONS FOR MC PHAIL FARMS SUBDIVISION

PAGE 001 OF 10

(c) Larry L. Elliott (Developer) shall not be a member of the Home Owners Association and shall not be required to pay any membership fees or annual dues or assessments as may be levied from time to time by the association.

(d) Upon the purchase of a lot in the subdivision, the purchaser will be entitled to one share in the Home Owners Association, which share shall be non assignable and transferable only with the conveyance of each lot from time to time. Membership is not optional and runs with the land, and is required of all lot owners whether their title be acquired by deed, contract for deed, devise or intestate succession or by any other method, including a person or entity acquiring title by foreclosure of a mortgage. The lot owners Title to Real Estate (Deed) shall serve as evidence of the lot owner's one (1) share in the home owners corporation.

(e) Upon the conveyance of any lot within the said subdivision, the ownership of the one share of the Home Owners Association will automatically vest in the new owner of the lot upon recordation of, the deed. Each lot owner shall notify the Home Owners Association of the conveyance of said lot and a change of name will be made on the corporate books of the Home Owners Association.

(f) Each purchaser of a lot shall be entitled to one (1) vote per lot in the said Home Owners Association. Membership shall be appurtenant to and may not be separated from ownership of the property. In the event of joint ownership of a lot or lots, said joint owners will be entitled to only one (1) vote per lot as determined between them and if an agreement cannot be reached by the said joint owners at the time of annual meetings of the Home Owners Association, then said vote will not be counted.

(g) There shall be an original membership fee of Two Hundred Fifty and no/100 (\$250.00) Dollars to be paid to the Home Owners Association at the time of the purchase of a lot in the subdivision. If any membership fees are paid prior to the formation of the home owners corporation, then the developer shall hold such funds in an escrow account until the home owners corporation is formed, at which time it shall pay such accumulated funds over the home owners corporation. Thereafter, upon each subsequent transfer of the lot to a new owner, there shall be imposed an additional fee of Two Hundred Fifty and no/100 (\$250.00) Dollars to be paid by the new owner, which shall be paid at the transfer of title to the lot. Failure to pay the original or any subsequent membership fee shall result in a lien being placed against the property.

(h) The membership fees shall be used to establish a reserve account for the Home Owners Association which funds will be utilized. for the maintenance of the common areas, payment . to the appropriate utility company for the street lights, and for any other matters which the Home Owners Association should desire and deem expedient for the safety, comfort, welfare and enjoyment of the owners of the lots in the subdivision.

(i) The Home Owners Association shall have the right to determine the amount of

funds necessary on an annual basis to maintain the common areas and to levy an annual assessment or dues on each lot owners as is more fully set forth in the By-Laws of the Home Owners Association. The charges, assessments or dues levied by the association as hereinabove provided shall be paid to it on or before the final date fixed by resolution of the Board of Directors. Written notice of the charge and date of payment shall be sent to each owner at the address last given by the owner to the association. If any charges levied against any lot shall not be paid when due, it shall become a lien upon said lot subject only to matters of record of such due date and shall remain a lien until paid in full. The Board of Directors may direct that such action be instituted either at law or in equity for the collection of such assessments or charges including interest, costs of collection and attorney's fees as they deem appropriate. The sale or transfer of any lot shall not effect any lien for charges provided for herein. Upon request, the association shall furnish a statement certifying that the charges against a specified lot have been paid or that certain charges remain unpaid as the case may be. In any event, the association shall not be required to transfer memberships on its books or to allow the exercise of any rights or privileges of membership by any member unless and until all the assessments and charges due it are paid.

30. LIMITED ACCESS: Access for the purpose of ingress and egress in the subdivision shall be limited to those streets and roadways so designated on the aforementioned plat. No lot owner shall use or allow his lot to be used as an easement for purposes of ingress and egress to the subdivision from adjoining property or from previously existing or future streets or roadways abutting any lot.

31. TERM: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of forty (40) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

32. AMENDMENT, DEVELOPERS RIGHT TO AMEND: These Covenants may be amended by a vote of a majority of the lot owners in said subdivision Each lot owner being entitled to one (1) vote per lot owned. Developer farther reserves the right to grant variances to the within covenants on a per request basis to prevent hardship to any prospective lot owner. Any variance granted shall be in the sole discretion of Developer.

33. ENFORCEMENT: Enforcement shall be by proceedings at law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

34. SEVERABILITY Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions, which shall remain in full force and effect.

DATED at Anderson, South Carolina, this 26th day of June, 2000.