

1032 PAGE 555 ✓

# Declaration of Restrictive Covenants

*For The Residences at*  
**CRESCENT MOUNTAIN VINEYARDS**

RECORDED  
MAR 28 3 29 PM '51  
SOUTH CAROLINA

5-27 0289

Project Developed By:

Crescent Valley Farms, LLP  
P.O. Box 1053  
Travelers Rest, SC 29690

3 2400

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

DECLARATION OF  
RESTRICTIVE COVENANTS

The undersigned, Crescent Valley Farms, LLP (hereinafter known as "Declarant"), the owner of all lots and tracts of land shown on plat of community known as "RESIDENCES AT CRESCENT MOUNTAIN VINEYARDS", dated April 8, 1997 and recorded in the RMC Office for Greenville County in Plat Book 34-V at Pages 56 and 57, deems it in the best interest of Declarant and future owners of said property to subject said property to the protective covenants, restrictions, reservations, servitudes and easements hereinafter set forth, each and all of which is and are for the benefit of said property and each and every part therefore and shall apply to and bind every present and future owner of said property or any part thereof, and each of their heirs, successors and assigns.

NOW, THEREFORE, Declarant, as owner, hereby declares that the real property hereinabove described is and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, reservations, servitudes and easements hereinafter set forth.

I.

GENERAL PURPOSE OF COVENANTS

The real property hereinabove described is subject to the covenants, restrictions, reservations, servitudes, and easements hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve so far as practicable the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures built of improper or unsuitable materials; to obtain harmonious architectural schemes; to insure the highest and best development of said property, to encourage and secure the erection of attractive homes thereon

with appropriate locations thereof on lots; to prevent haphazard and unharmonious improvement of lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general to provide adequately for high type and quality of improvement in said property and thereby enhance the value of investments made by the purchasers of lots therein.

All uses and requirements shall be approved by any and all appropriate governmental authorities having jurisdiction thereof.

II.

USES PROHIBITED AND PERMITTED - SINGLE FAMILY RESIDENCE LOTS

1. From the beginning it has been the primary goal of the developers of Crescent Valley Farms and Crescent Mountain Vineyards to achieve a unique Village developed in the French Provincial style. Lots numbered from 2 through 40 must be constructed in the French style, as approved by the Declarant or the Vineyards Architectural Review Committee ("ARC"). Lots numbered 41 and above may use French architecture and design but most other styles will be considered acceptable by the Declarant and/or the ARC.

2. Said property shall not be used nor shall any portion thereof be used for any purpose other than residence purpose. No trailer, shack, garage, barn or other outbuilding erected on the tract shall at any time be used as a permanent residence, nor shall any structure of a temporary character be used as a residence.

3. No building other than a detached, single-family dwelling house (not to exceed two and one-half stories in height, excluding basement) and appurtenant outbuilding, including a private garage, guest house and other non-commercial outbuildings may be erected on a lot.

4. When the construction of any building on any lot is once begun, work thereon must be prosecuted diligently and it must be completed within

a reasonable time, but not to exceed 12 months from the date the building permit was issued.

5. No business of any kind whatsoever shall be erected, maintained, operated, carried on, permitted or conducted on any lot or part thereof and no noxious, dangerous or offensive thing, activity or nuisance shall be erected, maintained, operated, carried on, permitted or conducted on said property or any part thereof, nor shall anything be done thereon which may be or become an annoyance or nuisance to the remaining lots or their owners. However, a home-based, clerical or primarily information-based business limited to one employee (for a total of two people involved in the business), is permitted. No commercial signage is permitted and any increase in traffic must be insignificant.

6. Any dwelling house, appurtenant outbuilding or garage shall be constructed of new materials only, unless written permission to the contrary is granted by the Declarant or the ARC. Exteriors of buildings shall be constructed of durable materials, not to include ribbed metal or translucent fiberglass siding or roofing. Unprotected sections of metal chimneys shall not be left exposed to the view of others. No intense of fluorescent paints shall be used externally, nor highly reflective surface treatments of any sort, nor paint or other decoration applied in stripes, dots or other repetitive geometric shapes. Landscape lighting shall be created in a method whereby bright lights are not visible to adjoining land owners. Holiday decorations shall not create a nuisance or unsafe condition nor shall their use be extended beyond the typical season afforded such holiday. Any lighting which is obnoxious, disruptive, creates a nuisance or safety problem is prohibited. No previously constructed structure shall be moved upon any lot. No sheet metal, exposed concrete blocks, asbestos siding or other unsightly material shall be installed in any structure. Mailboxes shall be of a U.S. Postal

Service-approved type and shall be sturdily supported by something other than parts of machinery, chains, milk cans or similar articles. Fences, if erected, shall be made of some uniform material.

7. All domestic pets must not be allowed to adversely affect wildlife. Pets must be confined to lot owner's property.

8. No trash, garbage or other like household refuse shall be burned on any lot, nor shall any owner accumulate or maintain on his lot junked vehicles or litter, refuse or garbage, or other unsightly materials, except in receptacles provided for such purposes. No house trailer, mobile home disabled vehicle, unsightly machinery or other junk shall be placed on any lot either temporarily or permanently. A properly designated representative of the Declarant or the ARC may, at the owner's expense, remove any such house trailers, disabled vehicles, unsightly machinery or junk, from any lot. However, this shall not be construed as preventing the exhibition of tasteful "antique" yard displays, prohibiting the parking or keeping of travel trailers so long as they are maintained in a sightless manner (buffered from view) and not used as a residence.

9. The amount of fully enclosed, heated, floor area, exclusive of porches, garages and basements devoted to living purposes shall, in each unit, total not less than sixteen hundred (1600) square feet, with the ground floor level being of at least twelve hundred (1200) square feet. No building shall be located nearer to the right-of-way margin than thirty five (35) feet. No building shall be located nearer than thirty five (35) feet to any inner lot line.

10. Any structure placed on a property for purposes of receiving reception over the airways of whatever kind and through any source shall be placed in a manner as reasonably possible to be inconspicuous. This includes landscape protection and the use of colors which blend into the surroundings. Any satellite dish may not exceed one meter in diameter and

all such structures must be maintained away from roadways and other areas which could be deemed a problem from the standpoint of health and/or safety.

III.

APPROVAL OF PLANS, LOCATION AND SETBACK LINES OF STRUCTURES

1. No building, outbuilding, garage, fence, wall, retaining wall or other structure of any kind shall be erected, constructed, placed or maintained on any lot or any part thereof, nor shall any alteration, additions, repairs, remodeling or adding to the exterior thereof be made until approved in writing by the Declarant or ARC prior to the commencement of any construction, excavation or other work. Two (2) plot plans indicating and fixing the exact location of such structures or such altered structures on the lot with reference to all setback lines thereon shall be submitted to the Declarant or ARC for approval. The Declarant or ARC shall approve only those plans and specifications which shall meet the minimum standards required by any and all applicable building codes.

2. Approval of plans, specifications and location of buildings by the Declarant or ARC shall be endorsed including specifications and one set shall forthwith be retained by the Declarant/ARC.

3. The approval by the Declarant/ARC of any plans or specifications submitted for approval as herein specified shall not be deemed to be a waiver by the Declarant/ARC of the right to object to any of the features or elements embodied in such plans or specifications if and when the same features and elements are embodied in subsequent plan and specifications submitted for approval for use on other lots.

4. After such plans and specifications and other data submitted have been approved by the Declarant/ARC no building, outbuilding, garage, fence, wall, retaining wall or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said lot unless

the same be erected, constructed or altered in conformity with the plans and specifications and plot plans theretofore approved by the Declarant/ARC. If any building, outbuilding, garage, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said lot other than in accordance with the plans and specifications and plot plans theretofore approved by the Declarant such erection, construction, placing, alteration or maintenance shall be deemed to have been undertaken without the approval of the Declarant having ever been obtained as required by this Declaration.

(5) In the event that the Declarant/ARC shall fail for a period of sixty (60) days to approve or disapprove any plans, specifications or plot plans submitted to them of approval, the same shall be deemed to have been approved.

6. During construction and prior to the occupancy of any dwelling constructed or erected on any lot, the Declarant/ARC shall be entitled to inspect the same to ascertain that the construction thereof is proceeding or has been completed in accordance with the plans and specifications. No dwelling shall be occupied until a final inspection has occurred and the Declarant/ARC has certified in writing that its construction has been completed in accordance with the plans and specifications.

7. The plans and specifications to be submitted to the Declarant shall show the nature, kind, shape, height, materials, floor plans, color scheme, location of such structural work to be done, the grading plan and the proposed square footage of the dwelling. The Declarant/ARC shall have the right to refuse to approve any such plans and specifications, grading plan, or proposed square footage which are not suitable or desirable, in Declarant/ARC's opinion for aesthetic or any other reasons, and in so passing upon plans and specifications and grading plans, shall have the

right to take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, the harmony of said structure with the surroundings and the effect of the building or other structures as planned and on the outlook from the adjacent or neighboring property.

8. An Architectural Review Committee will be appointed by the Declarant in accordance with the by-laws of property owners association. Said ARC may exercise all powers, duties, and responsibilities imposed upon the Declarant herein.

The Declarant shall prepare the initial design and development guidelines and application and review procedures (the "Design Guidelines") which shall be applicable to all construction activities within the Property. The Design Guidelines may contain general provisions applicable to all of the lots, as well as specific provisions which vary from one portion of the lots to another depending upon the location, unique characteristics, and intended use of such portion of the lots.

The Declarant/ARC may authorize variances from compliance with these covenants and any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances must be in writing, executed by act of the Declarant/ARC and filed of record. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Neither the Declarant nor ARC bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, ARC, property owners, board of directors, any committee, or member of any of the foregoing shall



be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any lot.

Any construction, alteration, or other work in contravention of this Declaration shall be deemed to be nonconforming. Upon written request from the Declarant or the ARC, Owners shall, at their own cost and expense, bring such construction, alteration or other work into conformity with this Declaration to the satisfaction of the Declarant or ARC. Should an Owner fail to remove and restore as required hereunder, the Declarant/ARC shall have the right to enter upon such non-conforming lot in order to remove the violation or restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All actual and related costs, together with the interest at the maximum rate then allowed by law, may be assessed against the non-conforming lot and collected by the property owners association in the same manner as all other assessments on lots.

In addition to the foregoing, the Declarant/ARC shall have the authority and standing, to pursue all legal and equitable remedies available to enforce the provisions of these covenants, conditions and restrictions.

The Declarant/ARC shall have a perpetual easement to enter upon any Owners lot for emergency, security, and safety reasons. These rights may be exercised by the Declarant/ARC's officers, agents, employees, managers, as well as all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties.

Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Declarant/ARC to enter upon any Owners lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a

reasonable time after notice.

4832 PAGE 554

IV.

PRIVATE ROADWAY EASEMENT

1. The road easements described on the community plat referenced herein shall run with the land and shall be for the benefit and use of the Owners of all lots shown on the aforesaid plat, their heirs, successors, executors, administrators, assigns, and mortgagees. All properties within "The Residences at Crescent Mountain Vineyards" shall have a non-exclusive, perpetual easement for pedestrian and vehicular ingress and egress over all roads which are now or hereafter designated.

V.

"CRESCENT MOUNTAIN VINEYARDS PROPERTY OWNERS ASSOCIATION"

1. There shall be an eleemosynary corporation established for the benefit of the lot owners of the subdivision, the name of which shall be "Crescent Mountain Vineyards Property Owners Association" (hereinafter referred to as the "Association").

2. The owner of each presently constituted lot as shown on the aforesaid plat shall be a member of said corporation and shall be entitled to one vote for each lot that a member owns therein. When title to any lot is vested in two or more persons, their vote shall be exercised as they among themselves shall determine.

3. Membership in the Association shall be appurtenant to and may not be separated from ownership of the lot which is subject to assessment.

4. Upon completion, the Declarant shall convey the community roads and streets to the Association as delineated on the subdivision plat. After conveyance, the Association shall be responsible for the maintenance of all community roads and streets and it is anticipated that the Association will maintain these streets as private roads and not request that roads be accepted into the public road system. At the present time,

the Declarant does not intend to establish any common areas to be conveyed to for the use of the Association. All areas falling outside of the areas shown on the plat, specifically the acreage currently being used as a vineyard, will be retained by Declarant for its own purposes and is not intended to be a part of the common properties nor to be owned or utilized by the Association.

5. The land owners shall maintain the natural attributes to the area through tree and shrub conservation called a buffer zone. The buffer zone is different than the setback in that the purpose is to preserve vegetation. A 25 foot buffer shall exist on all property lines where houses are located an adjacent situations. Said buffer shall have less than ten percent (10%) tree and shrub removal, excluding pine trees. This buffer area shall not apply to the lot boundary lying adjacent to the roadway.

6. The roadway shall be defined as a paved asphalt roadway with adjacent drainage pipes, drainage structures and ditches shall be considered common areas.

VI.

MAINTENANCE CHARGES

1. Assessments for maintenance consistent with the By-Laws of the Association, shall be levied from time to time. The annual fee for maintenance shall initially be One Hundred Twenty Five (\$125.00) Dollars per year, per lot, commencing June 1, 1997. In each subsequent year thereafter, the amount of the annual maintenance fee shall be set by a majority of the votes of the members of the Association taken at a regularly scheduled meeting at which a quorum is represented, either in person or by proxy.

2. Landowners shall be responsible for damage to the road beyond normal wear and tear and all associated costs to repair, due to damage

from personal vehicles, construction vehicles, delivery vehicles, etc. The repairs shall be done in a timely manner and are exclusive of the annual road maintenance and its fund.

3. Each assessment shall be due on such reasonable due date as may be established by the Association and the total amount of each assessment shall be established by the Association, in accordance with its By-Laws. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the then current legal interest rate authorized by statute to accrue against legal judgments. The acceptance of a deed by a grantee shall be construed to be a covenant by the grantee(s) to pay said assessment, which shall run with the land and be binding upon the grantee, his successors, heirs, and assigns.

4. Said assessment, if unpaid when due, shall constitute a lien upon the subject lot, which may be foreclosed in the same manner as a real estate mortgage, with interest, costs, and attorneys fees to be added to the amount of such unpaid assessment.

5. Said lien for assessments must be established by, and shall be effective from the time of, filing of a Notice of Lis Pendens in the Office of the Clerk of Court for Greenville County.

6. Said lien for assessments shall be subordinate to the lien of any mortgage, lien of laborers, contractors or materialmen furnishing labor and materials in connection with the construction of improvements located on said property, unless such lien is filed subsequent to the filing of said Notice of Lis Pendens as set forth in Section 5. Sale or transfer of any lot shall not affect the assessments lien; however, the sale or transfer of any lot pursuant to foreclosure of any lien enumerated above shall extinguish the lien for assessments as to assessments which became due prior to such sale or transfer but for which no Notice of Lis Pendens has been filed. Nothing herein shall affect the collection of any

charges that shall become payable after the acquisition of title by a subsequent bona fide purchaser for value.

VII.

SIGNS

No advertisement or any advertising device of any character shall be erected, posted, displayed or permitted on or about any part of said property except one sign of not more than five (5) square feet in area advertising an owners lot for sale.

VIII.

RESERVATIONS, SERVITUDES, AND EASEMENTS

All of the covenants, restrictions, reservations, servitudes and easements set forth in this Declaration are imposed upon said property for the direct benefit thereof and for the owners thereof as a part of the general plan of development, improvement, building equipment and maintenance of said property. Each grant, servitude and assessment shall give to the Association the right to immediate entry upon the property upon which such violation exists and summarily to abate and remove at the expense of the owner thereof, any erection, structure, building, thing, or condition that exists thereon which may be contrary to this Declaration and to the true intent and meaning of the provisions hereof, and the Association shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal, nor shall the Association be liable for any damages occasioned thereby. The result of every act or omission of purchaser under contract of sale or agreement of purchase accepts the same subject to the covenants, restrictions, reservations, servitudes and easements set forth in this Declaration and agrees to be bound by each such covenants, restrictions, reservations, servitudes and easements. Such covenants, restrictions, reservations, servitudes and easements shall run with the land and continue automatically and without further notice

from that time or a period of thirty (30) years each without limitation unless within six (6) months prior to the expiration of any successive period of ten (10) years thereafter, a written agreement executed by the then record owners of lots in the property subject to this Declaration having an aggregate area equivalent to not less than 60% of the area of the total number of lots then subject to this Declaration shall be placed on record in the appropriate public record book, in which agreement any of the covenants, restrictions, reservations, servitudes and easements may be changed, modified, waived or extinguished in whole or part as to all or any part of the property then subject thereto in the manner and to the extent therein provided.

2. In the event that any such written agreement of change or modification be fully executed and recorded, the original covenants, restrictions, reservations, servitudes and easements as therein modified shall continue in force for successive periods of ten (10) years each unless and until further changed, modified or extinguished in the manner herein provided.

3. Damages are hereby declared not to be adequate compensation for any breach of the covenants, restrictions, reservations, servitudes, or assessments of this Declaration, but any such breach and the continuance thereof may be enjoined, abated and remedied by appropriate proceedings by the Association or an owner of any lot within said property.

IX.

VIOLATION OF COVENANTS, RESTRICTIONS

RESERVATIONS, SERVITUDES AND EASEMENTS

A breach or violation of any of the covenants, restrictions, reservations in whole or in part, is hereby declared to be and to constitute a nuisance and every remedy at law or equity against a nuisance, either public or private shall be applicable against any such

owner of any lot and may be prohibited and enjoined by an injunction. Such remedy may be deemed cumulative. The losing party in such litigation shall pay all expense, including reasonable attorney's fees incurred by the other party in such legal proceeding.

Rules and Regulations. The Association, through its Board of Directors, may make, modify and enforce reasonable rules and regulations governing the use of all lots within the property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Such rules and regulations shall be binding upon all lot owners, occupants, invitees, and licensees, if any, until and unless overruled, canceled, or modified at a regular or special meeting of the Association by the vote of Members holding at least seventy-five percent (75%) of the total votes in the Association.

Indemnification. The Association, to the fullest extent allowed by applicable law and in accordance therewith, shall indemnify every officer, director, and committee member against any and all damages and expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

X.

BOOK 1032 PAGE 370

RIGHT TO ENFORCE

The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Association or by the owner or owners of any portion of said property, and each of their legal representatives, heirs, successors and assigns, and failure by the Association or by the owner or owners of any portion of said property or their legal representatives, heirs, successors and assigns, to enforce any of such covenants, restrictions, reservations, servitudes, and easements herein contain shall in no event be deemed a waiver of the right to do so thereafter, unless otherwise herein provided.

XI.

ASSIGNMENT OF POWERS

On or before June 1, 1998, any and all rights and powers and reservations of the Declarant herein contained will be assigned to Association and thereupon Declarant shall be relieved of the performance of any other duty or obligation hereunder to the extent of such deed, conveyance, or assignment.

XII.

THE VARIOUS PARTS OF THIS DECLARATION ARE SEVERABLE

In the event any clause, community, term, provision or part of this Declaration should be adjudicated by final judgment of any court of competent jurisdiction to be invalid or unenforceable, then disregarding the paragraph, community, term, provision or part of this Declaration is adjudicated or otherwise found to be invalid or unenforceable, the remainder of this Declaration and each and all of its terms and provisions not so adjudicated to be invalid or unenforceable shall remain in full force and effect, and each and all of the paragraphs, subdivisions, terms, provisions, or parts of this Declaration are hereby declared to be



severable, and independent of each other.

XII.

BOOK 1632 PAGE 571

GENERAL PROVISIONS

Except as otherwise specifically provided herein, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding at least sixty-seven percent (67%) of the total votes in the Association.

To be effective, any amendment must be recorded in the RMC Office of Greenville County, South Carolina.

If a lot owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such lot owner has the authority so to consent, and no contrary provision in any mortgage or contract between the lot owner and a third party will affect the validity of such amendment.

Except as otherwise specifically provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of lot owners holding sixty-seven percent (67%) of the total votes of the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

In the event that any lot owner desires to sell or otherwise transfer title to his or her lot, such Owner shall give the Association at least seven (7) days prior written notice of the name and address of the

purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the lot owner of the lot coming due prior to the date upon which such notice is received by the Board of Directors including assessment obligations, notwithstanding the transfer of title to the Owners Property.

Each transferee of a Lot shall, within seven (7) days of taking title to a Owners Property, confirm that the information previously provided by the transferor is complete and accurate.

IN WITNESS WHEREOF, the undersigned has hereby set his hand and seal this 20 day of May, 1997.

IN THE PRESENCE OF:

Declarant:  
CRESCENT VALLEY FARMS, LLP

Nancy B. Stearn

BY: James B. Anthony  
James B. Anthony, Partner

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF GREENVILLE )

PROBATE ,

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named Crescent Valley Farms, LLP sign, by its duly authorized partner, seal and as its act and deed deliver the within Declaration of Restrictive Covenants for Homesites at Crescent Mountain Vineyards and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 20<sup>th</sup> day of May, 1997.  
Nancy B. Stearn  
Notary Public for South Carolina  
My Commission Expires: 10/17/2000

[Signature]

Judy A. Hill

36812