

Declaration

of covenants, conditions and restrictions

for Paces Lake subdivision

THIS DECLARATION, made this 25th day of May, 1994, by KNIGHT DAVIDSON COMPANIES, INC., a Georgia Corporation and LIFE STYLE COMMUNITIES, INC., a Georgia Corporation, hereinafter referred to as "Declarants".

Witnesseth:

WHEREAS, Declarants are the owners of certain real property commonly known as "Paces Lake Subdivision", and lying and being in Land Lot 553 of the 17th District, 2nd Section, Cobb County, Georgia which real property is more particularly described in *Exhibit A*, attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Declarants desire to provide for the preservation and enhancement of Paces Lake Subdivision and for the maintenance of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth;

NOW THEREFORE, Declarants hereby declare that all of the Property described in *Exhibit A* hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Article 1

Definitions

Section 1. "Association shall mean and refer to Paces Lake Homeowners Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

Section 2. "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 Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area.

Section 6. "Declarants shall mean and refer to Knight Davidson Companies, Inc., a Georgia corporation, and Life Style Properties, Inc., a Georgia Corporation, their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarants for the purpose of development.

Section 7. "Structure" shall mean and refer to: (1) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any residential dwelling, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or fence, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, sign board, mailbox, driveway, temporary or permanent living quarters (including house trailers, or any temporary or permanent improvement to such Lot); (2) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters any Lot, or which affects or alters the flow of waters in the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; (3) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (2) of this Section 7 applies to such change. Any temporary construction office used in connection with the construction of any dwelling on a Lot, or construction of amenities on the Common Area shall not be deemed a "Structure" as defined above, and any such temporary construction office shall be excluded from the covenants and restrictions set forth in Article VI hereof.

Article II

Property Rights

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which 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 charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area and to create and enforce reasonable rules and regulations related to the use and enjoyment of the Common Area and any recreational facilities situated thereon;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid or for violations of rules and regulations created by the Association governing the Common Area and the recreational facilities thereon;
- (c) 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, provided, however, no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the 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 the property.

Section 3. Grand and Reservation of Easements by Association.

- (a) The Board of Directors of the Association shall have the authority to grant any easements over, across, under and through the Common Area as it deems necessary or desirable in its sole and absolute discretion, including, without limitation, any and all utility easements necessary for service to the Property.
- (b) A street or roadway shall be permitted to be constructed or built on any previously undeveloped Lot, for purposes of access to any additional phase to be developed or to any other property.

Section 4. Insurance. The Board of Directors of the Association shall cause the Association to maintain such general liability and hazard insurance policies covering the Common Area as shall be deemed necessary or desirable in the sole discretion of the Board of Directors of the Association.

Article III

Membership and Voting Rights

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarants, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarants and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on September 15, 1997.

Notwithstanding the foregoing to the contrary, in the event additional land is annexed by the Declarant pursuant to Article VII, Section 4(b) hereof, the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership, including both original Owners and Owners of any lots on any land annexed by Declarant, equal the votes outstanding in the Class B membership, or
- (b) the date which is three (3) years after the annexation of any additional

land to the Property as evidenced by the recording date of an amendment to this Declaration reflecting such annexation.

Section 3. In the event additional land is annexed by either one or both of the Declarants pursuant to Article VII, Section 4(b) hereof, the total votes outstanding in the Association shall automatically increase based upon the number of lots contained in any additional land annexed pursuant to the terms hereof. Nothing contained herein shall obligate the Declarants to develop or annex any such additional land.

Article IV

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarants, for each Lot owned within the Property, hereby covenant, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, 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 established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in the title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred and Twenty-five Dollars (\$125.00) per Lot.

(a) 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 each year not more that 10% above the maximum assessment for the previous

year without a vote of the membership.

(b) 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 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) 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 capital improvement upon the Common Area, including fixtures and personal property related thereto, **provided that** any such assessment 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.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. 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 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 shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. 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, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of nine (9) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Article V

Architectural Control

No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to the Board of Directors of the Association or its designee (as hereinafter provided) by certified mail, and such plans and specifications are approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) 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 thirty (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 fully complied with.

Article VI

Covenants and Restrictions

The following restrictions shall apply to all Lots on the Property:

- (a) Each Lot shall be restricted to residential use only and no commercial business, enterprise, or home retail business (such as beauty parlors, antique shops, etc.) shall be operated or conducted thereon.
- (b) No Structure shall be built or constructed on any Lot that does not comply with the building set-back lines as shown on the recorded plat of the Property.
- (c) No further subdivision of a Lot is allowed after said Lot is sold by Declarants, and only one residence shall be placed on each Lot.
- (d) All driveways will be paved with concrete. No road or driveway shall be constructed or altered on any Lot without the prior written consent of the Board of Directors of the Association or its designated representative.
- (e) No Structure shall be constructed on said Lot having less than 1400 square feet of heated floor space, exclusive of garages, porches and terraces.
- (f) All Structures shall be constructed with an attached, two vehicle garage.
- (g) No mobile home, living trailer, modular home or prefabricated home shall be permitted on any of the Lots.
- (h) No Structure shall be erected or placed on any Lot without complying with all of the Building Code Regulations of Cobb County or other governmental authorities.
- (i) No livestock, chickens or other fowl shall be raised, kept or otherwise maintained on any Lot, with the exception of household pets, which must be kept under restraint and not allowed to wander about at will. No animals shall be raised for commercial use, including, but not limited to, selling for profit.
- (j) No Owner shall allow any unsightly garbage, trash, debris, dirt, wood, construction materials, or household waste on any Lot, but shall sack, box, or

otherwise dispose of the same in a safe and sanitary manner. All garbage cans and wood piles shall be screened from view by adequate plant cover or approved fencing so as to conceal them from view from neighboring residences or streets. In the event that any Owner shall fail or refuse to keep such premises free from refuse or garbage piles or other unsightly objects, then the Association or its designated representative may enter upon such lands and remove the same at the expense of the Owner, and such entry shall not be deemed a trespass, and in the event of such removal a lien shall arise and be created in favor of the Association, and against such Lot for the full amount chargeable to such Lot, and such amount shall be due and payable within thirty (30) days after the Owner is billed therefore. No incinerators for garbage, trash or other refuse shall be located or used on any lot.

(k) No Owner shall allow junk cars or abandoned cars, boats, trailers, campers or trucks to be or remain on any Lot. Each Owner shall keep his or her Lot and any Structure thereon in good order and repair including but not limited to the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or such appropriate external care) of the Structure all in a manner and with such frequency as is consistent with good property management. If any Owner fails to maintain said Lot and any Structure in accordance with the foregoing, the Association shall have the right, but not the obligation, to enter upon any such Lot to perform such maintenance and repair work which may be reasonably required, all at the expense of said Owner, which expense shall be payable by such Owner to the Association.

(l) All recreational vehicles, boats, travel trailers, or similar such vehicles must be parked in garages or other covered Structures; provided, however, that such vehicles may be parked on a Lot for up to forty-eight (48) hours prior to being parked thereafter in such garages or covered Structures. No fences, posts or other fencing materials shall be constructed in the front of any structure. All such proposed fencing must start at least half-way down the side of the Structure, unless otherwise approved by the Board of Directors of the Association or its representative. No chain link fence is allowed except with prior, written permission from the Board of Directors of the Association or its representative.

(m) When any Owner shall commence construction of a Structure, or improvement to an existing Structure, the outside of said Structure shall and will

be finished within six (6) months after the date construction is first started. All window coverings which are visible from streets or neighboring residences shall be lined with or constructed from white or off-white materials.

(n) No obnoxious or offensive trade activity 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.

(o) No garage shall be constructed except as an integral part of the Structure it is intended to serve, unless it is of similar design and construction as the Structure. All garages must have doors, and each garage door must be coordinated in design, color and material with the Structure it is intended to serve. All garages must primarily serve the purpose of sheltering vehicles, and no garage may be used for living space or residential occupancy.

(p) No shed, tool storage area, workshop, garage, outbuilding for storage of yard implements, clotheslines or drying yards shall be placed upon any Lot.

(q) No concrete blocks shall be left exposed on any Structure, or on any area of the Lot.

(r) No commercial trucks or commercial vehicles shall be stored or parked on any Lot except while engaged in transporting to or from a Structure on any such Lot.

(s) No recreational equipment and playground equipment shall be displayed or installed on any Lot which is visible from the street abutting such Lot. No above ground swimming pools shall be constructed or located on any lot.

(t) Mailbox posts shall be simple and unobtrusive and shall be approved by the Board of Directors of the Association or its representative prior to being placed on any Lot. Mailboxes shall be number one and one-half (1 1/2) black aluminum boxes approved by the U.S. Postal Service. No haphazard or unprofessional fences or other stone work or wooden appurtenances shall be erected without the aforesaid prior approval.

(u) All yards must be landscaped within one (1) month of completion of a home on any Lot. Sidewalks as required by Cobb County and a sodded front yard lawn shall be installed for each residence located on any lot at the sole cost and expense of the builder of any such residence.

(v) After construction of the Structure and yard preparation is completed by any

builder, the elevation of a Lot shall not be changed so as to materially affect the surface elevation or grade or drainage of the surrounding Lots. No rocks, gravel or clay shall be excavated or removed from any Lot except in connection with building the Structure on said Lot and/or landscaping same, except as approved by the Board of Directors of the Association or its representative.

(w) No signs or other advertising shall be displayed on any Lot except for the purpose of the sale of the Lot or Structure thereon, unless first approved in writing by the Board of Directors of the Association or its representative.

(x) No antennae, satellite dish or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on the exterior of any Structure without the prior written approval of the Board of Directors of the Association or its representative. In no event shall freestanding transmission or receiving towers be permitted.

(y) No exposed, above ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to the use of solar energy, the location and design of which must first be approved by the Board of Directors of the Association or by its representatives.

(z) No window air conditioning unit may be located in any part of any Structure which is visible from any street, and all exterior compressor units shall be ground mounted and screened by fencing or planting of a density and height sufficient to screen the unit effectively, which fencing or planting shall first be approved by the Board of Directors of the Association or its representatives.

(aa) Any screen porch which is part of any Structure must have a dark color screen.

(bb) No plumbing vent or heating vent shall be placed on the front side of the roof of any Structure.

(cc) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot. Repairs of any such damage must be completed within thirty (30) days after the damage occurs, provided, however, that if such damage is of a nature requiring immediate repair in the sole discretion of the Board of Directors of the Association, such repair shall be

performed within seven (7) days of notice thereof.

(dd) Roofing material for all residential dwellings shall be limited to asphalt shingles.

(ee) No trees measuring twelve (12) inches or more in diameter at a point two (2) feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot may be removed without the prior approval of the Board of Directors of the association or its representatives unless located within ten (10) feet of the approved site for a dwelling or within the right-of-way or walkways. Excepted herefrom shall be damaged or dead trees and trees which must be removed due to an emergency.

(ff) Adequate off street parking shall be provided by the Owner of each Lot for the parking of two vehicles, and no owner shall park any vehicle (including, without limitation, boats, campers, motorcycles, scooters and vehicles of any and every description) on the streets of the Property as a matter of course. No vehicle may be left upon any portion of the Property for a period longer than five (5) days except in a garage or other area designated by the Board of Directors of the Association. No vehicles shall be parked on the grass areas or driven off of the driveways or streets. No vehicles shall be parked within a front yard unless such front yard is part of a driveway, turnaround, garage or carport approved by the Board of Directors of the Association or its representatives.

Article VII

General Provisions

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding 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 the Association or 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 judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the Property, for a term of twenty (20) years from the date this Declaration is recorded, after which time they may be extended for successive periods by the recording of an instrument signed by not less than two-thirds (2/3) of the Lot Owners. This Declaration may be amended at any time and from time to time by an instrument signed by not less than two-thirds (2/3) of the Lot Owners. Any amendment must be recorded

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Property with the consent of two-thirds (2/3) of each class of members.

Section 5. 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 or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, has hereunto set their hand and seal this 25th day of May, 1994.

Signed, sealed and delivered in the presence of:

Deborah Hargen
Witness

Timothy Andrew Bean
Notary Public

My Commission Expires: July 30, 1998
Notary Public, Fulton County, Georgia
My Commission Expires July 30, 1998

[NOTARIAL SEAL]

[Signature]
Witness

D. Sue Shepherd
Notary Witness

My Commission Expires:

[NOTARIAL SEAL]
Notary Public, Cobb County, Georgia
My Commission Expires April 29, 1997

[N.C. SEAL]

DECLARANTS:

KNIGHT DAVIDSON COMPANIES, INC., a Georgia Corporation

By: [Signature]
Its: V.P.

Attest: [Signature]
Its: VICE-PRESIDENT

[CORPORATE SEAL]

CORPORATE SEAL
KNIGHT DAVIDSON COMPANIES, INC.
CORPORATE SEAL
1988
GEORGIA

LIFE STYLE COMMUNITIES, INC., a Georgia Corporation

By: [Signature]
Its: President

Attest: [Signature]
Its: Sec.

[CORPORATE SEAL]

CORPORATE SEAL