

98 FEB 17 A 9:31 Tax Parcel Nos. [See Attached List]

MICHAEL B. GATTAGLIA
RECORDER OF DEEDS
NEW CASTLE CO. DE

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P.O. Box 391
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CLOCK-IN

RETURN TO:

CHATHAM
Restated Restrictions & Maintenance Declaration

THIS DECLARATION is made as of this 31st day of December, 1997 by and among CHATHAM CIVIC ASSOCIATION ("the Association"), a Delaware corporation, and those additional subscribers party hereto (the Association and such additional subscribers being hereinafter collectively referred to as the "Declarant").

WITNESSETH:

WHEREAS, Magness Construction Co. ("Magness"), a Delaware corporation, developed that certain New Castle County, Delaware residential subdivision generally known as "Chatham" (as the same is shown on the record plan of the same name prepared by Howard L. Robertson, C. E. and filed of record in the Office of the Recorder of Deeds ("the Recorder's Office") in and for New Castle County, Delaware, at Microfilm No. 719 (the "Plan"); and

WHEREAS, Magness, as the then owner of all of the several lots comprising Chatham, executed a declaration (the original declaration) dated March 2, 1959 and recorded in the Recorder's Office in Deed Book X, Volume 55, at Page 241, imposing certain conditions, agreements, covenants, easements, reservations and restrictions (hereinafter collectively the "restrictions and covenants") upon each of the several residential lots comprising Chatham (hereinafter referred to, severally, as the "Lot" and, collectively, as the Lots"); and

WHEREAS, the original declaration thereafter was amended by Magness on November 13, 1959 by an instrument recorded in the Recorder's Office in Deed Record X. Volume 64, at Page 272; and

WHEREAS, by instrument dated January 22, 1963 and recorded in the Recorder's Office in Deed Book S, Volume 70 at Page 668, Magness assigned to the Association certain oversight authority which the original declaration, amended as aforesaid, had vested in Magness; and

WHEREAS, further instruments relating to the original declaration but not pertinent to this Declaration were executed by the Association and others on November 30, 1978 and April 2, 1987, respectively, and recorded, again respectively, in the Recorder's Office in Deed Book B, Volume 104, at Page 331 and in Deed Book 525, at Page 5; and

WHEREAS, the Association and the undersigned subscribers (such subscribers being Lot owners) now desire to update and restate, as hereinafter provided, the restrictions and covenants applicable to Chatham.

NOW, THEREFORE, Declarant does hereby covenant and declare, as follows:

A. Definitions. The following definitions are applicable to this Declaration:

(a) "Common Facilities" shall mean any and all common facilities designated and established as such on the Plan, including, without limitation, parkland designated as such on the Plan, sidewalks or bituminous pathways located within that parkland, storm water management areas, community signage, landscaping located within the parkland or within parkways or other community maintained planting areas, and other common amenities depicted on the Plan or otherwise hereafter designated as such by the Association and located within Chatham but on other than a Lot now owned by the Association.

(b) "Association" shall mean and refer to the "Chatham Civic Association", its successors and assigns.

(c) "Lot" or "Lots" shall mean and refer, depending upon the context, to one, several or all of the subdivided residential lots established by the Plan.

(d) "Member" shall mean and refer to every person or entity who holds membership in the Association.

(e) "Owner" shall mean and refer to the fee simple owner (s) of record of a Lot.

(f) "Plan" shall mean the Plan hereinabove referred to or the most currently recorded subdivision, resubdivision or land development plan or plans for Chatham, or portions thereof, as the same may be amended, resubdivided or enlarged from time to time.

B. Governance & Assessments:

1. The affairs relating to Chatham shall be governed by the Owners acting through the Association.

2. The Association was established "to promote the general welfare and community activities of Chatham." This includes providing recreational activities, maintaining health and safety standards, and enforcing deed and zoning restrictions. The Association is directed by four officers, sixteen district representatives, and seven committee chairpersons who meet regularly throughout the year to govern the affairs of the Association in accordance with the constitution and by-laws of the Association as the same are in effect from time to time.

3. The Members of the Association shall comprise each Owner (i.e., there being one (1) Member per Lot) and each such Member shall be in good standing only if such Member is current with respect to such Owner's financial obligations due the Association from time to time as hereinafter provided.

4. (a) Following the execution of this Declaration and recordation of the same in the Recorder's Office, each owner shall thereby obligate and bind such owner as well as such owner's heirs, successors and assigns, as a Member of the Association, to be bound by all of the Association's rules and regulations, and to be subject, together with such Owner's Lot, to all of the duties and obligations imposed by reason of such membership.

(b) Annual Association dues shall be established by a majority of the Members in good standing voting in person or by proxy at the annual Association meeting. Similarly, any special assessments or other matters to be decided by the Members with respect to Chatham or Chatham's ongoing operation shall, unless otherwise specified in this Declaration, be set or decided by a majority vote of the Members in good standing, voting in person or by proxy at the annual meeting or at any other membership meeting duly called for this purpose. A Member shall be in good standing only if all assessments and other charges due the Association from such Member or with respect to such Member's particular Lot are current. Each Lot shall be entitled to one vote regardless of whether or not such Lot is owned by one or more individuals or entities. In the case of a Lot owned by an entity rather than a single individual, the vote pertaining to such Lot shall be effective only if such vote constitutes the duly authorized action of such entity. In the case of any Lot having multiple owners, such vote, to be effective, shall require the unanimous accord of such multiple owners.

5. All dues and assessments shall be prorated equally among all of the Lots comprising Chatham.

6. Dues and assessments unpaid by an Owner shall be the personal obligation of such Owner (joint and several in those instances where an Owner consists of more than one person or entity) and shall not be a lien with respect to such Owner's Lot unless the obligation is reduced to judgment.

7. Maintenance of the entrance island shall include sign, lighting and maintaining, replacing and supplementing common area landscaping.

8. If any existing Lots are merged or otherwise realigned by means of a duly approved and recorded resubdivision plan, the terms of this Declaration (unless correspondingly amended in accordance with the terms hereof) shall continue to apply to such redefined Lots and be interpreted and enforced by the Association in an equitable manner consistent with the intent hereby reflected in the context of the Plan as currently recorded.

9. Nothing herein shall preclude the Association from fixing, establishing and collecting, from time to time, additional assessments or charges for such purposes as the Association deems necessary or desirable, including for example, but not by way of limitation, snow removal and community activities. Such additional assessments or charges shall be established, paid and collected in accordance with the provisions and procedures set forth herein.

C. Restrictions

1. Each Lot shall be used only for private residence purposes and no building of any kind whatsoever shall be erected or maintained thereon, except a private, single family, detached dwelling house, a private garage and such other outbuilding(s) typically ancillary to a private residence (e.g., a tool house or greenhouse), all of the foregoing being for the sole use of the Owners or occupants of such Lot.

2. Any person not under a legal disability and occupying the residence on any Lot as a tenant shall do so only pursuant to a written lease agreement, executed by such person, which shall obligate such person (and, through such person, all others occupying such residence and for whom such person has legal responsibility) to abide by the terms of these restrictions and covenants. However, the ultimate responsibility for compliance with these restrictions and covenants shall rest with each Owner.

3. No building or other structure used for the purpose of carrying on any business or trade shall be erected, permitted, maintained or operated on any Lot and no noxious, dangerous or offensive thing, trade or business whatsoever be permitted or maintained thereon. The restriction imposed by this subparagraph shall not be interpreted, however, to preclude a casual garage sale conducted by (1) any Lot owner or occupant in the process of locating such owner or occupant's residence to or relocating such owner or occupants residence from such Lot or (2) one or more Lot owners or occupants doing so with a frequency of not more than two (2) such sales in any one (1) calendar year.

4. No Lot shall be used as a dumping ground for rubbish, trash, garbage or other waste (all household waste to be kept in sanitary containers maintained out of public view, subject only to curbside placement on the day when the same is scheduled for removal from within Chatham.)

5. No detached garage comprising more than two hundred thirty (230) square feet of floor space or outbuilding larger than one hundred fifty (150) square feet of floor space shall be erected upon or placed on any Lot subsequent to the date of this Declaration.

6. No garage or other outbuilding erected or placed on any Lot shall at any time be used as a residence, either temporary or permanent, nor shall any structure of a temporary character be used as a residence.

7. Any residence erected on a Lot shall be connected at all times to the public sanitary sewer system servicing Chatham.

8. Subject to the final sentence of this paragraph, no television antennas, radio antennas, satellite dishes (maximum 18" diameter) or similar devices shall be installed constructed, placed or maintained on any Lot unless the same is beyond public view or confined within the interior of a residence, garage or other outbuilding situated on such Lot. The preceding sentence to the contrary notwithstanding, the preceding sentence shall be applicable prospectively only and shall not render any television antenna, radio antenna, satellite dish or similar device in place with respect to any Lot on the date hereof violative of the restriction hereby imposed.

9. No commercial vehicles shall be parked on Chatham streets or in driveways overnight, except in the context of a temporary presence within Chatham incident to services being undertaken with respect to a Lot or the Common Facilities. All other vehicles located from time to time within Chatham shall be parked at all times on either a Chatham street or the paved portion of the driveway servicing a Lot or in a garage. No trucks, buses, travel trailers, boat trailers, boats, utility trailers, commercial vans, tractors or campers shall be parked at any time within Chatham unless the same occurs beyond public view or within a garage located on a Lot. The limitations imposed by the preceding sentence shall not apply to pick-up trucks up to and including three-quarter (3/4) ton and enclosed vans up to 10,000 pounds G.V.W., provided the same do not exceed a height of seven (7) feet and do not display lettering or other advertisement referring to a commercial undertaking.

10. No signs of any nature whatsoever shall be erected, placed or maintained on any Lot, except that: (a) a single real estate "For Sale" sign may be so placed and maintained, subject to removal within five (5) days after a non-contingency contract for sale and purchase for such Lot has been signed by all parties thereto; and (b) contractor signage, not to exceed 36" by 36" in size, may be displayed on a Lot during the period while such contractor is actively working on improvements or repairs to such Lot; and (c) security and safety signs are allowed.

11. No above-ground exterior swimming pool shall be constructed or maintained on any Lot; provided, however, that a children's wading pool not exceeding two (2) feet in height from the grade of such Lot may be maintained on a Lot during the months of May through September.

12. Each Lot Owner shall be responsible for the maintenance of grass and weeds on such Owner's Lot consistent with the standards in that context exhibited collectively by the other Lots.

13. No animals of any kind other than usual household pets shall be kept or maintained on any part or portion of Lots.

D. Lot Features.

1. Each Lot shall require a minimum area, as follows: Lots Nos. 1 to 6, inclusive, and Lots Nos. 69 to 235, inclusive - 15,000 square feet; Lots Nos. 7 to 68, inclusive, - 10,000 square feet (the foregoing Lot numbers referring to the numbering assigned pursuant to the Plan).

2. No building, fence, wall or other structure shall be commenced, erected or maintained, nor shall any addition to or exterior change or alteration be made with respect to any of the foregoing now or hereafter erected on a Lot, until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, location and approximate cost of location of driveways and other grading plan of the lot to be built upon, shall have been submitted to and approved in writing by the Association as hereinafter provided.

3. No fence or wall shall be erected or permitted on any Lot except to the rear of the residence situated on such Lot. If the Owner of a Lot erects on such Lot a fence to the rear of the residence situated on such Lot, such fence shall not exceed four (4) feet in height and shall require the prior approval of the Zoning Committee (as such committee is referenced in Section E). No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting those lines at points along each of the same thirty (30) feet from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the street property lines extended. A 10 foot setback shall be maintained from the intersection of a street property line of each Lot relative to the edge of a driveway or alley pavement. Likewise, no tree shall be permitted to remain within such setbacks unless the foliage line of such tree is maintained at a sufficient height to prevent obstruction of such sight lines.

4. No building, or part thereof, except as hereinafter provided, shall be erected or maintained on any Lot closer to any street or alley than the setback line applicable to such Lot pursuant to the Plan. The foregoing to the contrary notwithstanding, an unenclosed covered porch, the floors of which are not higher than the level of the first floor of the residence erected on a Lot, may encroach upon such setback area as long as such encroachment does not exceed five (5) feet. Steps and uncovered porches may be built and maintained on any part of a Lot.

E. Review Requirements.

1. Notwithstanding anything contained herein to the contrary, no structures of a temporary or permanent nature, swimming pools, fences, walls or other improvements (all of the foregoing being hereinafter referred generically as "Improvements") shall be constructed, erected, or externally modified upon any Lot (including, but not limited to, exterior facade modifications, and/or changes in grade or drainage to be made with respect to the same, whether or not currently existing) until the plans and specifications, with illustrations showing the proposed nature, kind, shape, height, materials and location of same, shall have been submitted to and approved in writing by the Zoning Committee of the Association.

2. The Zoning Committee shall consist of at least five (5) members and a quorum of such Zoning Committee shall require that at least three (3) such members be in attendance at the Zoning Committee meeting. Unless circumstances otherwise require, the Zoning Committee shall, after submission of an application for approval of proposed Improvements, meet for the purpose of reviewing such application and shall respond to such application within thirty (30) days following receipt of the same by the Zoning Committee. Such response may be subject to such conditions as the Zoning Committee elects to impose or be conditional subject to the receipt by the Zoning Committee of additional information. In connection with the Zoning Committee's review of plans, specifications and illustrations, the Zoning Committee shall have the right to approve or disapprove any such submissions which, in the opinion of the Zoning Committee, anticipate Improvements inconsistent with the architectural character of Chatham.

F. Miscellaneous.

1. The restrictions and covenants imposed by this Declaration may be changed, modified at any time by action, in person or proxy, by the owners of more than fifty percent (50%) of the Lots and, in that context, all persons or entities having an ownership in a Lot shall be required to act or abstain on a unanimous basis before such owners shall be deemed effectively to have participated as to such Lot.

2. If any Owner violates or attempts to violate any of the restrictions imposed by this Declaration, the Association or any other Owner may prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same and, as the court deems appropriate, recover damages for such violation. Violation of any restrictions or conditions, or breach of any covenant or agreement herein contained shall give the Association (with a Court Order) in addition to all other remedies, the right to enter upon the Lot as to which such violation or breach exists and summarily to abate and remove, at the expense of the Owner thereof, any Improvement or condition that exists thereon contrary to the intent and meaning of the provisions of this Declaration. In the context of any such entry, abatement or removal by the Association, the Association shall not be deemed to have committed any manner of trespass as to the affected Lot or the Owner thereof.

3. Failure by the Association or any Owner to enforce any restrictions or covenants herein contained shall not be deemed a waiver of the association or such Owner's right thereafter to seek enforcement as to the same breach or as to any breach occurring prior or subsequent thereto.

4. Any or all of the rights and powers, titles and estates reserved by or given to the Association pursuant to the terms of this Declaration may be assigned by the Association to any one or more individuals, corporations or associations willing to assume such rights, powers, titles and estates and to carry out and perform the duties and obligations of the Association hereby established. Any such assignment or transfer shall be made by appropriate instrument in writing to which the assignee shall join for the purpose of evidencing the assignee's consent and acceptance as to such assignment and, thereafter, such assignee shall have the same rights and powers and be subject to the same obligations and duties as are herein given and assumed by the Association (the Association thereupon being released therefrom.)

5. Easements and rights-of-way are hereby expressly reserved over, under and along the entire rear line of each Lot to a width of five (5) feet and along the entire side line or lines of each Lot, to a width of five (5) feet. Such easements and rights of way are in addition to those otherwise on the Plan. Such easements and rights-of-way shall have the following purposes: construction and maintenance of storm water drains, public and private sewers, pipe lines for supplying gas, water, electric and any other public or quasi-public utility or function conducted, maintained, furnished or performed by or in any method beneath the surface of the ground. The Association also shall have the right to enter such reserved strips of land for any of the purposes for which such easements and rights-of-way are reserved. Easements shown on the Plan for sanitary sewer or for any other purposes are hereby reserved and by all conveyances or portions of the land comprising Chatham shall, without the necessity of any further reservation, be subject to the easements shown on the Plan or otherwise shown of record. Each Owner of any Lot traversed by a drainage or sewer right-of-way, as shown on the Plan, shall at all times maintain and occupy such Lot so as not to interfere with the proper maintenance of such right-of-way and public utilities and any public authority having an interest in such easement shall at all times be entitled to enter upon such easement and abutting land to the extent necessary for the purpose of properly maintaining the same.

6. The covenants and conditions hereby imposed shall run with the land and shall renew on January 1, 2000, and, thereafter on each tenth year anniversary thereof unless, at least one (1) full calendar year in advance of any such renewal, the Association and the Owners of more than fifty percent (50%) of the Lots elect to terminate this Declaration by an appropriate instrument in writing duly recorded in the Recorder's Office. In that context, all persons or entities having an ownership in a Lot shall be required to act or abstain on a unanimous basis before such owners shall be deemed effectively to have participated as to such Lot.

7. Invalidation of any one of these covenants or restrictions or any portion thereof by judgment or court order shall in no way affect any other provisions herein, which shall remain in full force and effect.

IN WITNESS WHEREOF, the said Chatham Civic Association has caused its name by Charles W. Drury, Jr., its President, to be hereunto set as of the day and year first above written.

Witness/Attest:
[Signature]

CHATHAM CIVIC ASSOCIATION

BY: [Signature] (SEAL)
Its President. (Title)

STATE OF DELAWARE :
: SS
COUNTY OF NEW CASTLE :

BE IT REMEMBERED that on this 22nd day of JANUARY, 1998, personally appeared before me, a notary public for the State and County aforesaid, CHARLES W. DRURY, JR., PRESIDENT of the CHATHAM CIVIC ASSOCIATION, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of said Chatham Civic Association, that his signature is in his own proper handwriting and that his act of sealing, executing, acknowledging, and delivering said Indenture was duly authorized by a resolution of the Board of Directors of said Chatham Civic Association.

GIVEN under my hand and seal, the day and year aforesaid.

[Signature] (Seal)
Notary Public or Notarial Officer

Name (Please Print) ROBERT L. THOMAS
Title Notary Public
My Commission Expires: 12-22-98