



Atop Mount Will, Sunday River Mountain Range

Proposed

THE PEAKS SUBDIVISION

AMENDED

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration dated this _____ Day of _____, 2006 is made by Maine Mountain Properties, LLC, a Maine Limited Liability Company with a mailing address of P.O. Box 189, Newry, Maine 04261 (the Grantor herein).

WITNESETH

WHEREAS, Maine Mountain Properties, LLC is the owner in fee simple of a certain parcel of land in the Town of Newry, Oxford County, Maine as shown on the survey plan entitled " Standard Boundary Survey and Final Subdivision Plan of The Peaks, Newry, Oxford County, Maine prepared by Main-Land Development Consultants, Inc and approved by the Town of Newry Planning Board on October 5, 2005 and recorded on October 7, 2005 as Plan Numbers: 3867, 3868, 3869, 3870, 3871, 3872 and 3872 in the Oxford County Registry of Deeds, and any amendments to said plans thereafter (hereinafter the "property" or the "subdivision"); and

WHEREAS, the Grantor of this Declaration wishes to control future development on the Property and to preserve and protect in perpetuity the appearance and features of this Property for the benefit of the property and for the benefit of the lot owners, as shall be specified in this Declaration;

NOW THEREFORE, the Grantor does hereby declare that all of the land designated as lots # 1 through 58 on the above referenced Plan are hereby conveyed subject to the following easements, restrictions, and covenants, which shall be covenants running with the land, not conditions or restraints on alienability, and shall be binding upon the Grantor herein and the existing and future owners of said lots, their heirs, personal representatives, devisees, successors and assigns. These restrictive covenants are imposed upon the premises for the benefit of all of these lots # 1 through 58, inclusive, as shown on the above-mentioned Plan, as well as the benefit of the owners of said premises and lots, their heirs, personal representatives, devisees, successors, and assigns and with respect to Vista Road (as described in Section 23 hereof) for the benefit of the CTF Property (as defined in Section 23 hereof)

No other real property other than that described above shall be deemed subject to this Declaration of Restrictive Covenants, unless and until specifically made subject thereto by Grantor.



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Reserved Development Rights of Grantor: Additional Land may become subject to the conditions, restrictions, easements and covenants of this Declaration provided such additions are in accordance with a General Plan of Development. The Grantor, its successors and assigns shall have the right to bring within the scheme of the Declaration additional properties in future.

These restrictive covenants shall be enforceable either in law or equity by the Grantor, the owner or owners of the premises or any lot contained therein, with respect to the Roads only, by Chadbourne Tree Farms, LLC, and their respective heirs, personal representatives, devisees, successors, and assigns but said parties shall not be required to enforce said restrictive covenants which are as follows

1. Residential Use Each of the lots #1 through 58 inclusive shall be used only for single family residential use. No building shall be erected, altered, placed or permitted to remain on such designated lot except for a single family home, with appurtenant buildings and garages. Rentals of single family homes shall be considered a residential use. Additionally, mother in law type apartments and/or guests house shall be considered as a residential use. No commercial enterprise of any nature or description shall be conducted or maintained on any portion of the property, except that an owner of a lot may conduct a home occupation as is permitted by the Municipal Ordinances of the Town of Newry. This restriction as to residential use shall not apply to that land designated as the "land retained by "Owner" as shown on the above-mentioned Plan, being the grantor herein.

2. Setback Restrictions All buildings shall be located at least fifty (50) feet from the edge of the nearest vehicular right of way and at least thirty (30) feet from any lot line, provided, however, the Board of Directors of the Peaks Homeowners Association may permit, upon request, said setback restrictions to be reduced to those setback restrictions as required by the Town of Newry for any particular lot upon a showing that the application of these setback restrictions set forth in this paragraph will create an undue hardship to said lot owner.

3. Foundations: No buildings shall be constructed, erected, installed or maintained on a lot or elsewhere on the property, except for a continuous, permanent and immobile foundation made or consisting of a solid or mortared masonry wall.



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4. Construction of Residential Units: All exterior construction of residential units shall be completed within one (1) year from the date that construction, as evidenced by the pouring of the foundation, commences. No residential construction of a unit shall be higher than thirty five (35) feet from the current grade of the respective lot.

5. Minimum Size: No homes having a living area of less than 2000 square feet shall be constructed or occupied. Cellars whether finished or unfinished, porches, garages, and decks shall not be considered living areas.

6. Bedrooms limitations: For the following Lots # 6, 22, 23, 38, 39, 46, 54 and 55 only there shall be permitted only three (3) bedroom residential homes permitted on such of these lots unless any owner of such lot is able to obtain a DEP modification order from the Maine Department of Environmental Protection based upon the location and size of the respective lot's septic system.

7. Temporary Structures: No buildings of any temporary characters whether tent, trailer, shack, garage, barn or mobile home shall be allowed on any lot at any time as a residence, either temporarily or permanently except as such a temporary structure for storage use only which may be necessary during the initial one (1) year construction of a Residential Unit as set forth in paragraph # 4 above.

8. Exterior of Buildings: No buildings erected on any lot shall be covered with tar paper, asphalt siding or corrugated metal siding. All such buildings shall be covered with clapboards, shingles, brick, or similar materials. Further, all buildings erected on the lots shall be constructed in compliance with all applicable federal, state and local building ordinances and codes, including, but not limited to, any building set back requirements.

9. Exterior Colors: All exterior colors of all buildings shall be chosen to blend with the natural surroundings, and shall consist of so-called "earth tones", including but not limited to, browns, greens and grays.

10. Roof Colors: The color of any portions of the roofs on any building on any lot shall be of an earth tone such as brown, light brown, black or dark



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green and shall fit in with the natural surroundings of the building. All metal roofs shall be non-reflective and must be factory painted.

11. Exterior Lighting: All exterior lighting for any lot shall be of the down-lighting variety.

12. Exterior Toilet Facilities: No outside toilet or privy shall be constructed or maintained on said premises except during the initial one (1) year construction of the Residential Unit set forth in paragraph # 4.

13. Subdivision and Alteration of Lot Lines: The Subdivision as appearing on the above- referenced approved Subdivision Plan of the Peaks, may not be amended or altered and no further subdivision shall take place without the express approval of the Town of Newry Planning Board unless a conveyance is made to or from abutting lots and or abutting parcels of land. This prohibition against further subdivision shall not apply to those lots designated as "Estate Lots" being lots # 46 through 53, inclusive, depicted on said above-referenced Plan. For these so-called "Estate lots" one single further division shall be allowed provided that said division allows for a minimum of a 2 acre in size lot able to support a septic system.

14. Animals: No poultry, swine, livestock, or other animals shall be kept on the property, except household pets of a kind and number normally housed in a residence. All pets shall be restrained so as not to become a nuisance or offensive to other owners and shall not be allowed off the owner's lot, except on a leash or other restraining device. There shall be no breeding of animals permitted on any lots.

15. Prohibited Vehicles: No more than one (1) unregistered vehicle, of any nature or design, shall be brought upon, or be maintained, or be permitted to remain on any lot at any time unless fully garaged from view.

16. Nuisances: No dumping of garbage, rubbish, or other refuse or hazardous or toxic material shall be permitted.

17. Antennas and Satellite dishes: No rooftop antennas, satellite dishes larger than 18" inches in diameter shall be permitted on Lots 1 through 58,



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inclusive.

18. Signs: No signs, billboards, posters, or advertising of any character shall be erected, permitted, or maintained on any lot except one sign, no greater than four (4) square feet in size identifying the owner of the lot and Lot number. The Homeowners' Association reserves the right to enter upon a lot to remove any such signs, billboards, posters, or advertising devices that are in violation of this provision, without liability for damages. This restriction against prohibition of signs shall not apply to the original Developer, Maine Mountain Properties, LLC, which shall be permitted to place an identification and/or advertisement sign four (4) square feet in size on each of the Lots #1 through #58, inclusive, prior to each of the said lots initial out-conveyance. Once each of said lots are sold by the Developer then the Developer's right to place or maintain such a sign will be terminated for that particular lot sold.

19. Removal of Debris: Each owner shall maintain its lot free of dead trees, trash, refuse and other unsightly objects. No dumpsters are allowed except as those dumpsters permitted by the Peaks Homeowners Association during the one (1) construction period as set forth in paragraph #4 above. All lots and improvements thereon shall be maintained by the owner so as to present a neat and attractive exterior appearance. Should any improvement on the lot be damaged by casualty or wear and tear, the same will be promptly razed or restored to a neat exterior appearance in line with the building requirements set forth herein. In the event of fire, buildings must be repaired or demolished, the cellar hole filled in within six (6) months.

20. Bottled Gas: All bottled gas tanks shall be enclosed or located so that they are not visible from any other lot or any road.

21. Firearms and Hunting: Firearms shall not be discharged on said premises. No hunting, by any means, shall be permitted on the premises.

22. Cutting of Trees and Visual Buffers: In all situations of cutting trees and clearing of vegetation within the property, the Grantor, its successors and assigns, including lot owners shall be subject to the following general provisions:



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(a) The visual quality of the property shall be maintained by providing for the reasonable visual buffering of the site when viewed from areas external to the project, including the surrounding public roads and areas;

(b) Any owners of any land within the property shall be allowed only limited thinning and/or pruning of the existing vegetation so as to obtain limited filtered view only of surrounding off-site areas. Cutting/clearing to obtain unobstructed panoramic or unobstructed corridor views of off-site areas shall not be permitted;

(c) “Reasonable”, “visual buffering”, and “filtered views” are subjective terms. For the purposes of this restriction, these terms shall be construed conservatively, meaning that less rather than more clearing is intended. “Filtered views” shall mean views obtained from on-site vantage of off-site areas, where such views are uniformly obscured to a more or less significant extent by intervening natural vegetation. Conversely, “visual buffering” shall mean the prevention of unobstructed views of the project facilities when viewed from off-site by the retention of on-site intervening vegetation.

(d) The Homeowners’ Association shall be responsible for monitoring all cutting and clearing activities on any portion of the property and for imposing penalties for excessive clearing, and in all cases of excessive clearing, to require planting of trees as necessary to provide reasonable visual buffering.

In order to effect the above general provisions, the following specific cutting limitations are established. The existence of these specific limitations do not supplant or diminish the obligations required under the general provisions stated above. The specific cutting limitations are as follows:

1. A buffer zone of one hundred (100) feet in width on either side of any perennial streams and their associated wet lands is established and shall be depicted on Exhibit A attached to the deeds for those lots affected. Also a buffer of 300 feet in width from the westerly boundary of lots 46 through 50, and a portion of lot 51 is established and shall be depicted on Exhibit A attached to the deeds from those lots affected. Within these buffers, there shall be no structural development, filing, grading or excavating nor clearing nor cutting of live trees or brush or other vegetation, except as follows:



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- (a) Hiking trails may be developed within this buffer
- (b) Other such recreational-related activities and uses as may be approved by the Department of Environmental Protection and the Town of Newry

2. Clearing/ Cutting for Individual Lots: No trees in excess of Six (6) inches in diameter, or larger, measured at any point three (3) feet or more above the ground shall be cut or removed except as may be necessary to locate the residence and appurtenant structures and driveways; provided that the total area cleared of trees on any one lot shall not exceed twenty thousand (20,000) square feet of clearing per lot to accommodate driveway, house, garage, septic, well and yard. No area within twenty five (25) feet of any lot line shall be completely stripped of trees. All uncut areas of land shall remain one hundred (100) feet of basal area per acre. These clearing and cutting restrictions set forth in this paragraph shall also apply to any and all lots divided from those lots of land referred to as "Estate Lots", being Lots 46 through 53 inclusive as set forth in the recorded plan.

23. Roads: Grantor anticipates granting to Chadbourne Tree Farms, LLC ("Chadbourne Tree Farms, LLC) for the benefit of Chadbourne Tree Farms, its successors and assigns, certain perpetual, non-exclusive easements for all purposes with respect to so-called Vista Road (the "Easements"), as it is proposed to be relocated by Grantor ("Vista Road") for the benefit of the CTF Property. Chadbourne Tree Farms will have all rights with respect to the Easements that are set forth therein, and Grantor and lot owners' rights to Vista Road shall be expressly subject thereto.

"CTF Property" means:

(a) those certain parcels of land situated in the Town of Newry further described in a Deed from Chadbourne Tree Farms Holdings, Inc. to Chadbourne Tree Farms, LLC, dated December 29, 2004, and recorded in the Oxford County Registry of Deeds (East) (the "Registry") in Book 3652 and Page 43; specifically:

1. All of the parcels conveyed by Carolyn O'Brien to Chadbourne Tree Farms by deed dated December 17, 2004, and recorded in the Registry in Book 3645, Page 230.
2. Parcel 5 conveyed by Bayroot LLC to Chadbourne Tree Farms by deed dated July 30, 2004, and recorded in the Registry in Book 3568, Page 326.



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3. All of the property conveyed by Fumiko I. Head to Chadbourne Tree Farms by deed dated January 23, 2004, and recorded in the Registry in Book 3454, Page 129.

4. Parcel 1 conveyed by Bethel Milling Company to P. H. Chadbourne & Co. by deed dated November 12, 1957, and recorded in the Registry in Book 677, page 427; and

(b) Any and all real property purchased by Chadbourne Tree Farms, its successor and assigns that abuts the real property described in clause (a) above, any and all real property purchased by Chadbourne Tree Farms, its successors and assigns that abuts such adjacent parcels.

Although it is the intention of the Grantor that the roads as depicted on the above-mentioned Plans will meet the Town of Newry standards for private roads, Grantor makes no warranty or assurance to lot owners that the Town will ever accept the road as a Town Road. The Homeowners' Association, all members of the association and all lot owners will fully cooperate with the municipality of Newry and the Homeowners' Association for all or any portion of all roads within the Subdivision to become a public way and accepted as such by the Town of Newry.

Each owner who is granted a lot in said subdivision is hereby granted a right of way to that owner's lot as depicted on said Plan subject to the Easement rights, but from and after the date of conveyance of Vista Road to the Peaks Homeowners' Association, the Grantor is not obligated to provide any maintenance to or for said right of way or for any other part or feature of the Property.

24. Ownership of Road: The Grantor and Developer, Maine Mountain Properties, LLC, reserves for itself, its heirs or assigns, and for Chadbourne Tree Farms (with respect to the Vista Road only), its successors and assigns, permanent rights of way and easements for all purposes, including utilities, to use any and all roads in the Subdivision or any extensions of said roads onto other abutting parcels of land. At some point in time, The Grantor/ Developer shall convey ownership of the roads to the Association.

25. Association Membership: The following shall be members in the Peaks Homeowners' Association:



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(a) Lot Owners: The owner(s) of each lot shall, upon acquisition of a lot in the Subdivision, become a member of the Peaks Homeowners' Association and each lot, no matter how many owners there are of that lot, shall be considered as one member of the Association.

(b) Grantor/ Developer: The Grantor/ Developer, Maine Mountain Properties, LLC shall be a member.

(c) Chadbourne Tree Farms, its successor and assigns, shall be members as described further in Section 26 below.

26. Voting Rights: The Peaks Association shall have three classes of voting membership:

Class A: Shall be each of those Lot owners as defined in Paragraph 25 Section (A) Class A members shall be entitled to one vote for each of its members in good standing

Class B: The Class B member shall be the Grantor/Developer, Maine Mountain Properties, LLC and it shall be entitled to three (3) votes for each Class A vote until the number of Class A votes becomes fifteen (15) at which time said Grantor/Developer shall be entitled to two (2) votes for each Class A vote. When the number of Class A votes reaches thirty (30), then the Grantor/Developer shall be entitled to one (1) vote for each Class vote. When the number of Class A votes reaches forty (40), then there shall no longer be a Class B member.

Class C: The Class C members shall be Chadbourne Tree Farms, LLC, and each party holding title in the future to any portion of the CTF Property. Each Class C member(s) shall be entitled to one (1) vote with respect to matters relating in any respect to Vista Road, but shall have no right to vote on any other matters.

27. Severability: Each and every provision contained herein shall be considered to be independent and separate. If any one or more of the regulations, covenants, or restrictions shall for any reason be held to be invalid or unenforceable, all of the remaining restrictions shall remain in full force and effect.



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28. Amendments: The Association, by vote of two-thirds (2/3) of the Class A and Class B members, voting together as a single class at any meeting of the association, may amend this Declaration, provided, however, that any amendment relating to Vista Road or CTF's rights under the Easements may be amended only upon receiving, in addition to the 2/3 vote of the Class A and Class B members stated above herein, the receipt of 2/3 vote of the Class C members, acting as a separate class. However, with respect to those proposed amendments only that come under the direct authority of the Maine Department of Environmental Protection and/or the Town of Newry Planning Board then those amendments will not be permitted without first obtaining the written approval of the Department of Environmental Protection for the State of Maine and the Planning Board for the Town of Newry.

29. Architectural Control Committee: In order to carry into effect the purposes of these restrictive covenants contained herein, it is further provided that no building, fence, wall or other structure in the subdivision shall be commenced, erected, excavated or maintained upon any of the described premises, nor shall any exterior addition to or change or alteration therein be made until the scale plans and specifications showing the nature, kind, shape, color, height, materials and locations of the structure and the detail of proposed landscaping shall have been submitted to and approved in writing as to harmony of external design, color, landscaping and location in relation to surrounding structures and topography by the Homeowners Association through an

Architectural Control Committee composed of three (3) or more representatives appointed by the Association or its representative, the construction drawings so that the Association may determine that said plans coincide with the recorded plans and specifications of the subdivision. The Association, or its representative, shall publish rules and regulations governing the nature, form, and content of submitted building and landscape plans. In the event the Association or its designated representative, fail to approve or disapprove properly submitted plans and specifications within thirty (30) days after said plans and specifications have been submitted to it, then this restriction will be deemed to have been fully complied with.



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30. Enforcement and Remedies: These restrictions, covenants, and easements shall be enforced by the Peaks Homeowners' Association and any member thereof by a proceeding for specific performance or by a suit or action to recover damages. If any suit or proceeding is brought to enforce any provision of these restrictions, the Plaintiff shall be entitled to collect all costs and expenses of enforcement, including reasonable attorney's fees.

31. No Waiver: Failure to enforce any provision of these restrictions shall not operate as a waiver of any provision or of any other provision of these restrictions.

32. Automatic Amendment: In the event that the Easements have not been granted to Chadbourne Tree Farms, LLC on or before July 31, 2007, this Declaration shall, without further action, revert to the Original Declaration, except as follows:

The first sentence of Section 28 shall read in its entirety as follows:

The Association, by a two-thirds (2/3) vote of Class A and Class B members, voting together as a single class at any meeting of the association, may amend this Declaration.

The last sentence of Section 13 shall read in its entirety as follows:

For these so-called "Estate lots" one single further division shall be allowed provided that said division allows for a minimum of a 2 acre in size lot able to support a septic system



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DATED this _____ Day of _____, 2006

Maine Mountain Properties, LLC

Witness

STATE OF MAINE

Oxford, ss.

By:

Its: Duly Authorized Member

Date:

Then personally appeared the above named _____ and acknowledged the foregoing instrument to be the free act and deed of Maine Mountain Properties, LLC.

Before me,

Notary Public/ Attorney at Law

Print Name:

My Commission Expires



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DATED this ____ Day of _____, 2006.

The Peaks Homeowners Association

By: _____

Its President

STATE OF MAINE

Oxford, ss

Date:

Then personally appeared the above named _____ and acknowledged the foregoing instrument to be the free act and deed of The Peaks Homeowners Association.

Before me,

Notary Public/Attorney-at-Law

Print Name:

My Commission Expires:

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