

STATE OF NORTH CAROLINA  
COUNTY OF CARTERET

AMENDMENT TO DECLARATION OF  
COVENANTS AND RESTRICTIONS OF  
BRANDYWINE BAY SECTION I AND SECTION II

THIS AMENDMENT OF DECLARATION made and entered into this let day of June, 1987, by BRANDYWINE OWNER'S ASSOCIATION, INC., a North Carolina Corporation, established in accordance with provisions of the Declaration of Covenants and Restrictions recorded in Book 435, Page 362, Carteret County Registry, acting for and on behalf of property owners governed by said covenants and restrictions, as amended, and by OAK RIDGE COAL CO., INC., a West Virginia Corporation, Successor to Brandywine Bay, Inc., Declarant under the Covenants and Restrictions above referenced;

W I T N E S S E T H :

WHEREAS by Declaration of Covenants and Restrictions recorded in Book 435, Page 362, and amended by documents recorded in Book 440, Page 213 (re-recorded in Book 440, Page 392)1 Book 447, Page 118; Book 454, Page 83; Book 463, Page 154; Book UO-12, Page 266 (re-recorded in Book 466, Page 260); and Book 494, Page 345; certain properties in Section I of Brandywine Bay were made subject to the terms and conditions of Restrictive Covenants recorded in Book 435, Page 362, as amended; and

WHEREAS, by the aforesaid Declaration and by a subsequent Declaration of Covenants and Restrictions recorded in Book 478, Page 484 and amended in Book 501, Page 467, certain properties in Section II of Brandywine Bay were made subject to the terms and conditions of the aforesaid Restrictive Covenants; and

WHEREAS, upon unanimous vote taken at a duly constituted meeting of the members of the Brandywine Owner's Association, Inc., held on the 26th day of April, 1987, the Amendments set out herein were approved; and

WHEREAS, OAK RICE COAL CO., INC., Successor to Brandywine Bay, Inc., Declarant under the above referenced Declaration of Covenants and Restrictions, as amended, has given its assent to these Amendments;

NOW, THEREFORE, the aforesaid Declaration of Covenants and Restrictions is hereby amended an follows:

1. Article IV, Section i shall be deleted in its entirety and there shall be substituted in its stead the following:

Section i. Residential

All lots designated "residential, single-family" shall be restricted as to the use for residential, single-family dwellings. No building shall be erected or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height including a private garage for not more than two automobiles, or a carport for not more than two automobiles.

As to all lots purchased prior to March 6, 1984, the minimum space requirements for residences on the property shall be as follows:

(a) all homes built on lots any portion of said lot 'boundaries 'being joint 'boundaries with any golf course property shall contain a minimum of 1500 square feet of heated space;

(b) all other homes shall contain a minimum of 1400 square feet of heated space with the exception of homes in Section 1, Map 1-A, which shall contain a minimum of 1450 square feet.

For all lots purchased or otherwise transferred after March 6, 1984, homes on said lots shall contain a minimum of 1650 square feet of heated space.

All two-storey houses built after the recordation date of this Amendment document shall contain a minimum of 1050 square feet of heated space on either the first or second floor in addition to the minimum total space requirements stated hereinabove.

Other than expressly permitted by this Article IV, Section i, no other building shall be permitted on any lot, except that one doghouse may be constructed on any lot and one pumphouse not to exceed 4' x 4' in size, the style and materials to be approved by the Architectural Control Committee. This prohibition includes, but is not limited to utility buildings, storage buildings, or other so called outbuildings.

Notwithstanding the above, swimming pools constructed primarily below grade shall be permitted if a determination is made by the Architectural Control Committee that the location of the swimming pool is compatible with surrounding properties, and upon a determination that the swimming pool can be drained properly, without detriment to surrounding properties or to any drainage easement or waterway.

2. Article IV shall be further amended by including an additional Section xii which shall read as follows:

#### Section xii. Recreational Equipment

Recreational equipment, including but not limited to basketball goals, swing sets, sandboxes and tennis backboards, will be allowed on lots when approved by the Architectural Control Committee.

3. Article V, Section i - ARCHITECTURAL CONTROL COMMITTEE shall be amended by deleting the word "animals" from the last paragraph of said Section.

4. Article VI, Section i - UTILITIES shall be deleted in its entirety and a new Section i substituted therefore as follows:

Water: Declarant covenants that either public or private water system(s) will be available to owners/purchasers of property in the Sections to which these covenants, or amendments thereto, apply and that such system(s) shall be sufficient to serve all lots and tracts. All users of said system(s) shall pay rates for the use of such water system(s) established by the proper authorities for the use of such water systems(s). Individual wells are prohibited except as

used for swimming pools, landscape maintenance or air temperature control. Waste water from cooling and/or heating systems shall not be discharged into the sanitary waste treatment system(s).

Sewage Disposal: Declarant covenants that either public or private sewer system(s) shall be available to owners/purchasers of certain lots in the Sections to which these covenants or amendments thereto apply, said lots being designated as follows:

SECTION I, flap 1-A (Map Book 18, page 13)

Public or private sewer services shall no be provided to these lots. Individual sanitary waste treatment facilities are permitted on all lots.

SECTION I, Map 1-B (Map Book 18, Page 94)

Public or private sewer services shall be provided to Lots Numbers 23, 30, 31, and 32. No individual sanitary waste treatment facilities are allowed on the foregoing lots. Individual sanitary waste treatment facilities are permitted on all other lots.

SECTION 1, Revised Map 2 (Map Book 17, Page 43)

Public or private sewer services are provided to these lots. Individual sanitary waste treatment facilities are not permitted on any lots.

SECTION I, Map 3 (flap Book 17, Page 83)

Public or private sewer services shall be provided to Lots Numbers 6 through 12 in Block E and Lots Numbers 6, 7, 20, 21, 22, 23, 41 and 42 in Block G. No individual sanitary waste treatment facilities are allowed on the foregoing lots; individual sanitary waste treatment facilities are permitted on all other lots.

SECTION I, Map 4 (Map Book 18, Page 80)

Public or private sewer services shall not be provided to these lots. Individual sanitary waste treatment facilities are permitted on all lots.

SECTION II, Map One-A and Map 1-B (Map Book 20, page 2 and Map Book 21, Page 38, respectively)

Public or private sewer services shall be provided to only those lots in Section II, Mope One-A and 1-B as are not approved for individual sanitary waste treatment facilities by the appropriate governmental authority, at such time as the necessary permits are applied for. Individual sanitary waste treatment facilities are permitted on all lots subject to governmental approval. All lots to which sewer services are provided shall require tank and pump at owners' expense in order to hook onto the low-pressure pump system.

All users of such sewer systems shall pay rates for the use of said sewer systems as are established by the proper authorities.

5. The Declaration of Covenants and Restrictions of Brandywine Bay Development, Section 11, Map One-A, recorded in Book 478, Page 484 and Amendment to Declaration of Covenants and Restrictions Section II, Map 1-B Brandywine Bay Development, recorded in Book 501, Page 467 are hereby revoked and rescinded in their entirety and, effective the date of recordation of this Amendment, section II, Maps One-A and 1-B are made subject only to the terms and conditions of that. Declaration of Covenants and Restrictions recorded in Book 435, Page 362 together with all subsequent amendments thereto.

All of that property known as Section 11, Map One-A, Brandywine Bay Development as recorded in Map Book 20, Page 2, Carteret County Registry, and all of that property known as Section 11, Map 1-B, Brandywine Bay Development as recorded in Map Book 21, Page 38, Carteret County Registry, is hereby made subject to the terms and conditions of the Declaration of Covenants and Restrictions recorded in Book 435, Page 362, Carteret County Registry and all amendments thereto.

Additional property within the area described in Exhibit "A" attached hereto may be annexed by Declarant and made subject to the aforesaid Declaration and amendments without the consent of owners and/or association members at any time prior to April 1, 1993.

These covenants and restrictions shall run with the land and shall bind and inure to the benefit of Declarant, purchasers and their respective heirs, personal representatives, successors and assigns, until January 1, 2000, after which time said covenants and restrictions shall be automatically extended for periods of ten (10) years unless a majority of the then owners of property to which these covenants and subsequent amendments thereto apply, shall sign and record an agreement to change said covenants and restrictions in whole or in part.

In Witness whereof, the parties have hereunto set their hand and seals the day and year first above written.

BRANDYWINE OWNERS' ASSOCIATION, INC.