

Book 93

NOTCH BROOK III  
PROTECTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS That the Notch Brook Company (The Company) hereby subjects the lands and premises known as NOTCH BROOK III, owned by The Company, to the following covenants and restrictions, said lands and premises being set forth as lot No. 1 through Lot No. 19 and as common land and roads upon a Map Plan, designated "NOTCH BROOK III" and recorded in Map Book 3, Pages 51-53 of the Stowe Land Records.

1. Sub-Division Prohibited

The lots which constitute Notch Brook III shall not be subdivided for sale purposes or for any other purpose.

2. Architectural Approval

All plans for the construction of any structure upon the lots must be submitted to The Company, prior to the commencement of construction, for approval of all aspects of the construction, including but not limited to, the location, exterior form, materials, color, and finish grade elevation of the structure.

3. Structures Permitted

The only structures permitted upon each lot shall be one single-family, two or more bedroom residential type dwelling of not less than One Thousand Five Hundred (1,500) square feet and no greater than Forty-five (45) feet in height from ground level; one garage-workshop; a small outbuilding for the storage of gardening equipment and the like; one tennis court and fencing, and one swimming pool and fencing. Each structure intended to be heated shall be insulated against heat loss to the minimum factors of R-19 in exterior walls and R-38 in the cap.

4. Trailers

No house trailers or mobile homes shall be placed, kept, or maintained on any of the lots, common land, or roads. Small utility trailers may be kept upon the lots provided they are kept in garages.

The Company. The construction of any pond or swimming pool or the use of the water system to provide water for any pond or swimming pool on any lot shall not be commenced without first obtaining the written approval of The Company.

6. Fencing

No perimeter fencing of any lot shall be allowed other than so-called post and rail fencing, such fencing not to exceed four (4) feet in height. However, other types of fencing within thirty (30) feet of the outside wall of any structure shall be permitted upon obtaining, prior to construction of such fencing, written approval from The Company.

7. Tree Removal

Any trees or shrubs providing natural screening from neighboring lots shall not be removed, limbed, or girdled without obtaining the permission of The Company. Any tree of THREE (3) inch or greater diameter at breast height shall not be cut or removed without obtaining the approval of The Company.

8. Grounds Maintenance

The grounds visible from the roadways within the development shall be maintained in a manner in keeping with residential home sites and with the general quality of the entire development.

9. Service Lines

Service lines for utilities to be used at the structures erected on the lots, including telephone and electrical lines shall be installed and placed underground from the roadway adjacent to the lot, said installation and placement subject to the approval of The Company.

10. Incinerators

No incinerator or other equipment used for the disposal of burning of garbage, trash, or rubbish shall be erected, installed, used or maintained on any lot.

11. Sewage Systems

Any installation of sewage systems, including septic tanks, dry wells, and other systems used for the disposal of septic effluent shall comply with all rules and regulations of the Vermont Department of Health and all other agencies having jurisdiction thereover.

12. Land Use Permitted

The lots of the development shall be used for residential purposes only and shall not be used for commercial or industrial purposes. This does not exclude the maintenance of professional offices in a structure being used as a residence by Attorneys, Accountants, Doctors, and Architects.

13. Signs

One sign identifying the owner or current resident of a lot not exceeding two (2) square feet may be placed upon each lot. No sign shall be illuminated in any manner. No other sign shall be placed upon a lot without submission to The Company of the proposed design of the sign, and approval thereof in writing first obtained. The Company may, without notice, remove any nonconforming signs.

14. Animals

No animals or fowls, except small domestic pets, such as cats and dogs shall be kept upon any of the lots. No commercial exploitation of animals shall be permitted.

15. Noise Pollution

The continuous or intermittent operation of mechanical devices such as trail motorcycles, go-carts, or snow mobiles is prohibited upon any lot. The use of garden tractors, power lawn mowers or snow removal equipment shall be permitted during daylight hours only. Trail motorcycles or snow mobiles may be stored in a garage or outbuilding erected on any lot provided they are not operated on the lot.

16. Development of Common Land

There shall be no development of, or construction of improvements upon, the common land, except as authorized by The Property Owners Association in accordance with Paragraph 21.

17. Easements

No owner of any lot shall convey or establish any easement, except for easements to provide electric, telephone, or water utility services to the lot.

18. Maintenance

The owner of each lot shall pay his proportionate share of the annual maintenance of the roadway or land, such maintenance to include snow plowing.

gravelling, and any other necessary maintenance. The owner of each lot shall pay his proportionate share of the cost of the operation, maintenance and necessary replacement of the water supply system. Such costs shall be assessed by, and paid to, the Property Owners Association and shall be due 30 days after assessment. "Proportionate share" shall mean the ratio of the number of lots owned by an owner to nineteen, less the number of lots owned by The Company without residential dwelling.

The Company shall not be required to pay the costs of road and water supply system maintenance unless there shall be a residential dwelling located on a lot owned by The Company, and then only the proportionate share applicable to said lot.

19. Requests for Approval

Any request for approval as called for in these covenants shall be submitted in writing and shall be answered in writing by The Company within thirty (30) days of the receipt of the written notice of such request. The approval of requests as called for in these covenants shall not be unreasonably withheld. The denial of any request shall state specifically the reasons for such denial. The Company shall, upon conveyance of ten (10) of the lots, assign to the Property Owners Association all rights of approval set forth provided for in these Protective Covenants.

20. Construction

In addition to the protection against erosion implied in Items 5, 7, 8, 9, and 11, the lot owner or his contractor shall make every effort possible to minimize erosion by limiting the amount of area disturbed for construction access and storage during construction. Any temporary erosion created by equipment tracks or wheeled vehicles on slopes that cause a concentration of moving water will be corrected by regrading, mulching or other temporary methods until construction is completed and the site is stabilized. If building construction is to be continued over winter, the site shall be prepared for spring run-off with temporary grading, seeding or other means of stabilization to reduce siltation.

21. Property Owners Association

By accepting delivery of a deed to a lot, the owner of any lot in the development accepts membership in a Property Owners Association, and the owner shall require any subsequent purchasers of the

Property Owners Association. The Property Owners Association shall be organized as a Vermont non-profit corporation for the purpose of controlling and maintaining the development, and shall administer and regulate the use and maintenance of the common land, roads and water system. The owner of any lot shall be subject to and abide by all of the by-laws, rules and regulations established by the Property Owners Association. The Property Owners Association shall be known as "Notchbrook III Property Owners Association".

22. Enforcement of Covenants

The Property Owners Association or the owner of any lot shall have the right to enforce these protective covenants by instituting proceedings in a court of competent jurisdiction seeking monetary damages or injunctive relief or both. The prevailing party in such proceedings shall be awarded his reasonable attorneys fees against the losing party.

23. Effect and Duration of Restrictions

The covenants and restrictions set forth herein shall be deemed to be covenants running with the land, and shall be binding upon the owners of the lots, their heirs, administrators, successors and assigns for a period of twenty-five (25) years from the date of the conveyance of the first lot by The Company.

At the expiration of the twenty-five (25) year period set forth above, and at the expiration of each ten (10) year period thereafter, these covenants and restrictions shall be automatically renewed unless terminated by a vote of the owners of two-thirds (2/3) of the lots in the manner provided in Paragraph 24 for amendment.

In the event that any court shall invalidate any one or more of these covenants and restrictions, such invalidation shall in no way affect the validity of the remaining covenants and restrictions, and they shall remain in full force and effect.

24. Amendment and Waiver

These covenants and restrictions may be amended in whole or in part, and waivers thereof may be granted, by an instrument signed by the owners of thirteen (13) or more of the lots; provided, however, that any amendment which affects the allocation of the cost of operating, maintaining and repairing the roadways and water supply system shall require consent of the owners of all

of the lots. Any instrument of amendment or waiver shall be recorded in the Land Records of the Town of Stowe and shall be forwarded to the owners of all lots by first class mail, postage prepaid at the address to which tax bills are sent by the Town of Stowe.

IN WITNESS WHEREOF, The Notch Brook Company has caused this instrument to be executed by its President and duly authorized agent on November 19, 1980.

THE NOTCH BROOK COMPANY

*Christine J. Melman*  
Witness

By: *Kevin J. Killilea*  
Kevin J. Killilea  
President and duly authorized agent

*Stephen C. Walker*  
Witness

STATE OF VERMONT  
WASHINGTON COUNTY, ss.

At Waterbury this 19th day of November, 1980, Kevin J. Killilea personally appeared and he acknowledged this instrument, by him sealed and subscribed to be his free act and deed and the free act and deed of The Notch Brook Company.

Before me,

*Stephen C. Walker*  
Notary Public

Stowe, Vermont Town Clerk's Office November 20, AD 1980 at 12 o'clock 01 minutes P.M.  
Received the instrument of which the foregoing is a true record.

Attest: *William J. Johnson* Town Clerk