

BILL OF ASSURANCE

BLOCKS 1 THROUGH 8, INCLUSIVE

TOGWOTEE ADDITION
CHEROKEE VILLAGE DEVELOPMENT
FULTON COUNTY, ARKANSAS

KNOW ALL MEN BY THESE PRESENTS:

That John A. Cooper Company, a corporation, holds the title to all of the following-described lands situated in Fulton County, Arkansas, to-wit:

TOGWOTEE ADDITION
Blocks 1 through 8, inclusive

A parcel of land lying in the NE $\frac{1}{4}$, of the NE $\frac{1}{4}$ (2.2097 acres), the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ (.7014 acres), of Section 22, Township 19 North, Range 6 West of the Fifth Principal Meridian; also lying in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ (12.2220 acres) , the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ (29.7185 acres) , the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ (1.4985 acres) , the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ (7.9536 acres) , the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, (7.1865 acres) of Section 23, Township 19 North, Range 6 West of the Fifth Principal Meridian, Fulton County, Arkansas, being more particularly described as follows:

Beginning at a point 2940.510 feet South and 1026.969 feet East of the Northeast corner (Arkansas State Plane Coordinate: North=714,210.510 East 2,117,508.031) of Section 22, Township 19 North, Range 6 West; thence North 24° 52' 39" West 273.366 feet; thence North 39° 37' 06" West 392.051 feet; thence North 52° 14' 34" West 776.844 feet; thence North 39° 23' 32" East 27.840 feet; thence North 26° 41' 33" West 75.767 feet; thence North 12° 57' 21" West 69.848 feet; thence North 37° 09' 26" West 60.918 feet; thence North 17° 58' 13" West 138.696 feet; thence North 26° 11' 59" West 79.298 feet; thence North 19° 16' 05" West 116.276 feet; thence North 30° 15' 51" West 75.478 feet; thence North 07° 54' 58" West 51.378 feet; thence North 29° 55' 44" West 83.327 feet; thence North 19° 53' 11" West 101.127 feet; thence North 06° 08' 17" West 81.877 feet; thence North 02° 24' 56" East 124.945 feet; thence South 77° 28' 53" East 204.361 feet; thence Northeasterly, on a curve to the right, having a radius of 454.264 feet, an arc distance of 260.000 feet; thence North 46° 56' 23" East 100.000 feet, thence Easterly, on a curve to the left, having a radius of 941.665 feet, an arc distance of 985.652. feet; thence South 10° 35' 52" East 578.832 feet; thence Southeasterly, on a curve to the left, having a radius of 984.740 feet, an arc distance of 732.949 feet; thence South 53° 14' 36" East 161.002 feet; thence Southeasterly, on a curve to the right, having a radius of 1375.091 feet, an arc distance of 894.075 feet; thence South 15° 59' 24" East 152.665 feet; thence Southeasterly, on a curve to the left, having a radius of 710.209 feet, an arc distance of 191.171 feet; thence South 31° 24' 46" East 102.056 feet; thence South 58° 35' 14" West 163.192 feet; thence North 57° 54' 27" West 348.210 feet; thence North 32° 37' 09" West 89.045 feet; thence North 54° 42' 48" West 159.261 feet; thence North 22° 41' 53" West 225.462 feet; thence North 78° 41' 24" West 229.456 feet; thence South 72° 15' 19" West 393.732 feet to the point of beginning, containing 61.4902 acres.

John A. Cooper Company has caused said lands to be surveyed and subdivided as an Addition. Said Addition has been named and shall henceforth be known and designated as Togwotee Addition, Cherokee Village Development, Fulton County, Arkansas, and it contains eight blocks, numbered 1 through 8, inclusive. John A. Cooper Company has caused said Addition to be platted, which plat reflects the location of said blocks and the number and dimensions of the lots in said blocks; also the location, widths and the names of the streets and other vehicular ways. All streets and other vehicular ways are dedicated to the public unless otherwise indicated upon the plat aforesaid, or as otherwise indicated herein.

The plat aforesaid of Togwotee Addition, Cherokee Village Development, Fulton County, Arkansas, is recorded in Plat Book 4 at Page 19 in the office of the Circuit Clerk and Ex-Officio Recorder in and for Fulton County, Arkansas, and is filed for record simultaneously with the filing for record of this Bill of Assurance. Said plat is by reference made a part of this Bill of Assurance is likewise made a part of the plat aforesaid as fully as though written thereon word for word.

As a part of this Bill of Assurance, certain safeguards, restrictions and provisions hereinafter referred to as "Subdivision Restrictions and Provisions" are hereby placed on the lots of said Addition.

SUBDIVISION RESTRICTIONS AND PROVISIONS

I. INTENT AND PURPOSES

It is the desire and intent of John A. Cooper Company to place certain safeguards, restrictions and provisions upon all of the lots situated in said Addition for the use and benefit of the future owners of said property; therefore, in consideration of the premises and in consideration of the mutual agreements herein made and set forth, John A. Cooper Company, its successors, assigns and grantees, and for their successors in title, do hereby agree, subject to Paragraph A, Section IV hereof, that all lots in Togwotee Addition, Cherokee Village Development, Fulton County, Arkansas, shall be and they are hereby restricted as to their use in the manner and to the extent hereafter set forth, and likewise all provisions relative thereto as hereafter set forth shall fully apply as to all such lots.

All persons, firms and corporations who now own, or who shall hereafter acquire, any interest in any of the lots mentioned herein, or affected hereby, shall be bound by the restrictions and provisions herein set forth, with the same force and effect as though they had joined in the execution of this instrument, it being the intention of John A. Cooper Company that all restrictions and provisions set forth herein shall be held to be covenants running with the land, binding upon all persons interested in said lots throughout the whole period of time for which these restrictions and provisions shall remain in effect.

II. ARCHITECTURAL CONTROL COMMITTEE

A. John A Cooper Company creates and establishes contemporaneously with and by this Bill of Assurance and Architectural Control Committee, hereinafter referred to as the "Committee" with the responsibility of maintaining values of the property lying within the Addition, as well as within the entire Cherokee Village Development, and also for the purpose of enforcing the restrictions and provisions herein provided, and waiving same in hardship cases, as well as

passing and issuing additional orders, rules, restrictions and provisions in aid and furtherance of the purposes aforesaid.

B. The Architectural Control Committee is composed of Gene Blasi, Gene Street and John A. Cooper, Jr. and a majority of the Committee may designate a representative to act for the Committee, and the action of such representative shall be as effective as if the entire Committee had acted. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of three-fourths of the total lots covered hereby shall have the power through a duly recorded instrument to change the membership of the Committee or to withdraw from the Committee or restore it to any of its powers and duties.

The Committee's approval or disapproval as required in these covenants shall be in writing; however, in the event the Committee, or its designated representative, fails to approve or disapprove in writing within sixty (60) days after submission, then written approval will not be required and approval by Committee shall be presumed.

III. SUBDIVISION RESTRICTIONS

A. Land Use:

All lots shown upon the plat aforesaid are hereby designated as single family residential lots, and shall not be otherwise used.

B. Approval of Plans:

No building, dock, or other structure shall be erected, placed or altered on any lot until the construction plans and specifications and a topographical site plan showing the location of the proposed structure shall have been presented to and approved in writing by the Architectural Control Committee as to quality of workmanship and material, structural design and appearance, harmony of external design with the existing structures, and as to location with respect to property, topography and finish grade elevation. Above applies to any dock adjacent to a lot.

C. Construction of Buildings:

Prior to beginning construction of a building, dock or any other structure upon any lot herein, the owner of that shall furnish to the Architectural Control Committee proof that a suitable completion bond has been made by the contractor or builder to insure completion of the structure and to indemnify the owner against the materialman's and mechanics' liens.

If the owner is his own builder, he shall furnish to the Architectural Control Committee satisfactory credit information and proof of financial ability to complete the structure within the time requirements hereinafter set forth.

In any case, the owner shall furnish the Architectural Control Committee with satisfactory proof that builder's risk insurance, including workman's compensation insurance, if applicable, will be in effect for the construction period.

D. Completion of Buildings:

(1) The exterior of any structure erected on or moved upon any lot shall be completed within six (6) months after construction has begun and in accordance with the Cherokee Village Building Code as formally adopted by the Architectural Control Committee and approved by the John A. Cooper Company. In the absence of such a building code, the provisions of the most recently revised edition of the Federal Housing Administration's "Minimum Property Standards for One and Two Living Units" will be substituted. Completion of the exterior, shall include underpinning, exterior siding, windows and doors, corner boards, molding, chimneys, roof rakes, roof overhangs, roof cornices, fascias, porches, and steps as applicable and shall include completion of any and all kinds of details of exterior construction or finish which in their absence shall change the appearance of the structure from that approved by the Architectural Control Committee.

(2) The interior of any structure erected on or moved upon any lot shall be completed within twelve (12) months after construction has begun and in accordance with the Cherokee Village Building Code as formally adopted by the Architectural Control Committee and approved by the John A. Cooper Company. In the absence of such a building code, the provisions of the most recently revised edition of the Federal Housing Administration's "Minimum Property Standards for One and Two Living Units" shall be substituted. The interior walls and ceilings of a standard nature, such as sheetrock, plaster, paneling, finished floors, ceiling tile, etc., shall be substantially completed. Completion of interior painting, wallpapering and final finishing touches may be postponed; however, shades and/or curtains or drapes must be hung at the windows within the time allowed. Electric wiring installed in any structure shall be in accordance with the standards required by the Federal Housing Administration or with the standards required by the local power company, whichever are more restrictive. Plumbing shall be in complete accordance with the requirements set up by the Arkansas State Health Department or the Federal Housing Administration, whichever is more restrictive.

E. Inspections:

All structures will be submitted to a minimum of four (4) inspections by the Architectural Control Committee and/or its representative. In the event the completion dates and requirements above provided are not met, the Architectural Control Committee shall have the right but not the obligation, to hire a contractor to promptly complete the work in accordance with such requirements and to bill the owner for the amount expended plus 10% of such amount for administration. In the event that the owner does not pay said charges, the Architectural Control Committee shall have the right to file a lien against the property and proceed in law or equity to sell the property and obtain said charges. All money received over and above said charges and court costs shall be returned to the owner.

F. Area Limitations:

No residence shall be erected on any lot which shall have a ground floor space of less than 1200 square feet exclusive of any portion thereof used for a garage or for an outside porch unless written approval is obtained from the Architectural Control Committee.

G. Resubdivision:

No lot as shown on said plat, shall be re-subdivided into building plots; but a portion of a lot may be used in connection with an adjoining lot and the total considered as a single building plot; however, no portion of a lot may be used as a building plot unless used in connection with an adjoining lot.

H. Setback Limitations:

- (1) No building shall be located on any lot nearer than 25 feet from the front lot line or nearer than 15 feet from any side street line unless shown otherwise on the plat.
- (2) No building shall be located nearer than 7 ½ feet from any interior side lot line, or nearer than 25 feet from the rear property line unless shown otherwise on the plat.
- (3) In all events, setback lines as reflected upon the plat shall control.
- (4) For purposes of this covenant, roof overhangs, steps, stoops and other usual architectural projections shall not be considered as a part of the building and are specifically excepted here from.

I. Height Limitation:

No building constructed on any lot shall exceed two stories in height nor shall any portion of the building except chimneys and usual architectural projections be higher from the average grade than 25 feet.

J. Easements for Public Utilities:

John A. Cooper Company, for itself, its successors and assigns hereby reserves all easements for installation and maintenance of utilities and drainage facilities as reflected upon the recorded plat and as herein provided, and by reason of such reservation, shall have the right to install or have installed water mains, power lines or any other utility or drainage facility within such easements without notification to the lot owner; however, all such facilities will be placed with the easement wherever such installation would be most practical and least detrimental to the lot. Such easements as so reserved shall be assignable, perpetual, alienable and releasable on the part of John A. Cooper Company, its successors and assigns.

Where utility easements occur on the rear of a lot, the house sewer shall be located on that side of the house sewer shall be located on that side of the house which faces the easement. Within easements as reflected upon the recorded plat or as herein provided, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels within the easements, or which may obstruct or retard the flow of water through drainage channels within the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

In addition, John A. Cooper Company for itself and its successors and assigns hereby reserves and is given an assignable, perpetual, alienable and releasable easement, privilege and right on, over and under the hereinafter designated portions of the above-described lands to erect, maintain and use electric and telephone poles, wires, cables, conduits, water mains, drainage

lines and drainage ditches or drainage structures, sewer and other. suitable equipment and structures for drainage and sewerage collection and disposal purposes or for the installation, maintenance transmission and use of electricity, telephone, gas, lighting, heating, water, drainage, sewerage and other conveniences or utilities on, or over and under the following property reflected upon said plat:

a. "Common Properties" in the event. that there are any such designated properties upon said plat;

b .All streets and other vehicular ways reflected upon said plat.

John A. Cooper Company shall have the unrestricted sole right and power of alienating and releasing the privileges, easements and rights referred to herein. The owners, other than John A. Cooper Company, of the lot or lots subject to the privileges, rights and easements referred to herein, shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over, or under the property which is subject to said privileges, rights and easements. All such easements are and shall remain private easements and the sole and exclusive property of John A. Cooper Company and its successors and assigns.

In addition, John A. Cooper Company, for itself, its successors and assigns, hereby reserves and is given a perpetual, alienable and releasable easement, privilege and right to place upon any "Common Properties" reflected upon the plat aforesaid if, in fact, there are any such "Common Properties" reflected upon said plat, water pump stations, water reservoirs, overhead water reservoirs, water meter stations, water pressure reducing stations, water hydrants and water system structures, and John A. Cooper Company likewise reserves unto itself, its successors and assigns, the specific right to transfer. and convey such easement, privilege and right with or without any of such improvements located thereon.

K. Fences:

Garden walls or fences may be constructed or erected on any lot except within 6 inches of a property line and except in the area outlined in Paragraph N of this SECTION III; however, any such fence or wall in excess of five (5) feet in height must be given specific written approval of the Architectural Control Committee prior to its construction.

This restrictive covenant shall not be construed so as to in any way lessen or limit the effect or intent of the preceding Paragraph J which shall control this covenant in all cases of conflict. If it becomes necessary to partially or completely remove any such fence or wall in order to install and maintain utility or drainage facilities within any easements reserved herein, the cost of such removal and reconstruction, if any, shall be borne by the lot owner.

L. Sewage Disposal:

No building or structure shall be maintained or erected unless the owners thereof shall install sewage disposal facilities located and constructed in accordance with requirements, standards, and recommendations of the Arkansas State Health Department and approved by the Committee.

M. Garbage and Refuse Disposal:

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste incidental to the use of the property as herein provided shall not be kept except in covered sanitary containers and disposition of same shall be prompt. There shall be no burning of trash, garbage, or other waste material upon any lot.

N. Sight Distance at Intersections:

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 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 them at points 25 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. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

O. Nuisances:

No noxious or offensive activity shall be carried on upon any part of the above-described premises nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or which may be or become offensive by reason of color, design or emission of odor, liquid, gas, smoke, vibration or noise or for any other reason.

P. Temporary Structures:

No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be constructed or placed on any lot without approval by the Architectural Control Committee, nor shall any such structures be used on any lot at any time as a residence either temporarily or permanently.

Q. Signs:

No sign of any kind shall be displayed to the public view on any lot or upon any building or other structure thereon except signs erected by the developer in connection with its sales program or unless approved in writing by the Architectural Control Committee.

R. Oil and Mining Operations:

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

S. Livestock and Poultry:

No beehives or the breeding or raising of any insects, reptiles, animals or poultry of any kind shall be permitted on any lot except that dogs and cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes and provided that they will not, in the opinion of the Architectural Control Committee, constitute an annoyance to the neighborhood.

T. Business Prohibited:

Except for the business of the Developer in furtherance of its sales program, the practice of any profession or the carrying on of any commercial business of any kind is prohibited.

IV. GENERAL PROVISIONS

A. Modification:

John A. Cooper Company reserves the right to change or cancel any or all of these restrictions, if in its judgment, the development or lack of development of adjacent property makes that course necessary or advisable.

B. Term:

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part.

C. Enforcement:

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant which proceedings may be brought either to restrain violation or to recover damages.

D. Severability:

Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force.

IN WITNESS WHEREOF, the said John A. Cooper Company a corporation, has caused this instrument to be signed by its Vice President and its Assistant Secretary and its corporate seal to be affixed this 1st day of July, 1971.

JOHN A. COOPER COMPANY

ATTEST:

By _____

Assistant Secretary

Vice President

ACKNOWLEDGMENT.

STATE OF ARKANSAS

COUNTY OF BENTON

On this 1st day of July, 1971 before me, a Notary Public in and for said county and state, duly commissioned, qualified and acting, appeared in person the within named G.M. Billingsley and Ellen Orr, to me personally well known, who stated that they were the Vice President and Assistant Secretary of the John A Cooper Company, a corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this - 1st day of July 1971.

STATE OF ARKANSAS)

CERTIFICATE OF RECORD

COUNTY OF FULTON)

I, LESTER COLLINS, Clerk of the Circuit Court and Ex-officio Recorder, within and for the county aforesaid, do hereby certify that the within Bill of Assurance was filed in my office for record, on the 2nd day of July, A. D. 1971. at 1:00 o'clock P. M. and that the same is now duly recorded, with the acknowledgment and certificate thereon, in Misc. Record 4, Page 68.

IN TESTIMONY WHEREOF, I have hereto set my hand and affixed my official seal, this 2nd day of July, A.D., 1971.

Effective 2-15-99, the Architectural Control Committee has been replaced by the Planning and Zoning Commission. If there is a conflict between this copy and the official document, the official document always governs.

Signed and certified copy on file at Cherokee Village City Hall, 2 Santee Drive, Cherokee Village, Arkansas