

STATE OF NORTH CAROLINA
COUNTY OF CHEROKEE

RESTRICTIVE COVENANTS AND ROAD MAINTENANCE AGREEMENT

WHEREAS, FELIX PALMER, SR., and SAMUEL DUNCAN, SR., Co-Trustees, hold title to a certain parcel of land known as TARHEEL WEST, PHASE II, in Murphy Township, Cherokee County, North Carolina, as set forth on a plat of survey entitled, "TARHEEL WEST, PHASE II, TARHEEL PROPERTIES", and recorded in Plat Cabinet C, Slide 88, in the Cherokee County Courthouse; and

WHEREAS, it is the plan of said Co-Trustees to devote said land exclusively to residential purposes, except as set forth hereinafter; and

WHEREAS, the same shall be restricted according to use and development;

NOW, THEREFORE, in consideration of the premises and for the protection of the present owner, as well as the future purchasers of tracts in said lands, this declaration and agreement is made:

Each conveyance of any tract out of said lands shall be subject to conditions, reservations, covenants and agreements, which shall run with the lands, as follows:

1. All of said tracts in said lands shall be known and described as residential tracts and no residential structure shall be erected with less than nine hundred seventy-five (975) square feet.

2. No trade of any kind or noxious or offensive activity shall be carried on upon any tract, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

3. That no part of said tract shall be used for residential purposes until a dwelling house, conforming fully to the provisions of this instrument, shall have been erected thereon.

4. No trailer, mobile home, basement, tent, shack or incompleated structure shall be erected or maintained on any one of said tracts or at any time be used as a residence temporarily or permanently. No structure of a temporary character shall be erected, used as a residence, or permitted to remain on any tract.

5. That no horses, ponies, burros, or other like animals shall be allowed to roam or run at large on the street or alley bounding said premises.

6. That no sheep, cattle, goats, swine, fowls, or rabbits shall be kept or allowed to remain upon any portion of any tract in said lands; neither shall any sheep, cattle, goats, swine, fowls, or rabbits belonging to the owners or occupants thereof, be allowed to roam or run at large on the streets or alleys bounding said premises.

7. All lavatories and/or toilets shall be built indoors and connected with outside septic tank or cesspool until such time, if ever, as a sewer system shall be maintained, at which time such lavatories and toilets, shall be connected with such sewer system.

8. No tract shall be used as a dumping ground for rubbish, garbage, or other waste; all waste shall be kept in sanitary containers and all incinerators and other equipment for the storage or disposal of waste shall be kept in a clean and sanitary condition; nor shall any of said tracts be used as a dumping ground for fill dirt or other material unless such fill dirt or other material shall be placed thereon in accordance with construction of a structure, or where used for leveling a tract.

9. These restrictive covenants shall not apply to any portion of the described lands to which owner retains title and which it devotes to recreational purposes.

10. In event that, for any reason, any one or more of the foregoing protective covenants and restrictions be construed by judgment or decree of any Court of record to be invalid, such action shall in no wise affect any of the other provisions, which shall remain in full force and effect, the owner hereby declaring that said restrictions are not interdependent but severable, and any one would have been adopted even without the others.

11. Each and every one of the aforesaid covenants, conditions and restrictions shall attach to and run with every conveyance and reconveyance of any portion of the land referred to herein, and all titles to, and estates therein, shall be subject thereto, and the same shall be binding upon each and every owner, their heirs and

assigns, as well as upon any occupant of the same; neither the undersigned nor any party or parties claiming under them shall or will convey, devise or demise any of said lots or any part of the same except as being subject to the said covenants, conditions and restrictions, and the obligation to observe and perform the same; all as fully as if said conditions, restrictions and covenants were contained in every contract, deed or conveyance of or concerning any part of said land.

12. This instrument and these covenants and restrictions may be amended at any time by instrument in writing, signed by persons or firms owning two-thirds (2/3) of the tracts in the development (be it developer or purchaser) according to plat of the lands described, said instrument shall not be effective until the same is recorded in the Office of the Register of Deeds for Cherokee County, North Carolina.

13. If the undersigned or any party or parties claiming thereunder shall violate or attempt to violate any of the covenants or restrictions herein provided, it shall be lawful for the grantor, or other person or persons owning any other tract or tracts in said development to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or conditions and either to prevent him or them from so doing, or to recover damages or other due for such violation.

14. Any driveway, access or connector to any main road must be culverted for proper drainage and erosion control to meet State, Federal, County and Local regulations.

15. Co-Trustees shall pave an eighteen (18) foot tar and chat roadway within each sixty (60) foot road right-of-way and sixteen (16) foot tar and chat roadway within each sixty foot (60) foot right-of-way on those two side roads leading to cul-de-sac's, as soon as weather permits after January 1, 1994.

16. Co-Trustees shall maintain said roadways for a period of ten (10) years until December 31, 2000, such maintenance to include and be limited to patch work, mowing of pavement fringe areas, repair or prevention of eroded outs or fill, and roadway litter

removal. Frequency of maintenance shall be determined at the sole discretion of Co-Trustees and shall be limited exclusively to assessments collected for such purposes.

17. Beginning January 1, 1995, each individual property owner of Tarheel West, Phase II lands will be assessed the sum of One Hundred Dollars (\$100.00) which annual assessment will occur for a period of six (6) years.

18. On December 31, 2000, the terms and conditions of paragraphs 15, 16 and 17 of this instrument may be terminated either by Co-Trustees or by a two-thirds (2/3rds) majority of the property owners whose subdivision tracts are subject thereto. Any such termination action shall be effective when filed for record at the Cherokee County, North Carolina Registry. On or before December 31, 2000 Co-Trustees may assign the rights, obligations, and assessments to a homeowner's association if such entity has been established for that purpose.

IN WITNESS WHEREOF, we have hereunto affixed our hands and seals, this 14 day of DECEMBER, 1994.

Felix E. Palmer Sr. Co-trustee (SEAL)
FELIX PALMER, SR., Co-Trustee

Samuel L. Duncan Sr. Co-trustee (SEAL)
SAMUEL DUNCAN, SR., Co-Trustee

STATE OF NORTH CAROLINA

COUNTY OF CHEROKEE

I WILLIAM H. MCKEEVER, a Notary Public of said state and county, do hereby certify that FELIX PALMER, SR., Co-Trustee personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

NP Seal

WITNESS my hand and Notarial Seal this 14 day of December, 1994.

My Commission expires: 11/16/96

William H. McKeever
Notary Public

STATE OF NORTH CAROLINA

COUNTY OF CHEROKEE

I WILLIAM H. MCKEEVER, a Notary Public of said state and county, do hereby certify that SAMUEL DUNCAN, SR., Co-Trustee personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal this 14 day of DECEMBER, 1994.

My Commission expires: 11/16/96

William H. McKeever
Notary Public

STATE OF NORTH CAROLINA
COUNTY OF CHEROKEE

Each of the foregoing certificates, namely of William H. McKeever a Notary or Notaries Public of the States and Counties designated, duly attested by Notarial Seal, is certified to be correct.

This 14 day of December, 1994 Ralph A. Jephart

by Christine Bryson, Asst
Register of Deeds
Cherokee County, North Carolina

Filed for registration on the 14 day of December, 1994, at 3:49 o'clock P..m., and registered in the Office of the Register of Deeds for Cherokee County, North Carolina, in Book 722, Page 10.

by Christine Bryson, Asst
Register of Deeds
Cherokee County, North Carolina

NP seal