

STATE OF NORTH CAROLINA

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COUNTY OF TRANSYLVANIA

SUMMER HILL
SUBSTITUTED
DECLARATION OF RESTRICTIONS

W I T N E S S E T H:

WHEREAS, Edward F. Wirtz and Ruth C. Wirtz are the fee simple owners of certain real property located in Transylvania County, North Carolina, some of which is to be developed for single-family residential dwellings; and,

WHEREAS, Edward F. Wirtz and Ruth C. Wirtz desire, for the use and benefit of themselves, their successors and assigns, and for future owners of lots to provide for the preservation of values, and the desirability and attractiveness of the real property; and among other things, for the maintenance and operation of the private roads within the development; and,

WHEREAS, Edward F. Wirtz and Ruth C. Wirtz have deemed it desirable for, among other things, the efficient preservation of the values and the maintenance and operation of the private roads that certain covenants, conditions, easements, assessments, liens and restrictions governing the use and occupancy of Lots in Summer Hill Development be established and declared to be covenants running with the land; and that an agency be created to which will be delegated the powers and duties of maintaining the roads, common park areas, enforcing the covenants and restrictions, and collecting and disbursing assessments.

NOW, THEREFORE, in consideration of the premises, Edward F. Wirtz and Ruth C. Wirtz, for themselves, their successors and assigns, hereby cause to be recorded in the attached Substituted Declaration of Restrictions, which are made a part hereof as though fully set out herein, which restrictions are to apply to and limit and govern the use of those residential lots in Summer Hill Development as are platted, planned and described on the plat recorded at Plat File 2, Slide No. 270A of the Office of the Register of Deeds for Transylvania County. These restrictions are made to replace those executed by Edward F. Wirtz and Ruth C. Wirtz on April 19, 1983 and recorded at Book 258, Page 780, of the Transylvania County Registry. No lots subject to those restrictions having been sold, and Edward F. Wirtz and Ruth C. Wirtz have determined that those restrictions recorded at Book 258 at Page 780 and at Book 256 Page 815 of the Transylvania County Registry are to be rescinded and are hereby abolished, rescinded and extinguished and in their place and stead and in complete substitution therefor the Restrictions hereinafter set out are to bind and run with the property described above. Edward F. Wirtz and Ruth C. Wirtz reserve the absolute right, exercisable in their sole discretion from time to time, to add other lots to Summer Hill Development, and to subject such additional lots to the terms of these Restrictions. Such additions shall be made in order to extend the scheme of these Restrictions to other real property that may be developed as part of Summer Hill and to bring such additional property within the jurisdiction of the Summer Hill Property Owner's Association thereby subjecting such additions shall be made by filing of record a Supplemental Declaration of Restrictions, which shall identify the lots to be included and shall incorporate these Restrictions by reference.

1. All lots are to be used for residential purposes only. No commercial operations, or agricultural businesses are to be conducted on any of the lots.

2. Although lots in the subdivision may be combined into larger lots, or split between neighbors for partial additions to their lots, no resubdivision of any lot shall be made in any other way. The intent of this restriction is that no individual lot shall be created which is smaller than its original form upon its original sale.

3. There shall be erected only one house per lot, and its construction is subject to the following setback lines: 10 feet from any side or back line, 20 feet from the margin of the road.

4. No mobile homes shall be placed on any lot in this subdivision, either temporarily or permanently. For the purpose of these restrictions, the term "mobile home" means a residential structure having a metal

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underframe. It is not the intent of these restrictions to forbid the use of so called modular homes on this property. Where distinction needs to be made, the designation applied to a particular structure by the State on it's certificate of origin shall control.

5. Out building as such are not forbidden, except that out buildings or sheds made, in whole or in part, of sheet metal shall not be placed or kept on any lot in this subdivision.

6. Neither junk cars nor trucks nor any other inoperative or broken machinery of any kind shall be permitted on any lot. Nor shall the areas underneath outside decks be used for storage unless the area underneath the deck is enclosed so as to conceal the items being stored.

7. Although pets such as dogs and cats are not forbidden in this subdivision, they must not be allowed to run loose. No horses, cows, hogs, chicken, sheep or other agricultural animals shall be allowed in this subdivision.

8. The trees in the subdivision are an asset not only of the individual lot on which they grow, but also of all of the neighboring lots. Therefore, trees with a diameter of 4 inches or more shall not be cut unless that shall be necessary for a house site, a driveway, a permitted outbuilding or because the tree from position, location or condition presents a danger to some person or structure.

9. No fences shall be erected on any lot or on a portion of any lot. No commercial signs of any character shall be permitted on any lot, and signs intended to identify the lot owner shall not exceed 12 inches by 24 inches in size.

10. Unlicensed drivers shall not be permitted to operate a motor vehicle on any road in the subdivision. Unlicensed vehicles (including motor bikes, but not including mopeds) shall not be operated on any road in the subdivision. No activity shall be carried on upon any given lot in the subdivision, the sight, sound, or odor from which a reasonable person would find obnoxious or a nuisance.

11. The roads in the subdivision are intended solely for the use of the owners of lots of the subdivision for access to their particular lot. No road or right-of-way shall be put across any lot from a subdivision road into property not a part of the subdivision.

12. The developer hereby represents that the roads in the development will be paved at the developers expense when the twenty-six (26th) lot therein is sold or within forty-eight (48) months of the date of the first conveyance by deed of a lot subjected herein to these restrictions. The road maintenance fees hereinafter mentioned shall be for the roads as they exist as of that time whether they be gravel or paved, and shall not include any fee for said paving of the roads. In the event that any Grantee should cause any damage to the roads, whether negligently, maliciously, or for the purposes of improving their property by the original underground electrical hook-up or otherwise, the cost of repairing said damage shall be assessed to that Grantee, and shall not be a part of the road maintenance fee hereinafter mentioned.

13. The developer shall establish at the developer's expense an association, in the form of a non-profit corporation, to be known as the Summer Hill Property Owners' Association. The Owner of each lot, subject to these restrictions, by acceptance of the deed therefor, is deemed to covenant and agree to be a member of the Summer Hill Property Owners' Association and shall be responsible for the fees assessed by said Association. At a time solely within the discretion of the Grantors, the maintenance, upkeep and repair of the road systems and common areas of the Summer Hill Development shall be assigned in whole or in part by the Grantors to said Property Owners' Association. Upon such assignment, said Property Owners' Association shall assess its members for the expenses thereby incurred and incurred for administration of said Property Owners' Association on the basis of an equal amount for every original lot held by a Grantee not the Developer; said assessments being enforceable as liens.

14. Prior to the assignment of said duties to the Summer Hill Property Owners' Association as described in Item 12, the Grantors shall be responsible for the maintenance, repair, and upkeep of the private streets and roads, and the common areas in the development. The owner of each said lot in the development by acceptance of a deed therefor, is deemed to covenant and agree to pay the Grantors an annual assessment for the expenses of the above-stated responsibilities. The owner of each lot in the development, shall be assessed for each original lot owned an annual fee of sixty dollars (\$60.00), payable in January for the current year. Sales in mid year shall involve the payment of a partial road fee (pro-rated at \$5.00 per month or any part thereof) to the end of the year. Upon the assignment of said duties in whole or in part, to the Summer Hill Property Owners' Association the obligation to pay for such benefits shall devolve upon the members of the Summer Hill Property Owners' Association.

15. For those wells which are shared by more than one lot, the maintenance expenses are to be shared by the holders of said lots, provided that the Developers are not responsible for the share of any such expenses for any lots not yet granted.

16. Notwithstanding the provisions of Paragraph 8 herein, relating to the cutting of trees, the homeowners association shall have the authority, in conformity with its bylaws, to permit any lot owner to cut trees of any size, for any purpose the association deems proper.

These restrictions shall run with the land and shall be binding on any owner of property within the subdivision. These restrictions may be altered, amended, or rescinded, at any time by a unanimous vote of all lot owners. From and after 20 years from the date of this declaration, these restrictions may be diminished or abolished, by a majority vote of all of the lot owners in the subdivision; but additional restrictions may not be placed on the lots without a unanimous vote.

IN WITNESS WHEREOF, the Declarants have hereunto set their hands and seals the 19th day of August, 1983.

I, Notary Public of Florida at Large
certify that EDWARD F. WIRTZ and
RUTH C. WIRTZ personally appeared
before me and acknowledge the execution of
the foregoing instrument.

Witness my hand and seal this the 19th
day of August, 1983.

Barbara A. Leach Batten
Notary

Edward F. Wirtz
Edward F. Wirtz
Ruth C. Wirtz
Ruth C. Wirtz

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES APRIL 9 1985
BONDED THRU GENERAL INS. UNDERWRITERS

STATE OF NORTH CAROLINA, COUNTY OF TRANSYLVANIA

The foregoing certificate of Barbara A. Leach (Batten)

Notar(y) Public is/are certified to be correct. This instrument was presented for registration and recorded in this office in Book 261, page 6/5.

This 14 day of September, 1983, at 1:30 o'clock P.M.

Frederick H. Israel
Register of Deeds

By: _____
Deputy Register of Deeds