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STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

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DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS is made and entered into this the 6th day of March, 1990, by and between Hoyle H. Edgerton, Jr. and David W. Edgerton, parties of the first part, and PROSPECTIVE PURCHASERS of lots numbered 1-19 and 24-59 as shown and delineated on a plat entitled Rutherford Towne Subdivision located in Rutherfordton Township, Rutherford County, North Carolina, and set forth more fully in Plat Book 14, Page 147, Rutherford County Registry, parties of the second part;

WITNESSETH:

WHEREAS, the parties of the first part have heretofore acquired title to a certain tract or parcel of land which is shown more fully on that plat entitled Rutherford Towne Subdivision, which plat appears of record in Plat Book 14, Page 147, Rutherford County Registry; and

WHEREAS, the parties of the first part desire that the Restrictive and Protective Covenants herein shall apply to lots numbered 1-19, inclusive, and lots numbered 24-59, inclusive, of said subdivision, hereinafter referred to individually and collectively as the LOT or LOTS (IT BEING UNDERSTOOD AND AGREED that lots numbered 20-23, inclusive, shall not be subject to the Restrictive and Protective Covenants herein set forth in any manner or fashion); and

WHEREAS, the parties of the first part intend to convey said numbered Lots, as the same are shown and delineated on the above mentioned plat, by deeds, deeds of trust, and other instruments to various persons, firms, and/or corporations, subject to the Restrictive and Protective Covenants hereinafter set forth; and

WHEREAS, the term Declarant as used herein shall refer to Hoyle H. Edgerton, Jr. and David W. Edgerton;

NOW, THEREFORE, in consideration of the premises, the parties of the first part hereby covenant and agree with Prospective Purchasers that Lots numbered 1-19 and Lots numbered 24-59 of Rutherford Towne Subdivision as set forth more fully in plat of record in Plat Book 14, Page 147, Rutherford County Registry, shall be held, sold, encumbered, and conveyed subject to the Restrictive and Protective Covenants hereinafter set forth and said Restrictive and Protective Covenants shall become a part of each instrument conveying any of the aforesaid restricted Lots as fully and to the same extent as if set forth therein. As a condition of the sale or conveyance of any of the aforesaid restricted Lots, the purchasers thereof agree and covenant to abide by and conform with said Restrictive and Protective Covenants.

THE RESTRICTIVE AND PROTECTIVE COVENANTS ARE AS FOLLOWS:

1. Residential Use. The Lots shall be used for residential purposes only and no lot or building thereon shall be used for the purpose of trade, business,

Handwritten notes:
Variance on Plat # 52 recorded Book 14, Page 147
572 pg 158 also bk 31 at Cary Jan 1991.
Page H of book 14
R 14
Variance on Plat # 51 recorded on BK 628 pg 521, also bk 18 at Cary Nov 1994.
Page H of book 14

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or manufacturing. No structure, other than the main dwelling, shall be used as a dwelling, either permanently or temporarily.

2. Building Type. No structure shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single family dwelling not to exceed two and one-half (2-1/2) stories in height and other outbuildings incidental to residential use of the Lot. No mobile, kit, modular, or similar method shall be utilized as, or utilized in the construction of, the home on any Lot.

3. Dwelling Size. No dwelling shall be erected or permitted to remain upon any Lot unless the heated, finished living area shall consist of at least one thousand six hundred square feet (1,600.00 sq. ft.). All computations of such square footage shall exclude basement (whether daylight or underground), open porches, and garages.

4. Architectural Control. A set of proposed construction plans, including floor plan and elevation drawings of all sides and proposed location of well and septic drain field, shall be presented to and approved in writing by the Declarant prior to commencing clearing, grading, or construction of any structure of any kind on the Lot. All improvements shall comply with the plans as presented to the Declarant unless changes are approved in writing by the Declarant. The right to make inspections necessary to insure compliance is reserved by the Declarant.

Declarant's right of approval of architectural standards shall extend, by way of illustration and not limitation, to quality of materials, harmony of external design with existing structures, location with respect to topography, finished grade elevation, and landscaping.

No structure, including fences (specifically including containment fences for household pets permitted herein) or walls, shall be erected, placed, altered, or permitted to remain on any Lot unless the construction plans and specifications shall be approved by the Declarant.

No exposed or exterior transmission or receiving antennas shall be erected which shall exceed the height of the trees upon the Lot.

No structure of a flat roof design shall be built on any Lot.

No above-ground swimming pool shall be permitted.

No external wall shall utilize asbestos, asphalt, or shingles of similar substances, imitation stone, concrete blocks, cinder blocks, slag blocks, or blocks of similar appearance. No foundation shall be constructed from cinder, slag, or similar blocks; provided, however, that said blocks may be used as an inner wall if they shall be covered with approved building materials.

All driveways shall be paved in concrete, asphalt, or other material as approved by the Declarant.

Solar heating panels, propane gas tanks, and similar are permitted, but must be installed in such manner as to be invisible from any street in the subdivision.

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If Declarant does not disapprove a request within sixty (60) days from the time of receipt of same, Declarant's approval shall be deemed to have been given.

5. Setbacks. Construction of improvements on the Lots shall be subject to setback lines set forth in plat of record in Plat Book 14, Page 147, as follows: front--fifty feet (50'), side--twenty feet (20'), rear--twenty feet (20'), sidelines abutting on street--thirty-five feet (35'). The Declarant reserves the right to grant variances of said setback lines on any individual Lot.

6. Landscaping. All landscaping shall be done in such manner that erosion and sedimentation shall be stabilized and controlled in accordance with applicable state, county, and municipal regulations. Weather permitting, all landscaping shall be completed concurrent with the occupancy of the residence, but, in no event, shall landscaping extend more than ninety (90) days after the residence is occupied.

7. Utilities/Easements. As set forth in plat of record in Plat Book 14, Page 147, an easement ten feet (10') in width (five feet (5') on each side of line) is reserved along each side and rear Lot line for drainage and for the installation and maintenance of utilities. All utilities shall be underground except for preexisting sources of utilities in place at the time of recordation of these Restrictive Covenants. Security night lights are discouraged and in no event shall be permitted in such manner or place as to disturb the tranquility of an adjoining Lot.

8. Maintenance. Each Lot shall be maintained and preserved in a clean, orderly, and attractive manner within the spirit of Rutherford Towne. No lumber, brick, stone, cinder block, concrete, or any other building materials, scaffolding, mechanical devices, or any other thing used for building purposes shall be stored on any Lot in an exposed location except for the purpose of construction on such Lot, and shall not be stored on such Lot for longer than the length of time reasonably necessary for the construction in which the same is to be used. Each owner shall be responsible for maintenance of the portion of the street right of way between his Lot and the street, including curbing. Trash, garbage, or other waste shall be kept in sanitary containers, either underground or placed at the rear of the dwelling, placed in such manner that such containers shall be screened from the public view except on day of collection, and promptly removed from the street after collection.

9. Animals. No animals, other than dogs, cats, or similar household pets, shall be kept on any Lot. All pets shall be confined to the owner or occupant's premises. No animals of any kind may be kept, bred, or maintained on any Lot for any commercial purpose.

10. Vehicles, Hobbies, and Activities. No junk automobiles, cars stored for repairs or restoration, or any other type of salvage shall be placed on a Lot so as to be visible by others. Use of mini-bikes, "ATVs", or similar vehicles are prohibited in Rutherford Towne. Any motor home, trailer, boat, or other type of recreational vehicle, if stored on the premises, shall be screened from the view of others. No vehicles of any type may be parked or placed on or in any dedicated street.

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11. Signs. No sign of any kind shall be displayed to the public view on any Lot except one (1) sign of not more than five square feet (5 sq. ft.) advertising the property for sale or rent. Architectural Control as set forth above shall include the right to designate the type, size, and design of the mail receptacle.

12. Nuisances. No Lot shall be used in such manner as to cause such Lot to appear unclean or unkept. No substance shall be kept upon any Lot which will permit foul or obnoxious odors. No Lot shall be used in any manner that will or might disturb the peace, quiet, comfort, or serenity of surrounding Lots, or which could reasonably cause embarrassment, discomfort, annoyance, or nuisance.

Any structure permitted by these Restrictive Covenants once commenced shall be completed within six (6) months in the case of an incidental use building and within one (1) year in the case of the main dwelling.

13. Resubdivision. No Lot shall be subdivided, its boundary lines changed, nor shall any street be laid out or opened across or through any Lot except by the Declarant. This provision shall not prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot. Upon such combination, the exterior boundary lines of the resulting larger Lot shall be considered in the interpretation of this Declaration.

14. Governmental Regulations. All governmental building codes, health regulations, zoning restrictions, and similar applicable regulations shall be observed. In the event of any conflict between any provision of governmental regulation and any provision of this Declaration, the more restrictive provisions shall apply.

15. Enforcement of Restrictions. This Declaration may be enforced at law or in equity by the Declarant, their heirs or successors, or by the owner of any Lot. In the event legal action shall be instituted by the Declarant to enforce any of the provisions of these restrictions, then, in the event of successful conclusion of the legal action in favor of the Declarant, the respondent shall be obligated to pay all legal expenses and costs incurred by the Declarant in the enforcement of these Restrictive Covenants.

16. Waiver of Conditions. The Declarant reserves the right to waive, in whole or in part, any of the foregoing Restrictive and Protective Covenants. Further, nothing contained herein shall preclude the Declarant from altering the size of any lot or the direction or location of any streets or roads within Rutherford Towne.

17. Successor Declarant. The Declarant, in the Declarant's discretion, may appoint a successor by an instrument filed in the Rutherford County Registry.

18. Term. This Declaration shall run with the land and shall be binding on all parties claiming under the Declarant for a period of thirty (30) years from date of recordation, after which time the same shall be automatically extended for consecutive periods of ten (10) years each unless an instrument signed by a majority of the owners of the Lots shall be recorded agreeing to change or terminate this Declaration in whole or in part.

19. Invalidation. Invalidation of any one (1) of these covenants or any part thereof shall in no wise affect the remainder.

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IN WITNESS WHEREOF, the Declarants (joined by their spouses who consent to and join in this Declaration) have set their hands and seals the day and first above written.

Hoyle H. Edgerton, Jr. (SEAL)
Hoyle H. Edgerton, Jr.

Margaret Edgerton (SEAL)
Margaret Edgerton

David W. Edgerton (SEAL)
David W. Edgerton

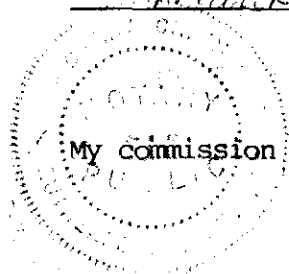
Carolyn Edgerton (SEAL)
Carolyn Edgerton

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

I, a Notary Public of the County and State aforesaid, do hereby certify that Hoyle H. Edgerton, Jr. and wife, Margaret Edgerton, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 8th day of March, 1990.

Debra Crain
Notary Public



My commission expires: May 15, 1991.

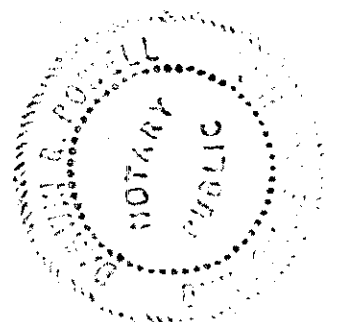
STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

I, a Notary Public of the County and State aforesaid, do hereby certify that David W. Edgerton and wife, Carolyn Edgerton, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 6th day of March, 1990.

Darwin R. Powell
Notary Public

My commission expires: 4-15-92.



Debra Crain,
Darwin R. Powell

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Hoyle H. Edgerton, Jr. & Carolyn D. Edgerton