

CONDITIONS, RESTRICTIONS AND STIPULATIONS AFFECTING LOTS LOCATED IN THE SUBDIVISION KNOWN AS "EVERGREEN FARM" IN CLYDE TOWNSHIP, HAYWOOD COUNTY, NORTH CAROLINA AS RECORDED IN DEED BOOK 363 AT PAGE 500, CABINET "B" AT SLOT 325-A AND 325-B

- 1) Party of the second part shall neither cause nor permit any offensive activity to be carried on upon the lands and premises above described, nor cause or permit anything to be done thereon which may be or become an annoyance or a nuisance to the neighborhood. It is agreed that one horse may be kept and maintained on any parcel of land having a minimum size of two (2) acres or more and that any barn or out-building erected to shelter this animal shall be at least fifty (50) feet from any dwelling located on the property or on adjacent property. The keeping of dogs, cats and other household pets is permitted but in no event shall any animal or livestock be bred or maintained for commercial purposes. For the purpose of limitation of this restrictive covenant, the keeping of ducks, geese or other fowl, or hogs, goats or sheep shall be considered offensive activities and therefore excluded from the permissible use of the parcels of land within the subdivision.
- 2) The property may be subdivided, sold or conveyed but in no event shall any house be constructed, moved or maintained on any parcel of land being smaller than one (1) acre in size; provided however, that since Lot 33 contains .931 acres and Lot 38 contains .889 acres as per the recorded plat, a home may be constructed on either of said lots at their present size, but in no event can a home be constructed, erected or placed on either of said lots if the lot contains less acreage than is presently shown on the said recorded plat.
- 3) The lots shall be used for residential purposes and single family residents only and not for business, manufacturing, commercial or apartment-house purposes. It is understood and agreed that a mobile home is not considered as a single family residence and the same is not permitted to be placed upon or maintained upon any lot.
- 4) No building or structure shall in any event be placed, erected or maintained so that any part thereof lies within fifteen (15) feet of either boundary line of the lands herein conveyed.
- 5) One tool house, shed or other out-building may be built apart from the dwelling but shall be of the same kind of material as the construction of the dwelling and shall be substantial and conform architecturally to the dwelling. It is further understood that no metal buildings will be allowed or permitted on the lot.
- 6) All dwellings shall be of new construction and no residence shall be constructed having less than fifteen hundred (1,500) square feet of one floor area including open porches, terraces, carports and garages but it being understood and agreed that the dwelling shall contain at least twelve hundred (1200) square feet of heated area.
- 7) That in construction of the dwelling, there shall be no flat roofs, neither shall there be any exposed concrete, cinder or cement blocks of any type, except in the foundation of the residence.
- 8) No building or dwelling shall be occupied before completion of the exterior construction including final painting.
- 9) All garages, carports and any subsequent additions to the dwelling shall be of the same kind of material as the construction of the dwelling, same shall be substantial and conform architecturally with the dwelling.
- 10) No trailer, mobile home, barracks type or other structure shall be moved onto any lot or parcel of land in the area covered by these restrictions.
- 11) An easement and right of way are hereby expressly reserved in and over all existing access roads

for travel of all kinds and in and over a strip of land thirty (30) feet in width along the front lot line for the construction and maintenance of electric light, power and telephone service lines, storm water drains, land drains, cable television, public and private sewers, pipelines supplying gas and water or other public or other quasi-public utility. Party of the first part, their heirs and assigns, shall have the right to enter and permit others to enter upon said reserved roads and strip of land for any of the purposes for which the same easements and rights of way are reserved.

12) The owner of said lands shall be allowed to maintain a vegetable garden of sufficient size to provide for the needs of the family occupying the home on said premises and no part of said garden shall be located within twenty-five (25) feet of the edge of the right of way of the road passing said property.

13) Party of the second part shall neither cause or permit streams running through the property hereinabove conveyed or adjacent property to be any way polluted and he/she/they do hereby covenant to keep the same litter free and unpolluted.

14) When fifteen (15) or more lots in said subdivision are or have been sold, the party of the first part reserves the right to transfer all their right, title and interest in the roads and all utilities and the responsibility for the repairs and maintenance of the streets, roads and utilities situated with said subdivision to a property owners association, either formed by the property owners or formed by the parties of the first part, or in the event no property owners association is formed, to the property owners in the subdivision.

A) Provided however, that since the owners of Lots 1, 2, and 3 adjoin the public road and will not have to use the subdivision roads as a means of access to their lots and since the three (3) said owners secure their water supply from the Town of Clyde, then the owners of the three (3) said lots shall not be required to pay for the maintenance for the roads and subdivision water system unless or until either of said owners avails himself of either of these servicews and at that time, the owner of that lot or lots shall be required to pay his/her share of the maintenance cost as hereinabove stated.

B) Provided however, that since the owner of Lots 4 through 13 will secure their water from the Town of Clyde system, then the owners of the ten (10) said lots shall not be required to pay for the maintenance of the subdivision water system unless or until either of said owners avails himself of the water service and at that time, the owner of that lot or lots shall be required to pay his/her share of the maintenance cost as hereinabove stated.

When the party of the first part decides to convey the roads and utilities, all owners of lots in the said subdivision will be notified in writing sixty (60) days before the transfer. Upon notification, the owners will proceed to form, at the owners expense, a property owners association to assum full control and maintenance of the roads and utilities, provided however, that if no such association is formed within the sixty (60) day period, the party of the first part will have the right to convey the roads and utilities, including control and maintenance, to the lot owners. The association of property owners will have the right to collect, on an annual basis by fees or assessment, funds for the repairs, improvement and maintenance of the roads and utilities in the subdivision, computed on a per lot basis, and the party of the first part will be responsible for payment into the road fund computed on the same basis as other owners, provided however, the annual fees or assessments charged against the lots owned by the party of the first part shall not exceed fifteen percent (15%) of the total annual road and utilities fees or assessments charged against all the other lot owners in said subdivision; that is to say, the total annual road and utilities expense, divided on a per lot basis, less a maximum fifteen percent (15%) computation, or a per lot basis, whichever sum is less, is to be paid by the party of the first part, and the remainder is to be paid by the owners of the other lots, computed on a per lot basis. By way of further amplification, illustration and as an example: If the annual road and utilities fund totaled \$1,000.00 and there are fifty (50) lots in the subdivision, 50 divided into \$1,000.00 equals \$20.00 per lot as the annual road and utility fee. If the party of the first part owned twenty-five (25) lots, his share would not be \$500.00 (25 X \$ 20.00) but would be fifteen percent (15%) of \$1,000.00 or \$150.00. If the party of the first part owned five (5) lots, the share should be \$100.00 (5 X \$20.00), since this amount is less than fifteen percent (15%) of the total annual road and utility expense of \$1,000.00 or \$150.00.



- 15) No advertising sign or billboard of any kind shall be erected or allowed to remain on said lots, except for a "For Sale" sign not larger than eighteen inches by twenty-four inches (18" X 24").
- 16) All roads and/or streets located within the confines shall be for the private use, benefit and enjoyment of the owners of the lots within Evergreen Farm, provided however, it is expressly restricted that in no event may the roads located within said subdivision be used as a means of access to any property located outside of the said subdivision.
- 17) The parties of the second part agree that any boats, motorcycles, motor homes, recreational vehicles, campers or vehicles of this sort shall be stored inside a building or stored in such a manner as to not be within the view of roads running within the subdivision.
- 18) These covenants and restrictions shall be binding and effective in perpetuity in respect to the lands herein conveyed, and shall any of these terms, conditions and restrictions above stated be declared invalid by any Court, those not so declared invalid shall remain in full force and effect; provided however, that the said party of the first part, their heirs and assigns, reserve the right to release, amend, change or modify these restrictions with the approval of the majority of the owners of lots in Evergreen Farm.
- 19) The parties of the first part except and reserve unto themselves, their successors, heirs and assigns until January 1, 1986, the right to enter upon, cut or dig, remove, trim, fertilize and otherwise care and maintain the Christmas trees and dogwood trees located on Lots 7, 8, 18, 21, 22, 40, 43, 44, 45, 46, 47, and 5; provided however, this period of time may be reduced by the said parties of the first part.
- 20) As used in these conditions, restrictions and stipulations, the designation of "party of the first part" and "party of the second part" shall include parties, their heirs, successors, assigns and firms and corporations, and shall include singular, plural, masculine, feminine or neuter as required by the context.

This the 4th day of October, 1985