

**RESTRICTIONS COVENANTS AND CONDITIONS AFFECTING PROPERTY OF
TOM R. HAY**

WHEREAS, Tom R. Hay is the owner of the following described tract of land located in Nantahala Township, Macon County, North Carolina, and being more particularly described as follows:

Being and comprehending all and the same lands described in and conveyed by Deed from Neil C. Hay and wife, Levada Hay to Robert Beadles and wife, Ardith E. Beadles dated the 12th day of October 1964 as recorded in Book F-7 page 3, Macon County Registry. Reference is hereby made to the foregoing Deed for a more certain and complete description of the said lands covered by these Covenants and Restrictions; and also certain additional land surrounding said tract, owned by Thomas R. Hay, said land to be surveyed and incorporation as part of as part of the subdivision by reference to this document.

WHEREAS, the owner has divided said tract of land into residential parcels, and titled Hay and Beadles Subdivision;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Tom R. Hay in consideration of the benefits accruing to him and of the obligations imposed upon and assumed by each and every person, firm or corporation accepting a Deed of conveyance to any of the lots of the Hay and Beadles Subdivision hereby restricts each and every residential lot thereof in the manner hereinafter particularly set forth.

**COVENANTS, CONDITIONS, RESTRICTIONS
AND AFFIRMATIVE OBLIGATIONS**

The lots of land above described are and shall be subject to certain covenants, conditions, restrictions, affirmative obligations and limitations, which shall constitute covenants running with the land, as follows:

1. The land shall be described by lot in the instruments of conveyance and may also be described therein by reference to the appropriate lot number as the same appears on a map, prepared and placed on record in the Office of the Register of Deeds for Macon County, North Carolina.

2. The lots in said subdivision shall be used for residential purposes only and no more than one dwelling house, which shall be a single family dwelling house, and may be erected thereon. No dwelling shall be erected or maintained thereon containing less than one Thousand (1,000) square feet of living space floor space, exclusive of porches, breezeways, carports, garages and basements.

3. No temporary dwelling, outbuildings or other structure shall be permitted and no dwelling shall be occupied until the outside of said dwelling and all outbuildings and structures have been completed. The outside of all buildings and structures shall be completed within one year from the starting date of construction.

BOOK 4-19
PAGE(S) 549-555

549

4. No house trailers, motor homes, mobile homes, doublewides, manufactured or modular homes, tents, trucks, or commercial vehicles shall be used as a permanent residence on any lot. Provided, however, that the temporary accommodations may be used during the erection of a permanent residence for a period of time not to exceed one year from the starting date of construction, but only so long as construction is proceeding with all due diligence.

5. All dwellings shall be neat in appearance and no dwelling shall be constructed that may be considered by the Developer to be detrimental to the development. All new construction must be approved by Developer or an architectural control committee prior to commencement.

6. Nothing shall be done on the premises which may be or may become an annoyance or nuisance to the neighborhood. No noxious or offensive activity shall be carried on upon any lot or anything potentially threatening to health of other owners.

7. No animals, livestock or poultry of any kind shall be raised, bred or kept on the premises, except that dogs, cats and other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes. Owners are charged with the responsibility of controlling their pets at all times.

8. All dwellings shall be equipped with septic tank and drain fields that conform to the sanitation and health laws of Macon County and State of North Carolina. No outdoor toilets shall be erected or maintained on the premises. The affluent from such septic tank or sewage disposal shall not be permitted to discharge into a stream, storm, sewer, open ditch or drain unless first it has been passed through an absorption field approved by the public authorities.

9. Road and street easements as shown on the plat of the property, to which these restrictions apply, are reserved to the Developer, his successor and assigns, and the public for free ingress and egress to and from said property.

10. No lot shall be used or maintained as a dumping ground for trash or rubbish. No garbage or other waste shall be kept on any parcel except in sanitary containers. Each lot owner shall provide proper receptacles for garbage in a screened area not generally visible from the road, or a similar facility, in compliance with all sanitation and health laws. No trash or rubbish or any kind or any discharge from a septic system or other waster water shall be dumped in any stream, lake or pond within Hay & Beadles Subdivision.

11. No lot less than two (2) acres in size may be subdivided without first obtaining written permission from the Developer its successors and assigns. Owners of lots of more than 2 acres in size may subdivide their lots for additional home sites and each additional home site shall be obligated to pay a road maintenance assessment in an amount equal to other lot owners in the subdivision. No building lot shall be less than one acre in size, except when sold originally by Developer. The Developer its successors or assigns shall not be obligated to build roads for any lots that may be created by subdividing existing lots.

12. The Developer its successors or assigns, shall form an association of all property owners, designated by such name as may be deemed appropriate for said property. When formed, each lot owner covenants and agrees that he, his Executors, heirs and assigns, or in the case of a corporate lot owner, its successors or assigns, shall be bound by the Articles or incorporation, constitution, bylaws, rules and regulations as duly adopted for and by said Association, including the payment of annual dues and assessments imposed by said Association. The Association shall have a lien upon property for the amount of any dues or assessments that remains unpaid, which liens may be recorded in the same manner as laborer's or materialmen's liens.

The developer, its successors or assigns, shall have the right to convey or assign to said Association any easements, reservations, rights and powers vested in the Developer, its successors or assigns, under this instrument or the easements for any roads shown on a plat recorded by the Developer, its successors or assigns, and to enter into agreements with said Association for the assumption by it of any of the obligations of the Developer, its successors or assigns, including the maintenance of any or all improvements made by the developer, its successors or assigns.

13. Each lot owner shall pay to, Developer, or his heirs, successors or assigns, an annual fee which shall be applied toward the maintenance of roads, common recreational or other facilities in said Subdivision. The amount of said fee shall be determined from time to time by the Developer, his successors or assigns; The amount of the annual fee shall be \$100 for each lot. Said annual fee may be increased or decreased from time to time as determined by the Developer or his successors or assigns. Said annual fee shall be due on the 1st day of January of each year, in advance. The annual fee for the initial year of acquisition of a lot shall be prorated, based upon the number of weeks remaining

in said initial year. Developer shall have the right to transfer and assign said annual fees and the right to collect the same, to another party, as successor, or to the Property Owners Association.

14. Each lot within the subdivision shall be subject to a lien in favor of the other lot owners for the annual assessments set forth herein. Each assessment, together with such interest thereon as hereinafter provided, shall be a permanent and continuing lien upon the lot against which it relates, and shall also be the joint and several personal obligation of each property owner of such lot at the time the assessment fell due, and each such property owner by acquiring or holding an interest in any parcel shall thereby covenant to pay such amount as when the same shall become due.

If an assessment is not paid on the date when due, as hereinabove provided, such assessment shall bear interest from the date of delinquency at the rate of 18% per annum, and the Developer and/or Property Owners Association may bring legal action against the property owner, personally obligated to pay the same, or foreclose its lien against the lot to which it relates, or pursue either such course at the same time or successively. Each property owner, by his acceptance of a deed or other conveyance to a lot, vests in the Developer and/or Property Owners Association the right and power to bring all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien on any appropriate proceeding in law or in equity. Developer and/or Property Owners Association shall have the power to bid on the lot at any foreclosure sale and to acquire, hold, lease, mortgage or convey the same. No property owner may be relieved from any liability for the assessments provided for herein by non-use of the lot or common areas or otherwise.

Provided, however, that the lien for the annual assessments authorized herein with respect to any lot is hereby made subordinate to the lien of any mortgage or its assigns placed upon such lot if, but only if, all such assessments with respect to such parcel have a due date on or prior to the date such mortgage is filed for record have been paid.

15. Each lot owner shall have a perpetual right and easement to use any and all subdivision roads and common recreational facilities and other common areas, as shown on the plats of the subdivision, in common with all other lot owners and their guests and invitees.

16. These covenants, conditions, restrictions, limitations and affirmative obligations are intended to and shall run with the lots by whomsoever owned and shall be binding on all parties who acquire a lot and all persons claiming under them for a period of twenty (20) years from and after the date of the recording of these covenants, at which time (the end of twenty years) said covenants and restrictions shall be automatically extended for a successive period of ten (10) years unless canceled by a vote of the majority of the then owners of the lots in such subdivision, and the owner of the remaining land. This does not prevent the owners of the lots and the owner of the remaining land from changing or revising the above listed restrictions or covenants by a majority vote of said lot owners.

17. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violating or attempting to violate any covenant either to restrain, violation or to recover damages. Either the present owner, or any successor in title to the present owner, of any of the property affected hereby may in title to the present owner, of any of the property affected hereby may institute such proceedings, jointly or severally. Without detracting from the foregoing, but in addition thereto, the Developer shall have the right whenever there shall have been built on any lot in the development any structure which is in such violation exists and summarily abate or remove the same at the expense of the owner and such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect any of the other restrictions, but they shall remain in full force and effect.

18. Developer may assign any and all his rights, powers, obligations and privileges under this instrument to any other corporation, association or person.

19. The word "Developer" where used in this instrument shall mean Tom R. Hay his heirs, successors or assigns, and the "Owner or Owners" shall mean any person or concern owning a lot in the Hay and Beadles Subdivision, including the Developer, his successors or assigns.

20. Invalidation of any one of these covenants, conditions, or restrictions by a judgment or order of a court of competent jurisdiction shall

in nowise affect the validity of any of the other provisions, which shall remain in full force and effect.

The foregoing covenants, conditions, restrictions, and affirmative obligations were designed and placed upon the lots referred to herein for the mutual benefit of the respective owners of said parcels and for the purpose of the betterment of said parcels and lands involved.

This instrument shall be recorded in the Public Land Records of Macon County, North Carolina, and may be referred to in subsequent deeds of conveyance of said parcels, and these covenants shall thereby become a part of such Deed as if fully copied therein.

IN WITNESS WHEREOF, Tom R. Hay and wife, Ardith Hay have hereunto set their hands and seals on this the 10th day of June, 1993.

Tom R. Hay (SEAL)

Ardith B. Hay (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF CHEROKEE

I, Terri M^EKeon, a Notary Public of the County and State aforesaid, certify that Tom R. Hay and wife, Ardith Hay personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal this 10th day of June, 1993.

Terri M^EKeon
Notary Public
My Commission Expires: 4-23-96

STATE OF NORTH CAROLINA

COUNTY OF MACON

Each of the foregoing certificates, namely of Terri Mckeon a Notary Public of the State and County designated is certified to be correct.

This 11th day of June, 1993.

Janet Thomas
Register of Deeds, Macon County, N.C.
By: Regina Parrish (Dep)

NORTH CAROLINA, MACON COUNTY

The foregoing or annexed certificates of Terri McKean,

N.P. of Cherokee County, State of NC;

N.P. of _____ County, State of _____;

N.P. of _____ County, State of _____; & _____

N.P. of _____ County, State of _____ is/are certified to be correct.

Presented for registration and recorded in Book 9-19, Page(s) 549 - 555.

This 11th day of June, 1993 at 11:23 o'clock A.M.

Janet Thomas
Register of Deeds

Janet Thomas
Register of Deeds - Franklin, N.C.
By: Regina Parrish (Dep)