

BK 3330 PG 194 - 202

NORTH CAROLINA
NASH COUNTY

**DECLARATION OF RESTRICTIVE
COVENANTS FOR
BIRCHWOOD PRESERVE
SUBDIVISION**

THIS DECLARATION OF RESTRICTIVE COVENANTS, executed this 7th day of February, 2024 by RBD INVESTMENTS INC., a North Carolina corporation, with its principal office in Nash County, North Carolina ("Developer");

WITNESSETH:

WHEREAS, said Developer is the owner of that certain real estate development ("Birchwood" or, the "Subdivision") shown on a map recorded in Plat Book 43, Page 368, Nash County Registry and reference is hereby made to said map for a more particular description; and

WHEREAS, said Developer desires to protect the future owners and occupants of homes and dwelling located in Birchwood from the encroachment of undesirable building and undesirable building practices, and desire generally to preserve Birchwood as an area suitable for healthful and pleasant living conditions; and

WHEREAS, said Developer proposes and intends by this instrument to create certain restrictions upon Birchwood which shall henceforth be binding upon themselves, their heirs, successors and assigns, and upon future owners of lots and property located within Birchwood.

NOW THEREFORE, in consideration of the premises and for the purposes therein expressed, said Developer does hereby set forth and declare the following restrictions and do covenant and agree with all persons, firms and corporations now or hereafter acquiring any property within said Birchwood that said lots shall be subject to the following:

USE RESTRICTIONS

1. Each lot in the Subdivision shall constitute a residential building site and shall be used for residential purposes only. The layout of the lots as shown on the recorded plat shall be substantially adhered to, provided, however, with the prior written approval of the architectural control committee of the Subdivision as hereinafter provided, the size and shape of any building site may be altered, provided that no building site or group of building sites, may be re-subdivided so as to produce a greater number of sites. More than one lot may be used as one building site, provided that the location of any house or structure permitted thereon is approved in writing by the architectural control committee. Except as provided in this paragraph, no house or structure shall be erected, altered, placed or permitted to remain on any building site, other than one detached single-family dwelling, not to exceed two and one-half stories in height, and a private garage for not more than three vehicles.

2. An architectural control committee (the "Committee") will be designated and appointed by the Developer or their successors. The Committee shall elect or appoint a Chairman. The members of the initial Committee are Jason B. Davis and Robbie B. Davis. No Construction, building, landscaping or improvements shall be made or placed on any building site until the building plans, specifications and plat plans shall be made or placed on any building site until the building plans, specifications and plat plans showing the location of such improvements on the building site have been approved in writing by the Committee as to conformity and harmony of

external design and external materials with existing houses or structures in the area, and as to location with respect to topography, finished ground elevation, and neighboring structures. In the event the Committee fails to approve or disapprove such design or location thirty (30) days after said plans and specifications have been submitted and received by the Chairman of the Committee, this covenant will be deemed to have been fully complied with by the person or entity submitting such plans.

3. Except with the prior written approval of the Committee, no building of any kind, including garages, shall be located on any building site less than thirty (30) feet from the front property line and no building shall be located less than twelve (12) feet from any interior lot line or less than fifteen (15) feet from any side street line or less than thirty (30) feet from any rear lot line.

Any and all of the lots shown on the map of Birchwood may in the future be, by owners thereof, rearranged, divided or subdivided with prior written approval of the Committee.

4. Except with the prior written approval of the Committee, no residential structure, which has a minimum area of less than 1400 square feet of heating living area, shall be erected or placed on any building site. Additionally, except with the prior written approval of the Committee, no residential structure, without a fully enclosed single car garage which has a minimum area of less than 350 square feet, shall be erected or placed on any building site.

5. No business activity or trade of any kind whatsoever shall be carried on upon any building site, nor shall anything be done thereon, which may be or become an annoyance or nuisance to the neighborhood. No sign (except for temporary realtor signs) shall be erected or maintained on the premises unless approved in advance by the Committee. No trade materials may

be stored upon premises and no trucks, boats or tractors may be stored or regularly parked on the premises except in a garage or well-screened enclosure. All garbage, trash cans, gas tanks, fuel oil tanks, lights, and yard pole lights must be adequately screened from neighbors and persons using adjoining streets.

6. No shell home, trailer, mobile home, modular home, camper, tent, shack, ban, or other outbuilding shall be erected or placed on any building site covered by these covenants without prior written approval of the Committee.

7. No animals, livestock, or poultry of any kind—including but not limited to pigs, horses and llamas—other than house pets shall be raised, bred, kept, or otherwise maintained on any part of said property, and no pets shall be permitted to run at large. No person in charge of a dog, cat, or other household pet shall permit or allow such animal to excrete manure or feces on any lot in the Subdivision (other than that lot of the owner or person in charge or control of such animal) or on any common area, street, sidewalk, or right of way in the Subdivision, unless the owner or person in control of such animal immediately removes all feces deposited by such animal and disposes of the matter in a sanitary manner. Residents should comply with any applicable leash laws. There shall be no dog pens of any kind in Birchwood.

8. No fence, wall, hedge, or mass planting shall be permitted, except upon the prior written approval of the Committee. No fence or wall of any kind will be approved by the Committee that is erected towards the front or, if applicable, side street property lines beyond the front or sidewall of the residence on that lot. No chain link fences shall be approved by the Committee.

9. Structures such as brick/block retaining walls or mailboxes are prohibited within the rights-of-way. Only an approved mailbox and post that complies with the U.S. Postal Service is allowed.

10. No trade materials shall be stored on any lot in the Subdivision and no trucks in excess of three quarters (3/4) of a ton be regularly parked thereon.

11. No stripped, partially wrecked or junked motor vehicle, or part thereof, shall be permitted to be parked or kept on any lot. All motor vehicles of any type kept on any lot shall have current registration and inspection certificates. No unlicensed vehicle shall be allowed on any street, or any lot or property not owned by the driver of the vehicle.

~~12. No satellite dishes greater than twenty-four (24) inches in diameter shall be erected, placed or maintained on any part of a lot or upon a structure thereon. No antenna or tower may exist over ten (10) feet in height. No antenna or permitted dish shall be visible from any roadway.~~

13. No clothesline may be erected upon any lot.

14. No three (3) or four (4) wheel all-terrain vehicles shall be operated within the Subdivision.

15. Adequate off-street parking shall be provided by the owner of each building site for the parking of automobiles owned by such owner and the owners of building sites may not regularly park their automobiles on the streets in the Subdivision without the prior written approval of the Committee. The off-street parking areas shall be constructed with concrete or material acceptable to the Committee. The driveway from the street to the off-street parking area shall be likewise constructed of concrete or other materials acceptable to the Committee.

16. Any playground equipment—including but not limited to sandboxes, swings sets or slides—erected, placed or maintained on any lot shall be placed in the backyard. Any basketball goal erected, placed or maintained on any lot shall be placed a minimum of six (6) feet from any lot line.

17. Each owner shall keep his building site free of tall grass, undergrowth, dead trees, trash and rubbish and shall properly maintain the lot so as to present a pleasing appearance. In the event an owner does not properly maintain his building site as provided, the Committee may have the required work done and the costs thus incurred shall be paid by the owner.

18. Except with the prior written approval of the Committee, all telephone, electric, and other utility lines and connections between the main utility lines and the residences and other dwellings located on each building site shall be concealed and located underground so as not to be visible.

19. The exterior of all houses and other structures must be completed within twelve (12) months after the date construction has commenced, except where such completion is impossible, or would result in great hardship to the owner of the building due to strike, blockade, embargo, fires, national emergency, natural calamity or pandemic, unless otherwise extended by the Committee, or its designated representatives.

20. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly, or unkept conditions of buildings on such lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specified area. Upon the failure of a lot owner to correct any such conditions within ten (10) days after written notice has been received

from the Committee, the Committee shall have the right to correct such condition and the expense of such correction shall be paid by the lot owner.

21. Prior to the construction of any house or other building on any of the above-described lots, the owner shall comply with all State, County and City rules, regulations and requirements.

22. Exterior lighting located in the front yard that is freestanding of the primary residence must be limited to two (2) decorative pole lights.

23. Ornamentation utilized for holidays may not in any way contribute to traffic congestion of Birchwood. Said ornamentation should be removed from the dwelling/yard within 15 days of the holiday being recognized.

24. House attached flagpoles of the standard sixty (60) inch lengths are permitted. No freestanding flagpoles will be permitted.

25. No rentals, short or long term in nature, will be permitted for the rental of anything less than the entire premises. While the renting of individual, or multiple rooms, is not permitted, the rental of the entirety of the houses upon lots in the Subdivision shall be permitted with the written approval of the Committee. Any lessee under a rental agreement shall be bound by these covenants, and any lessor under a rental agreement shall be jointly liable for any violation of the covenants herein by the lessee.

GENERAL PROVISIONS

1. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2050, at which time said covenant shall be automatically extended for successive period of ten (10) years, unless by vote of a majority of the

then owners of the building sites in Birchwood, it is agreed to change said covenants in whole or in part.

2. Notwithstanding anything contained herein to the contrary, Developer reserves the right to amend and/or supplement this Declaration to modify the use restrictions detailed in this Declaration or with respect to any other use restrictions reasonably necessary to facilitate the development of the Lots comprising the Subdivision; provided, however, that (i) no such amendment or supplement may have a material adverse effect on the development of the Lots or any part thereof, as set forth generally on the Plat, and (ii) no such amendment or supplement shall impose a materially greater cost or expense upon any grantee or transferee holding title to any Lot at the time of such amendment or supplement. Such rights of the Declarant reserved under this subparagraph shall terminate at such point in time as Developer has conveyed all Lots to third persons.

3. Enforcement of the aforesaid covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violations or recover damages.

4. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

(Signature Page to Follow)

IN WITNESS WHEREOF, the said Developer has hereunto caused this instrument to be executed in its name by its President all by due corporate authority duly given the day and year first above written.

RBD INVESTMENTS INC.

By: *Robbie B. Davis*
Robbie B. Davis, President

North Carolina

Nash County

I, Joni K Cary a notary public for said county and state, certify that Robbie B. Davis personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the 7 day of February, 2024.

Joni K Cary
Notary Public

My commission expires: 7/27/2028
(notary public seal)

