

Prepared by  
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FILED

WANDA C. SCOTT  
REGISTER OF DEEDS

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FOR Supplemental decl  
SEE BOOK OF RECORDS 439 PAGE 532

DECLARATION OF RESTRICTIONS,  
COVENANTS AND CONDITIONS  
BY:  
DEPUTY REGISTER OF DEEDS  
BRIGHTWOOD  
WATAUGA COUNTY, NC

FOR supplemental decl  
SEE BOOK OF RECORDS 441 PAGE 218

149753

149758

04333 PG 45

THIS DECLARATION, made on the 14 day of November, 1997 by MAC GAYDEN AND WIFE, DIANE GAYDEN, hereinafter referred to as "Declarant".

FOR Supplemental decl  
SEE BOOK OF RECORDS 444 PAGE 469

WITNESSETH:

WHEREAS, Declarant is the fee simple owner of certain property in Elk Township, County of Watauga, State of North Carolina, being developed as an exclusive private residential community named "BRIGHTWOOD", which is currently being developed as single-family residential lots; and

WHEREAS, Declarant now desires to develop certain single-family residential lots in the BRIGHTWOOD DEVELOPMENT with designated private common area(s); and

WHEREAS, Declarant desires to sell these lots in the BRIGHTWOOD subject to certain protective covenants, conditions, reservations, liens and charges hereinafter set forth.

NOW, THEREFORE, Declarant for itself, its successors and assigns, and for its future grantees, their heirs, successors and assigns, hereby declares that all of the property described herein and such additions as may be made subject to the provisions hereof shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, liens and charges, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof. This Declaration shall apply to the BRIGHTWOOD property as described in Deeds recorded on Book 417 at Page 843, Watauga County Registry, Boone, North Carolina. The Declarant reserves for itself, its successors and assigns the right to subject additional property to the provisions of this Declaration in the manner hereinafter provided.

1. DEFINITIONS: (a) "Association" shall mean and refer to Brightwood Property Owners Association, its successors and assigns.

(b) "Owner" shall mean and refer to the record owner whether one or more persons or entities, of a fee simple title to any lot which is made a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(c) "Properties" shall mean and refer to the properties which are now or may hereafter be made subject to this Declaration and brought within the jurisdiction of the Association.

(d) "Common Area" shall mean and refer to all real property (including the improvements thereto) labeled as "Common Area" on the maps of the BRIGHTWOOD and all roads and driveways shown thereon.

(e) "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, shown upon any recorded subdivision map of the properties with the exception of the common area.

(f) "Living Unit" shall mean and refer to any portion of a building situated upon the properties designed and intended for use and occupancy as a residence by a single family.

(g) "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

FOR Supplemental declaration  
SEE BOOK OF RECORDS 450 PAGE 414

(h) "Declarant" shall mean and refer to MAC GAYDEN AND WIFE, DIANE GAYDEN, and their successors and assigns.

2. LAND USE AND BUILDING TYPE: No lot shall be used except for single-family residential purposes. No living unit shall be erected, altered, placed, or permitted to remain on any lot other than one Sthapatya Veda single-family dwelling. Every dwelling constructed on a lot shall contain a minimum of 1,800 square feet of fully enclosed and heated floor area exclusive of roofed or unroofed porches, decks, patios, terraces, basements, attics, attached garages and carports, and accessory buildings. Buildings must not be constructed within 150 feet from the roads.

3. DIVIDED OWNERSHIP: No lot, or living unit thereon, shall be leased, purchased, sold, conveyed, owned, used or operated so as to constitute or create a condominium or time-share estate or unit.

4. TEMPORARY STRUCTURES: No structure of a temporary character such as outside metal buildings shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of the living unit, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the lot after completion of construction.

5. HOUSE TRAILERS: No house trailer, mobile home, tent, barn, tree house or other similar outbuilding or structure shall be placed on any lot at any time.

6. STORAGE RECEPTACLES: No fuel tanks or similar storage receptacles may be exposed to view and may be installed only within the living unit or buried underground.

7. UNKEMPT CONDITIONS: It shall be the responsibility of each unit owner to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on such lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area. No junk or unsightly materials lying on subject property.

8. NUISANCES: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. There shall not be maintained any plants, poultry, animals (other than household pets), exterior light or lighting, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant (such as four wheeling vehicles) or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. During repair, construction, or reconstruction of a living unit, the owner is responsible to see that the contractor maintains the lot in a reasonable condition.

BRIGHTWOOD is an animal and bird sancturay. Therefore there shall be no hunting of any kind on BRIGHTWOOD property.

9. DRAINAGE: It shall be the obligation of the property owner to provide, install and maintain adequate culvert and drainage pipe beneath his or her dwelling as it crosses the ditch line at the back, front or side of his or her lot in order that the natural flow of drainage will not at any time be blocked along the street drainage ditch. The culvert or drainage pipe must be of sufficient size to accommodate the flow of surface water in the ditch and in no instance shall the drainage pipe be less than twelve (12) inches in diameter. The installation of such culvert or drainage pipe shall be approved by Declarant. No property owner shall interfere with or divert the natural flow of drainage of any creek, stream or river.

10. REQUIRED ARCHITECTURAL APPROVAL: No improvement or structure of any kind, including, without limitation, any building, fence, wall, sewer, drain, disposal system, sign, landscaping, external lighting, or other improvement shall be commenced, erected, placed or maintained upon any lot, nor shall any addition, change or alteration to any of the foregoing be

made, unless and until the plans, specifications and location of the same shall have been submitted to the Gaydens, evaluated and approved in writing by the Declarant as to harmony of external design and location in relation to surrounding structures and topography and as to conformance with the architectural and landscape standards of the Declarant.

11. APPROVAL OF PLANS, SPECIFICATIONS, AND CONSTRUCTION: Prior to commencement of any construction on any lot, all proposed building plans, specifications, exterior color or finish, facade, roofing material, plot plans (showing the proposed location of such building or structure, drives and parking areas), and construction schedule shall be approved in writing by the Declarant. All building plans and specifications covering such construction shall be prepared by a qualified registered architect or reviewed and approved by a registered architect for the specific use of the owner submitting same. Upon written request by a lot owner for approval of plans, the Declarant shall have thirty (30) days to approve or disapprove the plans. If such plans are not disapproved within said thirty (30) day period, they shall be deemed to have been approved. Garages on any lot must be constructed of the same or compatible materials as specified for the dwelling constructed thereon. Disapproval of plans, location or specifications may be based by the Declarant upon any ground, including purely aesthetic considerations, which in its discretion it deems sufficient. No alterations may be made in such plans after approval by the Declarant is given without the written consent of the Declarant. No alterations in the exterior appearance of any building or structure shall be made without the written consent of the Declarant. One copy of all plans and related data shall be retained by the Declarant for its records.

12. EXTERIOR COMPLETION: The exterior of all living units must be completed within one year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergencies or natural calamities.

13. MAINTENANCE: In the event the owner of any lot upon which a living unit has been constructed permits any underbrush, weeds, etc to grow upon any lot to a height of two (2) feet (except as part of a landscaping plan approved by the Declarant), and on request fails to have the premises cut within thirty (30) days, agents of the Declarant may enter upon said land to remove the same at the expense of the owner. The Declarant may likewise enter upon said land to remove any trash which has collected on said lot without such entrance and removal being deemed a trespass, all at the expense of the owner of said lot. This provision shall not be construed as an obligation on the part of the Declarant to provide garbage or trash removal services. Neither the Declarant nor any of its agents or contractors, shall be liable for any damage which may result from any maintenance work performed.

14. ANTENNAS AND POWER LINES: No television, radio receiver, or transmitter or other antenna which is visible from any common area, street, or adjoining lot is permitted unless specific approval for such is obtained in writing from the Declarant. All telephone, electric, and other wires of all kinds must be installed underground from the poles or the transmission cables located within the utility easements reserved in these Declaration of Restrictions, to any living unit, or other use connection.

15. SIGNS: No commercial sign, or other similar signs, shall be erected or maintained on any lot or shall be placed in any living unit or structure thereon so as to be visible from any common area, any street or from any adjacent lot or living unit except with the written permission of the Declarant or except as may be required by legal proceedings, except a "for sale" sign no larger than three (3) square feet. It being understood that the Declarant will not grant permission for said signs unless their erection is reasonably necessary to avert serious hardship to the property owner. Property identification and like signs exceeding a combined total of more than three (3) square feet may not be erected without the written permission of the Declarant.

16. VEHICLES AND PARKING: Each lot owner shall provide space for parking not less than two automobiles on his lot prior to the occupancy of any dwelling constructed on said lot in

accordance with reasonable standards established by the Declarant. No on-street vehicular parking and parking in the common area shall be permitted except as in accordance with reasonable standards established by the Declarant.

17. GARBAGE CONTAINERS: Each lot owner shall provide receptacles for garbage in a screened area not generally visible from any street, common area, or lot or provide underground garbage receptacles or similar facility in accordance with reasonable standards established by the Declarant.

18. UNINTENTIONAL ENCROACHMENTS: In the event that any living unit or parking area on a lot shall encroach upon any other lot or in the common area for any reason not caused by the purposeful or negligent act of the living unit owner or agents of such owner, then an easement appurtenant to such living unit shall exist for the continuance of such encroachment upon the other lot or common area for so long as such encroachment shall naturally exist.

19. REMOVAL OF TREES: No trees measuring fifteen inches in diameter at ground level may be removed without the written consent of the Declarant unless located within five (5) feet of the living unit or within five (5) feet of the approved site for such building. No trees shall be removed from any lot until the owner shall be ready to begin construction without the consent of the Declarant.

20. EXTERIOR APPEARANCE AND LANDSCAPING: The paint, coating, stain, and other exterior finishing colors on the living unit shall not be repainted or restrained, whether in the original color or in a different color, without prior approval of the Declarant. The landscaping, including, without limitation, the trees, shrubs, lawns, flower beds, walkways, and ground elevation, shall be maintained by the owner as originally installed by the Declarant, unless the prior approval for any substantial change is obtained from the Declarant, its successors or assigns.

The owner of each lot agrees to maintain the exterior appearance and landscaping of his said living unit and to paint, repair, and otherwise care for the exterior living unit surfaces, trees, shrubs, walks, and other exterior improvements as needed. Upon the lot owner's failure to maintain the exterior appearance and landscaping of his living unit, the Declarant, its successors or assigns, may, and after thirty (30) days written notice sent to the lot owner's last known address, make such repairs and improve the exterior appearance as is needed in a reasonable and workmanlike manner. The owner of such lot shall reimburse the Declarant, and to secure such reimbursement, Declarant shall have a lien upon such lot enforceable as herein provided. Upon performing the work herein provided, Declarant shall be entitled to file in the Public Records of Watauga County, North Carolina, a notice of its claim of lien by virtue of this contract with the owner. Such notice shall state the cost of said work and shall contain a description of the property against which the enforcement of the lien is sought. The lien herein provided shall date from time that the work is begun, but shall not be binding against creditors or subsequent purchasers for a valuable consideration and without notice until said notice is recorded. The lien herein provided shall be due and payable forthwith upon completion of the work and if not paid, said lien may be enforced by proceedings in the same manner as suits to enforce mechanic's and materialmen's liens as provided by law. The amount due and secured by said lien shall bear interest at the then current maximum rate allowable by law from the date of recording said lien, and in any action to enforce payment the Declarant shall be entitled to recover costs and attorney's fees. The liens herein provided shall be subordinate to the lien of any mortgage encumbering any lot to any institutional lender; provided, however, that any such mortgagee when in possession and any purchaser at any foreclosure sale, and all persons claiming by, through or under such mortgagee or purchaser shall hold title subject to the obligation and liens herein provided.

21. INSURANCE: Each lot owner shall maintain hazard insurance with some reliable insurance company in an amount sufficient to rebuild or repair the living unit presently constructed thereon to its original condition in the event the said unit is damaged or destroyed by fire, earthquake, Act of God, the elements or any other cause; and by acceptance of a deed therefor each

lot owner covenants and agrees that if said living unit is damaged or destroyed said insurance proceeds and/or other monies shall be used to rebuild or repair said dwelling as soon as is reasonably possible; and further covenants and agrees to annually inform Declarant of the amount of said insurance coverage and to increase said coverage in the event Declarant determines the coverage to be inadequate.

22. COVENANTS FOR MAINTENANCE ASSESSMENTS:

(a) Responsibility for Maintenance. Prior to the conveyance of the common areas to the Association as hereinafter provided, the Declarant shall be responsible for providing the services set forth in (b) below and for collecting the assessments set forth in this paragraph. Upon the conveyance of the common areas to the Association, the Association shall thereafter provide the services set forth in (b) and collect the assessments set forth in this paragraph.

(b) Purpose of Annual Assessments. The annual assessments levied by the Association shall be used as follows:

- (i) to maintain and repair all roads and driveways constructed within the common areas to the standard as such roads and driveways were in at the time of their completion;
- (ii) to maintain and repair any common utility service lines, including septic tank sewage disposal system lines and appurtenances, and water and drainage lines of the lots located on any lot or in the common areas;
- (iii) to pay all ad valorem taxes levied against the common areas and any property owned by the Association;
- (iv) to pay the premiums on all hazard insurance carried by the owner of the common areas and all public liability insurance carried by Declarant or the Association pursuant to its Bylaws;
- (v) to pay all legal, accounting and other professional fees incurred by the Declarant or the Association in carrying out the duties as set forth herein or in the Bylaws.

(c) Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each lot, hereby covenants, and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the annual assessments in such amounts necessary so as to pay for the services set forth in (b) of this paragraph and charges and special assessments for capital improvements, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the lot against which each such assessment charge is made. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the owner of such lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an owner's successors in title unless expressly assumed by them.

(d) Special Assessments for Capital Improvements and Emergencies. In addition to the annual assessments authorized above, the Declarant or after conveyance of the common areas, the Association may levy, in any year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, septic tank sewage disposal system lines and appurtenances, water and drainage lines or other utilities and the road and driveways serving the Brightwood Subdivision or for the purpose of meeting any unanticipated expenses related to the common areas. Such special assessments may be levied only after obtaining the written consent of the owners of at least 51% of the aggregate number of lots then subject to the Declaration.

(e) Assessment Rate.

- (i) Both annual and special assessments must be fixed at a uniform rate for all lots.
- (ii) The Declarant or, after the conveyance of the common areas, the Board of Directors of the Association, shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner. The due dates shall be established in such written notice. The initial assessment per lot shall be \$50.00 per month.
- (iii) Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum rate allowable by law or at the rate of eighteen percent (18%) per annum, whichever rate shall be greater. In addition to such interest charge, the delinquent lot owner shall also pay such late charge as may have been theretofore established by the Declarant or after the conveyance of the common areas, the Board of Directors of the Association, to defray the costs arising because of late payment. The Declarant, or after the conveyance of the common areas, the Association, may bring an action at law against the delinquent lot owner or foreclose the lien against the lot. All interest, late payment charges, costs and reasonable attorney's fees of such actions or foreclosures shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by not using the common area or abandoning his lot.
- (iv) The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a lot or any mortgage or deed of trust to the Declarant. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Declarant or, after the conveyance of the common areas, the Board of Directors of the Association, may in its sole discretion determine such unpaid assessments to be an annual or a special assessment, as applicable, collectable pro rata from all lot owners including the foreclosure sale purchaser. Such pro rata portions are payable by all lot owners. No sale or transfer shall relieve the purchaser of such lot from liability from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

23. BRIGHTWOOD PROPERTY OWNERS' ASSOCIATION:

(a) Membership. Every lot owner shall be a member of the Association. Membership of a lot owner shall be appurtenant to and may not be separated from the ownership of his lot.

(b) Voting. All lot owners (including the Declarant) shall be entitled to one (1) vote for each lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any lot, all such persons shall be members and the voting rights appurtenant to said lot may be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any lot.

(c) Board of Directors. The Association shall be governed by a Board of Directors in accordance with its Bylaws. The Declarant shall have the right to appoint and select the initial three (3) members of the Board of Directors, who need not be lot owners. The Declarant shall have the right to appoint or remove any member of the Board of Directors or any officer or officers of the Association until such time as the first of the following events occurs: (a) the expiration of three (3) full years after the registration of this Declaration, or (b) the date as of which four (4) lots which can be subject to this Declaration shall have been conveyed by Declarant to lot owners.

(d) Conveyance of Common Areas to the Association. At the election of the Declarant, the Declarant shall convey the common areas to the Association; provided, however, that such conveyance must occur within ten (10) years from the date of the filing of this Declaration. Upon such conveyance, the Association shall have all of the rights, duties, obligations, powers, and privileges of Declarant as set forth herein as shall be contained in said deed of conveyance.

24. LEASING OF LIVING UNITS: Subject to such additional rules and regulations as may be adopted from time to time by the Declarant and the Association, a lot owner may lease or rent his living unit provided the occupancy is temporary and is rented to a "single family" as described herein.

25. DOGS OR PETS: The Declarant and the Association may adopt such rules and regulations concerning dogs or other household pets as they deem advisable. However, no dogs or pets may be allowed in the common areas or off an individual lot unless such dog or pet is on a leash or attended by its owner. No outside animals without written permission of Declarant.

26. EASEMENTS: The Declarant reserves unto itself, its successors or assigns, and to the owner of each lot a perpetual, alienable and releasable easement over, upon, across and under the portion of each lot as is reasonably necessary for the maintenance, installation, repair and use of the telephone, electric, water, septic, drainage and other utilities serving any of the lots or common area, subject to this Declaration.

27. RULES AND REGULATIONS: The Declarant may promulgate additional rules and regulations concerning the use and occupancy of the lots or the use of the common areas. All such rules and regulations shall be mailed to all owners via first class mail, postage prepaid.

28. COMMON AREAS: (a) Notwithstanding any recordation of any map or any other action by Declarant or the Association, all common areas (including the roads thereon) shall remain private property and shall not be construed as dedicated to the use or enjoyment of the public.

(b) Each owner shall have the right to use and enjoy the common areas which shall be appurtenant to and shall pass with the title to his lot subject to the following:

- (i) the right of Declarant or its successors or assigns to promulgate any and enforce reasonable regulations governing the use of the common area to insure the safety and rights of all owners;
- (ii) the right of the Declarant or its successors or assigns to suspend the right to use the common areas by any owner for a period during which any assessment against his lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and
- (iii) the right to the Declarant or its successors or assigns to grant utility, drainage, septic or other easements across the common areas. Declarant further reserves unto itself, its successors or assigns, a perpetual, alienable, and releasable easement over, upon, across, and under the common areas for the erection, maintenance, installation, and use of electrical and telephone poles, wires, cables, conduits, sewers, septic tanks, water mains, and other suitable equipment, gas, sewer, water, cable television, community television systems, or other public conveniences or utilities and Declarant, its successors or assigns may further cut drain ways for surface water wherever and whenever such action may appear to the Declarant, its successors or assigns to be necessary in order to maintain reasonable standards of health, safety, and appearance. These easements and rights expressly include the right to cut trees, bushes, or shrubbery, make any gradings of the soil, or to take any other similar action reasonable or necessary to provide economical and safe utilities installation and to maintain reasonable standards of health, safety and appearance.

(c) Every lot is hereby conveyed a perpetual, nonexclusive right to use any roadway which forms a part of the common area for the purpose of providing access to and from each lot.

(d) Declarant reserves a perpetual easement of ingress and egress over, upon, across and under the common areas for the purpose of constructing, maintaining, inspecting and repairing the roads, driveways, utilities and drainage areas built or located in the common areas. This easement includes the right to disturb the structures, if any, located in the common areas in order to inspect, maintain and repair any road or utility facility located within or beneath such structures.

(e) No structure, planting or other material shall be placed or permitted to remain in the common areas which may interfere with the installation or maintenance of sewage disposal facilities and other utilities, or which may change the direction of flow, or which may obstruct or retard the flow of water through the drainage channels.

29. ENFORCEMENT/SEVERABILITY: In the event of a violation or breach of any of these restrictions by any property owner or agent or agent of such owner, the Declarant, the Association, or any non-breaching owner, or any of them jointly and severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach of such terms by any owner or agent. In addition to the foregoing, Declarant or its assigns shall have the right, whenever there shall have been built on any lot any structure which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction or condition contained in this deed, however long continued, shall not be deemed a waiver of the right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any Court of any restrictions contained in this Declaration of Restrictions shall in no way affect any of the other restrictions, but they shall remain in full force and effect.

30. DURATION AND AMENDMENT: All of the covenants, restrictions and servitudes set forth herein shall run with the land. All owners affected hereby, by accepting the deed to such premises, accepts the same subject to said covenants, restrictions, liens, charges and servitudes and agrees for himself, his heirs, legal representatives, administrators, and assigns, to be bound by each of said covenants, restrictions, and servitudes jointly, separately, and severally. These covenants shall be in effect until November 1, 2020, and shall be automatically extended for successive periods of ten (10) years each unless the owners of not less than five-sevenths (5/7) of the lots agree to terminate or modify the same in writing signed and recorded in Watauga County, North Carolina, Public Registry at any time prior to the expiration of said term or any succeeding ten-year period, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for improvements as herein provided, or affect any lien for the payment thereof established herein. No amendment shall be made which substantially affects the rights of a record mortgagee or of Declarant or its successors or assigns without the prior written approval of the said affected party.

Notwithstanding anything herein to the contrary, Declarant and its successors and assigns, shall have the absolute right in its discretion to amend this Declaration in order to include additional lots and common areas as hereinafter provided and to make all such other amendments as may be necessary, proper, or convenient to effectuate the inclusion of said additional lots and common areas. Each lot owner and mortgagee and each other person having any interest in a lot shall be deemed by having accepted said interest, to have consented to each such amendment, and shall be deemed to have thereby granted to Declarant and Declarant's successors and assigns an irrevocable power of attorney, coupled with an interest, to make such amendments from time to time.

31. SUPPLEMENTAL DECLARATIONS: Declarant for itself and its successors and



assigns reserves the right to subject to the provisions of this Declaration all or a portion of the property now or in the future owned by Gayden Subdivision. Such addition(s) shall be made by filing of record a Supplementary Declaration of Covenants and Restrictions, which shall identify the property to be included and which shall incorporate this Declaration by reference.

IN WITNESS WHEREOF, the Declarant has executed this instrument, all the day and year first above written.

By: Mac Gayden (SEAL)  
MAC GAYDEN

By: Diane Gayden (SEAL)  
DIANE GAYDEN

NORTH CAROLINA:

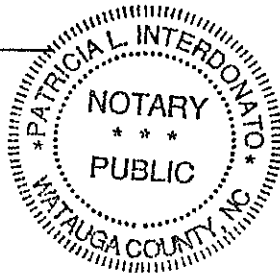
WATAUGA COUNTY:

I, Patricia L. Interdonato, Notary Public, do hereby certify that MAC GAYDEN AND WIFE, DIANE GAYDEN personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this the 14 day of November, 1997.

Patricia L. Interdonato  
NOTARY PUBLIC

My Commission Expires 8-31-98



Prepared by: THE GINN LAW OFFICES, P.A.  
136 N. WATER STREET  
BOONE, NC 28607

NORTH CAROLINA, WATAUGA COUNTY

The foregoing certificate of Patricia L. Interdonato, Notary Public, Watauga County, NC is certified to be correct. This the 14th day of November, 1997.

Wanda C. Scott-Register of Deeds

by: Barbara Payer Deputy

PREPARED BY AND RETURN TO:  
THE GINN LAW OFFICES, P.A.

FILED  
WANDA C. SCOTT  
REGISTER OF DEEDS

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STATE OF NORTH CAROLINA  
COUNTY OF WATAUGA

BY: Kathy S Burkett SUPPLEMENTAL DECLARATION  
DEPUTY OF RESTRICTIONS  
WATAUGA COUNTY, NC

BK 0439 PG 532

The undersigned, being the owners of BRIGHTWOOD, Elk Township, Watauga County (the "Subdivision"), which subdivision is depicted and more fully described in Book 417, at Page 843, Watauga County Public Registry; hereby renew the Restrictive Covenants for the Subdivision as recorded in Deed Book 433, Page 453, except as those covenants are modified herein:

1. Adding covenant "RIGHT OF FIRST REFUSAL", as follows:

In the event the Owner of any Tract desires to sell his tract, then said Property shall be first offered for sale to Declarant at the same price and terms at which the highest bona fide offer has been made for the Property. Declarant shall have fifteen (15) days from receipt of such written offer within which to exercise its option to purchase said Property at this price and terms and Declarant shall have an additional period of not less than thirty (30) days within which to close said transaction. In the event Declarant fails or refuses within fifteen (15) days after receipt of such written notice of the price and terms to exercise its option to purchase said Property at the offered price and terms, then the Owner of said Property shall have the right to sell said Property, pursuant to said bona fide offer, subject, however, to all Covenants and limitations herein contained. Should, however, such sale by the Owner to a third party not be consummated within three months from the date of presentation of the offer to Declarant of the price and on the terms offered, the terms and limitations of this Section shall again immediately be imposed upon any sale by the Property Owner.

IN WITNESS WHEREOF, the undersigned Owners have executed this instrument and adopted the foregoing Restrictive Covenants, this the 5 day of January, 1997.

Mac Gayden (SEAL)  
MAC GAYDEN

Diane Gayden (SEAL)  
DIANE GAYDEN

NORTH CAROLINA

WATAUGA COUNTY

I, Patricia L. Interdonato, Notary Public, do hereby certify that MAC GAYDEN AND WIFE, DIANE GAYDEN personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this the 5 day of January, 1997.

Patricia L. Interdonato  
NOTARY PUBLIC

My Commission Expires 8-31-98

NORTH CAROLINA, WATAUGA COUNTY

The foregoing certificate of Patricia L. Interdonato, Notary Public, Watauga County, NC is certified to be correct. This the 7th day of January, 1998.

Wanda C. Scott, Register of Deeds

by: Kathy S Burkett Deputy

