

BOOK 550 PAGE 184

NORTH CAROLINA  
JACKSON COUNTY

COVENANTS, RESTRICTIONS, EASEMENTS, RESERVATIONS,  
TERMS AND CONDITIONS GOVERNING HI-MOUNTAIN SUBDIVISION

COVENANTS, RESTRICTIONS, EASEMENTS, RESERVATIONS, TERMS AND  
CONDITIONS governing Hi-Mountain Subdivision, Scotts Creek Township,  
Jackson County, North Carolina:

WHEREAS, Hi-Mountain Property Partnership is the owner of a tract  
of land lying in Scotts Creek Township, Jackson County, North Carolina,  
and is developing said tracts of land, and

WHEREAS, a large portion of the property will be used for roads,  
water rights of way, parking areas, drives, dedicated parks, common  
areas and space necessary for access roads and residential use and for  
other areas of common use necessary for proper enjoyment of the  
residential areas, and

WHEREAS, Hi-Mountain Property Partnership is a private partnership,  
and expects to deed and convey many lots from the tract of land herein-  
above referred to individuals, firms or corporations, and that said lots  
shall be subject to specific covenants, restrictions and obligations  
hereinafter set forth; and

WHEREAS, it is the purpose of this instrument to make all of the  
lots or tracts of land described hereafter, and/or added later to the  
description by reference or otherwise, subject to these restrictions,  
covenants, easements, etc. All of the terms hereof shall remain in  
effect in regard to future conveyances. These Covenants, Restrictions,  
Easements, Reservations, Terms and Conditions are made for the purpose  
of restricting the tracts herein described and to make them more  
desireable as residential areas.

NOW, THEREFORE, know all men by these presents that Hi-Mountain  
Property Partnership for full value received, and in consideration of  
the premises, the owner covenants and agrees with all persons, firms  
and other corporations hereafter acquiring any of the property herein-  
after described, that the same shall be and is hereby subject to the  
following restrictions, easements, conditions, liens, conditions,  
covenants (hereinafter collectively referred to as "Restrictions"),

This instrument prepared by: Kent Coward,  
Attorney at Law, of the firm of Coward, Coward & Dillard, P.A.  
43 West Main Street, Sylva, North Carolina 28779

relating to the use and occupancy thereof, said Restrictions to be construed as restrictive covenants running with the land and comprising the lots hereinafter described and which shall inure to the benefit of and be binding upon the heirs, successors and assigns of Hi-Mountain Property Partnership and all other acquiring parties and persons.

Hi-Mountain Property Partnership does hereby declare that such other real property as may later be subject to this Declaration pursuant to the provisions thereof, from and after the filing of record of any supplementary declaration shall be held, transferred, sold, conveyed, used and occupies subject to the provisions of this declaration which are specified in any supplementary declarations. Every person or other party hereafter acquiring any of the within described property made subject to this Declaration, by acceptance of a deed or contract for deed or other conveyance of any interest in or to said property, whether or not it shall be so expressed in any such deed, contract for deed or other conveyance, regardless of whether the same shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take such property interest subject to this Declaration and to the terms and conditions hereof and shall be deemed to have assented to same.

The property which is made subject to this Declaration is more particularly described in Exhibit "A" hereto attached and by reference incorporated herein.

COVENANTS, RESTRICTIONS, CONDITIONS  
AND AFFIRMATIVE OBLIGATIONS

The tracts of land and any lots added hereto are and shall be subject to certain covenants, restrictions, conditions and affirmative obligations, which shall constitute covenants running with the land as follows:

1. Purpose. Lots shall be used only for residential purposes except as hereinafter stated. No building, fence or other structure shall be erected, placed or altered on any lot above mentioned until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building, structures, drives and parking areas), and construction schedules shall have been

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approved in writing by the Board of Control, hereinafter referred as the "Board" of Hi-Mountain, its successors and assigns. No alterations may be made in such plans after approval by the Board of Control except with the consent of the Board in writing. No alterations in the exterior appearance of any building or structure shall be made without the written approval of the Board. One copy of all plans and related data shall be furnished to the Board of Control for its records. Refusal of approval of plans, location or specifications may be based by the Board upon any grounds, including purely aesthetic consideration in the sole discretion of the Board.

The partnership, developer, shall constitute the Board for the first fifteen years of the existence of the subdivision which dates from September 1, 1982. Thereafter, the Board shall be composed as hereinafter, the Board shall be composed as hereinafter stated.

2. Definitions. The following words and terms when used in this Declaration or any supplementary declaration (unless the context clearly shall indicate otherwise) shall have the following meanings:

- a. "Association" shall mean and refer to Hi-Mountain Property Owners Association, a North Carolina non-profit corporation.
- b. "Property" shall mean and refer to the existing property described in Exhibit "A", hereto attached and by reference incorporated herein are subject to this declaration or any supplementary declarations.
- c. "Common Properties" shall mean and refer to those areas of land with any improvements thereon which are deeded to the Association and designed in said deed as "common properties". The term "common properties" shall also include any personal property acquired by the Association if said property is designated as "common properties". All common properties are to be devoted to and intended for the common use and enjoyment of the owners, subject to the fee schedules and operating rules adopted by the Association.
- d. "Lot" shall mean and refer to any improved or unimproved parcel of land intended for the construction of a detached single family dwelling shown upon any recorded final sub-

division map of any part of the properties with the exception of common properties as heretofore referred to in Paragraph 2c above.

- e. "Owner" shall mean and refer to the record owner, whether one or more persons, firms, corporations, associations or any other legal entity of the fee simple title to a lot.

3. No plans will be approved unless the proposed dwelling shall have the minimum required square footage of enclosed dwelling area. The enclosed area shall be a minimum of 1,250 square feet exclusive of carports, screened areas, patios, terraces, gazebos or decks. Provided, however, that such term does not include garages, boat sheds, terraces, decks, open porches and like areas; provided further that shed type porches, even though attached to the house, are specifically excluded from the definition of the aforesaid term "enclosed dwelling area". The term does include, however, screened porches, if the roof of such dwelling forms an intricate part of the roof line of the main dwelling or if they are on the ground floor of a two-story structure. However, the Board shall have the right to waive said minimum square size requirement in the event it is of the opinion that the design and character of the proposed dwelling is unique and desirable and warrants such waiver. The location of structures on building lots shall be governed by set-back lines. On lots which consist of three acres or less, no house shall be located closer than twenty feet to a common boundary line. On lots of three acres or less, the house shall not be located any closer than twenty-five feet from the road right of way.

On lots that exceed three acres in size, no house shall be located closer than fifty feet from the common boundary line, or thirty-five feet from the road right of way.

4. Views and Vistas. No view or vista may be cut by any owner or resident from the property of another. However, Hi-Mountain Property Partnership reserves to itself, its successors and assigns, an easement and right of way, continuing in nature, giving it the right to absolutely control the cutting and maintaining of views and vistas, in the interest of shared enjoyment of distant scenes by

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adjacent and neighboring lot owners. It is understood, however, that Hi-Mountain Property Partnership shall only maintain and cut views and vistas which enhance the enjoyment of owners and occupants of dwellings and that the cutting and maintaining of views will be done selectively, and to obtain an artistic result with every reasonable effort to preserve specimen trees and plants. The developer, Hi-Mountain Property Partnership, has no responsibility at any time to expend any funds for the cutting and maintaining of vistas. If in fact, Hi-Mountain Property Partnership does exercise the right retained in this paragraph, the owner seeking to improve the view from his property shall bear the full expense connected with such cutting and maintaining of vistas.

5. Completion of Houses and Structures. The exterior of all houses and other structures 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, or acts of God.

6. One Structure Per Lot. No structure except as hereinafter provided shall be erected, altered, placed or permitted to remain on any lot other than one detached family dwelling and one small accessory detached building which may include a garage, servant's quarters, a stable or guest suite or combination thereof. But such structure may not be rented or leased except as a part of the entire premises including the main dwelling and such guest facility shall not result in over crowding the site. Provided the use of such building does not include any activity conducted as a business. Such accessory building may not be constructed prior to the construction of the main residence or dwelling. No tent, trailer, barn, outside toilets, mobile living units, shall be allowed on any lot.

7. Guest Suites Allowed. A guest suite or like facility without a kitchen may be included as part of the main dwelling or other accessory building, but such suite may not be rented or leased as above stated except as part of the entire premises as above stated, including the main dwelling.

8. Owners Police Their Lots. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly, or unkept conditions of building or grounds on such lot which shall tend to substantially decrease the beauty of the neighborhood, as a whole, or in a specific area.

9. Activities on Lots. No noxious or offensive activity shall be carried 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 or animals or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof.

10. Right of First Refusal In Event of Sale. In the event the owner desires to sell a building lot within the Hi-Mountain grounds, together with any improvements, if any, then said building lot shall be offered for sale to Hi-Mountain Property Partnership, in writing at the same price at which the highest bona-fide offer, which shall be described in writing to Hi-Mountain Property Partnership, has been made for the lot. Hi-Mountain Property Partnership shall have thirty (30) days within which to exercise its option to purchase said property at this price; and should Hi-Mountain Property Partnership, fail or refuse, within thirty (30) days after receipt of written notice of the price and terms, to exercise its option to repurchase said property at the offered price, then the owner of said lot shall have the right to sell said property elsewhere subject, however, to all covenants and limitations herein contained.

11. Signs. No commercial signs, including "for rent", "for sale" and other similar signs, shall be erected or maintained on any lot except with the written permission of the Board, or except as may be required by legal proceedings.

12. Parking Spaces. Each lot owner shall provide space for parking two automobiles off the street prior to the occupancy of any dwelling constructed on said lot in accordance with reasonable standards established by the Board.

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13. Garbage Disposal. Each owner shall provide receptacles for garbage, not generally visible from the road, or provide underground garbage receptacles or similar facilities in accordance with reasonable standards established by the Board. Burning of garbage and trash routinely shall not be permitted on any building lot in the subdivision.

14. Septic Tanks and Sewage Disposal. Prior to the occupancy of a residence on a lot, proper and suitable septic tank or sewage disposal shall be constructed on such lot for the disposal of all sewage, and all sewage shall be emptied or discharged into such tank or tanks. No sewage shall be emptied or discharged into any marsh, creek, ravine, or onto the open ground. No sewage disposal system shall be permitted on any lot nor may any sewage disposal system be used unless such system shall be permitted on any lot nor may any sewage disposal system be used unless such system is designed, located, constructed and maintained in accordance with the requirements, standards and recommendations of the appropriate public health authority. Approval of such systems shall be obtained from such authority prior to the beginning of the construction of a house on said lot and prior to the construction of said system. The North Carolina Board of Health provides directions, requirements, standards and recommendations. These requirements of the North Carolina Board of Health must be met by homeowners.

15. Basements for Utilities. Hi-Mountain Property Partnership reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground to erect, maintain, and use electric and telephone poles, wires, cable, conduits, sewers, underground pipelines, underground conduits, cable and wires, storm sewers, water mains and other suitable equipment for the transmission and use of electricity, telephone, telegraph, gas, sewer, water, or other public conveniences or utilities on, in or over ten (10) feet along the rear of each lot, and five (5) feet along each side of each lot (and other such areas as are shown on applicable plats); provided that Hi-Mountain Property Partnership may cut drainways for surface water wherever and whenever such action may appear to Hi-Mountain

Property Partnership to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes, or shrubbery or to make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The rights herein reserved create no obligations on the part of Hi-Mountain Property Partnership to do any of the things above stated.

16. Subdivision of Lots. No lot may be subdivided by an owner before the fifth anniversary of the recording of this document and then only with the written consent of the Board and the developer, Hi-Mountain Property. The minimum subdivided lot shall be one acre. In the event of the subdivision of a lot the subdivided lot shall be subject to all the terms, conditions, restrictions of these restrictive covenants, inclusive of set-back lines and easements along the boundaries of the lot. Each and every paragraph of these covenants and restrictions shall be applicable to the subdivided lot and the lot from which it is subdivided. No lot which is subdivided shall be considered subdivided until a plat of the subdivision is recorded. Every subdivision must be with the written consent of the Board.

17. Re-platting of Lots. The Hi-Mountain Property Partnership reserves the right to re-plat any lot in the subdivision, and it shall exercise this right by the recording of such plat.

18. Existing Rights of Way. There are existing rights of way on the premises described herein. Hi-Mountain Property Partnership accepts no responsibility for maintaining said roadways, however it does reserve from all conveyances of the land above described, a right of way 40 feet in width, 20 feet on either side of the centers of all roads shown. These rights of way may be conveyed to the North Carolina Department of Transportation for use as public roads.

19. Driveway Connections. In the event of driveway connections, the lot owner shall be responsible for placing the platted roads back in the condition they were before the driveway connection was made. Lot



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owners shall have the further obligation to place culverts underneath the driveways and roads where needed when drainage problems are caused by the construction of driveways. Where the earth is moved the owner shall have the obligation of reseeding the areas and making them presentable.

20. Building Materials. No buildings with tar paper siding or tin roofs may be built.

21. Trailer Parks. There shall be no trailer park located on this subdivision and parking of trailers and movable living units shall not be permitted by the lot owners on these premises.

22. Other Structures. No barn, shack, chicken houses, outside toilets, or other buildings shall be built or used at anytime either on a temporary or a permanent basis. No trailer, camper, tool shed or other such temporary building shall be permitted on any lot. Temporary buildings shall be permitted during construction only and must be disassembled after construction is completed. No structure of a temporary character shall be placed upon any lot at anytime except as hereinabove stated. No lumber, bricks, stones, conder blocks, concrete or other building materials, scaffolding, mechanical devices or other things used for building purposes shall be stored on any lot except for the purpose of construction on such lot and shall not be stored any longer than the length of time reasonable necessary for the construction of the improvements in which same is to be used. A stable for riding horses may be built with written permission of Hi-Mountain Property Partnership.

23. Repair When Owner Refuses. All lots together with the exterior of improvements located thereon, shall be maintained in a neat and attractive condition by the respective owners. Such maintenance shall include but shall not be limited to, painting, repairing, replacing and caring for roofs, gutters, downspouts, building surfaces, trees, shrubs, walks and other exterior improvements. Upon the failure or refusal of any property owner to maintain his lot and the exterior of all improvements thereon in a neat and attractive condition, the Hi-Mountain Property Partnership may after ten days notice to such

owner, enter upon such lot and perform such exterior maintenance as the Hi-Mountain Property Partnership, in the exercise of its sole discretion, may deem advisable or necessary. Such property owner shall be personally liable to the Hi-Mountain Property Partnership for the costs of such maintenance, and the liability for such costs shall be a permanent charge and lien upon such lot and enforceable by the Hi-Mountain Property Partnership by an appropriate proceeding in law or equity, legal fees in connection with same shall be the expense of the property owner. Although notice given as herein provided shall be sufficient to give the Hi-Mountain Property Partnership the right to enter upon such lot and perform such maintenance, entry for such purpose shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday. Such entry as herein provided shall not be a trespass, nor shall the Hi-Mountain Property Partnership be liable for doing anything reasonably necessary or appropriate in connection with the carrying out of the provisions herein.

24. Owners Association Shall be Formed. In order to provide a permanent fund for the improvement, maintenance, and operation of the common properties (roadways, walkways, waterways, and other areas designated by the Developer), including, but not limited to, the payment of taxes and insurance thereon, the repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, and generally to provide a fund for other services important to the development and preservation of Hi-Mountain Property, each owner of each lot subject to these restrictions shall be and become a member and pay dues and assessments to Hi-Mountain Property Owners Association. Said Association has been organized for the purposes set out immediately above and each lot owner's membership therein shall become immediately effective at the time he receives title to a lot within the Hi-Mountain Property Community. At its inception, Hi-Mountain Property Owners Association will not have sufficient funds with which to provide the maintenance and services hereinabove described. The Hi-Mountain Property Partnership reserves the right to supplement the Association's funds or to directly provide such maintenance and services. But this reservation shall not be considered as an obligation

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of the Partnership to provide funds or maintenance and services to or on behalf of the Association.

Each lot owner subject to these restrictions, by the acceptance of a deed conveying such lot, whether by the Hi-Mountain Property Partnership or some other owner, contracts and agrees with the Hi-Mountain Property Partnership and with the owners of all other lots subject to these restrictions that he or she will be a member of and pay the dues and assessments to Hi-Mountain Property Owners Association, and that he or she will abide by the provisions of the charter and by-laws of that Association and by the rules and regulations set out in the Declaration of \_\_\_\_\_ recorded in Book \_\_\_\_\_ at page \_\_\_\_\_ of the Jackson County Public Registry, which said Declaration is by reference made a part hereof as if fully set out herein.

Without further assent or permit, the Hi-Mountain Property Partnership, for itself, its successors and assigns, hereby reserves the right, exercisable from time to time to extend the scheme of this Declaration to other property developed as a part of or in conjunction with the development of Hi-Mountain Property Subdivision by filing in the Office of the Register of Deeds of Jackson County, North Carolina, a supplementary Declaration in respect to the other property to be then subject to this Declaration.

Any such supplementary declaration to this Declaration, or any such other declaration (including any supplementary declaration thereto) may contain such modifications of the covenants and restrictions set forth in this Declaration and such additional provisions as the Hi-Mountain Property Partnership may deem necessary or desirable; provided further, no such supplementary declaration shall revoke, modify or add to the covenants and restrictions hereby made applicable to the lots hereinabove described.

25. All Covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them, specifically, including but not limited to, the successors and assigns, if any, of the Hi-Mountain Property Partnership, for a period of twenty-five (25) years from the recording of this Declaration, after all said covenants shall be automatically extended for successive periods of ten (10) years,

provided however, that at the commencement of any ten (10) year renewal period or at any other time, any of the conditions, restrictions, and covenants herein contained may be changed, or amended in any manner by the mutual consent in writing of 51% of the owners of record agreeing to said changes. For purposes of this instrument; one acre equals one vote.

26. The Covenants and Amendments. The covenants and amendments of this Declaration may be amended from time to time during the period, such amendments shall become effective upon the recording of such changes in the Office of the Register of Deeds for Jackson County. Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided herein. Such amendments of the covenants and restrictions shall not at any time alter the rights which shall have already been vested in any person prior to the making of such amendment.

27. Commercial Use. There shall be no commercial use of the property described herein.

28. If any person, firm or corporation shall violate or attempt to violate any of these restrictions, it shall be lawful for Hi-Mountain Property Partnership and any other person, firm or corporation owning any property subject to these restrictions to prosecute the violating party at law or in equity for any claim which these restrictions may create in such other owner or interested party either to prevent said person, firm or corporation from so doing such acts or to recover damages or other dues for such violation. In addition to the foregoing, the Hi-Mountain Property Partnership, its successors and assigns, shall have the right, whenever they shall have any building on any lot which is in violation of these restrictions, to enter upon such property whereon the 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.

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Any failure by the Corporation or the property owner to enforce any of the covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one or more of these restrictions by judgment or court order shall in no way affect any of the other provisions not expressly held to be void, and all such remaining provisions shall remain in full force and effect.

29. Assignment or Sale of Rights. Hi-Mountain Property Partnership shall at all times from and after the date hereof have the right to delegate any of the functions herein reserved to it. Further, notwithstanding any other provisions contained herein to the contrary, Hi-Mountain Property Partnership shall have the right at all times to fully transfer, convey and assign all or any part of its right, title and interest, whether real or personal in and to common properties to Hi-Mountain Property Owners Association; provided, however, that the transferee, grantee or assignee shall take such title and rights subject to all obligations of Hi-Mountain Property Partnership herein set out in respect thereto, and the transferee, grantee or assignee shall be deemed to have assumed the same.

30. Terms Deemed Valid. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid by judgment or court order, such prohibition or invalidity shall not affect any other provision or the application of any other provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are deemed to be severable.

31. Obligation of Hi-Mountain Property Partnership. Nothing herein shall be construed to require Hi-Mountain Property Partnership to take any positive action to enforce the covenants and restrictions herein set forth. It is not the intention of Hi-Mountain Property Partnership in making these reservations or restrictions to create any positive obligations on itself, insofar as cutting view and vistas, building,

repairing buildings or maintaining roads, water systems, sewage systems, or furnishing garbage disposal, beginning and prosecuting lawsuits to enforce these articles, cleaning or policing the areas affected, provide police protection, or to remove people, animals, plants or things that become offensive. Where such a positive obligation is not pointed out, none shall be interpreted as existing.

32. Composition of Board. The Board shall be composed of Hi-Mountain Property Partnership, the first fifteen years of its existence, thereafter, property owners shall select the members of the Board. During the first fifteen years from the date of the recording of this document the Hi-Mountain Property Partnership shall be the Board. Thereafter, for ten years it shall have three members on the Board. The Board shall consist of a total of five persons. The approval or disapproval of any action or request relative to the covenants shall be writing. The Board shall act promptly on all propositions.

33. Title to Streets and Other Specific Property. Hi-Mountain Property Partnership, its successors and assigns, hereby retains the right and title to, control and disposition of, all streets, rights-of-way, lakes, ponds and common areas, if any, within the property which is specifically made subject to this Declaration, and within other real properties subjected to this Declaration, in accordance with the provisions hereof, shall have the right to change, alter, or close such streets or rights-of-way not adjacent to a lot previously conveyed by it, subject only to the rights of the owner or owners of such lots, their heirs and assigns, for the purposes of egress and ingress necessary to the full enjoyment of the property owned by them.

As lots are laid out and subsequently conveyed the lot lines shall run to the center of all roads located in the subdivision but the Hi-Mountain Property Partnership will retain a forty foot right of way or easement for roads twenty feet from the center of each road meaning that where a lot adjoins a road, twenty feet of that lot will be within the reserved easement with the understanding and agreement that such reserved easements shall run with the land and be assignable by the Hi-Mountain Property Partnership and their heirs and assigns.

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The foregoing covenants, conditions, restrictions and affirmative obligations were designed and placed upon the lots and land above described for the mutual benefit of Hi-Mountain Property Partnership and the respective owners of said lots and for the purpose of the betterment of said lots and lands involved.

IN WITNESS, the Partners have executed this instrument on this the 1<sup>st</sup> day of November, 1982.

HI-MOUNTAIN PROPERTY PARTNERSHIP

James C. Dismuke (SEAL)  
JAMES C. DISMUKÉ

Jacqueline B. Dismuke (SEAL)  
JACQUELAINE B. DISMUKÉ

John William Dismuke (SEAL)  
JOHN WILLIAM DISMUKÉ

Elaine Jean Dismuke (SEAL)  
ELAINE JEAN DISMUKÉ

Jerald Lee Cogdill (SEAL)  
JERALD LEE COGDILL

Doris Ann Cogdill (SEAL)  
DORIS ANN COGDILL

George Willard Cogdill (SEAL)  
GEORGE WILLARD COGDILL

Mary Evelyn Cogdill (SEAL)  
MARY EVELYN COGDILL

NORTH CAROLINA

JACKSON COUNTY

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AMENDED COVENANTS, RESTRICTIONS, EASEMENTS, RESERVATIONS,  
TERMS AND CONDITIONS GOVERNING HI-MOUNTAIN SUBDIVISION.

WHEREAS, Hi-Mountain Property Partnership has filed of record Covenants, Restrictions, Easements, Reservations, Terms and Conditions, governing Hi-Mountain Subdivision in Deed Book 330, Page 184, Jackson County Registry; and

WHEREAS, Hi-Mountain Property Partnership constitutes in excess of 51% of the ownership of the acreage of the real property subject to said Covenants, Restrictions, Easements, Reservations, Terms and Conditions governing Hi-Mountain Subdivision; and

WHEREAS, Hi-Mountain Property Partnership is desirous of amending the instrument for the purpose of clarity, conciseness and the benefit of said property and for the benefit of owners and future purchasers,

WHEREAS, certain individual owners of record have consented to the desires of the Hi-Mountain Property Partnership;

NOW THEREFORE, said Covenants, Restrictions, Easements, Reservations, Terms and Conditions governing Hi-Mountain Subdivision are hereby amended, modified and changed to read as follows:

1. Purpose. Lots shall be used only for residential purposes. No building, fence or other structure shall be erected, placed or altered on any lot until the proposed building plans and construction schedules shall have been approved or disapproved in writing by the Board of Hi-Mountain. No alterations may be made in such plans after approval by the Board except with the consent of the Board in writing. One copy of all plans and related data shall be furnished to the Board for its records. Refusal of approval of plans, location or specifications may be based by the Board upon any grounds.

The partnership, developer, shall constitute the Board for the first fifteen years of the existence of the subdivision which dates from September 1, 1982. Thereafter, for ten years the Hi-Mountain Property Partnership shall have three members on the Board which shall consist of a total of five persons. The remaining two members of the Board shall be selected by the property owners. The approval or disapproval of any action or request relative to the covenants shall be in writing. The Board shall act promptly on all propositions.

2. Definitions. The following words and terms when used in this Declaration or any supplementary declaration (unless the context clearly shall indicate otherwise) shall have the following meanings:

- a. "Association" shall mean and refer to Hi-Mountain Property Owners Association, a North Carolina non-profit corporation.
- b. "Property" shall mean and refer to the existing property described in Exhibit "A", hereto attached and by reference incorporated herein are subject to this declaration or any supplementary declaration.
- c. "Lot" shall mean and refer to any improved land intended for the construction of a detached single family dwelling.
- d. "Owner" shall mean and refer to the record owner, whether one or more persons, firms, corporations, associations or any other legal entity of the fee simple title to a lot.

3. No plans will be approved unless the proposed dwelling shall have the minimum required square footage of enclosed dwelling area and no more than two stories above ground. The enclosed area shall be a minimum of 1,250 square feet exclusive of carports, garages, screened areas, patios, terraces, gazebos or decks. However, the Board shall have the right to waive said minimum square size requirements in the event it is of the opinion that the design and character of the proposed dwelling is unique and desirable and warrants such waiver. The location of structures on building lots shall be governed by set-back lines. On lots which consist of three acres or less, no house shall be located closer than twenty feet to a common boundary line. On lots of three acres or less, the house shall not be located any closer than fifteen feet from the road right-of-way.



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On lots that exceed three acres in size, no house shall be located closer than fifty feet from the common boundary line, or fifteen feet from the road right-of-way.

4. Views and Vistas. No view or vista may be cut by any owner or resident from the property of another. However, Hi-Mountain Property Partnership reserves to itself, its successors and assigns, an easement and right of way, continuing in nature, giving it the right to absolutely control the cutting and maintaining of views and vistas, in the interest of shared enjoyment of distant scenes by adjacent and neighboring lot owners.

5. Completion of Houses. The exterior of all houses must be completed within one year after the construction of same shall have commenced. Exception may be made by Board.

6. One Structure Per Lot. No structure except as hereinafter provided shall be erected, altered, placed or permitted to remain on any lot other than one detached family dwelling and one small accessory detached building which may include a garage, servant's quarters, or guest suite or combination thereof. No modular home, tent, trailer, barn or outside toilets shall be allowed on any lot. Camper trailers not used for on-site dwelling purposes shall not be included in this restriction.

7. Owners Police Their Lots. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly, or unkept conditions of building or grounds on such lot which shall tend to substantially decrease the beauty of the neighborhood, as a whole, or in a specific area.

8. Activities on Lots. 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 device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. No animals shall be kept or maintained on the premises except customary household pets or by Board approval.

9. Parking Spaces. Each lot owner shall provide space for parking two automobiles off the street prior to the occupancy of any dwelling constructed on said lot in accordance with reasonable standards established by the Board.

10. Garbage Disposal. Each owner shall provide receptacles for garbage, not generally visible from the road, or provide underground garbage receptacles or similar facilities in accordance with reasonable standards established by the Board. Burning of garbage and trash routinely shall not be permitted on any building lot in the subdivision.

11. Septic Tanks and Sewage Disposal. The North Carolina Board of Health and Jackson County North Carolina Building Code provides directions, requirements, standards and recommendations. These requirements of the North Carolina Board of Health and Jackson County North Carolina Building Code must be met by homeowners.

12. Easements for Utilities. Hi-Mountain Property Partnership reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easements and right on, over and under the ground to erect, maintain, and use electric and telephone poles, wires, cable, conduits, sewers, underground pipelines, underground conduits, cable and wires, storm sewers, water mains and other suitable equipment for the transmission and use of electricity, telephone, gas, sewer, water or other public conveniences or utilities on, in or over ten (10) feet along the rear of each lot, and five (5) feet along each side of each lot (and other such areas as are shown on applicable plats). The rights herein reserved create no obligations on the part of Hi-Mountain Partnership to do any of the things above stated.

13. Subdivision of Lots. The minimum subdivided lot shall be one acre. In the event of the subdivision of a lot, the subdivided lot shall be subject to all the terms, conditions, restrictions of these restrictive covenants, inclusive of set-back lines and easements along the boundaries of the lot. Each and every paragraph of these covenants and restrictions are applicable to the subdivided lot and the lot from which it is subdivided. No lot which is

subdivided shall be considered subdivided until a plat of the subdivision is recorded. Every subdivision must be with the written consent of the Board.

14. Re-platting of Lots. The Hi-Mountain Property Partnership reserves the right to re-plat any lot in the subdivision, and it shall exercise this right by the recording of such plat.

15. Existing Rights of Way. There are existing rights of way on the premises described herein. Hi-Mountain Property Partnership accepts no responsibility for maintaining said roadways, however, it does reserve from all coveyances of the land above described, a right of way 60 feet in width, 30 feet on either side of the centers of all roads shown. These rights of way may be conveyed to the North Carolina Department of Transportation for use as public roads.

16. Driveway Connections. In the event of driveway connections, the lot owner shall be responsible for placing the platted roads back in the condition they were before the driveway connection was made. Lot owners shall have the further obligation to place culverts underneath the driveways and roads where needed when drainage problems are caused by the construction of driveways. Where the earth is moved, the owner shall have the obligation of reseeding the areas and making them presentable.

17. Trailer Parks. There shall be no trailer park located on this subdivision and parking of trailers and movable living units shall not be permitted by the lot owners on these premises.

18. Other Structures. No barn, shack, chicken houses, outside toilets, or other buildings shall be built or used at any time either on a temporary or permanent basis. No trailer, camper, tool shed or other buildings shall be built or used at any time either on a temporary or a permanent basis. Temporary buildings shall be permitted during construction only and must be disassembled after construction is completed.

19. Owners Association Shall be Formed. In order to provide a permanent fund for the improvements, maintenance, and operation of the common properties (roadways, walkways, waterways, and other areas designated by the Developer); each owner of each lot subject to these restrictions shall be and become a member and pay dues and assessments to Hi-Mountain Property Owners Association. Said Association has been organized for the purposes set out immediately above and each lot owner's membership therein shall become immediately effective at the time he receives title to a lot within the Hi-Mountain Property Community. At its inception, Hi-Mountain Property Partnership reserves the right to supplement the Association's funds or to directly provide such maintenance and services. But this reservation shall not be considered as an obligation of the Partnership to provide funds or maintenance and services to or on behalf of the Association.

Each lot owner subject to these restrictions, by the acceptance of a deed conveying such lot, whether by the Hi-Mountain Property Partnership or some other owner, contracts and agrees with the Hi-Mountain Property Partnership and with the owners of all other lots subject to these restrictions that he or she will be a member of and pay the dues and assessments to Hi-Mountain Property Owners Association; and that he or she will abide by the provisions of the charter and by-laws of that Association and by the rules and regulations set out in the Declaration of \_\_\_\_\_ recorded in Book \_\_\_\_\_ at page \_\_\_\_\_ of the Jackson County Public Registry, which said Declaration is by reference made a part hereof as if fully set out herein.

20. All Covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them, specifically, including but not limited to, the successors and assigns, if any, of the Hi-Mountain Property Partnership, for a period of twenty-five (25) years from the recording of this Declaration, after which time all said covenants shall be automatically extended for successive periods of ten (10) years, provided that at the commencement of any ten (10) year renewal period or at any other time, any of the conditions, restrictions, and covenants herein contained may be changed, or amended in any manner by the mutual consent in writing of 51% of the owners of record agreeing to said changes. For purposes of this instrument; one acre equals one vote.

21. The Covenants and Amendments. The covenants and amendments of this Declaration may be amended from time to time during the period. Such amendments

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shall become effective upon the recording of such changes in the Office of the Register of Deeds for Jackson County. Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided herein. Such amendments of the covenants and restrictions shall not at any time alter the rights which shall have already been vested in any person prior to the making of such amendment.

22. Commercial Use. There shall be no commercial use of the property described herein.

23. If any person, firm or corporation shall violate or attempt to violate any of these restrictions, it shall be lawful for Hi-Mountain Property Partnership and any other person, firm or corporation owning any property subject to these restrictions to prosecute the violating party at law or in equity for any claim which these restrictions may create in such other owner or interested party, either to prevent said person, firm or corporation from so doing such acts or to recover damages or other dues for such violation. Any failure by the Corporation or the property owner to enforce any of the covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one or more of these restrictions by judgment or court order shall in no way affect any of the other provisions not expressly held to be void, and all such remaining provisions shall remain in full force and effect.

24. Assignment or Sale of Rights. Hi-Mountain Property Partnership shall at all times from and after the date hereof have the right to delegate any of the functions herein reserved to it.

25. Obligation of Hi-Mountain Property Partnership. Nothing herein shall be construed to require Hi-Mountain Property Partnership to take any positive action to enforce the covenants and restrictions herein set forth. It is not the intention of Hi-Mountain Property Partnership in making these reservations or restrictions to create any positive obligations on itself insofar as maintaining roads, water systems, sewer systems or furnishing garbage disposal, beginning and prosecuting lawsuits to enforce these articles, cleaning or policing the areas affected, providing police protection, or to remove people, animals, plants or things that become offensive. Where such a positive obligation is not pointed out, none shall be interpreted as existing.

26. Title to Roads and Other Specific Property. Hi-Mountain Property Partnership, its successors and assigns, hereby retain the right and title to, control and disposition of, all roads, rights-of-way, lakes, ponds and common areas, if any, within the property which is specifically made subject to this Declaration, and within other real properties subjected to this Declaration, in accordance with the provisions hereof, shall have the right to change, alter or close such roads or rights-of-way not adjacent to a lot previously conveyed by it, subject only to the rights of the owner or owners of such lots, their heirs and assigns, for the purposes of egress and ingress necessary to the full enjoyment of the property owned by them.

As lots are laid out and subsequently conveyed, the lot lines shall run to the center of all roads located in the subdivision but the Hi-Mountain Property Partnership will retain sixty foot right of way or easement for roads thirty feet from the center of each road, meaning that where a lot adjoins a road, thirty feet of that lot will be within the reserved easements with the understanding and agreement that such reserved easements shall run with the land and be assignable by the Hi-Mountain Property Partnership and their heirs and assigns.

In all other respects the Covenants, Restrictions, Easements, Reservations, Terms and Conditions governing Hi-Mountain Subdivision shall remain and are hereby confirmed as recorded.

IN WITNESS, the Partners and Individual Owners have executed this amendment on this the 9th day of October, 1986.

## HI-MOUNTAIN PROPERTY PARTNERSHIP

James C. Dismuke (SEAL)  
JAMES C. DISMUKÉ

Jacqueline B. Dismuke (SEAL)  
JACQUELAINE B. DISMUKÉ

John William Dismuke (SEAL)  
JOHN WILLIAM DISMUKÉ

Elaine Jean Dismuke (SEAL)  
ELAINE JEAN DISMUKÉ

Jerald Lee Cogdill (SEAL)  
JERALD LEE COGDILL

Doris Ann Cogdill (SEAL)  
DORIS ANN COGDILL

## HI-MOUNTAIN PROPERTY OWNERS

James C. Dismuke (SEAL)  
JAMES C. DISMUKÉ

Jacqueline B. Dismuke (SEAL)  
JACQUELAINE B. DISMUKÉ

John William Dismuke (SEAL)  
JOHN WILLIAM DISMUKÉ

Elaine Jean Dismuke (SEAL)  
ELAINE JEAN DISMUKÉ

Jerald Lee Cogdill (SEAL)  
JERALD LEE COGDILL

Doris Ann Cogdill (SEAL)  
DORIS ANN COGDILL

STATE OF NC  
COUNTY OF Orange

I, June J. Rattburn, a Notary Public, do hereby certify that James C. Dismuke and wife, Jacqueline B. Dismuke, each personally appeared before me this day and acknowledged the due execution by them of the foregoing and annexed instrument, for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the 9th day of October, 1986

My Commission Expires:  
Notary Public, State of Florida

My Commission Expires June 1, 1989

STATE OF NC  
COUNTY OF Jackson

I, Evelyn B. Baker, a Notary Public, do hereby certify that John William Dismuke and wife, Elaine Jean Dismuke, each personally appeared before me this day and acknowledged the due execution by them of the foregoing and annexed instrument, for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the 11 day of Oct, 1986

My Commission Expires:  
7.31.91

STATE OF NC  
COUNTY OF Jackson

I, Brenda P. Rhoads, a Notary Public, do hereby certify that Jerald Lee Cogdill and wife, Doris Ann Cogdill, each personally appeared before me this day and acknowledged the due execution by them of the foregoing and annexed instrument, for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the 16th day of Oct, 1986

My Commission Expires:  
2/5/91

NORTH CAROLINA  
JACKSON COUNTY  
The foregoing certificate of Brenda P. Rhoads, a Notary Public, is certified to be correct. This instrument was presented for recording on 20th day of October, 1986 at 2:55 P.M.  
Regular of Deeds David D. Brown