

2004045880 00243

FORSYTH CO, NC FEE \$35.00

PRESENTED &amp; RECORDED:

06-29-2004 03:55 PM

DICKIE C WOOD

REGISTER OF DEEDS

By: TIMOTHY R WILLIAMS ASST

BK:RE 2483

PG:3567-3574

State of North Carolina  
County of Forsyth

Declaration of Covenants, Conditions and  
Restrictions For Spring Hollow, Recorded in  
Plat Book 47, page 50, Forsyth County  
Registry

THIS DECLARATION, made on this date hereinafter set forth by  
Spring Hollow Development L.L.C., hereinafter referred to as "SHD";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Forsyth, State of North Carolina, which is more particularly described as:

All of that certain parcel of land shown on the plat entitled "Spring Hollow" which appears of record in the office of the Register of Deeds of Forsyth County, North Carolina, in Plat Book\_\_\_\_, Page \_\_\_\_ hereinafter referred to as "the Plat").

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, 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 insure to the benefit of each owner thereof.

#### ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to the Spring Hollow Home Owners Association, its successors and assigns.

Section 2. "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 a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property herein above described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property and interests in real property (including easements) owned by the Association for the common use and enjoyment of the owners, Declarant, or a specified group of owners.

Section 5. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

Section 6. "Declarant" shall mean and refer to Spring Hollow Development L.L.C. (SHD), its successors, assignees or agent.

Section 7. "Lot" shall mean and refer to any numbered parcel or plot of land shown upon any recorded subdivision plat of the Properties.

## ARTICLE II

### PROPERTY RIGHTS: OWNERS' EASEMENTS OF ENJOYMENT

Section 1. EASEMENT OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) consecutive days for any infraction of its published rules and regulations;
- b) the right of the Association to grant easements and rights-of-way and to dedicate all or any part of the Common Area to any public agency, authority or utility (including any entity authorized by Forsyth County to supply utilities, including cable television services) for such purposes and subject to such conditions as may be agreed to by the Board of Directors of the Association. No such dedication shall be effective unless an instrument signed by a majority of the Board of Directors, agreeing to such dedication, has been recorded.
- c) no construction in and alteration or modification of the common areas shall occur without the prior written approval of the Board of Directors.

## ARTICLE III

### MEMBERSHIP VOTING RIGHTS AND BOARD OF DIRECTORS

Section 1. MEMBERSHIP. Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association unless specific exemptions are included herein. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. VOTING CLASSES. The Association shall consist of two (2) classes of voting memberships:

Class "A" Members shall be all Owners other than owners whose lots adjoin any portion of the Common Area.

Class "B" Members shall be all Owners whose lots adjoin the Common Area.

Class "A" Members shall be entitled to one vote for each Lot owned on any matter involving the association. Class "A" Members shall have the same rights of access and enjoyment to the Common Areas as the Members whose Lots adjoin the Common Area. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class "B" Members shall be all Owners whose lots adjoin the Common Area. Class "B" Members shall be entitled to one vote for each Lot owned, and, in addition to voting on all matters for which Class "A" member may vote, shall be entitled to one additional vote on matters pertaining to the Common Area. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote or votes for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot or two votes when voting on issues relating to the Common Area.

**Section 3.** RIGHT OF DECLARANT TO APPOINT BOARD OF DIRECTORS OF THE ASSOCIATION. Notwithstanding anything to the contrary herein, until Declarant has conveyed each and every Lot within the Properties, Declarant shall have the right to designate and select the Board of Directors of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association. Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or Directors so removed for the remainder of the unexpired term of any Directors so removed. Any Director designated and selected by Declarant need not be the Owner of a Lot in the subdivision.

**Section 4.** RIGHT OF MEMBERS TO APPOINT SUBSEQUENT BOARD OF DIRECTORS OF THE ASSOCIATION. After the right of Declarant to appoint Board Members expires, Lot Owners shall appoint all subsequent Members of the Board of Directors in accordance with the Articles of Incorporation and the Bylaws. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### ARTICLE IV COVENANT FOR MAINTENANCE AND ASSESSMENTS

**Section 1.** CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for 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 to the Association:

- a) Annual assessments and;
- b) Special assessments for capital improvements to the Common Areas, Sign Easements, Landscape Easements and Common Area Access Easements and;
- c) A pro rata share of ad valorem taxes levied against the Common Area if not covered in the annual assesment.

## Section 2. PURPOSE OF ASSESSMENTS.

- b) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties when and in such manner as the Association determines necessary. Expenditures may include, but are not limited to the costs of capital improvements, annual landscape contracts, routine and special maintenance, electric bills, and repairs, to the Common Areas, Sign Easements, Landscape Easements, Access Easements to Common Areas, Lighting, ad valorem tax and any other area or structure that the Association assumes for maintenance. Expenditures may also include fees for professional services, insurance premiums, ad valorem taxes, attorneys fees, and extensions of utility services to the Common Areas and, Landscape Easements, etc.
- c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Properties or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, or the Articles of Incorporation. As monies for any assessment are paid unto the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Lot Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When a Lot Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

## Section 3. MAXIMUM ANNUAL ASSESSMENT. Until December 31, 2006, the maximum annual assessment shall be: Dollars (\$ 100 per year).

- (a) After December 31, 2006, the maximum annual assessment for all Lots may be increased by the Board of Directors without approval by the membership by an amount not to exceed twenty percent (20%) of the maximum annual assessment of the previous year.
- (b) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar

year thereafter may be increased without limit by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

**Section 4.** SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a Special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction repair or replacement of capital improvements upon the Common Areas, Sign Easements, Landscape Easements, Access to Common Areas, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate. Such special assessments may be collected on a monthly, quarterly or annual basis.

**Section 5.** NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER Sections 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 6.** RATE OF ANNUAL ASSESSMENT.

- (a) The initial annual assessment shall be **\$100 per year**.
- (b) Both annual and special assessments must be fixed at a uniform rate.
- (c) The Declarant is not required to pay annual assessments on Lots owned during the development and/or sales phase of the subdivision.

**Section 7.** DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES., The annual assessments provided for herein shall be collected on an annual basis, in advance, and shall commence as to all Lots at the time the first Lot is conveyed to an Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year after conveyance of such Lot.

At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment and shall send written notice to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate, signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

- Section 8.** **EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.** Assessments authorized by this Declaration shall be due and payable on the dates established by the Board of Directors from time to time. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay any past due assessment or may foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of deeds of trust. Interest, cost---, and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.
- Section 9.** **EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION.** Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the Development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.
- Section 10.** **SUBORDINATION OF THE LIEN TO MORTGAGES.** The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the lien or liens provided for in the preceding Sections. However, the sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments, fees, fines or penalties as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.
- Section 11.** **EXEMPT PROPERTY.** All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.
- Section 12.** **DECLARANT ASSESSMENT EXEMPTION.** The Declarant, its successors and/or heirs are not eligible for any types of assessments, dues, fees, etc.

**ARTICLE V  
MAINTENANCE OF COMMON AREAS, EASEMENTS, STRUCTURES AND LOTS**

- Section 1.**     **MAINTENANCE OF COMMON AREA.** The Association shall maintain the Common Area in a generally accepted practice.
- Section 2.**     **MAINTENANCE OF LANDSCAPE EASEMENTS.** The Association shall mow and maintain any landscape easements in a generally accepted manner:
- Section 3.**     **MAINTENANCE OF THE SIGN EASEMENTS.** The Association shall maintain the entrance sign and sign easements and grass immediately around the sign and landscaping.
- Section 4.**     **MAINTENANCE OF ACCESS EASEMENTS TO THE COMMON AREA.** The Lot Owners adjacent to the Access Easements shall mow and maintain the access if the access remains grass. However if the Association improves the access to an impervious surface, the Association would assume maintenance and the Lot Owners shall mow and maintain up to the edge of the impervious surface.
- Section 5.**     **MAINTENANCE OF FULP'S MILL ROAD RIGHT-OF-WAY ADJACENT TO LOTS 1 AND 30.** The Association shall mow the right-of-way along Fulp's Mill Road adjacent to Lots 1 and 30 in a generally accepted manner.
- Section 6.**     **MAINTENANCE OF LOTS.** Each Lot Owner shall be responsible for the repair, maintenance and upkeep of the dwelling on such lot and all items located on the Lot, including but not limited to any and all vegetation, driveways and walks, patios, wooden decks or any part thereof.

**ARTICLE VI  
EASEMENTS**

- Section 1.**     **UTILITIES.** Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as shown on the recorded Plat. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

**ARTICLE VII  
GENERAL PROVISIONS**


- Section 1.**     **ADDITIONS TO SUBDIVISION.** The Declarant shall have the right to add parcels of future phases or other adjacent parcels to the subdivision and Declarant shall have the right to require those parcel Owners to abide by the requirements herein.

Section 2. **ENFORCEMENT.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Common Area to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

Section 3. **SEVERABILITY.** Invalidity of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 4. **AMENDMENT.** The covenants and restrictions of this Declaration shall run with and bind the land or a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period, by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, 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. Any amendment must be properly recorded in the Guilford County Registry.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed, this the 18<sup>th</sup> day of June, 2004.

  
David McGee, member

Spring Hollow Development, LLC

STATE OF NORTH CAROLINA  
COUNTY OF FORSYTH

On this 18 day of June, 2004, the above <sup>David McGee, member of Spring Hollow Development, LLC</sup> persons came before me, the undersigned, a Notary Public in and of the state of North Carolina, and executed this document.

Witness my hand and notarial seal-stamp, this the 18 day of June, 2004.

  
Notary Public

My commission Expires 12-19-2008

STATE OF NC - FORSYTH CO The foregoing certificate(s) of:

Patricia Ann Stroud NP(s)

is certified to be correct at the date of recording shown on the first page thereof.  
Dickie C. Wood, Register of Deeds by: Rhense Deputy/Asst.

