

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
SUMMERFIELD SUBDIVISION**

THIS DECLARATION, made on the 20th day of June 1987, by SUMMERFIELD LIMITED PARTNERSHIP, a North Carolina Limited Partnership (hereinafter referred to as "Declarant");¹

WITNESSETH:

WHEREAS, Declarant is the owner of certain land in or near the City of Winston-Salem, County of Forsyth, State of North Carolina, which is more particularly described on the map entitled "SUMMERFIELD" recorded in Plat Book 32 at page 42, Forsyth County Registry of Deeds.

WHEREAS, Declarant proposes to develop said land into a subdivision consisting of lots for sale and appurtenant common areas and therefore desires to subject said land to this Declaration:

NOW, THEREFORE, Declarant hereby declares that all of the land 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 right, title and be binding on all parties having any 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.

¹ "This revised version of the Declaration is provided for your convenience and does not replace or supersede the June 1987 Declaration recorded in the Forsyth County Registry at Deed Book 1621, Page 4812, the January 1990 Articles of Amendment, or the October 2018 First [Sic] Amendment recorded in the Forsyth County Registry at Deed Book 3436, Page 2512. The January 1990 Amendment changed the name of the HOA from "Redwing Homeowners Association" to its current name, "Forsyth Summerfield Association, Inc." The October 2018 First [Sic] Amendment erroneously referred to the HOA as "The Summerfield Homeowners Association" throughout the amendment.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Forsyth Summerfield Association, Inc. (Jan. 1990), its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any lot which is a part of the Properties, including contract sellers, 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 hereinbefore described.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association consists of all land owned by the Association for the common use and enjoyment of members.

Section 5. "Lot" shall mean and refer to any lot designated by number on the recorded subdivision map of the Properties referred to above or any subsequently recorded subdivision map of the Properties referring to this Declaration as the same may be amended from time to time.

Section 6. "Declarant" shall mean and refer to SUMMERFIELD LIMITED PARTNERSHIP, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Lot in Use" shall mean and refer to any Lot on which a dwelling unit has been fully constructed and either made ready for occupancy as a dwelling unit, including, without limitation, completion of the installation of the final floor covering, interior paint and wallpaper and all appliances or for which a certificate of occupancy has been issued by the County Building Inspector. In addition to the foregoing, a Lot may become a Lot in Use by contractual agreement between the Declarant and the Owner of such Lot.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements 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 reasonable admission of any recreational the Common Area; of the Association to charge and other fees for the use facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded; provided, however, that no membership vote shall be required with respect to easements granted by the Association pursuant to Article VII hereof;
- (d) the right of the Association to limit the number of guests of members;
- (e) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid hereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens except utility easements and the easements, restrictions, covenants and conditions set forth herein. Further, if ad valorem taxes for the current year have been separately assessed against the Common Area, the same shall be prorated between Declarant and the Association as of the transfer date, otherwise such taxes shall be paid by Declarant.

Section 4. TV Antennas. The Association may regulate or prohibit the erection of television antennas and other communication devices on individual lots. No residence shall have more than one (1) standard television or radio antenna, which antenna shall be actually attached to the residence. Television or radio reception "discs" are specifically not included in the definition of "standard television or radio antenna." No residence shall erect, install or utilize such discs [except as follows]. One compact satellite dish (36" or smaller) is permitted per residence. The disk should be placed in an unobtrusive location on the Property. (October 2018).

Section 5. Additional Restrictions.

(a) No residence shall have any outside clothes lines unless the same is installed behind the residence and not easily visible from any roadway.

(b) No owner shall park any boat, camper, trailer, commercial truck, tractor, van or similar vehicle on any street within the Subdivision or permit the same to be stored or regularly parked upon any lot within the Subdivision except in a garage or well-screened enclosure located and constructed in accordance with other provisions of this Declaration. No owner or guest shall park any personal vehicle, boat, camper, trailer, commercial truck, tractor, van or similar vehicle, on any lawn or in the common area. (October 2018).

(c) Each lot owner shall provide receptacles for garbage in a screened area not generally visible from the road, or provide underground garbage receptacles or similar facility in accordance with reasonable standards established by the architectural committee.

(d) No residence shall be built that does not comply with the R-6-S setback requirements of Chapter 23, Section 6 of the Forsyth County Zoning Ordinance effective April 27, 1987.

(e) Portable storage containers designed for off-site storage of residential belongings are permitted for a period not longer than 14 days, after which time they must be removed from the Property. The (14) day period may be extended by the Board upon written request by the Owner indicating that such extension would prevent significant hardship; however, in no event shall this period continue for more than ninety (90) days. (October 2018).

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have one class of voting membership wherein all Owners shall be entitled to one vote for each Lot owned. When more than one persons holds an interest in any Lot, all such persons should 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 (October 2018).

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Notwithstanding any provision or inference herein to the contrary, the assessment for each Lot which is not a Lot in Use shall be twenty-five percent (25%) of the assessment of a Lot in Use. The owner of a Lot in Use, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which are common expenses, (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, and (3) to the appropriate governmental taxing authority, a pro rata share of ad valorem taxes levied against the Common Area and a pro rata share of assessments for public improvements to the Common Area if the Association shall default in the payment thereof for a period of six (6) months, all as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and shall not pass to his successors in title as a personal obligation unless expressly assumed by them, regardless of the fact that it is a lien on the property purchased.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties, to maintain, improve and operate the Common Area, and improvements thereon as herein provided and to administer the Association's affairs, such uses to include (but not be limited to) the cost of repairs, replacements and additions to the Common Area, the cost of labor, equipment and materials related to the operation of the Common Area, the cost of management and supervision of the Association's affairs, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of agents, attorneys, accountants, consultants and others to represent, advise or assist the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. The annual assessment shall be \$195.00 per Lot as of January 23, 2018. Thereafter, unless approved by two-thirds (2/3rds) of the Members, the annual assessment may be increased each year by not more than twenty dollars (\$20.00). (October 2018).

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only 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. If any such assessment exceeds fifty dollars (\$50.00) per Lot, then such assessment shall have the assent of the Members who are voting in person or by proxy at a members' meeting called for this purpose; if the assessment is fifty dollars (\$50.00) or less, such assessment may be approved by the Board of Directors of the Association without a vote of the membership. (October 2018).

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized, under Section 4 of this Article shall be sent to all Members not less than 10 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of Member or of proxies entitled to cast fifty percent (50%) 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 50 days following the preceding meeting.

Section 6. Assessment Rate. Both annual and special assessments shall be fixed at a uniform rate for all Lots. (October 2018).

Section 7. Loans from Declarant. (Redacted, October 2018).

Section 8. Date of Commencement of Annual Assessments: Due Date. The Board of Directors 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 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, and if not, the amount due. (October 2018).

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments 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 the same, or foreclose the lien against the property. The Association, if it prevails in an action at law against such Owner, shall be entitled to reasonable attorney's fees and costs. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. (October 2018).

Section 10. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (the term "mortgage" shall include a deed of trust) and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or foreclosure of a tax lien 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. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by 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.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, color, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by an architectural committee composed of three (3) or more representatives appointed by the Declarant. In the event said committee fails to approve or disapprove such design and location within thirty (30) day after said plans and specification have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. No split level or split foyer dwellings may be constructed. The exterior of all fireplaces shall be built of brick or must be approved in writing by the architectural committee. The first sixty feet (60') of each driveway shall be paved with concrete at a width of 10 or more feet. The roof pitch for each house and/or garage shall be 5/12 or greater.

ARTICLE VI

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Areas.

Section 2. Use of Properties. No portion of the Properties shall be used except for residential purposes and for purposes incidental or accessory thereto.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further that the Association may make reasonable rules and regulations regarding such household pets.

Section 5. Dwelling Specifications. No dwelling shall be constructed or permitted to remain on any Lot having an area of the main structure, exclusive of open porches and decks, of less than 1,800 square feet. The architectural committee may, however, permit a variance of up to 10 percent (10%) of the minimum square footage amount.

ARTICLE VII

EASEMENTS

Section 1. Easements for installation and maintenance of utilities and drainage facilities are reserved, as shown on the recorded plat.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. 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 this 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.

Section 2. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for 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 maybe amended with the affirmative written consent of two-thirds (2/3) of the votes of each Class of members. Such amendment shall be executed by the Association, shall contain a certification by an officer of the Association that two-thirds (2/3) of each class of members have consented to such amendment in writing, shall refer to the volume and page in which this instrument (and any Supplemental Declaration) is recorded and shall become effective upon recordation; Provided, however, the foregoing provisions shall not apply to amendments hereto executed by Declarant to annex additional land pursuant to Section 2 of Article VII hereof.

IN WITNESS WHEREOF, the undersigned, being the General Partner of the Declarant partnership has caused this Declaration to be executed by its duly authorized officers with corporate seal affixed hereunto, all as of the day and year first above written.

SUMMERFIELD LIMITED PARTNERSHIP

GENERAL PARTNER
BRYAN PROPERTIES, INC.,

D. R. Brvan
D.R. Bryan President

SEAL

ATTEST:

Assist. Secretary

NORTH CAROLINA)

FORSYTH COUNTY)

This the 28th day of August, 1987, personally came before me S. Elaine Hudspeth, a Notary Public, Edward V. Zotian, who being duly sworn, says that he knows the common seal of BRYAN PROPERTIES, INC., general partner of SUMMERFIELD LIMITED PARTNERSHIP and is acquainted with D. R. Bryan, President of said corporation, and that he, the said Edward V. Zotian, is the Asst-Secretary of said corporation, and saw the said President sign the foregoing instrument, and saw the said common seal of said corporation affixed to said instrument by said President, and that he, the said Edward V. Zotian, signed his name in the attestation of the execution of said instrument in the presence of said President of said corporation.

Witness my hand and notarial seal, this the 28th day of August, 1987

S. Elaine Hudspeth
Notary Public

My Commission expires:

11-3-1991

NORTH CAROLINA - FORSYTH COUNTY

The foregoing certificate of S. ELAINE HUDSPETH, a Notary Public for Forsyth County, North Carolina, is certified to be correct. This the 25th day of August, 1987.

L. E. SPEAS, REGISTER OF DEEDS

By: *Criptal Clinard* _____

PRESENTED FOR
REGISTRATION
AND RECORDED
AUG 28, 3:18 PM '87

L.E. SPEAS
REGISTER OF DEEDS
FORYTH CTY, N.C.