

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION, made this 27th day of September, 1991, by EDWIN C. POSS and wife, MARY GEORGE POSS, hereinafter referred to as "Developers", who are the owners and developers of that certain tract of real property lying and being in Flits Township, Macon County, North Carolina, and being more fully described as all of those lands and premises described in and conveyed by deed from the United States of America and recorded in the Office of the Register of Deeds in Macon County in Book F-19, Page 961-979, and see deed recorded in Book F-19, Page 980-981, reference to which is made for a more complete description thereof.

W I T N E S S E T H:

WHEREAS, Developers intend to subdivide and plat certain portions of the above mentioned larger tract into smaller parcels which will be submitted to this Declaration as and when plats thereof are recorded and incorporated by reference into deeds of conveyance for said parcels (those lands to be eventually submitted to this Declaration being described as lying generally South and East of the existing Highland Gap Subdivision within former United States of America, U.S. Forest Service Tracts N-510 and S-31G-5, however, specifically excluding those portions of Tract S-31G-5 lying South and West of the Highland Gap Subdivision and that portion of Tract N-5-10 adjoining N.C. Highway 106 West of a 50 acre tract shown on Plat numbered 91-159, prepared by Appalachian Surveying Company, Inc., William S. Rolader, RLS, and South of corners 33 and 34 as shown on the U.S. Forest Service survey prepared for exchange N-751, last revised July 29, 1991).

WHEREAS, it is necessary to insure the quiet enjoyment to the best use and most appropriate development and improvement of each tract and to protect the owners of said tracts against improper use of or building on such tracts as will depreciate the value thereof; and

WHEREAS, it may be necessary at some future time to form a Property Owner's Association for the enforcement and observance of the following restrictive covenants and maintenance of common properties.

NOW THEREFORE, the Developers do declare the following restrictive covenants and subject the above described lands to said restrictive covenants, which shall be construed as appurtenant to and running with the lands so described:

1. Developers reserve the right at some future date to create one or more property owners associations for the administration of these protective covenants and to provide for the ownership, maintenance and repair of common elements or community property within portions of the development. At such time as a property owner's association is formed, membership therein shall be automatic as an appurtenance to and obligation of ownership of any one or more lots or parcels of land within the parcel affected.

Until such time as such property owner association(s) is/ are formed, all obligations for construction, maintenance and repair of roads, utilities and other common elements within the development, if any, shall be the that of the Developer. The Developer, however, shall have the right to make appropriate charges from time to time for maintenance and upkeep of said roads and utilities to the various individual owners of lots or parcels within the development. Such charges may be either of a regular annual basis for general use, maintenance and upkeep of the facilities or special to address particular problems as may arise from time to time, or both. For so long as responsibility is with the Developer, annual fees shall not exceed \$200.00 per year for

any owner of one single tract, exclusive of any charges for water service if the Developer elects to furnish the same.

The annual or special assessments shall be a permanent charge and lien upon the owner's property and shall be enforceable by the Developer, the Association, if formed, or by any individual tract owner by the appropriate proceeding in law or equity including Chapter 44 of the General Statutes of North Carolina (in which case the assessment shall be construed as a contract between the Developer or the Association, if formed, and the owner).

2. All tracts shall be of a private noncommercial nature and in the event of residential construction, no residence shall be constructed thereon of less than 1100 square feet of heated living area. All such structures must be completed for occupancy within twelve months after the date of construction of same shall commence except where such construction is impossible, or would result in great hardship to the owner or builder due to strikes, fires, national emergencies or natural calamities.

3. No mobile homes or travel trailers shall be allowed on any lot, nor shall any motorcycles or motor bikes be operated without factory installed muffler and spark arrestor - motorcycles or bikes to be used for ingress or egress only on completed roads.

4. No noxious or offensive activities shall be carried on upon any tract nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighbors.

5. No disabled vehicles or appliances shall be allowed to remain on any lot.

6. Dogs or household pets must be leashed or trained so that they will not molest any person or other animal.

7. All fuel tanks, garbage receptacles or similar storage receptacles shall be suitably framed or shielded from view.

8. All roads, or reserved road rights of way shall be considered green belts and it shall be the responsibility of each lot owner to provide adequate parking space for automobiles on his lot in order to prevent parking on the common roadways.

9. No public business establishment is to be built nor any public commercial operation conducted on any of the tracts.

10. The grounds of each tract, whether vacant or occupied, shall be maintained in a neat and attractive condition.

11. Any structure shall be set back from platted roads a minimum of 20 feet and 15 feet from any side or rear lot line.

12. The pursuit of hobbies or other activities, including specifically but without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkept conditions, shall not be pursued or undertaken on any lot, or in any driveway, garage, carport or other place where such condition is visible from any street.

13. No lumber, brick, stone, cinder block, concrete or any other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any lot except for purposes of construction on such lot and shall not be stored on such lot for longer than that length of time reasonably necessary from the construction in which same is to be used.

14. No chicken houses or hog lots shall be operated or permitted on the property.

15. Developers reserve the right to themselves, their successors, heirs and assigns to convey the use of commonly owned or maintained facilities within the "Middle Creek Farms" Development to those persons acquiring ownership interest in said property either now or in the future owned by Developers or to an Association of property owners created for that purpose provided only that said interest so conveyed shall be used for the same purpose as the same is used within Middle Creek Farms and, if there is any cost or expense of operation, maintenance or upkeep, that said expense be shared proportionally.

16. No lots shall be resubdivided following conveyance by Developers into any tract of less than three acres.

17. Developers reserve unto themselves, their successors and assigns, an appurtenant easement upon the lands of their grantees for the purpose of installing utilities. Utilities include but are not limited to electrical transmission and distribution lines, cable T.V., telephone, water and sewer. This easement includes

the right to go upon the lands of the grantees to inspect, prepare install, maintain, repair, replace utilities or do any other act reasonably necessary to the enjoyment of this easement. The location of this easement shall be within reserved road rights of way easements as shown on plats from time to time recorded and five feet parallel to and within all property lines or at any other place reasonably appropriate for such installation. The words "successors" and "assigns" mean those entities who purchase the Developers' interest in the property and who actively pursue the development of the property for profit or shall mean the Property Owner's Association, if formed, or shall mean a public utility, but shall not mean those individual parties who purchase tracts or lots within Middle Creek Farms.

18. All roads except for driveways within the Middle Creek Farms Development shall be easements reserved by the Developer and shall be dedicated for the ingress and egress of the Developer, its successors and assigns. Maintenance of the roads shall be the responsibility of the owners. The Developer shall have the right to assess owners, on a prorata basis, for the construction, improvement and maintenance of the roads and utilities.

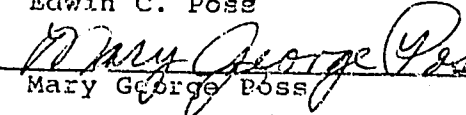
Developer reserves the right to utilize roads within this development (Middle Creek Farms) not only for access by access within it but also by persons owning tracts within adjacent subdivision purchased from this or related developers. Specifically, subdivisions known as Highlands Gap and Shoal Creek presently have rights to use the the main access road (formerly USFS Road 4509) to NC Highway 106, and Developer contemplates that additional subdivisions may be constructed requiring this road for access to N.C. Highway 106. Costs of maintenance in such instances of common use shall be shared among all persons utilizing the road. Developer further reserves the right at some future date to convey this easement or right of way to public authority for dedication as a public street or way.

19. Until such time as Developer conveys any portion of the Development to a property owner's association, as provided for hereunder, Developer reserves unto itself, its successors and assigns, the right to change or otherwise modify these restrictive covenants and and to grant variances from the specific requirements thereof when, from time to time, the same appears fair or equitable for the reasonable development of any particular parcel. However, the provisions of restrictions numbered 2, 3, and 16 shall not be modified.

20. The covenants and restrictions of this Declaration shall run with and bind the land and shall remain in force and effect and inure to the benefit of the property owners and be enforceable by the property owners or any one of them subject to this Declaration. However, modifications or changes herein may be made as provided in the Association's By-Laws. The grantee whether or not it shall be expressed in such Deed or other conveyance, shall be bound by the terms and provisions hereof and shall take their interest in said tract subject to the provision of this Declaration and the Association's By-Laws and shall be deemed to have assented to the terms and conditions hereof.

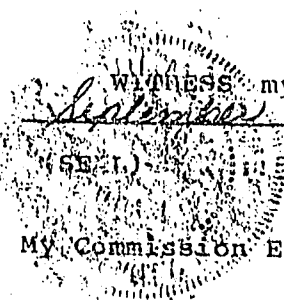
IN WITNESS WHEREOF, Developers as owners and declarants of said lands have executed same.


Edwin C. Poss (SEAL)


Mary George Poss (SEAL)

STATE OF North Carolina
COUNTY OF Wacata

I, a Notary Public of the County and State aforesaid, certify that Edwin C. Poss and wife, Mary George Poss, personally appeared before me this day and acknowledged the due execution of the foregoing instrument



witness my hand and notarial seal this 27th day of September, 1991.

Sheri M. Howie
Notary Public

My Commission Expires: 4-18-95

STATE OF NORTH CAROLINA
COUNTY OF MACON

The foregoing certificate(s) of Sheri M. Howie,
N.P.
is/are certified to be correct. This instrument was presented for
registration and recorded at 4:38 o'clock P. M., in Deed
Book 6-19 at Page 423-426
This 30 day of September, 1991.

Janet Thomas
Register of Deeds of said
County and State