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Prepared by: Thomas N. Hannah, Attorney at Law, Hickory, NC

NORTH CAROLINA

CATAWBA COUNTY

003023

DECLARATION OF
RESTRICTIVE COVENANTS FOR
FOREST CREEK SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS that F & M Investments, a North Carolina General Partnership, hereinafter called Declarant, of Catawba County, North Carolina, own certain land located in Hickory Township, Catawba County, North Carolina, and have subdivided the same into a residential subdivision known as Forest Creek; that the Declarant has caused plats of said subdivision to be recorded in Plat Book 44, at Page 64 and 65, in the Office of the Register of Deeds of Catawba County, North Carolina; and that the Declarant desires to impose certain covenants, conditions, limitations, and restrictions upon the use of the lots in said subdivision.

NOW, THEREFORE, the Declarant, for itself and its successors and assigns, hereby covenants with all persons, firms, corporations, and other parties hereafter acquiring title to any of the lots in Forest Creek that said lots shall be and remain subject to the following covenants, conditions, limitations, and restrictions, all of which shall be appurtenant to and shall run with said lots and shall be binding upon the Declarant and all persons, firms, corporations, and other parties claiming under the Declarant and shall be for the benefit of and be enforceable against all future owner's of lots in said subdivision.

ARTICLE I GENERAL RESTRICTIONS

1. These covenants, conditions, limitations, and restrictions shall remain in full force and effect and shall be binding on the Declarant and all persons claiming under the Declarant until January 1, 2018 at which time said covenants, conditions, limitations, and restrictions shall be automatically extended for successive periods of five (5) years unless by vote of those parties then owning a majority of the lots in the subdivision, it is agreed to change said covenants, conditions, limitations, and restrictions in whole or in part.

2. All lots in the subdivision shall be known, described and used as residential lots only. No structure shall be erected, altered, placed, or permitted to remain on any lot in the subdivision other than one detached single-family residence and a customary accessory building or buildings of the same type construction as the residence located on said lot. As used herein the term "residential" shall include only single-family residences. Multi-family residences are expressly prohibited.

3. No lot in the subdivision shall be re-subdivided so as to create an additional building lot. Where a residence has been erected on a plot consisting of more than one numbered lot, said plot shall not thereafter be re-subdivided or sold as more than one separate lot.

4. All dwellings constructed shall contain the following minimum square footage requirements above front grade:

- (1) 1,600 square feet for a one (1) story dwelling;
- (2) 2,000 square feet for a one & one-half (1-1/2) story dwelling;
- (3) 2,000 square feet for a two (2) story dwelling of

which 1,100 square feet shall be a minimum requirement on the ground floor;

(4) 2,000 square feet for a bi-level, tri-level, split-level or split foyer dwelling; and

The finished square footage requirements herein set out are for enclosed heated and finished floor area and are exclusive of any garage, porches, stoops, breezeways, unfinished basements, and other auxiliary structures. In addition to the square footage requirements herein set out, each lot in the subdivision shall be subject to the following additional building requirements:

(a) All driveways shall be paved with concrete, flagstone, brick or similar masonry material. No asphalt shall be permitted.

(b) All freestanding garages and all garages constructed as a part of any dwelling shall be enclosed and shall have garage doors;

(c) The exterior walls of all buildings erected shall be constructed principally of brick, stone, glass, stucco, vinyl or wood siding. No cinder blocks, cement blocks, asbestos siding or artificial brick siding shall be exposed;

(d) Roof pitches no less than 6 in 12;

(e) The construction of all dwellings shall be completed within twelve (12) months from the date of the issuance of the building permit; all building materials shall be removed within thirty (30) days of completion of construction.

5. No above ground pools shall be permitted on any lot.

6. No outside clothesline shall be erected, placed, or permitted to remain on any lot in the subdivision. All storage tanks shall be underground or surrounded by an enclosure at least one (1) foot higher than the storage tanks as installed.

7. No mobile home, manufactured home, modular home, house trailer or shell home, either temporary or permanent, shall be placed on any lot at any time. In addition to the requirements of Paragraph 4 hereof, all dwellings constructed must meet all North Carolina single family dwelling codes.

8. No well of any type shall be sunk or drilled on any lot except with the prior written permission of the Developer.

9. The construction of a fence on any portion of a Lot shall be subject to the prior approval of the Declarant who reserves the right to approve or disapprove the design or materials proposed for use in the construction of the fence. No fence shall be erected so as to extend nearer to the front boundary line of the Lot than the front wall of the residence constructed on said Lot. No portion of any fence erected on a Lot shall be more than four (4) feet high above the ground. Fences shall not be constructed of chain link or other similar material other than an outdoor kennel located to the rear of the home enclosing not more than 200 square feet outside measurement.

10. Satellite dishes and/or antennas or similar structures may be no larger than eight (8) feet in diameter and must be set out of view in back yards and concealed by shrubbery or fencing.

11. No residence shall be constructed nearer the front property line than 40 feet, nearer the side property line than 10 feet, nearer the rear property line than 30 feet, or nearer the property line on side adjoining a street than 20 feet. All residences constructed on lots in the subdivision shall conform to City of Hickory zoning, except a house must be constructed within

five (5) feet of the front setback line unless otherwise approved in writing by Declarant.

12. No type of temporary structure, trailer, camper, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

13. No sign of any kind shall be displayed to the public view on any lot, except one (1) sign of not more than six (6) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. The Declarant is exempted from this provision for the purposes of signs that advertise the entire development.

14. No lot shall be used or maintained as a dumping ground for refuse or rubbish or as a storage area for junk cars. Trash, garbage or other waste shall not be kept except in sanitary containers.

15. Parking on streets in the subdivision of boats, campers, motorhomes, RV's or unregistered or unlicensed automobiles for more than twenty-four (24) hours shall not be permitted. No tractors or trailers shall be allowed to remain in the subdivision overnight or to be parked overnight in the subdivision, except for loading and unloading. Boats, boat trailers, motor homes, RV's and wet bikes shall be permitted in driveways but only if such is located to the rear of the dwelling and not readily visible from the street fronting the dwelling.

16. The assembly or disassembly of a motor vehicle shall not be conducted upon any lot in the subdivision.

17. Each lot owner shall maintain his lot in a clean and attractive manner and shall prevent the development of any unclean, unsightly, or unkept conditions on his lot and the improvements thereon. All grass and undergrowth shall be kept at a height no greater than twelve (12) inches.

18. No trade or business and no noxious or offensive activity shall be carried on upon any lot in the subdivision, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

19. Household pets shall not be allowed to cause undue disturbance. No livestock or poultry, or other animals except household pets may be kept on any lot in the subdivision.

20. The Declarant reserves an easement ten (10) feet wide along the front, rear and side property lines of all lots in the subdivision for present and future utility needs, such as telephone, electricity, water, sewer or gas lines. Any easements which have heretofore been granted by the Declarant are also reserved.

21. Reference is made to the recorded plats as to which lots are conveyed subject to City of Hickory sanitary sewer easements, Duke Power Company transmission right-of-ways, and one hundred (100) year flood plain.

ARTICLE II ARCHITECTURAL CONTROL

1. The Developer shall function as the ARCHITECTURAL REVIEW COMMITTEE until such time as it delegates this responsibility to another.

2. REQUIRED ARCHITECTURAL APPROVAL

No dwelling shall be commenced, erected, placed or maintained upon any lot, nor shall any addition, change, or alteration to the exterior of a dwelling be made, unless and until

the plans and specifications of the same shall have been submitted to, evaluated, and approved in writing by the ARCHITECTURAL REVIEW COMMITTEE as to the following, including but not limited to:

1. Harmony of external design
2. Location in relation to surroundings
3. Topography
4. Exterior materials used
5. Color Combinations
6. Conformance with the standards of the ARCHITECTURAL REVIEW COMMITTEE

A copy of this written approval shall be made available to the lot owner by the ARCHITECTURAL REVIEW COMMITTEE.

This approval may from time to time be amended by the Developer.

3. APPROVAL PROCEDURE

Prior to commencement of any construction on any lot, the following specifications shall be submitted to, and approved by the ARCHITECTURAL REVIEW COMMITTEE.

- a) Site plan showing the location of dwelling, drives, and walks, and any other necessary buildings or related structures such as swimming pools, tennis courts, etc.
- b) Floor plans of each floor, including basement if applicable, whether finished or unfinished, with heated square footage listed for each floor.
- c) Wall section showing sufficient detail about the exterior.
- d) Views of all sides of the structure(s) to be constructed, showing exterior materials and colors to be used.

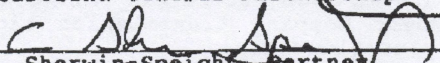
ARTICLE III ENFORCEMENT

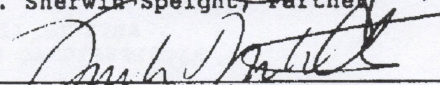
If the owner of any lot in the subdivision shall violate or attempt to violate any of the applicable covenants, conditions, limitations, or restrictions, it shall be lawful for any other person or persons owning any other lot in the subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same and either to prevent him or them from so doing or to recover damages for such violation.

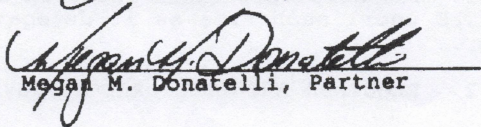
Invalidation of any one of these covenants, conditions limitations, or restrictions by judgment or court order shall not in any way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has hereunto set its hand and seal as of the 4th day of February, 1998.

F & M Investments, or North
Carolina General Partnership


C. Sherwin Speight, Partner


Frank J. Donatelli, Partner


Megan M. Donatelli, Partner

STATE OF NORTH CAROLINA
COUNTY OF Catawba

I, Helen P. Bolick, a Notary Public of State and County aforesaid, do hereby certify that C. Sherwin Speight, Frank J. Donatelli and Megan M. Donatelli; personally appeared before me this day and acknowledged the execution of this instrument.



WITNESS hand and notarial seal this 5th day of February,

**Partners of F & M Investments, a N.C. General Partnership

Helen P. Bolick
Notary Public
My Commission Expires: Oct 5, 1999

STATE OF NORTH CAROLINA
COUNTY OF CATAWBA

The foregoing certificate of Helen P. Bolick, Notary Public of Catawba County, N.C.

is certified to be correct.

This instrument was presented for registration this 5th day of February, 1998, ~~XXXX~~, at 1:30 PM, and duly recorded in the Office of the Register of Deeds of Catawba County, North Carolina, in Book 2067, Page 98.

This 5th day of February, 1998, ~~XXXXXXXXXX~~.

RUTH MACKIE,
~~XXXXX~~ REGISTER OF DEEDS

By Ruth Mackie ~~XXXXXXXXXX~~
~~XXXXXXXXXX~~ - Register of Deeds