

NORTH CAROLINA
ASHE COUNTY

AGREEMENT REMOVING CERTAIN
RESTRICTIVE COVENANTS AFFECTING
BLUE RIDGE ESTATES, INC., AND
SUBSTITUTING THEREFOR ANOTHER SET
OF RESTRICTIVE COVENANTS AFFECTING
BLUE RIDGE ESTATES, INC.

This Agreement, made this 29th day of October, 1970, by and among BLUE RIDGE ESTATES, INC., a corporation organized and existing under and by virtue of the laws of the State of North Carolina; C. G. PHILLIPS and wife, ELIZABETH W. PHILLIPS; FRED L. RASH and wife, ROXIE B. RASH; DAVID E. WINE and wife, MYRA WINE; RONALD LAWRENCE and wife, BARBARA LAWRENCE; JAMES ALBERT HIATT and wife, EVELYN M. HIATT; JOHN L. NISBET and wife, REBECCA K. NISBET; and WILLIAM R. WHITTINGTON and wife, MADELINE H. WHITTINGTON; H. C. WOODALL, JR. and wife, FRANCES J. WOODALL;

WITNESSETH:

That Whereas, all of the parties named in the preamble to this Agreement are all of the owners of all of the real property and lots within that certain development known as Blue Ridge Estates, Inc., at Lake Ashe, in West Jefferson Township, Ashe County, North Carolina, and having been originally acquired by Blue Ridge Estates, Inc., by that certain deed appearing of record in the Ashe County Public Registry in Book S-4, at pages 375-376; and

Whereas, by a Restriction Agreement and Restrictive Covenants, dated 13 August 1969, and appearing of record in the Ashe County Public Registry in Book Q-4, at page 498, Blue Ridge Estates, Inc., caused certain restrictive covenants and agreements to be made, affecting said real estate and lots sold therefrom; and

Whereas, the exact language of said Restriction Agreement is as follows:

1. Said property shall be used for residential purposes only, and no structure or structures shall be erected or allowed to remain on any lot except single family dwellings with attached carports or garages.
2. No building of any kind shall be erected or allowed to remain on any part of this property where there is any cinder or concrete block or blocks exposed on any side of the building above ground level.
3. No dwelling shall be erected or allowed to remain on said property having heated floor space, or enclosed floor space, of less than 900 square feet.
4. No structure of a temporary character shall be erected or allowed to remain on said property, and no trailer, mobile home, open basement, or tent shall be erected or allowed to remain on said property.
5. Each person erecting a residence shall install a septic tank in accordance with the rules, regulations, and specifications of the North Carolina Department of Health and the State Stream Sanitation Department.
6. No structure shall be erected or allowed to remain on said property closer than ten (10) feet to any property line.
7. No structures shall be erected on said property without the prior approval of the external building materials to be used therein by the Board of Directors of Blue Ridge Estates, Inc..
8. All lots sold in said subdivision shall be affected with an easement of 30 feet from the center of all roads shown on the plat of said subdivision as a street right of way.
9. All conveyances made in said subdivision shall reserve and except the right to Blue Ridge Estates, Inc., of easements to install, construct and maintain on, over and through said property water lines, gas lines, sewer lines, power lines, and telephone lines.
10. The invalidation of any one or some of the foregoing covenants by judgment, Court order, or otherwise shall not in any way affect any of the other covenants and restrictions, and they shall remain in full force as herein provided for.

All covenants, restrictions and affirmative obligations set forth in this declaration shall run with the land and shall be binding upon all parties and persons claiming under them for a period of Thirty-Five (35) years from the date of the recordation of this instrument, after which time such covenants and restrictions and affirmative obligations shall automatically be extended for successive periods of ten (10) years each, unless an instrument signed by the owners of a majority of the lots affected by such covenants, restrictions, and affirmative obligations has been recorded agreeing to change the same in whole or in part."

And Whereas, the parties to this Agreement have agreed that said restrictive covenants and agreements, as above set out, shall be rendered null and void and of no further legal effect and that another set of agreements and restrictive covenants be substituted therefor;

Now, Therefore, in consideration of One (\$1.00) Dollar each to the other in hand paid, the receipt of which is hereby acknowledged, and in further consideration of the mutual benefits to be derived by their respective properties within the subdivision known as Blue Ridge Estates, INC., in Lake Ashe, in West Jefferson Township, Ashe County, North Carolina, the parties hereto agree as follows:

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The present Restriction Agreement and Restrictive Covenants affecting said real property be, and the same hereby are declared to be null and void and of no further legal effect.

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That in the place thereof, it is agreed that the following covenants and restrictions shall be applicable to the real property lying within Blue Ridge Estates, Inc., and the are:

(1) Lots shall be used only for residential purposes, except as designated by the Company.

(2) No dwelling shall be erected nearer than 20 feet from the center of the road as constructed, except lots on State Road #1147 on which no dwelling shall be erected nearer than 40 feet from center of the road. As to all dwellings, no portion thereof shall be erected or constructed nearer than 5 feet to the rear lot line or nearer than 5 feet to any interior lot line.

(3) All septic tank systems shall meet the requirements of the North Carolina State Board of Health.

(4) Seller hereby reserves the right without further consent from any land owner to grant to any public utility company, municipality or other governmental unit, water or sewage company, an easement for a right of way in all streets and roads on which the land hereby conveyed abuts, and also in and to a 5-foot strip of land located along the rear lot line, and a 5-foot strip of land located along any other lot line, for the right to erect and lay, or cause to be erected or laid, maintained, removed, or repaired, all light, telephone and telegraph poles, wire, water and gas pipes and conduits; catch basins, surface drains, sewage line, and other customary or usual appurtenances as may, from time to time, in the opinion of the Seller, or any utility company, or Governmental Authority, be deemed necessary or advisable. ~~All claim for damage, if any, by the construction, maintenance and repair of said utilities, or on account of temporary or other inconvenience caused thereby against Seller is hereby waived by the Buyer.~~

(5) No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

(6) No structure of a temporary character, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanent.

(7) No signs of any nature shall be erected or maintained on any lot unless written approval therefor is obtained from the Seller.

(8) No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats, or other household pets may be kept; provided that they are not kept, bred, or maintained for any commercial purpose.

(9) Lots shall be maintained in a tidy manner, and no rubbish, junk, building materials, inoperable automobiles, or other vehicles, or any other unsightly things shall be allowed to accumulate, be kept or stored thereon; no mining operations of any kind shall be permitted upon or in any lot.

(10) Seller reserves the right to cut grass, prune trees, and to do whatever is necessary to keep lots clean and tidy until such time that title is conveyed.

(11) Each home, cabin, or cottage shall have a minimum living area excluding carport or garage of 60 square feet of enclosed or heated floor space.

(12) Necessary parking area shall be provided by each individual purchaser in a manner that will not obstruct road traffic.

(13) There shall be no time limit during which construction of houses must be started; however, building must be completed within a period of one year from the date construction is begun.

(14) The lots, in addition to the restrictions and conditions herein, are conveyed subject to all present and future rules, regulations and resolutions of the County of Ashe, State of North Carolina, if any, relative to zoning and to the construction and erection of any building.

(15) These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then Owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

(16) Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

(17) Invalidity of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

(18) Failure of the Seller, its successors or assigns, to promptly enforce any of the restrictions or covenants contained herein shall not be deemed a waiver of the right to do so thereafter.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands and seals the day and year first above written.

BLUE RIDGE ESTATES, INC.

by: s/ George A. Burgess (SEAL)
President

ATTEST: s/ FRED L. RASH
Secretary

(CONTINUED TO PAGE 340)

deleted 18 Nov. 1970
s/ William R. Whittington
s/ Madeline H. Whittington

s/ C. G. Phillips s/ Elizabeth W. Phillips (SEAL)

s/ Fred L. Rash s/ Roxie B. Rash (SEAL)

s/ Ronald Lawrence s/ Barbara Lawrence (SEAL)

S/ David E. Wine s/ Myra Wine (SEAL)

see deletion, page four

s/ Wm. R. Whittington s/ Madeline H. Whittington (SEAL)

WRW
mlw

NORTH CAROLINA - ASHE COUNTY

This day personally appeared before the undersigned Notary Public, in and for said County and State, C. G. Phillips and wife, Elizabeth W. Phillips; Fred L. Rash and wife, Roxie P. Rash, David E. Wine and wife, Myra Wine; and Ronald Lawrence and wife, Barbara Lawrence and acknowledged the due execution of the foregoing instrument for the purposes therein stated.

WITNESS my hand and notarial seal this 1st day of December, 1970

(notarized by Cecil
in Glenn Parker's
office Nov. 9, 1970)

s/ Shirley A. Little

My Commission Expires March 20, 1975

NOTARY PUBLIC

NORTH CAROLINA - ASHE COUNTY

This day personally appeared before the undersigned Notary Public, in and for said County and State, James Albert Hiatt and wife, Evelyn M. Hiatt, and acknowledged the due execution of the foregoing instrument for the purposes therein stated.

WITNESS my hand and notarial seal this 1st day of December, 1970.

s/ Shirley A. Little

My Commission Expires: March 20, 1975

NOTARY PUBLIC

NORTH CAROLINA - ASHE COUNTY

This day personally appeared before the undersigned Notary Public, in and for said County and State, John L. Nisbet and wife, Rebecca K. Nisbet, and acknowledged the due execution of the foregoing instrument for the purposes therein stated.

WITNESS my hand and notarial seal this 10th day of December, 1970.

s/ Shirley A. Little

My Commission Expires: March 20, 1975

NOTARY PUBLIC

STATE OF CALIFORNIA - COUNTY OF MONTEREY

On this 18th day of November in the year one thousand nine hundred and seventy before me, Helen M. Turner, a Notary Public in and for the County of Monterey, State of California duly commissioned and sworn, personally appeared William R. Whittington and Madeline H. Whittington, his wife known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of Monterey the day and year in this certificate first above written. Executed at Presidio of Monterey, California.

s/ Helen M. Turner

Notary Public in and for the County of Monterey
State of California

My Commission Expires: 17 December 1973

NORTH CAROLINA - ASHE COUNTY

This day personally appeared before the undersigned Notary Public, in and for said County and State, Fred L. Rash, who being duly sworn, says that he knows the common seal of Blue Ridge Estates, Inc., and is acquainted with George A. Burgess who is the President of said corporation, and that he, the said Fred L. Rash, is the Secretary of said corporation and saw the said President sign the foregoing instrument, and that he, the said Fred L. Rash, Secretary as aforesaid, affixed said seal to said instrument, and that he, the said Fred L. Rash, signed his name in attestation of said instrument in the presence of said President of said corporation.

WITNESS my hand and notarial seal this 29th day of October, 1970.

s/ Shirley A. Little

My Commission Expires: March 20, 1975

NOTARY PUBLIC

NORTH CAROLINA - ASHE COUNTY

The foregoing certificates of Shirley A. Little, a Notary Public of Ashe County, N. C. and Helen M. Turner, a Notary Public of Monterey County, California are certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Ashe County, N. C. in Book U-4, Pages 338, 339 & 340.

This 15 day of December, A. D. 1970 at 2:15 P. M.

s/ Kyle Baldwin

REGISTER OF DEEDS

Recorded by:

Shirley B. Wallace
Shirley B. Wallace, DEPUTY

POWER OF ATTORNEY

TO WHOM IT MAY CONCERN:

This is to certify that I am the widow of Robert Jesse Holman, brother of Bruce Holman, and he has my permission to sell the Holman estate located at Todd, N. C. and the authority to sign my name to all papers and deeds pertaining to said property.

s/ Celia B. Holman
C. B. Holman
P. O. Box 522
Madison, Tenn. 37115

Date May 11, 1970

Sworn to and subscribed before me this 11th day of May, 1970.

s/ Robert E. Cagle
NOTARY PUBLIC

My Commission Expires: 2/10/71

NORTH CAROLINA - ASHE

The foregoing certificate of Robert E. Cagle, a Notary Public of the State of Tennessee is certified to be correct. This instrument was presented for registration on this day and hour & duly recorded in office of the Register of Deeds of Ashe County, N. C. in Book U-4, Page 341.

This 18th day of December, A. D. 1970 at 11:10 o'clock A. M.

KYLE BALDWIN s/ Shirley B. Wallace
DEPUTY Register of Deeds
Recorded by: Shirley B. Wallace
Shirley B. Wallace, DEPUTY

POWER OF ATTORNEY

TO WHOM IT MAY CONCERN:

This is to certify that I am the wife, of S. Bruce Holman, and he has my permission to sell the Holman estate located at Todd, N. C. and the authority to sign my name to all papers and deeds pertaining to said property.

s/ Alice Holman
Alice Holman
R. D. 1
Rising Sun, Md. 21911

Sworn to and subscribed before me this 19th day of June, 1970.

s/ Ada H. Ely
NOTARY PUBLIC

My Commission Expires: July 1, 1970

NORTH CAROLINA - ASHE COUNTY

The foregoing certificate of Ada H. Ely, a Notary Public is certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Ashe County, N. C. in Book U-4, Page 341.

This 18th day of December, A. D. 1970 at 11:10 o'clock A. M.

KYLE BALDWIN s/ Shirley B. Wallace
DEPUTY Register of Deeds
Recorded by: Shirley B. Wallace
Shirley B. Wallace, DEPUTY