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Pitt County, NC
Deborah T Barrington REG OF DEEDS
BK 2692 PG 175-185

Prepared By & Return to: File Gregory K. James, PA, 315 S. Evans St., Greenville, NC 27858

STATE OF NORTH CAROLINA

COUNTY OF PITT

**DECLARATION OF CONDITIONS, RESTRICTIONS AND COVENANTS
RUNNING WITH THE LAND FOR AUGUSTA TRAILS, SECTION FOUR, PHASE 1 AND
AUGUSTA TRAILS HOMEOWNERS ASSOCIATION OF GREENVILLE, INC.**

KNOW ALL MEN BY THESE PRESENTS, EDMONSON CONSTRUCTION COMPANY OF GREENVILLE, LLC, successor in interest by conversion to EDMONSON CONSTRUCTION COMPANY OF GREENVILLE, INC, hereafter referred to as "Declarant", as owner of the hereinafter described real property, does hereby covenant and agree to and with all other persons, firms or corporations now owning or hereafter acquiring as owners any lot or parcel of land in the area and subdivision designated as Augusta Trails, Section 4, Phase 1 which is located in Winterville Township, Pitt County, North Carolina, and specifically described as Lots 30A, 30B, 31A, 31B, 32A, 32B, 34A, 34B, 35A, 35B, 36A, 36B, 37A, 37B, 38A, 38B, 39A, 39B, 40A, 40B, 41A, 41B, 42A, 42B, 43A, 43B, 44A, 44B, 96A, 96B, 97A, 97B, 98A, 98B, 99A, 99B, 125A, 125B, 126A, 126B, 127A, 127B, 128A, 128B, 129A, 129B, 130A, 130B, 131A, 131B, 132A, 132B, 133A, 133B, 134A, 134B, 135B, 145A and 145B as shown on map of record in Map Book 72 Page 105 of the Pitt County Registry, said lots or parcels are hereby subjected to the following covenants and restrictions as to the use thereof, running with the land, and shall inure to the benefit of each owner thereof:

WITNESSETH

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 same, 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 inure to the benefit of each owner thereof.

ARTICLE I TERMINOLOGY

Section 1: "Association" shall mean and refer to Augusta Trails Homeowner's Association of Greenville, Inc 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, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4: "Common Area" shall mean all real property (including the improvements thereto) owned by the Association to be reserved to the Association at the time of the conveyance of the first lot and as shown on the recorded plat.

Section 5: "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area, and shall be known when platted as lots 30A, 30B, 31A, 31B, 32A, 32B, 34A, 34B, 35A, 35B, 36A, 36B, 37A, 37B, 38A, 38B, 39A, 39B, 40A, 40B, 41A, 41B, 42A, 42B, 43A, 43B, 44A, 44B, 96A, 96B, 97A, 97B, 98A, 98B, 99A, 99B, 125A, 125B, 126A, 126B, 127A, 127B, 128A, 128B, 129A, 129B, 130A, 130B, 131A, 131B, 132A, 132B, 133A, 133B, 134A, 134B, 135B, 145A and 145B.

Section 6: "Declarant" shall mean and refer to Edmonson Construction of Company

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 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 to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2: Declaration of Use. Any owner may delegate 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: Transfer of Common Areas: The Declarant herein will convey to the Homeowners' Association listed herein, the common areas as shown on the above-referenced plat, prior to the sale of the first lot out of DECLARANT to a third party. Declarant may also subsequently convey any other areas which may be hereinafter, be designated as "Common Areas" to the Homeowners' Association.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1: Every owner of a lot which is subject to assessment, as set forth in Article IV below, 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. Every member shall be subject to the By-Laws of the Association, whether currently of record or to be recorded in the Pitt County Register of Deeds Office. Every member shall subject to the By-Laws for the Association, whether currently of record or to be hereinafter recorded.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned, and notwithstanding any other provisions herein, shall not be assessed at any rate. Class B membership shall cease and be converted to the Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, and in all events no later five years from the date of this document

ARTICLE IV COVENANT FOR MAINTENANCE 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 of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges to cover the expenses of the maintenance and repair or improvement of the common areas and facilities, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, 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 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 of the assessment. Such assessment shall not pass to his successors in title unless expressly assumed by them.

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 and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, landscaping

be made on any lot until the platted lot shall have been conveyed by deed. The maximum annual assessment shall be determined by the Delarant herein and/or by the Board of Directors for the Association.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington D.C.) from the preceding month of July.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for the next succeeding two (2) years may be increased above that established by the Consumer Price Index formula by a vote of the members, and for each succeeding period of two (2) years thereafter, provided that any such change shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis authorized to participate under its Articles of Incorporation.

(c) The Board of Directors may fix an annual assessment at an amount not in excess of the maximum.

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 for the purpose of defraying, in whole or in part,

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 thirty (30) days nor more than (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) per cent 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 requirements, and the required quorum at the subsequent meeting shall be one-half (½) 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: Uniform Rate of Assessment. Except as provided for Class B

members, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7: Date of Commencement of Annual Assessments and Due Dates.

The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the lot to any owner unless decided otherwise by the Declarant or the Board of Directors for the Homeowners' Association. However, it is not the intent of the owners to assess any Lot during the construction phase. That is to say the initial lot owner who receives a deed from the Declarant shall not pay assessments until the initial owner receives a certificate of occupancy from the local governing authority. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessments 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

interest from the due date at the rate of eighteen per cent per annum and shall constitute a lien on the lot. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape or deny liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9: Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure 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 assessment thereafter becoming due or from the lien thereof.

Section 10: Exempt Property. All property dedicated to and accepted by, a local 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.

ARTICLE V COMMITTEES

The Association may appoint an Architectural Control Committee. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE VI USE RESTRICTIONS

1. These covenants are to run with the land and shall be binding on all parties and persons claiming under them for a period of ten (10) years from the date of

owners of the lots at the time of said change shall be required.

2. If the undersigned or its successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said development to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation, except the party of the first part is specifically excluded from any liability for damages.
3. Invalidation of any one of these covenants by judgment or court order shall in no way affect any other of the provisions, which shall remain in full force and effect.
4. No structure shall be erected, placed or permitted to remain on any residential lot other than the one detached single family dwelling not to exceed two and one-half stories in height and other outbuildings incident to the residential use of the lot.
5. Any out buildings must be approved by Declarant.
6. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
7. No trailer, mobile home, basement, tent, shack, garage, barn, or other outbuilding erected on the lot shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence, except a family fallout shelter built in conformity to plans and location approved by the Office of Civil Defense Mobilization.
8. No dwelling having less than 800 square feet of heated living area shall be permitted on any lot.

of each tract and all improvements in it shall be maintained continuously by the owner of the tract except for those improvements for which a public authority or utility company is responsible. Furthermore, an easement of five feet in width for the installation and maintenance of underground utilities and drainage is reserved along every front and side lot line and an easement of ten feet in width for the installation and maintenance of underground utilities and drainage is reserved along every rear lot line.

11. No commercial activity of any kind shall be permitted on a lot in Augusta Trails Subdivision. Cottage Industries shall be allowed on any lot.
12. A property owner must obtain approval from Don Edmonson, their heirs and assigns, for the location of a satellite dish or comparable communication device on any lot. Each such device shall be adequately landscaped, screened and located in a rear yard.
13. Each property owner(s) will be responsible for \$50.00 annual assessment or charges to cover the expenses of the maintenance, repair or improvement of the common areas which consist of landscaping of the berms and the retention pond.
14. A property owner must obtain approval from Don Edmonson, their heirs and assigns, for the installation of fencing.
15. During the construction of any building on a lot in Augusta Trails Subdivision, the owners will ensure that all debris is cleaned regularly. Declarant reserves the right to assess a \$100.00 cleaning charge to any lot owner of failure to comply with this provision. Declarant shall have the right to file a lien for all sums assessed hereunder in the office of the Clerk of Court of Pitt County and to enforce said lien pursuant to the provisions of N.C.G.S. 44A.
16. Following the installation of residential street lighting by means of a mercury vapor or sodium vapor lighting units within the subdivision, any party or person

Commission. The obligation to pay such a monthly rate, as it may change from time to time, shall continue until such time as the subdivision is annexed into the corporate limits of a city, town or village, and responsibility for the cost of street lighting is assumed by, or transferred to, a governmental unit. Any and all mercury vapor or sodium vapor lighting units installed within the subdivision shall be and remain the property of Greenville Utilities Commission.

Installation of street lighting units on buildings and structures belonging to the owners of the lots within the subdivision or to others will not be permitted.


17. No animals, livestock, poultry of any kind shall be raised, bred, or kept on any portion of the property except for a total of three (3) domesticated dogs or cats in each household and small non-offensive household pets, provided that they are not kept or used for breeding or maintained for any commercial purpose.
18. No more than one dwelling may be built on any lot; however, nothing shall prevent the building of one dwelling on more than one lot.
19. No mobile home, pre-fab, modular home, package home, or other pre-built home shall be placed on any lot. Any residence built on any lot shall be "stick built" except that prefabricated roof trusses and pre-fabricated fireplaces and chimneys may be utilized in a residence built on any lot.
20. No sign of any kind shall be displayed to the public view on this property except one sign of not more than eight (8) square feet advertising the property for sale, or signs used by a builder, developer, realtor or owner to advertise the property during construction and then for sale.
21. No stripped, partially wrecked, or junk motor vehicles shall be permitted to be parked or kept on any lot. All motor vehicles of any type kept on any lot shall have current registration and inspection certificates. No trailer, mobile home, motor home or camper-like recreation vehicle is allowed unless approved by the

- 22. Any Liquid Propane Gas tank installed on a lot must be placed in the back yard and fenced or enclosed in a manner not visible from the front yard, the back yard portion of the premises being defined as that particular area of the yard located between the rear corner of the residence and the back or rear lot line.
- 23. No skateboard ramps or other recreational structures can be built without the written approval of Don Edmonson, their heirs and assigns. Any outdoor pools (in ground or out of ground) shall be in the backyard and have a privacy fence around it.
- 24. No basketball goals in the front yard or on the road will be allowed.
- 25. A property owner must obtain approval from Don Edmonson, their heirs and assigns, on house plans prior to construction.
- 26. All utilities must be placed underground.

IN WITNESS WHEREOF, the Declarant and any other necessary party hereunto set their hand and seal this the 20 day of November, 2009.

EDMONSON CONSTRUCTION
COMPANY OF GREENVILLE, LLC

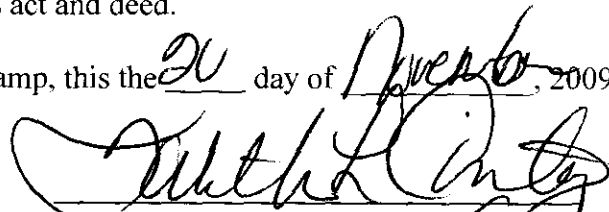
BY:


DON EDMONSON, Member/Manager

STATE OF NORTH CAROLINA COUNTY OF PITT

I, Walter R. Carty, a Notary Public for said County and State, certify that Don Edmonson, personally came before me this day and acknowledged that he is the Member/Manager of EDMONSON CONSTRUCTION COMPANY OF GREENVILLE, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of such entitle, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Official Seal or Stamp, this the 20 day of November, 2009.


NOTARY PUBLIC