

3715-83

REAL ESTATE BOOK

3715 0083

STATE OF NORTH CAROLINA, COUNTY OF MECKLENBURG

DECLARATION OF RESTRICTIONS AND DEDICATION OF STREETS

THIS AGREEMENT is made this 7th day of October, 1974, between The Ervin Company (hereinafter called "Developer") and any and all persons, firms, or corporations hereafter acquiring any of the within described property.

WITNESSETH:

The Developer is the owner of that certain subdivision known as FOUR SEASONS, SECTION 3-B as shown on that certain map recorded in Map Book 17 at page 348, in the Mecklenburg Public Registry. The Developer has agreed to establish a general plan of development as herein set out to restrict the use and occupancy of the property for the protection of the property and the future owners thereof; and to increase the width of certain streets shown on said map to \_\_\_\_\_ feet (in lieu of \_\_\_\_\_ feet as shown on said map) to the end that said street(s) may be dedicated, and established as widened for the use of any and all future owners of any and all lots hereinafter described and shown on said map, and for the use of the general public for street and road purposes.

RESTRICTIONS

NOW, THEREFORE, in consideration of the premises, the Developer agrees with any and all persons, firms or corporations hereafter acquiring any of the property hereinafter described, that the same shall be and is hereby subject to the following restrictions, conditions and covenants (hereinafter collectively referred to as "Restrictions") relating to the use and occupancy thereof, which are to be construed as restrictive covenants running with the land comprising the lots hereinafter described and shall enure to the benefit of and be binding upon the heirs, successors, and assigns of Developer and all other acquiring parties and persons.

1. DESCRIPTION OF PROPERTY RESTRICTED. The property which is made subject to the restrictions set forth herein is more particularly described as follows, reference being made to the specified lots in the blocks shown on the designated subdivision map recorded in the Mecklenburg Public Registry, as indicated:

Lot	Block	Subdivision	Book	Map	Page
13, 14 and 15	9	FOUR SEASONS, SEC. 3-B	17		348
4, 5, 6 and 7	11	FOUR SEASONS, SEC. 3-B			348

PRESENTED  
FOR  
REGISTRATION  
1974 OCT 15 AM 10 13  
CHARLES E. CROWDER  
REGISTER OF DEEDS  
MECKLENBURG CO. N.C.

2. RESIDENTIAL USE OF PROPERTY. All lots shall be used for residential purposes only, and no structure shall be erected, placed or permitted to remain on any lot other than one single-family dwelling not more than 2-1/2 stories in height, and any necessary structure customarily incident to such residential use subject, however, to the provisions set forth herein.

3. BUILDING LINE REQUIREMENTS. The minimum set back lines are not intended to create uniformity of set backs. They are meant to create a sense of spaciousness and to avoid monotony. For such purposes it is the Developer's intent that set back lines may be staggered where appropriate. The Developer reserves the right to select the precise site location of each house or other structure on each lot and to arrange the same in such manner and for such reasons as the Developer deems sufficient, provided however, the Developer shall make such determination so as to insure that the development of the lots subject to these restrictions is consistent with the provisions set forth herein.

No building or any part thereof, structure, out building or appurtenances of any nature shall be located on any lot nearer to the front line or nearer to the side street than the minimum set back lines shown on the recorded map, or nearer than 10 feet to any interior lot line, subject to the following additional provisions:

- Minor Deviations. Any deviation from the building line requirements set forth herein, not in excess of 10% thereof, shall not be construed as a violation of said building line requirements.
- Subdivision of Lots. By or with the written consent of the Developer, its successors or assigns, one or more lots (as shown on said map) or parts thereof, may be subdivided or combined to form one single building lot, and in such event the building line requirements prescribed shall apply to such lots as re-subdivided or combined.
- Corner Lots. The front line of any corner lot shall be the shorter of the two property lines along the two streets.
- Porches and Eaves. For the purpose of determining compliance or non-compliance with the foregoing building line requirements, porches, terraces, eaves, wing-walls and steps extended beyond the outside wall of a structure shall not be considered as a part of the structure. However, this provision shall not be construed to authorize or permit encroachment upon any easements or rights-of-way or property of an adjacent owner.

4. DESIGN AND SITE APPROVAL. After the initial construction of the main dwelling has been completed, no garage, carport, room, building, utility shed or similar structure customarily incident to the residential use of the lots subject to these restrictions (except as otherwise provided below) whether attached or detached from the main dwelling, shall be erected, placed, altered or permitted to remain on any lot unless the design plans and location of the same shall have been approved in writing by the Developer, its successors or assigns. If the Developer fails to approve or disapprove such design, plans and location within two weeks after receipt of written plans and specifications, then further approval will not be required but will be deemed to have been waived. Developer shall be entitled to stop any construction in violation of these restrictions so long as Developer owns any lot or lots within the subdivision above named or other sections of the same subdivision as may be shown on other maps recorded in the Public Registry of the County wherein such subdivision properties are situate. Notwithstanding the foregoing, there shall be no limitation on and no approval shall be required with reference to design and location of any porch, stoop or terrace which may be added to the main dwelling, and any accessory structure must be located to the rear of the main dwelling.

5. DWELLING BUILDING COST AND AREA REQUIREMENTS. No dwelling shall be erected or placed on any lot at a cost of less than \$13,000.00 in the case of a single-family dwelling, nor constructed or maintained so as to have a ground floor heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 1,000 square feet in the case of a one story dwelling or 450 square feet in the case of a 1-1/2, 2, 2-1/2 split-level dwelling. The building costs prescribed herein are to be based on costs as of October 1, 1974. It is Developer's purpose and intent to require in each instance the erection of such a dwelling or structure as would have cost not less than the prescribed minimum if it had been erected on the above date to the end that reasonable values among dwellings constructed at different times may remain comparable.

6. OBSTRUCTIONS TO VIEW AT INTERSECTIONS. The lower branches of trees, or other vegetation, in sight line approaches to any street or street intersection shall not be permitted to obstruct the view of said approach.

7. WALLS, FENCES, HEDGES AND DELIVERY RECEPTACLES.

- No wall, hedge, mass planting or other similar obstruction exceeding three feet in height (and no fence of any type or height) shall be erected or permitted to remain between the street right-of-way and the applicable minimum building set back line.

(CONTINUED)

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(b) No receptacles of any construction or height for the receipt of mail, newspapers and similar delivered materials shall be erected or permitted to remain between the front street right-of-way and the applicable minimum building set back line; provided, however, that this restriction shall be unenforceable insofar as it may conflict with the regulations, now or hereafter adopted, of any governmental agency.

8. **USE OF OUT BUILDINGS AND SIMILAR STRUCTURES.** No structure of a temporary nature shall be erected or allowed to remain on any lot, and no trailer, shack, tent, garage, barn, or any other structure of a similar nature shall be used as a residence either temporarily or permanently. Provided, however, this paragraph shall not be construed to prevent the Developer from using sheds or other temporary structures during construction for such purposes as Developer deems necessary.

9. **ANIMALS AND PETS.** No animals, livestock or poultry of any kind shall be raised, bred, pastured or maintained on any lot, except household pets which may be kept thereon in reasonable numbers as pets for the sole pleasure and use of the occupants, but not for any commercial use or purposes. Birds shall be confined in cages.

10. **SIGN BOARDS.** No sign boards of any description shall be displayed upon or above any lot with the exception of:

(a) Signs "for rent" or "for sale", which signs shall not exceed 2 ft. x 3 ft. in dimensions; shall refer only to the premises on which displayed; and shall be limited to one sign to a lot; and

(b) The name of the owner and the street address, the design of which shall be furnished to the Developer upon request, and Developer shall have the right to disapprove such design and prohibit the erection of such sign as does not meet with its approval. No bill boards or other advertising signs shall be permitted.

11. **NUISANCES AND UNSIGHTLY MATERIALS.** No noxious, offensive or illegal 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. No lot shall be used in whole or in part for storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any lot outside an enclosed structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pickup by governmental and other similar garbage and trash removal service units. In the event any owner of any developed lot fails or refuses to keep such property free from any such unsightly items, weeds or underbrush, five days after posting a notice thereon or mailing a notice to the owner at his property address requesting the owner to comply with the requirements of this paragraph, Developer may enter and remove all such unsightly items or growth at the owner's expense. Owners by acquiring property subject to these restrictions agree to pay such costs promptly upon demand by Developer, its agents, assigns or representatives. No such entry as provided herein shall be deemed a trespass.

12. **EASEMENTS.** The Developer (for itself, its successors and assigns) reserves a right-of-way over, along and under the following portions of each lot:

(a) As shown on the above mentioned map; (b) The rear 10 feet; (c) 5 feet adjoining each side line.

These rights-of-way are for the installation of poles, lines, conduits, pipes, drainage and other equipment and facilities necessary or useful for furnishing utility service to the property (now, formerly or hereafter owned by the Developer or its successors) adjacent thereto or in the proximity thereof. All utilities, including without limitation, cable television, which transverse the property in any direction under, over, across or through any lot shall be located only within the easement areas described above. For the duration of these restrictions, no such utilities shall be permitted to occupy or otherwise encroach upon any of the easement areas reserved without first obtaining the prior written consent of the Developer; provided, however, local service from utilities within easement areas to dwellings constructed upon any such lots may be established without obtaining separate consents therefor from the Developer.

No structures, including walls, fences, or plantings shall be erected or grown upon any part of the property which will interfere with the rights and use of any and all of the easements or rights-of-way herein reserved by the Developer.

13. **UNINTENTIONAL VIOLATION OF RESTRICTIONS.** In the event of the unintentional violation of the foregoing restrictions with respect to any lot, the Developer, its successors or assigns, reserves the right (by and with the mutual written consent of the owner or owners for the time being of such lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular lot.

14. **EFFECTIVE PERIOD AND ENFORCEMENT OF RESTRICTIONS.** The foregoing restrictions shall be construed to be covenants running with the land and shall be binding and effective until October 1, 2004, at which time they shall be automatically extended for successive periods of ten years each unless it is agreed by the vote of a majority in interest of the then owners of the above described property to change, amend or revoke the restrictions in whole or in part.

If any person, firm, or corporation shall violate or attempt to violate any of these restrictions, it shall be lawful for any other person, firm or corporation owning any property within the subdivision above named or other property of the same subdivision as may be shown on other maps recorded in the Public Registry of the county wherein such subdivision properties are situate (or having any interest therein) to prosecute the violating party at law or in equity for any claim which these restrictions may create in such other owner or interested party either to prevent said person, firm or corporation from so doing such acts or to recover damages or other dues for such violation.

Invalidation of any one or more of these restrictions by judgment or court order shall in no way affect any of the other provisions not expressly held to be void, and all such remaining provisions shall remain in full force and effect.

15. **HEADINGS AND BINDING EFFECT.** Paragraph headings are inserted for reference convenience and are not to be construed as substantive parts of the paragraphs to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and enure to the benefit of the respective heirs, executors, successors and assigns of the Developer and all persons claiming by, through or under Developer.

#### DEDICATION OF STREETS

NOW, THEREFORE, in consideration of the premises, the Developer, for itself and its successors, agrees with any and all persons, firms or corporations acquiring any of the property shown on said map and the general public that the width of the streets shown thereon and known as Barcliff Drive

shall be and are hereby increased to a width of 60 feet (said increased width to be measured 30 feet on each side of the center line of the existing streets as shown on said map) and hereby dedicates and establishes said streets (widened as aforesaid) for the use and benefit of any and all persons, firms or corporations acquiring any of said property shown on said map, and for the use of the general public for street or road purposes.

IN WITNESS WHEREOF, the Developer has caused these presents to be signed in its name by its Vice President and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, on the day and year first above written, all in pursuance of authority duly given by resolution of its Board of Directors.

Attest:

Assistant Secretary

THE ERVIN COMPANY

By [Signature]

Vice President

STATE OF NORTH CAROLINA, COUNTY OF Mecklenburg

This 7th day of October

, 19 74, before me, the undersigned Notary

Public in and for said County and State, personally came Wm. S. Michael, who, being by me duly sworn, says that he is Vice President of The Ervin Company; that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation; that said instrument was signed and sealed by him in behalf of said corporation by its authority duly given; and the said Vice President acknowledged said instrument

to be the act and deed of said corporation.

WITNESS my hand and notarial seal.

[Signature]  
Notary Public

My Commission expires: 11/16/75

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State of North Carolina, County of Mecklenburg  
The foregoing certificate(s) of \_\_\_\_\_

Sue H. Edwards

a Notary ~~(has)~~ Public of said County and State  
is ~~xxx~~ certified to be correct. This 15 day of October, 19 74

Charles E. Crowder, Register of Deeds, By: Basil G. Malone

DEPUTY