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 AMY R. MURRAY
 Register Of Deeds

This instrument prepared by: *Frank G. Queen*
 Hurricane Ridge Property Owners Association, Inc.

RESTRICTIONS AND EASEMENTS, HURRICANE RIDGE SUBDIVISION 12285

This agreement is made effective the 31st day of December, 1999 between the undersigned Association and owners of lots in the Hurricane Ridge Subdivision (as defined hereafter) and witnesses:

A. Existing restrictions. The present restrictions for the Hurricane Ridge Subdivision are described as follows:

1. Section "A" of HURRICANE RIDGE SUBDIVISION, developed by HURRICANE RIDGE Ltd., ("DEVELOPER") as recorded in Deed Book 263, page 236; Amendment One as recorded in Deed Book 447, page 1422;
2. Section "B" of HURRICANE RIDGE SUBDIVISION, developed by HURRICANE RIDGE Ltd. as recorded in Deed Book 282, page 70; Amendment One as recorded in Deed Book 447, page 1418; and Amendment Two as recorded in Deed Book 458, page 652; and
3. Section "C" (also known on the recorded plat as "Hurricane Ridge Estates, Section 1") of HURRICANE RIDGE SUBDIVISION, developed by HURRICANE RIDGE ESTATES, a Partnership, and HURRICANE RIDGE Ltd., successor, as recorded in Deed Book 344, page 466.

B. Property Owners Association. HURRICANE RIDGE, Ltd. in accordance with Article 24 of the Restrictions for Sections "A" & "B", and Article 25 of the Restrictions for Section "C", caused the HURRICANE RIDGE PROPERTY OWNERS ASSOCIATION, INC., ("HRPOA"), to be formed and filed same with the Secretary of State of the State of North Carolina on December 2, 1996. The HRPOA has been granted all of the rights, privileges, duties, responsibilities, powers and authorities previously granted and reserved unto the developer for the SUBDIVISION (as hereafter defined).

C. Subdivision description. The properties affected by this agreement are all of the sections of the Hurricane Ridge subdivision described as follows:

1. All of Section "A" of "Hurricane Ridge Ltd." as recorded in Plat Book K, pages 99A and 99B (now Plat Cabinet B, Slot 237); Revision of Lots 60-64, Section "A" as recorded in Plat Book L, page 76 (now Plat Cabinet B, Slot 237); and Lots 59, 60, 63, Section "A" as recorded in Plat Book M, page 47 (now Plat Cabinet B, Slot 247).
2. All of Section "B" of Hurricane Ridge Ltd. as recorded in Plat Book M, page 91 (now Plat Cabinet B, Slot 257); and Addition to Section "B" as recorded in Plat Cabinet B, Slot 367G.

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3. All of Section "C" (Hurricane Ridge Estates, Section 1) as recorded in Plat Cabinet B, Slot 291F.

D. Purpose of amendments. The HRPOA desires that all of the above described real property be subject to like restrictions and easements for not only the mutual benefit and protection of itself and all persons, real and corporate, who own or hereafter may purchase or acquire said property or any part thereof, or any interest in or lien upon said property or any part thereof, but also to protect the unique character and charm of said property and to assure its ever increasing property values,

NOW, THEREFORE, in consideration of the premises, HRPOA does hereby amend the aforementioned restrictions and easements to replace them in their entirety with the present instrument, effective December 31, 1999, with the effect that said real property is to be subject to the following restrictions, reservations, easements and conditions, binding upon the said HRPOA and upon each and every person, both real and corporate, who or which owns or shall hereafter acquire said real property or any part thereof, and their respective heirs, personal representatives, successors and assigns, said restrictions, reservations, easements and conditions being as follows:

1. DEFINITIONS:

(a) "Association" shall mean the Hurricane Ridge Property Owners Association, Inc. (HRPOA), its successors and assigns.

(b) "Properties" shall mean all that certain real property deeded to the HRPOA or "HURRICANE RIDGE PROPERTY OWNERS ASSOCIATION" and any other properties owned by the Association.

(c) "Lot" shall mean any parcel of real property, or portion thereof, as shown on the above mentioned plats which an owner may own and upon which a dwelling unit may be constructed.

(d) "Member" shall mean every person or entity who holds a membership in the Association.

(e) "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any lot, including the seller of an executory contract for sale, but excluding those having such interest merely as beneficiary in a deed of trust or as security for the performance of an obligation.

(f) "Restrictions" shall mean these Restrictions and Easements.

(g) "Subdivision" shall mean all of the real property described in Section C of the preamble, above.

(h) "Front lot line" shall mean that side of a lot that faces on a street or road. If more than one side of a lot faces on a street or road, the "front lot line" may be any side that faces on a street or road, at the option of the owner of said lot.

(i) "Maintenance year" shall mean a period of twelve (12) consecutive months from April 1 to March 31 of the next succeeding calendar year.

(j) "Assessment" shall mean the annual or special charges to be paid by property owners as described in Section 24.

(k) "Dues" shall mean the same as Assessments.

2. USE: None of the lots or the improvements thereon shall be used for anything other than single-family, private residential purposes. During or after, but not before the construction of a residence, there may also be constructed a garage, servants' quarters or a guest's quarters, so long as the same are connected (by covered breeze way or otherwise) with, and used in conjunction with such single-family private residence. The Association reserves the right to designate one or more lots for utility purposes. The Association shall also have the right to amend these restrictions or add additional restrictions as hereinafter provided.

3. LOT AREA: Except as hereinafter provided, no lot shall be subdivided and no more than one single-family residence may be erected or placed or permitted on any one lot. However, so long as no other restrictions are violated (including, but not limited to, set-back requirements), and so long as there is at least 1.2 acres unless by reason of topography or road rights of way, the lot comprises less than 1.2 acres and is so reflected on the registered plat thereof for each residence constructed, an owner may combine two or more lots and construct two or more single-family residences on said combination of lots.

4. ARCHITECTURAL CONTROL: No building or other structure shall be erected, placed or altered on any lot until at least the preliminary building plans, specifications and plot plans have been submitted to the Association, and the same approved by the Architectural Control Committee of the Association in writing in the following particulars: (1) That said building or other structure complies in all respects with these restrictions reservations and conditions, and (2) The color and texture of materials and paint to be used on the exterior of all dwellings, and (3) That said building or other structure is in conformity and harmony not only with respect to the topography and finished ground elevations, but also with the architectural design of other completed or proposed structures in said subdivision, and (4) The proposed landscaping of said lot, including the proposed removal of any trees or other plants presently growing on said lot. In the event the Association fails to approve or disapprove such design and location within thirty (30) days after the same have been submitted to it, such approval will not be required and this covenant

will be deemed to have been fully complied with.

5. STRUCTURES:

(a) No dwelling shall be erected or permitted to remain on any lot that contains less than 600 square feet on the main floor, except that if said dwelling has at least a main floor and a loft, said dwelling must contain at least 800 square feet of living area, both requirements being exclusive of additional floors, attached garages, carports or porches.

(b) No structure shall be used or occupied until the exterior thereof, as approved pursuant to paragraph 4 above, is finished and water and sanitary sewerage disposal facilities (in compliance with Section 16) are completely installed and operable.

(c) No dwelling shall be located on any lot nearer than forty (40) feet, measured "on the ground" and not a horizontal distance, to any front, side or interior lot line, except that:

(1) If one structure is constructed on a parcel of property consisting of more than one lot, the combined area shall (for this purpose) be considered as one lot.

(2) The set-back lines may be relaxed by decision of the Association if the above prescribed distances are not feasible considering the terrain and topography of the lot or property.

(d) No structure shall be placed on any lot which, by reason of high walls or fences, excessive heights, specially peaked roof design, etc., unreasonably obstructs the use or view of improvements to be located upon an abutting lot. For this purpose, "abutting lot" also includes two or more lots separated by a street. The height and design of fences or similar structures shall also be subject to the control and prior approval of the Association.

(e) Except as hereinafter provided in paragraph 20, no trailer, mobile home, tent, shack, garage, barn or other outbuilding or structure of a temporary character shall, at any time, ever be attached to the property or be used as a residence, temporarily or permanently, nor shall any structure ever be moved onto or permitted to remain on any lot, except during construction of permanent structures. No trucks or equipment used for construction purposes may be parked or stored on a residential lot or the street adjoining it except during actual construction of a residence on that lot. No structure is to be erected on a foundation of creosoted poles or elevated above normal foundation heights.

(f) Once construction on an approved structure has commenced, it shall, with reasonable diligence, continue and shall be completed within six (6) months thereafter (unless prevented by war, strike, or acts of God or any other reasons beyond the control of the owner) as to its exterior, and all temporary structures shall be removed.

(g) On the sides of lots that face a street or road, no fence, wall, hedge or bush shall be built nearer than fifteen (15) feet, measured "on the ground" and not a horizontal distance, from the lot line. On all other sides of lots, fences, walls, hedges or bushes may be built to the lot line.

(h) No exposed concrete blocks; asbestos, metal or plastic siding; or unfinished galvanized metal may be used on the exterior walls of any dwelling. The sides of all dwellings must be exposed wood or stucco in an attempt to give the rustic appearance that is appropriate for the subdivision. The Association reserves the right to approve other materials which achieve the same result and are of the same quality. The exterior finishes and color of all buildings must be approved in advance by the Association as described in Section 4.

(i) (This applies to Sections "A" & "B" only.) Each and every home constructed shall provide a ¾" freeze proof water hydrant installed far enough removed from the home to provide water connection in the case of fire. This hydrant shall be installed between the main line and the cut off valve to the home so that water is available when the home is drained. Each home constructed in this subdivision shall be equipped with a pressure control valve installed in the home on the inlet line prior to the water heater to compensate for sudden or extreme variations in water pressure and to prevent backflow of water from the house into the supply lines.

6. **SIGNS:** No commercial signs including "For Rent", "For Sale" and other similar signs shall be erected or maintained on any lot except with the written permission of the HRPOA or except as may be required by legal proceedings. It being understood that the Association will not grant permission for said signs unless their erection is reasonably necessary to avert serious hardship to the property owner.

7. **NUISANCES:** No noxious or offensive activity shall be carried on or maintained on any lot in the subdivision, nor shall anything be done or permitted to be done thereon which may be or become a nuisance in the neighborhood. No motor bikes or All Terrain Vehicles may be operated in the platted areas of Hurricane Ridge Subdivision. Drying of clothes in public view is prohibited. The Association reserves the right, if a residence is rented, to require an owner to remove a tenant that becomes obnoxious or in violation of any of the other restrictions and conditions of this notice, and to require the owner not to rent to said tenant again. If, after request, the owner fails to remove said tenant, the Association shall have the right to remove said tenant on its own initiative and the owner of the lot from whom said tenant is removed hereby shall be liable to pay all costs, including reasonable attorney's fees, incurred by the Association in removing said tenant.

8. **FIREARMS:** The use or discharge of firearms is expressly prohibited within the subdivision.

9. **GARBAGE AND TRASH DISPOSAL**: Each residence must be equipped with and use a garbage disposal and a garbage compactor. All trash, garbage and other waste shall be kept and stored in containers which shall be kept in a clean, sanitary and sightly condition. Outdoor containers must be "animal proof". Said trash, garbage and other waste shall be deposited in a community receptacle in accordance with Haywood County Solid Waste Regulations. Except during the construction of improvements, there shall be no burning of trash or other waste. Any owner wishing to burn any trash or other waste during construction may do so, in compliance with applicable fire codes and regulations. All contracts for construction on any lot shall contain a provision whereby the Builder agrees to remove or arrange for the removal of all trash, downed trees, stumps, and other waste created by said construction.

10. **STORAGE OF MATERIALS**: No building material of any kind shall be placed or stored upon any lot except during construction, and then such material shall be placed within the property lines of the lot on which the improvements are to be erected.

11. **ANIMALS**: No horses, cows, hogs, poultry or livestock of any kind (other than house pets of reasonable size, kind and number) may be kept on any lot. Should such pets become a nuisance in the opinion of the Association, they must be removed from the premises and the subdivision.

12. **DRAINAGE STRUCTURES AND DRIVEWAYS**: Drainage structures under private driveways shall always have a drainage opening of sufficient size to permit the free flow of water without backwater. All culverts or drainage structures shall be so constructed that they will not cause damage to other lots or streets in any part of the subdivision. All driveways shall be constructed and designed to be "all-weather" driveways and shall be a minimum of twelve (12) feet in width. The maintenance of said driveway and drainage structures thereunder shall be the responsibility of the owner of the lot over which said driveway and drainage structure lies. Although the responsibility of the maintenance of the roadway and the drainage ditch on said roadway across the owner's lot shall be the responsibility of the Association, any damage done to said roadway and drainage ditch that occurs during the construction and/or maintenance of said driveways and drainage structures thereunder shall be the responsibility of and paid for by the owner as described in Section 24.

13. **UNSIGHTLY STORAGE**: If open carports are used, no unsightly storage therein shall be permitted that is visible from the street or from any other residence in the subdivision. No unsightly boats, trucks or vehicles shall be stored (or kept for the purpose of repair) on any lots or driveways.

14. **OFF-STREET PARKING**: There shall be no on-street parking anywhere in the subdivision. Both prior to or after the occupancy of a dwelling on any lot, the owner shall provide appropriate space for off-street parking of his and his guests' vehicles.

15. **CLEANING LOTS:** Owners of lots agree to keep their property clean and if this is not done, upon notice being duly given (due notice being defined as notice in writing, sent by certified mail, postage prepaid, to owner's last known address, giving owner ten (10) days' notice to clean lot), the Association may, without any liability for any type of trespass or damages, clean the lot, and except for a lot owned by a bona fide lender which has heretofore loaned money to an owner of a lot for the purchase of such property or the construction of improvements on said property and which has acquired title to said lot by a foreclosure of its lien or a reconveyance to said lender in lieu of foreclosure, charge the owner of the property the cost of cleaning the same not to exceed a charge of fifty dollars (\$50.00) per lot per cleaning.

16. **SEWAGE:** Septic tanks will be permitted provided they and their installation and maintenance fully comply with all laws, rules and regulations of Haywood County and the State of North Carolina now or hereafter existing.

17. **EASEMENTS:** Perpetual easements for private rights-of-way are both hereby reserved over and across all property designated as "streets" or "roads" on the plats of the above described real property and are granted over the real properties described on Exhibits "1" and "2", all for the use and benefit for all of the owners of lots as well as their tenants, guests, invitees, successors and assigns. All of the areas designated as "streets" or "roads" on the recorded plats are also reserved by Association for the purpose of installing, repairing and maintaining or conveying easements to proper parties so that they may install, repair and maintain electric power, water, sewage, gas, telephone, cable television and similar utility facilities and services for the lots and properties in the subdivision. The installation of all such facilities shall be so located within said rights-of-way, however, so as not to interfere with vehicular and pedestrian traffic in said streets or roads. To the extent necessary to serve any lot, easements for such utility purposes are also reserved over and across portions of said lots without the owner of the lot over which said easement runs being entitled to any compensation or redress by reason of the fact of the location of such easement and the installation, repair and maintenance of any such facilities across said lot, the only limitation being that the location of such easements across said lots and the installation, repair and maintenance of such facilities shall be such as to not interfere with the use of said lot by its owner. Said utility easements may be either aerial or underground rights, or both, as required. The utility easements reserved and dedicated under the terms and provisions hereof shall be for the general benefit of the subdivision, and shall also inure to the benefit of and may be used by any public or private utility company entering into and upon said property for the purposes aforesaid, without the necessity of any further grant of such easements rights to such utility companies. Should the Association later decide that it would be in the best interests of the owners of the lots in the subdivision to dedicate as a public road or street a part or all of the areas encompassed within the properties designated on the subdivision plats as "streets" or "roads," then it shall have the power to do so without the necessity of the joinder of any of the individual owners of lots in the subdivision.

18. OIL, GAS, MINERAL AND WATER DEVELOPMENT: No drilling for oil or gas, or quarrying or mining operations of any kind shall be permitted upon or in any lot in this subdivision. No drilling for water shall be permitted in Sections "A" & "B" except that drilling for water may be done by the Association on the properties either owned by the Association, or upon lots owned by owners with their permission, with the right guaranteed to each owner to be allowed to attach to the water system to be established and maintained by the Association. In Section "C", there is no community water system, and individual property owners are authorized to drill such wells on their own lots as they deem desirable.

19. CUTTING OF TREES: There shall be no restriction in the cutting of trees or limbs of trees located in the immediate area where the dwelling, driveways and parking areas are to be situated. There shall also not be any limitation in the cutting of trees of less than six (6) inches in diameter. Before any trees of a diameter of six (6) inches or more are cut, however, prior written permission of the Association must be obtained.

20. TRAVEL OR RECREATIONAL TRAILERS AND TENTS: With the prior consent of the Association, and so long as a health hazard is not created, and so long as none of the herein provided restrictions are violated, and for a maximum period of thirty (30) days, a travel or recreational trailer or a tent may be used by an owner on his lot. No such use, however, can be made by other than the owner of a lot.

21. LANDSCAPING: Within one (1) year from the completion of the purchase of his lot, each owner must plant not less than five (5) flowering trees or shrubs of a maintenance free variety of his choice for the purpose of enhancing the beauty of his lot. In the event of installation of liquid petroleum gas tanks on any lot in connection with home heating, the tanks must be screened with appropriate shrubbery to exclude them from view. Tanks should be painted, if permissible, to disguise the bright and shining silver coating. Screen fences may be used so that tanks are not visible from the roadways or other lots in the subdivision.

22. FIRES: No open and/or unattended fires shall be permitted in the subdivision. Charcoal or fires in outdoor grills shall be permitted in appropriate containers, but even these fires shall be supervised and not left unattended at any time.

23. POST OFFICE BOXES: Post office boxes shall be permitted as long as the one used is approved by the U.S. Postal Service and the design and location are approved in advance by the Association.

24. HURRICANE RIDGE PROPERTY OWNERS' ASSOCIATION (HRPOA):

a. Each person, real or corporate, acquiring title to any lot in the subdivision shall automatically become a member of the Hurricane Ridge Property Owners' Association at the time title to said lot is acquired. Each such person, by acquiring title to any lot in this subdivision, also covenants and agrees to be bound and abide by all of the terms of these restrictions as well as all rules and regulations hereafter promulgated by the Association, including but not limited to the hereinafter provided covenants concerning the payment of dues. At the time such a person becomes a member, they agree to supply the Association with whatever information is necessary to include them on the membership rolls of the Association, including but not limited to name, address, ages, names and ages of children, telephone numbers, etc.

b. Membership in the Association entitles the owner of any lot and the members of his family and their guests to the use, subject to such rules and regulations as may be from time to time established by the Association, of all of the properties and to the use of all recreational or other facilities which may from time to time be constructed, maintained and operated on said properties by the Association. The cost of operating and maintaining the properties and facilities of the Association shall be financed by the assessments hereinafter provided. Membership shall also entitle the owner of each lot for which dues and assessments are paid to one (1) vote on any matters provided in the by-laws of the Hurricane Ridge Property Owners' Association that are to be decided by a vote of membership. The judgment of the Association as to the necessity or desirability of the installation or construction of any recreational or other facilities for the use of the members of the Association shall at all times be final and conclusive. Any such facilities so constructed by the Association may be operated under the direct control of the Association or may be leased or licensed to other persons to operate in any other manner as the Association may from time to time determine.

c. Except as hereinafter provided, all members of the Association must pay annual assessments in such amounts as may from time to time be established by the Association. The initial amount of dues to be paid by the owner of each lot in this subdivision shall be \$176.00 for each maintenance year, payable in advance, with the amount for the first maintenance year to be pro-rated but due and payable at the closing of the purchase of each lot. Dues shall thereafter be due and payable on or before the first day of each maintenance year. Dues shall be used for the enforcement of these restrictions; the maintenance and repair of all roads and lighting in the subdivision; the payment of any taxes, assessments and liens on any property owned by the Association; the administration of any other responsibilities of the Association provided for in these restrictions for the benefit of the subdivision as a whole but for which funds have not been otherwise provided; to create a fund for the construction, operation and maintenance of all recreational facilities created by the Association; and to otherwise promote the betterment, beautification and security of the subdivision, as the Association may from time to time determine. Lot owners in Sections "A" & "B" shall also pay dues as deemed necessary for the completion and

enlargement of the water system. Home owners in Sections "A" & "B" shall be assessed dues, the initial amount of \$440.00 for each maintenance year, for the maintenance, repair and replacement, if necessary, of the wells, water storage and distribution system to provide water to all of the lots in Sections "A" & "B" of the subdivision. All matters relating to the assessment, collection, expenditure and administration of the funds shall be determined by the Association. The amount of the assessment to be set by the Association may also include the cost of making and collecting of said assessments. Delinquent assessments shall bear interest from the date due at the maximum rate permitted by the laws of North Carolina and if collected through any court, such court costs and reasonable attorneys' fees as set by the court shall be added to said assessment. Unless approved by the owners of at least fifty-one percent (51%) of the lots in the subdivision for which dues are paid, the Association may not raise the above mentioned dues by more than ten percent (10%) in any one calendar year. Except as hereinafter provided, no dues shall accrue against a lot while it is owned by a bona fide lender which has loaned money to an owner of a lot for the purchase of such property and/or the construction of improvements thereon and which lender has acquired title to said lot by a foreclosure of its lien or a reconveyance to said lender in lieu of foreclosure. If, however, said lender rents or otherwise allows said property to be utilized by anyone, for a fee or otherwise, the aforesaid assessments shall accrue against said lender and a lien for said assessment shall accrue against said land as hereinafter provided for the periods of time said property is rented or otherwise utilized.

d. All members of the Association must pay special assessments (impact fees) as set by the Association when constructing a building upon a lot in the subdivision to cover additional costs to the HRPOA caused by construction. The assessments are due and payable within thirty (30) days of the commencement of excavation for foundations. Effective October 1, 1999, the assessments are as follows: (1) the amount of one thousand dollars (\$1,000.00) to cover the cost of damage to roadways by contractors and other service trucks and to provide for other disruptions caused by any new construction; and (2) (for lot owners in Section "A" & "B" only) one thousand dollars (\$1,000.00) to cover the cost of extension, enlargement and other improvements to the central water system caused by the additional load imposed on the system. These amounts may be increased at an amount not to exceed ten percent (10%) per year to provide for inflation and/or increase in the cost of materials and construction.

e. In the event damage occurs to the driveway or drainage facilities along the road on a lot, which damage is occasioned by the negligent act or failure to act by the owner thereof, and the owner, after request by the Association, fails to repair said damage, then the Association shall have the right, but not the obligation, to repair such damage and to assess the owner of the lot for all costs and expenses incurred in connection therewith. The amount so assessed shall be due and payable immediately to the Association by the owner of the property so affected. In the event that construction, grading or tree removal results in slides that damage, close or impair the use of any roadway below the owner's lot, then the cost of removal, clearing and repairs of that roadway shall be charged to the owner whose actions have caused the obstruction. This is with particular reference to the clearing of a slope of trees, shrubs or other growth.

f. Except as herein above provided concerning the period of ownership of a lot by a bona fide lender who has acquired title to a lot by a foreclosure or reconveyance in lieu of foreclosure, in order to secure the payments of the assessments provided in this paragraph, a vendor's lien, or its equivalent, shall be and is hereby expressly reserved to secure the payment of said assessment, which lien may be enforceable by appropriate judicial process by the Association. Such vendor's lien, shall, however, be automatically second and subordinate to the lien or liens of any bona fide lender which hereafter lends money to the owner of any lot for the purchase of such property or the construction of improvements on said property. It is expressly further provided, however, that the foreclosure of any prior lien against any lot shall extinguish only the amount of any accrued and unpaid assessments against such lots as of the date of such foreclosure, and shall not terminate the liability of the new owner of such lot for payment of assessments which shall accrue subsequent to the date of such foreclosure.

25. **ENFORCEMENT**: The Association, its successors and assigns, shall have the right to enforce observance and performance of the restrictions and covenants contained and provided herein; and in order to prevent a breach or to enforce the observance or performance of same, shall have the right, in addition to all legal remedies or remedies elsewhere provided herein, to an injunction either prohibitive or mandatory. In any legal action brought by the Association, its successors and assigns, in which said action is successfully completed, the party against whom said action is brought hereby covenants and agrees to reimburse the Association, its successors or assigns, such reasonable costs incurred in said legal action, including but not being limited to reasonable attorney's fees.

26. **WAIVER OF MINOR VIOLATIONS**: Where a building has been erected or the construction thereof is substantially advanced and it is situated on any lot in such a manner that the same constitutes a violation of any of these restrictions, the Association shall have the right at any time to release such lot or portions thereof from such part of these provisions of any of said covenants as are violated; provided, however, that the Association shall not waive a violation or violations of any of these restrictions except as to violations which the Association determines to be minor, and the power to release any such lot or portions thereof from such a violation or violations shall be dependent on a determination by the Architectural Subcommittee that such violation or violations are minor.

27. **AMENDMENT**: The provisions of paragraphs 15, 24 and 27 that pertain to the period of time that a lot might be owned by a bona fide lender who has acquired title by reason of a foreclosure or a reconveyance in lieu of foreclosure shall in all circumstances be unchangeable except by mutual written consent of both said lender and the Association. Except for those provisions contained in paragraph 2 and those other provisions contained in paragraphs 24 and 27, the Association shall have the right to amend these restrictions in whole or in part by executing a written instrument making said changes and having the same duly recorded in the Registry of Haywood County, North Carolina. As to those provisions contained in paragraph 2 and those other provisions contained in paragraphs 24 and 27, the owners of at least fifty-one (51%) per cent of the lots in the subdivision for which dues are paid must authorize changes to these paragraphs, in whole or in part, by likewise executing a written instrument to that effect and recording said instrument or instruments in the Registry of Haywood County, North Carolina.

28. **DURATION OF RESTRICTIONS:** These are covenants, conditions and easements that are to run with the land. They shall be binding on all parties and all persons claiming under them until December 31, 2025, at which time said covenants shall be automatically extended for successive periods of ten (10) years each. They may be amended as provided in Section 27 and shall be renewed as amended.

29. **ROADS AND EASEMENTS:** A Developer owns the 191-acre tract adjoining Sections A & B.

(a) Developer shall have a nonexclusive easement for access, for ingress and egress to and from this property over and upon Hurricane Ridge Trace road, subject to the following: Developer agrees, for itself, its successors, successors-in-title, and assigns, to impose a covenant appurtenant to any lot developed, that the owner shall pay to the Association an annual road maintenance fee due at the time the lot is purchased (with the first years fee pro-rated for the remainder of the year) and a one-time road impact fee due at the time a building permit is issued. For residential lots, the fees shall be equal to fees paid by lot owners in this Subdivision as described in paragraph 24 of these Restrictions. If any lots are developed for use other than single family residential, the fees shall be adjusted to reflect the impact upon the roadways by mutual agreement or by binding arbitration. If Developer obtains an alternative access for all or any portion of the property, and no longer utilizes roadways thru the Subdivision for passenger or construction access, the road maintenance and impact fees to said lot owners shall not be applicable. Hurricane Ridge, Ltd., or any successor or assign who acquires an Interest in 25% or more of the 191 acres will not itself be obligated to pay road maintenance fees or other fees called for in the restrictions unless property is developed and retained for ultimate commercial, industrial or recreational use.

(b) In the event that (i) all or any portion of the Developer's property is subsequently developed into duly platted subdivision lots and (ii) after such development the Developer, or its successor in title, contemplates entering into an agreement (a "Joint Use Agreement") with the Association which would provide, in part, for the joint use by owners of lots of all or any portion of Developer's Property of any amenity thereafter constructed by the Association in the Subdivision, then any such Joint Use Agreement shall provide that the owners of such lots in the Developers Property benefitted by the Joint Use Agreement, shall pay their pro-rata share of the cost of construction and maintenance of such amenity.

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30. **PARTIAL INVALIDITY**: Invalidating of any covenant or restriction (by court judgment or otherwise) shall not affect in any way the validity of all other covenants, restrictions, reservations and conditions, all of which shall remain in full force and effect. Acquiescence, regardless of time involved in any violation, shall not be deemed a waiver of the rights to enforce against the violator or others the conditions and covenants so violated or any other conditions. The Association, its successors or assigns, shall have the right to enter the property of the violator and correct the violation, or to require that the same be corrected and to recover the cost or damage thereof.

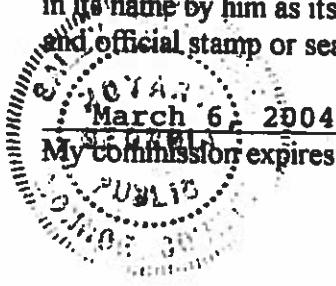
In witness whereof, the HRPOA has caused this instrument to be executed by their duly authorized officers, effective the date first written above.

HRPOA:

Hurricane Ridge Property Owners Association, Inc.
by: [Signature]
President/Vice-President

MONROE
~~Haywood~~ County -- State of W. CAROLINA
~~North Carolina~~

I, a Notary Public of the State and County aforesaid, certify that Ronald A. Freeman personally came before me this day and acknowledged that he is the President/Vice President of Hurricane Ridge Property Owners Association, Inc., a North Carolina non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as its President/Vice-President, as the act of the corporation. Witness my hand and official stamp or seal, this 14th day of September, ~~1999~~ 2000.



[Signature]
Notary Public

STATE OF NORTH CAROLINA, HAYWOOD COUNTY
The foregoing certificate of Sally W. Monroe is certified to be correct.

This 21 day of Sept. 2000
[Signature]
Register of Deeds
AMY R. MURRAY

By: Jackie F Paris, Asst.

EXHIBIT "1"

A PERPETUAL RIGHT-OF-WAY AND EASEMENT 30 FEET IN WIDTH FOR A ROAD,
THE CENTER LINE OF WHICH RUNS AS FOLLOWS:

BEGINNING at an iron pipe in the center of road, Southmost corner of tract conveyed by Green to Roberts (Deed Book 257, page 111, Haywood County Registry), and runs with center of said road 22 calls as follows: S. 8° 26' 00" W. 64.09 feet; S 26° 13' 40" W. 72.14 feet; S 6° 57' 40" E. 127.56 feet; S. 16° 31' 20" W. 144.53 feet; S. 23° 03' 50" E. 164.43 feet; S. 3° 28' 00" W. 96.51 feet; S. 19° 26' 10" E. 76.31 feet; S. 14° 13' 15" W. 81.78 feet; S 27° 26' 10" E. 157.97 feet; S. 16° 34' 00" E. 198.76 feet; S. 35° 52' 40" E. 72.40 feet; S. 28° 08' 40" E. 274.13 feet; S. 16° 19' 20" W. 168.03 feet; S. 1° 55' 30" W. 94.28 feet; S. 30° 09' 30" E. 139.72 feet; S. 52° 06' 25" E. 171.37 feet; S. 64° 57' 10" E. 77.69 feet; S. 29° 18' 35" E. 97.26 feet; S. 13° 04' 45" W. 119.70 feet; S. 19° 50' 05" W. 63.52 feet; S. 14° 58' 40" E. 119.24 feet; and S. 2° 55' 40" E. 142.34 feet to a point in center of North Carolina State Road No. 1382.

EXHIBIT "2"

A PERPETUAL RIGHT-OF-WAY AND EASEMENT 30 FEET IN WIDTH FOR A ROAD,
THE CENTER LINE OF WHICH RUNS AS FOLLOWS:

BEGINNING at an iron pipe in a small road, said iron pipe being the beginning corner of that certain tract conveyed by D. R. Noland to Loftin Frank Green as shown in Deed Book 136, Page 404, Haywood County Registry, and run thence up the center of said road the following courses and distances: N. 7° 08' W. 81.65 feet; N. 49° 30' W. 167.6 feet; N. 11° 46' W. 176.67 feet to a stake; N. 6° 17' E. 208.45 feet to a stake; N. 2° 15' W. 305.86 feet to a stake; N. 16° 56' E. 191.93 feet to a stake; N. 22° 02' W. 128.15 feet to a stake; N. 5° 00' W. 280.32 feet to a stake; N. 25° 36' W. 139.20 feet to a stake; N. 2° 47' W. 296.6 feet to a stake; N. 62° 36' W. 90.77 feet to a stake and being the end of this description.

2463

This instrument prepared by: Frank G. Queen
Brown, Queen, Patten & Jenkins, PA
Frank G. Queen, Attorney

Book Page
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FILED
HAYWOOD COUNTY NC
09/21/2000 4:27 PM
AMY R. MURRAY
Register Of Deeds

HAYWOOD COUNTY
NORTH CAROLINA

12286

ASSIGNMENT AND AMENDMENT TO RESTRICTIVE COVENANTS

This agreement is made effective this 21st day of September, 2000 between Hurricane Ridge, Ltd., a North Carolina limited partnership ("Developer") and Hurricane Ridge Property Owners Association, Inc., a North Carolina non-profit corporation ("Association") and witnesses:

1. **Status of parties.** Developer is the developer of a subdivision in Haywood County, North Carolina known as Hurricane Ridge and Hurricane Ridge Estates. Association is the homeowners association of the property owners in the subdivision.

2. **Existing plats and restrictions.** Hurricane Ridge is shown on these recorded plats:

<u>Section</u>	<u>Recorded</u>
A	Plat Book K, pages 99A and 99B (now Plat Cabinet B, Slot 237)
Revision of Lots 60-64, Section A	Plat Book L, page 76 (now Plat Cabinet B, Slot 237)
Lots 59, 60, 63, Section A	Plat Book M, page 47 (now Plat Cabinet B, Slot 247)
B	Plat Book M, page 91 (now Plat Cabinet B, Slot 257)
Addition to Section B	Plat Cabinet B, Slot 367G
Hurricane Ridge Estates, Sec. 1	Plat Cabinet B, Slot 291F

3. **Existing restrictive covenants.** The recorded restrictions which are the subject of this assignment and amendment are:

<u>Section</u>	<u>Recorded</u>
A	Deed Book 263, page 236
First Amendment in	Deed Book 447, page 1422
B	Deed Book 282, page 70
First Amendment in	Deed Book 458, page 652
Hurricane Ridge Estates	Deed Book 344, page 466

2164

4. Assignment of rights.

a. Pursuant to the authority reserved to it in Sections 2 and 27 and elsewhere in the restrictions described above, Developer hereby assigns to Association all of the rights reserved to the Developer throughout the restrictions, specifically including Section 2 (the right to designate lots for utility purposes and the right to amend the restrictions); Section 4 (the right to approve architectural plans); Section 5(c)(2) (the right to "relax" the set-back requirements); Section 5(d) (the right to approve fence designs); Section 5(h) (the right to approve exterior colors of wood siding and stucco); Section 6 (the right to authorize signs); Section 7 (the right to request and require the removal of tenants who violate the restrictions); Section 11 (the right to require the removal of household pets which become a nuisance); Section 15 (the right to clean lots); Section 17 (the right to dedicate subdivision roads as public roads without the joinder of other lot owners); Section 18 (the right to drill for water); Section 19 (the right to approve the cutting of trees); Section 20 (the right to give consent to the use of RVs and tents temporarily); Section 23 (the right to approve the design of mail boxes); Section 24 B (Section 25B. in Hurricane Ridge Estates) (the final judgment as to the necessity or desirability of constructing recreational facilities); Section 24 D. (Section 25D in Hurricane Ridge Estates) (the right to establish the amount of the dues and assessments and to determine all matters relating to the assessment, collection, expenditure and administration of those funds); Section 24 E. (Section 25E in Hurricane Ridge Estates) (the right to repair roadway damage and require compensation from the responsible lot owners); Section 24 F. (Section 25 F in Hurricane Ridge Estates) (all lien rights for unpaid dues and assessments); Section 25 (Section 26 in Hurricane Ridge Estates) (the right to enforce the restrictions); Section 26 (Section 27 in Hurricane Ridge Estates)(the right to waive minor violations of the restrictions; Section 27 (Section 28 in Hurricane Ridge Estates)(the right the amend the restrictions); and Section 30 (Section 31 in Hurricane Ridge Estates)(the right to enter lots and correct violations of the restrictions) .

5. **Roads and easements.** The parties acknowledge that Developer owns an adjacent 191-acre tract adjoining Sections A & B.

(a) Developer shall have a nonexclusive easement for access, for ingress and egress to and from this property over and upon Hurricane Ridge Trace road, subject to the following: Developer agrees, for itself, its successors, successors-in-title, and assigns, to impose a covenant appurtenant to any lot developed, that the owner shall pay to the Association an annual road maintenance fee due at the time the lot is purchased (with the first year's fee pro-rated for the remainder of the year) and a one-time road impact fee due at the time a building permit is issued. For residential lots, the fees shall be equal to fees paid by lot owners in this Subdivision as described in the restrictions described in Section 3. If any lots are developed for use. other than single family residential, the fees shall be adjusted to reflect the impact upon the roadways by mutual agreement or by binding arbitration. If Developer obtains an alternate access for all or any portion of the property, and no longer utilizes roadways through the Subdivision for passenger or construction access, the road maintenance and impact fees shall not be applicable to said lot owners. Hurricane Ridge Ltd. or any successor or assign which acquires an interest in 25% or more of the 191 acres will not itself be obligated to pay road maintenance fees or other fees called

for in the restrictions unless property is developed and retained for ultimate commercial, industrial or recreational use.

(b) If (i) all or any portion of the Developer's property is subsequently developed into duly platted subdivision lots and (ii) after such development the Developer, or its successors in title, contemplates entering into an agreement (a "Joint Use Agreement") with the Association which would provide, in part, for the joint use by owners of lots in all or any portion of the Developer's property of any amenity thereafter constructed by the Association in the Subdivision, then any such Joint Use Agreement shall provide that the owners of such lots in the Developer's property benefited by the Joint Use Agreement shall pay their pro-rata share of the cost of construction and maintenance of such amenity.

In witness whereof, the parties have caused this instrument to be executed by their duly authorized officers.

Hurricane Ridge Ltd.
by: [Signature]
General Partner

by: [Signature]
General Partner

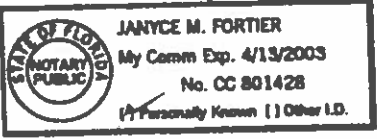
by: [Signature]
General Partner

Hurricane Ridge Property Owners Association, Inc.
by: [Signature]
Vice-President

State of FLORIDA, County of ORANGE

I, a Notary Public of the State and county aforesaid, hereby certify that H. E. Davis, general partner of Hurricane Ridge Ltd., a North Carolina limited partnership, personally appeared before me this date and acknowledged the due execution of the foregoing instrument, on behalf of the limited partnership. Witness my hand and official stamp or seal, this 18th day of September, 2000.

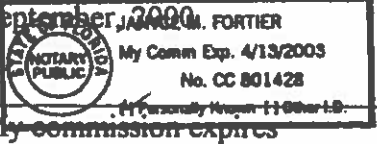
My commission expires _____



Janyce M. Fortier
Notary Public
JANYCE M. FORTIER

State of FLORIDA, County of ORANGE

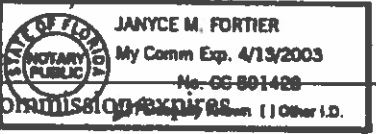
I, a Notary Public of the State and county aforesaid, hereby certify that Randall J Beach, general partner of Hurricane Ridge Ltd, a North Carolina limited partnership, personally appeared before me this date and acknowledged the due execution of the foregoing instrument, on behalf of the limited partnership. Witness my hand and official stamp or seal, this 18th day of

September, 2000.

My commission expires

Janyce M. Fortier
Notary Public JANYCE M. FORTIER

State of FLORIDA, County of ORANGE

I, a Notary Public of the State and county aforesaid, hereby certify that JULIAN P Myrick, general partner of Hurricane Ridge Ltd, a North Carolina limited partnership, personally appeared before me this date and acknowledged the due execution of the foregoing instrument, on behalf of the limited partnership. Witness my hand and official stamp or seal, this 18th day of September, 2000

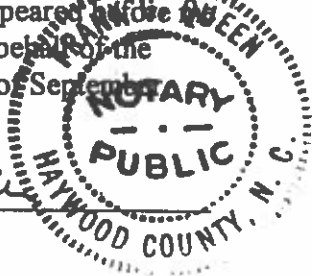

My commission expires

Janyce M. Fortier
Notary Public JANYCE M. FORTIER

State of NC - County of HAYWOOD

I, a Notary Public of the State and county aforesaid, hereby certify that GEORGE NOTTINGHAM, VICE-President of Hurricane Ridge Property Owners Association, Inc., personally appeared before me this date and acknowledged the due execution of the foregoing instrument, on behalf of the corporation. Witness my hand and official stamp or seal, this 21st day of September, 2000.

6/21/03
My commission expires

Frank G. Queen
Notary Public


STATE OF NORTH CAROLINA, HAYWOOD COUNTY.
The foregoing certificate of Janyce M. Fortier,
Frank G. Queen is certified to be correct.
This 21 day of Sept. 2000
Amy R. Murray
Register of Deeds
AMY R. MURRAY
By: Jackie F. Paris, Asst.