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TONIA R HAMPTON

REGISTER OF DEEDS

BY: TONIA R HAMPTON

REGISTER OF DEEDS

BK: CRP 1297

PG: 728-732

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

Prepared by: Wesley R. Shelley, Evans & Shelley, PA, PO Drawer 1330, Marion, NC 28752

AMENDMENT
TO DECLARATION OF COVENANTS AND RESTRICTIONS OF
LINVILLE FALLS DEVELOPMENT, formerly known as
BLUE RIDGE COUNTRY CLUB SUBDIVISION

Applicable to All Phases of Linville Falls Development

This is an AMENDMENT to the Declaration of Covenants and Restrictions of Linville Falls Subdivision, formerly known as Blue Ridge Country Club Subdivision by the Linville Falls Club Property Owners Association, Inc., made this 16th day of November, 2019.

RECITALS:

WHEREAS, WHEREAS, the Linville Falls Development, (previously known as the Blue Ridge Country Club Subdivision) is subject to those Declarations of Covenants, Conditions and Restrictions as recorded in Book 425 at Page 704 of the McDowell County Register of Deeds, as amended, restated and supplemented (all amendments, restatements and/or supplements together, being the "Prior Declaration"), and as restated in Book 1169 at Page 412 of the McDowell County Register of Deeds; all of which are incorporated by reference as if fully set forth herein; and

WHEREAS, Article 5, Section 3 of the Declaration currently provides as follows:

"Section 3. Annual Assessment. Until July 1, 2009, the maximum annual assessment for each unimproved Lot Home Site shall be \$400.00; and the maximum annual

assessment for each improved Home Site shall be \$1,200.00. Thereafter, the annual assessment for each unimproved and improved Home Site, apportioned as provided in Section 4 following, will be established by the Board of Directors.

In the event Declarant establishes additional or different categories of Home Sites, as contemplated above, Declarant shall, in a Supplementary Declaration of Covenants, Conditions and Restrictions, establish the amounts of assessment for such categories of Home Sites, and shall also establish the apportionment therefor under Section 4 immediately following this Section.

For purposes of this Declaration and determining the applicable annual amounts, a Lot Home Site shall be conclusively deemed improved at such time as any grading, staking, delivery of materials, or other pre-construction activity occurs with respect to or in preparation for the construction of a residence upon such Home Site, provided that, effective as of August 6, 2005, when a lot is sold by developer or an existing Lot Owner, the new owner of the lot(s) shall have twenty-four (24) months from the date of closing to start home construction or the lot(s) will be deemed improved and assessed at the then current Improved Home Site annual assessment rate commencing on the next assessment billing date. Once a Lot Home Site has been conclusively deemed an Improved Home Site, pursuant to this Section, such Lot Home Site shall remain an Improved Home Site for all purposes thereafter.

(a) From and after July 1, 2009, the maximum annual assessment for each of the above groups of Home Sites may be increased or decreased by the Board of Directors effective January 1 of each year, without a vote of the Members, but subject to the limitation that the percentage of any such increase shall not exceed ten percent (10%) of the assessment for the previous year, or an amount equal to the percentage increase in the United States Department of Labor Consumer Price Index-All Urban Consumers (All Cities) from the effective date of the last annual assessment to the effective date of the annual assessment being established, whichever is greater, without a vote of the Members.

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

(c) From and after July 1, 2009, the maximum annual assessment may be increased in excess of the above maximum assessment set forth in Paragraph (a) without limitation if such increase is approved by no less than a majority of the votes appurtenant to the Class A Home Sites and a majority of the votes appurtenant to Class B Home Sites, cast in person or by proxy, at a meeting duly called for this purpose.

(d) Any annual assessment established by the Association shall continue thereafter from year to year as the annual assessment until changed by said Board.”; and

WHEREAS, Article 5, Section 4 of the Declaration currently provides as follows:

“Section 4. Apportionment of Annual Assessment. The total annual assessment will be divided among Home Sites in proportion as assigned by the Board of Directors. The Board of Directors will assign the annual assessment for Improved and Unimproved Home Sites. The Board of Directors has the authority to determine when Unimproved Home Sites no longer exist.

(i) For purposes of this Declaration and determining the applicable Assessment Units, a Lot Home Site shall be conclusively deemed improved at such time as any grading, staking, delivery of materials, or other pre-construction activity occurs with respect to or in preparation for the construction of a residence upon such Home Site. ; provided, however, when a lot is sold by developer or an existing Lot Owner, the new owner of the lot(s) shall have twenty-four (24) months from the date of closing to start home construction or the lot(s) will be deemed improved and assessed at the then current Improved Home Site annual assessment rate commencing on the next assessment billing date. Once a Lot Home Site has been conclusively deemed an Improved Home Site, such Lot Home Site shall remain an Improved Home Site. Once a Lot Home Site has been conclusively deemed an Improved Home Site pursuant to this Section, such Lot Home Site shall remain an Improved Home Site for all purposes thereafter.

(ii) In the event Declarant establishes additional or different categories of Home Sites, as contemplated above, Declarant shall, in a Supplementary Declaration of Covenants, Conditions and Restrictions, establish the number of Assessment Units for such categories of Home Sites.”; and

WHEREAS, on November 16, 2019 the Linville Falls Club Property Owners Association, Inc. voted with a quorum in attendance to amend Article 5, Section 3 of the Declaration, as more fully set out below; and

WHEREAS, on November 16, 2019 the Linville Falls Club Property Owners Association, Inc. voted with a quorum in attendance to delete Article 5, Section 4 of the Declaration in its entirety; and

WHEREAS, the Declaration contains no limitation on the President’s authority to supervise and control the management of the Association, preside at all meetings of the Board of Directors, and see that orders and resolutions of the Board and Association are carried out, as well as sign written instruments necessary to effect the resolutions of the Board and Association.

NOW, THEREFORE, PURSUANT AND WITH THE AUTHORITY conferred upon him or her by the Declarations of Covenants, Conditions and Restrictions as recorded in Book 425 at Page 704 of the McDowell County Register of Deeds, as amended, restated and supplemented (all amendments, restatements and/or supplements together, being the "Prior Declaration"), and as restated in Book 1169 at Page 412 of the McDowell County Register of Deeds, are hereby amended to delete the former Article 5 Section 3 in its entirety, and the following is inserted in lieu thereof:

"Section 3. Annual Assessment. The annual assessment shall be based on a budget-based evaluation. To the extent possible, the board will project the budget out for approximately 3 years for planning purposes and make such information available to the community. The budget shall be transparent and be presented annually for majority vote by the community. The budgeting process, including reserve calculations, shall be audited by a third party forensic accounting firm or similarly recognized planned community consultant.

For purposes of determining assessments, the budget will be broken down into (1) the costs for operation of the drinking water system, the wastewater disposal system, and trash collection and (2) all other budget costs.

The costs for operation of the drinking water, wastewater disposal system, and trash will be divided equally among all existing homes, townhouses, condos, multi-family houses etc and will include an annually determined rate allocation for the Club and the Inn. Owners of undeveloped lots will not be charged for these budgeted expenses as part of the assessment.

All other budgeted costs will be divided equally among all existing homes, townhouses, condos, multi-family houses and lot owners."

FURTHER, the aforesaid Declaration of Covenants, Conditions, and Restrictions as set out above are hereby amended to delete the former Article 5 Section 4 in its entirety.

FURTHER, except as otherwise provided herein, the Declaration and the aforementioned subsequently recorded documents shall remain in full force and effect.

IN WITNESS WHEREOF, the Linville Falls Club Property Owners Association, Inc. President has hereunto caused this instrument to be signed in its corporate name by its duly authorized officer and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

LINVILLE FALLS CLUB PROPERTY OWNERS ASSOCIATION, INC., a North Carolina Non-Profit Corporation

By: Nancy Watson Mick (SEAL)
Nancy Watson Mick, President

**NORTH CAROLINA
MCDOWELL COUNTY**

I the undersigned Notary Public in and for said County and State, do hereby certify that **NANCY WATSON MICK**, personally known to me, personally came before me this day and acknowledged that he or she is President of **LINVILLE FALLS CLUB PROPERTY OWNERS ASSOCIATION, INC.** a corporation, and that he, as said officer, being authorized to do so, executed the foregoing document on behalf of the corporation. WITNESS my hand and seal, this 6 day of January, 2020

Melissa L Miller
NOTARY PUBLIC

My Commission Expires

08/07/2020

Melissa L Miller
Printed Name of Notary Public

