

STATE OF NORTH CAROLINA

COUNTY OF CHEROKEE

THIS RESTRICTIVE AGREEMENT made and entered into this 1st day of January, 2006, by and between Palm Harbor Homes, Inc., hereinafter referred to as SUBDIVIDER and all future purchaser and owner of lots within THE HAVENS as shown on recorded deed in Plat Book 1183 at Page 721, of the Cherokee County Register of Deeds Office, hereinafter said property being referred to as THE HAVENS.

WITNESSETH:

WHEREAS, Subdivider is currently the owner of Lots as shown on deed as recorded in Plat Book 1183 at Page 721 of the Cherokee County Register of Deeds Office;

WHEREAS, Subdivider desires for the benefit of such property and for the benefit of future purchasers and owners of lots shown on the aforesaid plat, that said property shall be developed and used exclusively as hereinafter set forth.

NOW THEREFORE, in consideration of the premises and for the advantage which said Subdivider will receive from the sale of lots in a restricted subdivision, the Subdivider, and his successors in title, covenant and agree and hereby restrict the above-referred to property as follows:

1. Residence shall be limited to New Single-Dwelling homes, purchased from Palm Harbor Homes, Inc. DBA Palm Harbor Village in Marble, N.C. No Used or Reposed homes shall be allowed to be erected or placed on any lot or tract within said subdivision.
2. No Campers/Motor homes, structures or other buildings Shall be erected, altered, placed or permitted to remain on any lot without the prior written approval of Subdivider which is the sole entity having the authority to approve same as hereinafter provided.

Purchaser _____

3. No noxious or offensive activities shall be carried on upon any lot or tract, nor shall anything be done thereon which may or become an annoyance or nuisance to the neighborhood. No livestock or poultry may be kept on this property. Not more than two (2) household pets may be maintained for any one (1) lot, which pets must be maintained either on a leash or within a no larger than 10' x 10' fenced area at all times. This restriction shall have no applicability with respect to the birds, fish and/or other pets maintained entirely within property owner's residence.

4. The ground floor area of the main structure, exclusive of one story open porches and garages/carports shall not be less than 1000 square feet. No Manufactured Home having dimensions of less than twenty-eight (28') feet in width and forty (40') feet in length shall be placed upon or utilized on any subdivision lot. There shall be no use of vinyl or metal substance for underpinning or skirting of any residence or on any lot. All homes shall be placed upon or utilized on any subdivision lot shall be placed upon masonry block foundation consisting of brick, rock, concrete or stucco materials. All lots are to be mowed and maintained on a minimum of a bi-weekly basis.

5. No buildings, fences, garages, porches or parts thereof shall be located, placed or erected on any lot without the prior approval of the Subdivider based upon their review of a previously submitted written construction and site plan. There will be no metal utility buildings. Any utility building shall be wood with a shingled roof or shall be of such a nature as to be similar to the home located on the lot itself.

6. Utility and drainage easements affecting all lots in this tract are reserved five (5) feet in width along interior lot lines and over the rear ten (10) feet of each lot for installation and maintenance of utilities and drainage facilities. Utility and drainage easements are also reserved within the bound of the roadways appurtenant to each lot in this tract.

7. Neither Subdivider nor any utility company using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees or servants, to shrubbery, trees, flowers, fences or the property of the owner situated on the land covered by said easements.

8. No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage, and waste shall only be kept in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

9. Grass and weeds are to be kept down on all vacant lots to prevent an unsightly and unsanitary condition. This is an obligation of the lot owner and is to be done at his expense.

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10. No fences, walls, hedges or shrubbery shall be planted on any corner lot, which would prevent motorists from having a clear, unobstructed view of oncoming traffic.
11. Each lot shall be served by its own septic tank and drain field and shall be placed on the lot in accordance with approval of the Cherokee county Health Department.
12. No satellite dishes in excess eighteen (18) inches shall be allowed on the subject property. All satellite dishes are subject to the approval of the Subdivider in his discretion under Section 4 of this Agreement.
13. No lot shall be used for the purpose of storing untagged or inoperable motor vehicles and the assembly or disassembly of a motor vehicle shall be not conducted upon any lot. Excessive on-street parking of commercial vehicles overnight shall not be permitted. Subdivider to approve and set the length of parking time-frame and allowance.
14. All lots within the subdivision shall be used for residential purposes only. No commercial activity of any sort, intention or description shall be permitted.
15. All utilities on lots within the subdivision shall be underground, and no utility poles shall be permitted upon the subject property without the express written consent of the Subdividers, excepting those utility poles in existence at the time of the execution of this document.
16. The lots shall be used for residential purposes only and no business or trade shall be permitted on any lot. Except that Subdivider retain the right within his exclusive discretion to use any unimproved lots owned by them for the purpose of ingress and egress to less accessible areas and for the purpose of transport of Modular homes.

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17. The business common to all of the lots shall be administered by a Board of Directors (hereinafter the "Board") that shall initially consist of one member, that member being either of the Developers. This Board shall serve until the sooner of the Developers having sold or transferred 12 lots, or until Jan. 1st, 2008, at which time the Developers shall appoint a new Board of three owners of lots who will serve until the end of the next calendar year. That Board and every Board after them shall call a meeting of all owners of lots to occur before the end of their term to elect a new Board to serve a two-year term. Each Board will have three members, all of whom must be owners. Notice of meetings may be given by regular mail, first class postage pre-paid, addressed to the address of the owner as it exists on the records of the county tax collector. Each lot will be entitled to one vote, which must be voted as a unit. Any of several owners of the single lot who comes to a meeting shall be entitled to cast that lot's vote; and if there should be any dispute between the several owners of any lot as to who a vote should be cast, then the chairman of the meeting shall offer them straws to draw which will determine who casts the vote. The Board of Directors may propose and amend by-laws provided that they are approved by majority vote of the owners at a called meeting. The by-laws may include a system of imposing and enforcing reasonable fines and penalties for the failure of an owner to abide by this Agreement or the by-laws. Any money collected as a fine or penalty pursuant to this Agreement or pursuant to the by-laws will be added to the common fund.

18. The access within the lots shall be by road or roads, which shall be originally constructed by the Developers over rights of way dedicated upon the Deeds for the lots and shown on the recorded plats. The costs of maintaining and repairing the road or roads, including surfaces, banks, ditches, bridges and culverts will be shared equally by the owners of all lots. The Board may contract for and provide for maintenance to this standard and make demand upon all owners for contribution provided that anyone, whose extraordinary activity, including construction, should damage the road or right of way or cause it to require repair or cleaning, shall pay for the repair or cleanup. If any owner shall fail to contribute in accordance with these terms, the Board or the party paying for the maintenance may enforce a lien against the lot of the non-contributing party.

The liens contemplated by this Agreement may be enforced in the same manner as a mechanic's lien in accordance with the provisions of NDGS 44A-8 (Part 1 of Article 2) et seq. The Board or persons entitled to the lien under this Agreement will be deemed to have "improved" the lot of the "owner" of the lot subject to the lien, according to the definitions in the statute. The lien claimant, if successful, will be entitled to interest from the date the expenditure or fine was incurred to the date of payment of at the rate of 12% per annum, together with reasonable attorneys fees and court costs. Lot's #s 1 through 1 of THE HAVENS shall have access off of Sidney Morris Road, being a state maintained road and therefore shall not be responsible for any pro-rata share of road maintenance.

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19. Contracts with Blue Ridge Electric, EMC Utilities Company. The Subdivider reserves the right to subject the real property in the subdivision to a contract with Blue Ridge Electric, EMC for the installation of underground electric cables.

20. Amendments. This Restrictive Agreement made be altered, amended or rescinded by the affirmative vote or more that three-quarters (75%) of the votes of the owners of the lots including the developer.

21. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January, 2016, at which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of those persons then owning a majority of said lots, it is agreed to change said covenants in whole or in part.

22. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

23. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

Purchaser _____

This Declaration shall operate as covenants running with the land for the benefit of any and all persons who may, in the future, own any of the lots in said development; and, further, such owners are hereby specifically given the right to enforce the provisions of this Declaration for any proceeding, at law or in equity, against any other persons who shall violate any of these provisions set forth herein, and to recover damages suffered as a result of any violation thereof, or to apply for any injunctive relief that any court may grant.

This Declaration shall take effect immediately upon recordation in the Cherokee County Registry, and shall be binding upon any and all lot owners in said development until January 1st, 2025, provided that so long as said Subdivider shall own 50% of the lots in said subdivision, said Subdivider may amend or modify the provisions of this Declaration by the recordation of any instrument setting forth any such change in the Cherokee County Registry, such modification or amendment may be accomplished without a joinder of any other parties.

The Subdivider herein warrant that they are the owner of all the lots referred to and have good and sufficient right to execute this Restrictive Agreement.

IN WITNESS WHEREOF, the undersigned have hereunto set their hand and seals, the day and year first above written.

Palm Harbor Homes, Inc.
Palm Harbor Homes, Inc.
Howard Coffey, General Manager

Howard Coffey GM

NORTH CAROLINA
CHEROKEE COUNTY

I, Marsha Kay Waters, a Notary Public of said State and County, do hereby certify that Howard Coffey, General Manager of Palm Harbor Village personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this 1st day of January 2005.



Marsha Kay Waters
Notary Public
My Commission Expires: 1/1/2008

Purchaser, hereby acknowledges that I have read the foregoing deed restrictions and agree to abide by said deed restrictions.

(Purchaser) Dated: _____