



**2023001056**

HAYWOOD CO, NC FEE \$62.00

PRESENTED & RECORDED:

02-10-2023 12:34:11 PM

SHERRI C. ROGERS

REGISTER OF DEEDS

BY: HAVEN MUSE

DEPUTY

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Filed: Madison County, NC  
02/20/2023 08:13:54 AM  
Mary Jane Wallin, Register of Deeds

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS  
COLD SPRINGS RANCH PROPERTY OWNER ASSOCIATION INC**

**THIS DOCUMENT REGULATES OR PROHIBITS  
THE DISPLAY OF POLITICAL SIGNS.**

**THIS** Revised and Restated **DECLARATION** is made this 9<sup>th</sup> day of February, 2023 by the Cold Springs Property Owners Association, Inc. ("Association") comprised of individuals as defined below and hereinafter referred to as "Members" or "Property Owners".

**RECITALS:**

**WHEREAS**, Cold Springs Ranch Property Owners Association, ("Association") and its **Members** are **Owners** of that certain real property known as COLD SPRINGS RANCH, and shown on plats recorded in Plat Cabinet C, Slot 1682 September 30, 1997, and in Plat Cabinet C, Slot 1999, Office of the Register of Deeds for Haywood County, North Carolina and Plat Book 4, page 22, Office of the Register of Deeds for Madison County, North Carolina, such property hereafter referred to as "**Property**".

**WHEREAS**, the subdivision known as Cold Springs Ranch, is subject to a certain Declaration recorded in Deed Book 469, Page 1438 in the Haywood County Registry and Deed Book 255, Page 480 in the Madison County Registry (hereafter the "**Original Declaration**"); and

**WHEREAS**, the aforesaid Declaration provides that the Declaration may be amended by agreement of the record **Owners** of at least seventy-five percent (75%) of the **Lots** subject to the Declaration; and

**WHEREAS**, the **Original Declaration** was amended, such amendments being

recorded in Deed Book 470, Page 1628, Deed Book 477, Page 2490, Deed Book 481, Page 1929, Deed Book 492, Page 1653, Deed Book 492, Page 1662, Deed Book, 638, Page 1177, Deed Book 647, Page 393, Deed Book 686, Page 922, Haywood County Registry and Deed Book 364, Page 112 and Deed Book 373, Page 540, Madison County Registry (hereafter the "**Amended Declarations**"); and

**WHEREAS** the Owners of at least seventy-five percent (75%) of the Lots subject to the Original and Amended Declarations have voted to amend and restate the original and all amended Declarations;

**NOW THEREFORE**, the Original and Amended Declarations are and shall be amended by deleting such Declarations and substituting therefor the following:

### **ARTICLE I** **DEFINITIONS**

The following terms used in this **Declaration** are defined as follows:

A. "**Association**" shall mean and refer to Cold Springs Ranch Property Owners Association, Inc., ("**Association**") a property owners Association and a North Carolina non-profit corporation with its principal place of business in Haywood County, North Carolina, which Association is operated pursuant to its Articles of Incorporation.

B. "**Board**" shall mean the Board of Directors of the **Association** elected pursuant to the provisions hereof and the By-Laws.

C. "**Common Areas**" means all roads, road rights of way, easements for public and private utilities, pedestrian, equestrian and recreation easements and entrance security gate, and any other real property or interest therein which has been declared to be a **Common Area** by description as "**Common Area**" upon a recorded plat of the **Property**, or any property that has been conveyed to the **Association**.

D. "**Original Declaration**" means the Declaration of Covenants, Conditions and Restrictions for Cold Springs Ranch dated the 15th day of October, 1998, as the same has been supplemented or amended from time to time.

E. "**Dedication**" means the act of committing any portion of the **Property** to the **Subdivision** to the purposes of this **Declaration**.

F. "**Development**" means that portion of the **Property** which is platted into numbered **Lots** and **Common Areas** as a **Subdivision** and shown on a plat or plats

recorded in the Offices of the Register of Deeds for Haywood County and Madison County, North Carolina.

G. **"Improvements"** means all construction or modification of buildings, out-buildings, streets, roads, paths, driveways, parking areas, fences, retaining and other new walls; new hedges, trees, or bushes that obstruct or may obstruct another **Owner's** view of valleys or mountains, poles, and any other new structure of any type or kind or any land clearing whatsoever, made by the **Owner** or his agents.

H. **"Lot"** means any separately numbered parcel of land, located within the **Development**, together with an appurtenant easement for equestrian and vehicular egress, ingress, and regress thereto over and across each road abutting and traversing said **Lot** which is shown on any recorded plat, but shall not include any area or parcel designated as "**Common Area**." The boundary of a **Lot** shall be as defined on any plat of the **Development** that has been recorded, although that portion which shall lie within any road right of way shown thereon or referred to therein shall be subject to certain additional restrictions set forth in this **Declaration**.

I. **"Owner"** means any person, firm, corporation or other legal entity who or which holds a fee simple title to any **Lot**.

J. **"Plat"** means the map or plat of the **Development** which has been recorded and filed, and maps or plats of the **Development** as they may be from time to time recorded and filed, entitled COLD SPRINGS RANCH.

K. **"Property"** means all that certain property shown on those recorded plats referred to hereinabove or any other property subsequently made a portion of the **Development** pursuant to the provisions of this **Declaration**.

L. **"Single- Family Dwelling"** means a residential dwelling which is occupied as, or designed or intended for occupancy as a single residence for one or more persons. Single-family purposes shall not include any commercial use. Provided, however, that nothing contained herein shall be construed so as to prohibit use of any portion of a residence as a home office or art studio, so long as no business traffic is generated by clients or members of the public regularly coming to any **Lot** for business purposes.

M. **"Subdivision"** means COLD SPRINGS RANCH and any portion of the **Development** which has been dedicated pursuant to this **Declaration**.

**ARTICLE II**  
**LAND USE AND ENVIRONMENTAL RESTRICTIONS**  
**Section I**

The following shall be applicable to all **Common Areas** within the **Development**.

- A. **Use of Common Areas** All Members in good standing, as well as members of their families or guests, shall be entitled to access to the **Common Areas**. However, the following activities are not permitted:
1. Cutting of trees, except for that which is deemed necessary by the **Board, ECC** or Botanical Committee for community maintenance.
  2. Any form of littering, including not cleaning up after picnics.
  3. Lighting of campfires, except in designated campfire rings provided by the **Association**, and in accordance with the most current fire regulations of Haywood and Madison counties.
  4. Generally disruptive behavior, including, but not limited to, loud music at or above a decibel level of 70 DB and fireworks.
  5. Shooting, except as deemed necessary for the protection of self, family or pets, hunting, including hunting with bow and arrow, or trapping, except as authorized by the **Board** to ensure the safety of the community.
  6. Aggressive behavior of dogs, such as chasing or biting persons, their pets, or wildlife. Owners should be aware of and conform to the current regulations of Haywood County regarding the control of pets.
  7. Children under 12 years of age at the pond without adult supervision.
  8. Riding, walking, or grazing of horses inside the fenced area at Ore Knob or around the pond.
  9. Fishing is limited to one (1) trout and five (5) blue gills retained per person per day.
- B. **Vehicles on Roads:**
1. The speed limit on all roads is 15 miles per hour.
  2. Parking is restricted to areas indicated by signs, or commonly used parking areas such as the field to the north of the pond across Basswood Road, and the area in front of the fence on the east slope of Ore Knob.
  3. No driving, loading, or unloading is permitted except on gravel roads, and in the area in front of the fence on the east slope of Ore Knob.

4. Repair of road damage caused by construction or delivery equipment is the responsibility of the **Member** for whom the service is being performed. The **Board** may impose an impact fee and/or assess the **Owner** for damages and repairs.

5. Motorcycle use on ranch roads is limited to egress and ingress only. Motorcycles are not permitted in any other **Common Areas**, and every effort must be made to minimize noise and nuisance to the other **Owners**.

6. Use of ATVs and golf cart-type vehicles is permitted on ranch roads only, as long as the speed limit of 15 miles per hour is observed, and every effort is made to minimize noise and nuisance to the other **Owners**. ATVs and golf carts are only permitted inside the fence at Ore Knob on a limited basis to accommodate a disabled individual or to load and unload items. Use of ATVs and similar vehicles on ranch roads is limited to achieving a destination and are not permitted on hiking or equestrian trails or around the pond.

C. **Preservation of Common Areas:**

1. No significant improvements exceeding five thousand dollars (\$5,000.00) shall be made to **Common Area** property without the approval of **Owners of Lots** to which at least **fifty-one percent (51%)** of the votes in the **Association** are allocated. The **Board** reserves the right to make minor improvements to **Common Area** property such as, but not limited to, maintaining drainage systems, road banks, and road beds as well as ongoing maintenance of water sources, foliage, brush, and fence lines.

2. **Common Area** property (excluding the Ore Knob tract.....see item "3" below) cannot be sold or subdivided without approval of **Owners of Lots** to which at least **eighty percent (80%)** of the votes in the **Association** are allocated.

3. Specifically, the Ore Knob tract of **Common Area** property is especially protected from the following unless approved by the **Owners of Lots** to which at least **ninety percent (90%)** of the votes in the **Association** are allocated.

- a. sale or subdivision of this tract
- b. building of any structures

4. Temporary structures, such as, but not limited to, a tent and Port-A-Potty are permitted for the use of the general membership for a brief period of time at the discretion of the **Board**.

5. Hiking trails are part of the **Common Area** property, and are maintained only on a volunteer basis. All **Owners**, family members, and their guests must realize the inherent natural dangers related to hiking mountain trails, and assume responsibility for their own safety. Everyone should be aware that they hike at their own risk.

**ARTICLE II**  
**LAND USE AND ENVIRONMENTAL RESTRICTIONS**  
**Section II**

The following shall be applicable to **ALL Lots** within the **Development** and each **Owner**, as to his **Lots**.

A. All **Lots** shall be used exclusively for one **Single-Family Dwelling**, and such accessory out-buildings, including a guest house, as are usually incident thereto.

B. No **Lots** shall be combined, except for tax purposes. Combination of **Lots** for tax purposes does not constitute the combination of **Lots** for any other purpose. Furthermore, no **Lot** shall be rearranged, moved, relocated, divided or subdivided, and no boundary line shall be changed, except by the approval of the **Owners** of **Lots** to which at least **sixty-seven percent (67%)** of the votes in the **Association** are allocated. No resultant **Lot** shall contain fewer than two acres. Prior to a request to the **Owners** for subdivision approval, the **Owner** of the **Lot** must submit to and receive the approval of the **ECC** of the following: a survey by a licensed surveyor reflecting the proposed home site and boundaries of the proposed new lot; written proof of an approved 'perc' test for septic and wastewater disposal on the proposed **Lot**; and written proof of compliance with county subdivision rules. No **Lot** shall be leased for a period of less than one hundred and eighty (180) days which must be consecutive and to the same tenant. There shall be no subleasing of any part of a **Lot**. There shall be no time-sharing of any **Lot**.

C. No **Single-Family Dwelling** shall consist of or have incorporated within it, whether upon wheels or fixed upon a foundation, any trailer, mobile home (whether singlewide, doublewide, or larger) manufactured or other prefabricated modular home. Provided, however, with the written permission of the **ECC**, a **Single-Family Dwelling** may consist of or have incorporated within it prefabricated components that were manufactured off-site if such components are comparable to an otherwise site-built **Single-Family Dwelling** built in compliance with the applicable North Carolina and County building codes and regulations. This exception does not allow in any event any construction that was at any time a trailer or mobile home (whether singlewide,

doublewide, or larger) whether upon wheels or fixed upon a foundation.

Although baked, coated metal roofs shall be permitted, otherwise, all exteriors shall consist of natural materials such as wood, logs, stone, or other similar materials as approved in writing by the ECC. All buildings must have full foundations with no concrete block exposed to view.

**D.** No travel trailer, mobile home, relocatable dwelling, lean-to, or other temporary shelter may be placed or erected on any Lot except during the construction of the Lot Owner's permanent house, except with the express approval of the ECC or under the conditions as outlined in Article II, Section II, W herein.

**E.** No **Single-Family Dwelling** may consist of less than a total of 1,500 square feet of heated living space and no more than 4,000 square feet of heated living space. No dwelling shall exceed thirty-five (35) feet in height from the footing to the highest point on the roof. Exceptions to the provisions in this paragraph may be granted by the ECC.

**F.** No residential structure shall be located closer than twenty-five (25) feet from the right of way of any street within the property or ten (10) feet from any side or rear Lot line. In order to assure that buildings and other structures will be located so that the maximum privacy will be available to each building and that structures will be located with regard to the topography of the Lot, taking into consideration the location of trees, shrubs and other aesthetic and environmental considerations, the ECC shall have the right to approve the precise site and location of any building or structure on any Lot after reasonable opportunity is afforded the Owner to recommend a specific site. In order to avoid a disagreement as to building site, any purchaser of a Lot must seek an opinion from the ECC as to building site location prior to closing. All decisions must be documented in writing.

**G.** No **Improvements**, as defined under Article I Definitions, Section G shall be made to any Lot within the **Subdivision** without the express written approval of the ECC as defined and described in Article III Environmental Control Committee, herein. No grading, excavating, delivery of building materials or construction of any **Improvements** shall be made to any Lot within the **Subdivision** without the express written approval of the ECC as defined and described in Article III Environmental Control Committee, herein. For construction building projects, the approval of the ECC shall be absolutely conditioned upon the deposit by the Owner of the Lot with the Treasurer of the Association of the sum of up to five thousand dollars (\$5,000.00), which deposit is required in order to assure strict

compliance with the building rules and regulations described in Subsection H of this Section II and to assure strict compliance with the ranch road and gate restoration requirements following a building project. Such deposit amount shall be at the discretion of the ECC based on the scope and anticipated duration of the project and shall be maintained in an interest-bearing account.

If the **Owner** fails to satisfy any unpaid fine, to restore ranch roads or gate, to remove or complete any nuisance as described in Subsection H of this section, after thirty (30) day notice, and an opportunity to be heard pursuant to the North Carolina Planned Community Act, Chapter 47 F-3-107.1, the **Board** may apply the deposit and any accrued interest thereon in order to satisfy any unpaid fine, to restore ranch roads or gate, or to remove or complete any nuisance as described in Subsection H of this Section.

Upon receipt of the Certificate of Occupancy and certification by ECC that ranch roads or gate impacted by the construction have been properly restored and if the **Owner** has no unpaid fine, the net balance of the deposit together with any accrued interest shall be returned to the **Owner**.

**H.** Construction of any **Improvements**, as defined under Article I Definitions Section G upon any **Lot** must proceed at a reasonable rate of progress and shall be completed within eighteen (18) months, from the earliest date on which grading, excavation, or delivery of building materials to the site occurs, unless a written extension of time has been provided by the ECC, which shall not be unreasonably withheld. Construction shall be deemed completed when a Certificate of Occupancy has been issued by the county. Construction of **Improvements** not so completed or upon which construction has ceased for one hundred eighty (180) consecutive days, or which have been totally or partially destroyed and not rebuilt within eighteen (18) months shall be deemed nuisances. The **Board** may seek an injunction ordering the **Owner**, or permitting the **Board**, to remove any such nuisance or complete the same at the expense of the **Owner** of the **Lot** upon which said nuisance may exist. Additionally, after notice and an opportunity to be heard pursuant to the NC Planned Community Act, Chapter 47 F-3 - 107.1, the **Board** may impose upon the **Owner** of the **Lot** a fine of up to one hundred dollars (\$100) per day for each day, beginning the sixth (6<sup>th</sup>) day after the decision that a violation has occurred, for every day exceeding the eighteen (18) month period for which the **Owner** has failed to complete the construction. Any fine not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10%) percent



per annum and shall, at the option of the **Board**, constitute and become a lien upon said **Lot** in the manner described in Article VIII, Section C.

I. Should any dwelling or other structure on any portion of the **Property** be destroyed in whole or in part, if reconstructed, it must be reconstructed in accordance with plans and specifications approved by the **Board** or **ECC** and any subsequently approved modifications thereto. The debris therefrom must be removed and the **Lot** restored to a neat and sightly condition as soon as practicable but no later than twelve (12) months after the date of such destruction.

J. All **Lots**, whether occupied or unoccupied, and all **Improvements** placed thereon, shall at all times be maintained in such a manner as to prevent their becoming unsightly, unsanitary, or a hazard to health. **Lots** with established dwellings must be maintained (mowed and string trimmed) around all structures and driveways. Fence lines running through and around the **Property** must be mowed or cleared with string trimming or weed eater; **CSR** road ways and road banks must be cleared of all briars shrubs or tree limbs that have encroached onto the road. **Lots** with existing meadows (excluding **Lots** 32, 33, 34 and 35 that were not originally established as meadows and the lower slopes of Ore Knob on **Lots** 24 and 25, with an average grade of 40 percent) must be maintained (mowed, string trimmed or bush hogged) twice a year or planted according to plans approved by the **ECC**. **Lots** with meadows to be maintained: # 1, 2, 6, 7, 8, 9, 11, 14, 16, 17, 24, 25, 26, 27, 28, 29, 31. If not so maintained, the **Board** shall have the right, through its agents and/or employees, to rectify such offensive situations at the expense of the **Lot Owner**. Neither the **Association**, **Board**, its agents, employees or contractors shall be liable for any damages which may result from the performance of any services herein authorized,

K. Sewage from all residences shall be disposed of by the **Owner** or occupants by installing a septic system to which all plumbing fixtures, dishwashers, toilets, or disposal systems shall be connected. Such systems shall at all times be maintained in a proper sanitary condition by the **Owner**. The rules and regulations of the Haywood County Health Department and any other governmental agency with jurisdiction over the sewage disposal system installed upon each **Lot** shall be complied with at all times. In no event shall such system be maintained in such a manner or location as to interfere with the maintenance of any existing water system on any adjoining property.

L. No unlicensed vehicles shall be permitted except that motor cycles and four-

wheel ATVs will be permitted for use on roads as per the provisions outlined under Article II Section I, Subsection B, Items 5 and 6.

M. Unless approved by the ECC, no signs shall be erected or maintained on any portion of a Lot by anyone including, but not limited to, an Owner, a realtor, a contractor or subcontractor, except **“no trespassing” or “security cameras in use” signs, or the property owner’s name signs** all of which are not more than two (2) square feet, and one (1) sign of not more than two (2) square feet advertising the Lot for sale or rent. If permission is granted, the ECC shall have the right to restrict size, color and content of such signs. This provision does not apply to indoor or outdoor political signs on **Owner’s Lot**, unless those signs are erected more than forty-five (45) days prior to an election or more than seven (7) days after the election.

N. Unless approved by the **Board**, animals kept on any Lot shall be restricted to no more than two horses, two dogs, two cats, and eight chickens, excluding roosters, and provided that same shall be kept reasonably confined on said Lot so as not to become a nuisance, and so as to be in compliance with the ordinances of Haywood and Madison Counties. Any barn or similar structure built to house animals must be located at least twenty-five (25) feet from any Lot line and any pasture area must be fenced in such a manner as to keep the animals therein confined on the Lot.

O. **Debris, Scrap Material, Garbage, and Rubbish.** Lot Owners shall keep their Lots free of debris (i.e. construction material remaining after construction is complete, broken or crumbled material or mass, or the remains of **something** broken down or destroyed) garbage, presently useless or superfluous old or discarded articles, wasted or spoiled food or other refuse, as from a kitchen or household, and one or more small pieces or amounts of something no longer regularly used, especially pieces or amounts of material leftover over after the greater part has been used or unlicensed or inoperable vehicles. Litter and garbage must be kept in sanitary receptacles which shall be properly concealed from view from roadways and adjacent portions of the **Property**, and kept in a clean and sanitary condition

P. Fuel tanks, electric and gas motors, air-conditioning equipment, clothes line, tools, equipment and other unsightly objects may not be maintained on any portion of the **Property**, except as approved by the ECC in screened areas which conceal said items from view from roadways and adjacent portions of the **Property**.

Q. No outside burning of construction debris, wood, trash, leaves, garbage or

other refuse shall be permitted on any portion of the **Development**, except lighting of campfires in campfire rings or the controlled burn of wood, leaves or other yard debris in the designated burn pile, and in accordance with the most current fire regulations of Haywood and Madison counties.

R. No cutting of live trees that exceed five (5) inches in diameter, or a circumference in excess of fifteen and three quarters (15  $\frac{3}{4}$ ) inches, at a height of four and a half (4  $\frac{1}{2}$ ) feet from the ground, shall be conducted except with the prior written permission of the **ECC**. For the removal of trees that are located within fifteen (15) feet of the dwelling or within fifteen (15) feet of the approved site for such buildings or drives and walks for such buildings, or trees confirmed to be dead, **ECC** permission is not required but written notice to **ECC** is required fourteen (14) days prior to removal.

S. Except as provided in Subsection R above, no thinning, clearing, grading, or construction of any driveway, building, fence, mailbox, property identification sign, decorative appurtenances, exterior lighting, or other structure shall be erected, placed or altered, nor shall a building permit for such **Improvement** be applied for on the **Lot** until the proposed building plans and specifications showing the front, rear and all side elevations, exterior materials, colors and finishes, including a plot plan detailing the proposed location of such building or structure, drives and parking areas, a landscape plan, construction schedule and identification of the building shall have been filed with and approved in writing by the **ECC**.

T. With prior written approval of the **ECC**, **Owner** may selectively top the trees on **Owner's Lot**. Topping is defined as the severing of main trunks at any place above seventy-five percent (75%) of the tree height.

U. The assembly and disassembly of motor vehicles and other mechanical devices, shall not be pursued or undertaken on any portion of the **Property** except within an enclosed structure.

V. Fuel storage tanks on any **Lot** shall be either buried below the surface of the ground or screened to the satisfaction of the **ECC**.

W. No parking of a camper or boat or truck (greater than Class 3 rating/GVWR greater than 14,000 lbs.) shall be permitted in excess of forty-eight (48) hours unless the same is kept in an enclosed garage or properly screened from view from any other **Property**, unless approved by the **Board**.

X. All cables, lines, wires or conduits of every nature and kind and used to

connect structures on the **Property** to the main electrical, telephone and CATV service lines shall be underground.

**Y.** Any outside lights will require the approval of the ECC. Such permission shall not be withheld unless such lighting affects the privacy of another **Property**.

**Z.** No **Lot Owner** shall obstruct, alter or interfere with the flow or natural course of the water of any creek or stream within the **Property** nor erect or maintain a dam or other similar structure on any such waterway. Each **Lot Owner** shall keep drainage ditches located on his **Lot** free and unobstructed and in good repair and shall provide for the installation of such culverts upon his **Lot** as may be reasonably required for proper drainage.

**AA.** In order to implement effective and adequate erosion control and protect the purity and beauty of the streams and the **Property**, the **Board** shall have the right to enter upon any **Lot** for the purpose of performing any grading work or constructing and maintaining erosion prevention devices. Such entries shall, however, be made only after construction of **Improvements** has commenced on such **Lot** or the soil thereof has been graded. Prior to exercising its right to enter upon a **Lot** for the purpose of performing any grading work or construction or maintaining erosion prevention devices, the **Board** shall give the **Owner** of that **Lot** the opportunity to take any action required by giving said **Owner** notice indicating what type of corrective action must be taken by the **Owner**. If said **Owner** fails to take the specified corrective action within three months, the **Board** may then exercise its right to enter upon the **Lot** in order to take the necessary corrective action. The cost of such work, when performed by the **Board** shall be paid by the Cold Springs Ranch Property Owners Association, Inc. The provisions of this paragraph shall not be construed as an obligation on the part of the **Association** to perform grading work or to construct or maintain erosion prevention devices.

**BB.** No oil or gas wells shall be drilled on any **Lot**, nor shall there be any excavation for the extraction of minerals on any **Lot**. No earth shall be removed from a **Lot** except for construction of a residence and driveway, and in these instances, excavation shall not commence until a reasonable time prior to commencement of construction. No industrial waste may be used as landfill and no contaminated oil shall be placed on any roadway.

**ARTICLE III**  
**THE ENVIRONMENTAL CONTROL COMMITTEE**

A. **General Powers:** The Environmental Control Committee ("ECC") shall have the following powers.

- 1). All powers assigned to the ECC in Article II, Sections 1 and II above.
- 2). All **Improvements**, as defined under Article I Definitions, Section G and further outlined in Article II Section II, constructed or placed on any **Lot** and all other **Variations** outlined in Article II Section II in this **Declaration**, must first have the written approval of the ECC. Such approval shall be granted only after the appropriate written (non-construction or construction) application has been submitted to the ECC in the manner and form prescribed by it. The construction application, to be accompanied by two sets of plans and specifications, shall show the location of all existing **Improvements** as well as the location of the **Improvements** proposed to be constructed, the color and composition of all exterior material to be used, proposed landscaping, and any other information which the ECC may require, including soil engineering, and geologic reports and recommendations.

B. The ECC may disapprove any application under the following conditions:

- 1). If such application does not comply with this **Declaration**:
- 2). If the ECC is reasonably dissatisfied with grading plans, location of the proposed **Improvements** on a **Lot**, finished ground elevation, color scheme, finish, design proportions, architecture, shape, height, or style of the proposed **Improvements**, the materials used therein, the kind, pitch or type of roof proposed to be placed thereon; or,
- 3). If, in the judgment of a majority of the ECC reasonably exercised, the proposed **Improvements** or variations from the provisions in this **Declaration**, will be inconsistent with the common plan or scheme of development of the **Property**, or with the **Improvements** erected on other **Lots**. The requesting **Property Owners** will have the right to appeal any decision they received from the ECC by submitting such appeal in writing to the **Board**.

C. **Rules and Regulations:** The ECC shall, from time to time, adopt written rules and regulations of general application governing its procedures which shall include, among other things, provision for the form and content of applications; provisions for

notice of approval or disapproval, including a reasonable time period for approval by reason of failure to disapprove, etc.

D. **Variances**: As stated within the provisions of Article II, Section II, the ECC may grant reasonable variances or adjustments from the provisions in this **Declaration**. All variances must be documented in writing and available for review by all **Owners** of other **Lots**.

E. **Certification of Compliance**: At any time prior to completion of construction of an **Improvement**, the ECC may require a certification, upon such forms as it shall furnish, from the contractor, **Owner**, or a licensed surveyor that such **Improvement** does not violate any set-back, ordinances, or statute nor encroach upon any easement or right of way of record.

F. **Liability**: Notwithstanding the approval by the ECC of plans and specifications or its inspection of the work in progress, the ECC, nor any person acting in behalf of any of it shall be responsible in any way for any defects in any plans or specifications or other material submitted to the ECC nor for any defects in any work done pursuant thereto. Each **Owner** or person submitting such plans or specifications shall be solely responsible for the sufficiency thereof and the adequacy of **Improvements** constructed pursuant thereto.

#### **ARTICLE IV** **THE ASSOCIATION**

A. **General**: Cold Springs Ranch Property Owners Association, Inc. is a property owners association and a North Carolina non-profit corporation organized to further and promote the common interest of property **Owners** in the **Development**, and enforce the provisions of this Revised and Restated **Declaration**.

B. **Board of Directors**: The affairs of the **Association** shall be managed by a Board of Directors. The number of directors and the method of election of directors shall be as set forth in the By-Laws of the Association.

C. **Membership**: The members of the **Association** shall consist of:

- (1) Every **Lot Owner** shall automatically be a **Member** of the **Association** and such membership shall terminate only as provided in this **Declaration**.
- (2) The spouse and/or children of a member described in Subsection (1) above who have the same principal residence as such member.

D. **Voting Rights**: Each **Lot** is entitled to one vote unless the **Board** has suspended membership rights of the **Lot Owner(s)** due to unpaid assessments and/or fines owed to the **Association**. A proxy or ballot signed by one or more of the **Owners** of a **Lot**

is presumed to be signed at the direction of the majority of the **Owners** of such **Lot**.

E. The rights, duties, privileges, and obligations of membership in the **Association** are as set forth herein and in its Articles and By-Laws.

F. **Road Maintenance**: The **Association** shall maintain and keep in good repair the **Common Area Property** and **Subdivision** roads; as shown on the Recorded Plat. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect and all landscaping and improvements situated on the **Common Area Property**.

## **ARTICLE V** **TERM AND AMENDMENT**

The provisions of this **Revised and Restated Declaration** shall affect and run with the land and shall exist and be binding upon all parties claiming an interest in the **Property**, until December 31, 2027, after which time the same shall be extended for successive periods of ten (10) years each unless the record **Owners** of **Lots** to which at least seventy-five (75%) percent of the votes in the **Association** are allocated, approve and record a document effecting a change in whole or in part. However, any amendment to Article II, Section I, Subsection C (3) (relating to the Ore Knob tract) shall require agreement of at least the record **Owners** of **Lots** in which at least ninety (90%) percent of the votes in the **Association** are allocated. No amendment shall prevent enforcement of any assessment existing at the time of the amendment. Any amendment must be prepared, executed, recorded and certified in accordance with N.C.G.S. Section 47-41.01 or 47-41.02.

## **ARTICLE VI** **RIGHTS OF WAY AND EASEMENTS**

A. **Reservations**: The following perpetual rights of way and easements over each **Lot**, together with the right of ingress and egress to the extent reasonably necessary to construct, repair and replace such road and other rights of way and utility easements, are expressly reserved to the joint use of the **Association** and each **Owner**, their respective heirs, administrators, successors and/or assigns:

(1) **Roads:** Road rights of way as particularly defined upon any recorded plat of survey entitled COLD SPRINGS RANCH, which rights of way can also be used for utilities.

(2) **Utilities:** A fifteen (15) foot wide strip running along the inside of all Lot lines for the installation, maintenance, and operation of utilities (water, electric and telephone), including radio and television transmission cable line, conduits, water mains, and the accessory right to locate guy wires, braces or anchors or to cut, trim, or remove trees and plantings, wherever necessary upon such Lots in connection with such installation, maintenance, and operation.

(3) **Other rights of way and easements:** Any other rights of way, easements including but not limited to, walking and equestrian rights of way and easements for utility lines and poles shown on the recorded plats referred to hereinabove, and such other rights of way and easements particularly described in any deed for a Lot or any Common Area.

B. **Use of and Maintenance by Owners:** The areas of any Lots affected by the rights of way easements reserved herein, but not being currently used for the purposes for which same have been reserved, shall be maintained continuously by the Owner of such Lot, but no structures, plantings, or other material shall be placed or permitted thereon.

C. **Liability for Use of Easements:** No Owner shall have any claim or cause of action against the Association or its licensees arising out of the exercise or non-exercise of any right of way or easement reserved hereunder or shown on the Plat.

D. **Utility Contracts:** The Association reserves the right to subject the real property in this Subdivision to a contract with Haywood Electric Membership Corporation or Carolina Power & Light Company for the installation of underground electric cables which may require an initial contribution by the Owner of each building. The Association also reserves the right to subject the real property in this Subdivision to similar contracts with Southern Bell Telephone & Telegraph or any other utility company including cable television.

E. **Access to Other Property:** No Lot Owner nor the Association may grant a right of way or easement through Lots or the Common Areas to any property adjacent to the perimeter of the property shown on the recorded plats referred to hereinabove.



**ARTICLE VII**  
**COVENANTS FOR MAINTENANCE AND ASSESSMENTS**

A. The **Association** shall provide the services set forth in Section B of this Article and collect the assessments set forth in this Article.

B. The annual assessments levied by the **Association** shall be used exclusively for the purposes of providing for the common good and welfare of the **Owners**, including but not limited to the following:

- (1) to maintain and repair all roads constructed within the **Subdivision**,  
to maintain all landscaping adjacent to such roads in a manner  
consistent with the overall appearance of the **Development** and to  
maintain and repair all street lights, gates and signage installed along  
such roads;
- (2) to maintain all **Common Areas** and structures located therein;
- (3) to provide such security services deemed necessary by the **Board**
- (4) to pay the premiums on all insurance carried by the **Association**, as  
Owner of the **Common Areas** and all public liability insurance carried by  
the **Association** pursuant to its By-Laws;
- (5) to pay all legal, accounting and other professional fees incurred by  
the **Association** in carrying out the duties as set forth in the  
**Declaration** and the **Association**, By-Laws, Rules and  
Regulations;
- (6) to pay for any other expenses approved by the **Board**, and
- (7) to maintain reasonable reserves.

C. No financial payments, including payments made in the form of goods and services, may be made to an officer or member of the **Association's Board** or to a business, business associate, or relative of an officer or member of the **Board**, except as expressly provided in the By-Laws or in payments for services or expenses paid on behalf of the **Association** which are approved in advance by the **Board**.

D. Each **Owner** of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the **Association** the annual and special assessments or charges for common expenses for such amounts necessary so as to pay for the services set forth in Paragraph B of this Article as same are approved and levied by the **Board** of Directors of the **Association**, including but

not limited to, assessments for capital improvements, reasonable reserves and administrative expenses.

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 Lot against which each such assessment is made and may be foreclosed upon pursuant to N.C. Gen. Statute, Chapter 47 -F-3-116. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment was due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

E. The **Association** shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the annual assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the **Association** and the effectuation of its purpose.

F. In addition to the annual assessments authorized above, the **Association** may levy, in any year, a special assessment applicable to that year for the purpose of meeting any unanticipated expenses.

G. The annual and paid assessment rates shall be determined as follows:

- (1) Both annual and special assessments must be fixed at a uniform rate for all **Lots**.
- (2) The amount of the aggregate annual assessments for each year shall be the amount necessary to fund the expenses described in Section B of this Article. As of January 1, 2021, the annual assessment was established to be \$824.00 per **Lot**. For each calendar year thereafter, the annual assessment by the **Board**, the appropriate assessing authority, as set forth in Section A of this Article, may be increased by no more than 5% of the prior year's annual assessment. If an increase is not made in any year then this failure to adopt an increase shall not be cumulatively added to the next or any future year.
- (3) Notwithstanding the foregoing provisions, any increase in the annual assessments in excess of that permitted in subsection (2) of this Section and any special assessments as described in Article VII Section D may be levied only after

obtaining the written consent of the **Owners of Lots** to which at least **fifty-one (51%) percent** of the votes in the **Association** are allocated.

**H.** The **Board of Directors of the Association**, shall fix the amount of the annual assessment 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**. The due dates shall be established in such written notices.

**I.** Any assessment not paid within thirty (30) days after the due date shall carry late charges from the due date at the rate not to exceed the greater of \$20.00 per month or ten (10%) percent of any assessment installment unpaid, pursuant to NC Planned Community Act 47-F-3-102 (11). Fines may not be imposed in addition to the late charges for failure to pay an assessment. Privileges and services may be suspended during any period in which assessments due and owing remain unpaid for a period of thirty (30) days or longer.

If any assessment is not paid within thirty (30) days of the due date thereof, the amount of such assessment (together with interest thereon) and any cost of collection (including reasonable attorney fees, if any) shall, pursuant to the NC Planned Community Act Section 47 F-3-116, constitute and become a lien upon said **Lot** as of the due date thereof upon the filing of notice thereof with the Haywood or Madison County Clerk of Court, (which notice shall be filed after providing fifteen (15) days written notice by first class mail to the **Lot Owner** and within one hundred twenty (120) days from the due date of the assessment). Enforcement procedures shall be those set forth in the NC Planned Community Act Section 47-F-3-116.

**J.** **Alternate Collection Remedies:** The **Association** may, at its election, simultaneously pursue each and every other remedy which it may have available to it for the enforcement and collection of any delinquent assessments.

**K.** **Estoppels and/or Proof of Payment:** At any time upon request, the **Association** shall furnish to any **Member** a written statement certifying the amount of assessments levied against his **Lot** and balance of such assessments then due. Such written statement shall estop the **Association** from the making of any contrary claims against any person, firm, corporation or other legal entity (other than the requesting **Member**) who may have taken affirmative action and detrimental reliance upon said statement.

### ARTICLE III REMEDIES

A. **Enforcement:** The Association, and each person(s) or entity to whose benefit this **Declaration** inures may proceed at law or in equity to prevent the occurrence, continuance, or violation of any provisions of this **Declaration**, and the Court in such action may award the successful party reasonable expenses in prosecuting such action, including attorney's fees.

B. **Cumulative Rights:** Remedies specified herein are cumulative and any specifications of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law or in equity. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect of a violation of any provisions of this **Declaration** shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of said violation or the occurrence of a different violation.

C. **Suspension of Privileges:**

1. The **Board** may suspend all voting rights, if any, and the right to use **Common Areas** (except for ingress and egress to the Lot) of any **Owner** for any period during which any **Association** assessment against such **Owner** remains unpaid after having been billed for thirty (30) days, or during the period of any continuing violation of the By-Laws or provisions of this **Declaration** by such **Owner**, after the existence thereof has been declared by the **Board** in accordance with the provisions of Section C. 2. below.

2. A hearing shall be held before the **Board** of Directors or an adjudicatory panel appointed by the **Board** to determine if any **Owner** should be fined or if **Common Area** privileges or services should be suspended pursuant to the powers granted to the **Association**

in G.S. 47 F-3-102 (11) and (12). Any adjudicatory panel appointed by the **Board** shall be composed of Members of the **Association** who are not officers of the **Association** or members of the **Board**.

The **Owner** charged shall be given notice of the charge, the opportunity to be heard and to present evidence and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day more than five (5) days after the decision that the violation occurs.

Such fines shall be assessments secured by liens under G.S. 47 F-3-116. If it is decided that a suspension of **Common Area** privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. The **Owner** may appeal the decision of an adjudicatory panel to the full **Board** by delivering written notice of appeal to the **Board** within fifteen (15) days after the date of the decision. The **Board** may affirm, vacate, or modify the prior decision of the adjudicatory body.

#### **ARTICLE IX** **OWNER'S ACCEPTANCE**

Each **Owner** or purchaser of any **Lot** shall, by acceptance of a Deed or other instrument conveying title thereto, or the execution of a contract for the purchase thereof, whether from original Declarant or a subsequent **Owner** of such **Lot**, accept such deed or contract upon and subject to each and all of the provisions of this **Declaration**. By such acceptance such **Owner** or purchaser shall for himself, his heirs, assigns, devisees, personal representatives, successors, lessees, and/or lessors, covenant, consent and agree to and with the said **Owner** or purchaser of each another **Lot** to keep, observe, comply, and perform the covenants, conditions, and restrictions contained in this **Declaration**.

#### **ARTICLE X** **ANNEXATION**

A. **Property to be Annexed**: The **Declaration** may be amended to subject any other real property which is contiguous or adjacent to the **Development** to the **Declaration**.

B. **Manner of Annexation**: The **Association** shall effect such annexation by recording a Plat of the real property to be annexed, as approved by the **Lot Owners**, and by recording an amendment to the **Declaration** which shall:

- (1) Describe the real property being annexed and designate the permissible uses thereof.
- (2) Set forth any new or modified restriction or covenants which may be applicable to such annexed property, including limited or restrictive uses of **Common Areas**; and,

(3) Declare that such annexed property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the provisions of such **Declaration**. Upon the recording of such Plat and an amendment to the **Declaration**, the annexed area shall become a part of **Development**, as fully as if such area were part of the **Development**.

#### **ARTICLE XI** **SEVERABILITY**

Each provision of this **Revised and Restated Declaration** is hereby declared to be independent of and severable from every other provision hereof. If any provision hereof shall be held by a court of competent jurisdiction to be invalid, or unenforceable, all remaining provisions shall continue unimpaired and in full force and effect.

The failure of the Declarant, the **Association**, or the **Owner** of any **Lot**, his or its respective heirs, legal representatives, devisees, successors, and assigns, to enforce any Restriction herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach, or as to any violation or breach occurring prior or subsequent thereto, or as to the same violation or breach by the **Owner** of any other **Lot**.

#### **ARTICLE XII** **CAPTIONS**

Section or paragraph captions in this **Revised and Restated Declaration** are for convenience only and do not in any way limit or amplify the terms or provisions hereof.

**IN WITNESS WHEREOF**, the **Association** has executed this **Revised and Restated Declaration** on the day and date first above written.

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The undersigned officers of Cold Springs Ranch Property Owners Association, Inc. certify that a vote by the membership of the Association was taken by written ballot on a resolution that the Declaration of Restrictive Covenants for Cold Springs Ranch Subdivision recorded on December 17, 1998 in Deed Book 469, Page 1438, Haywood County Registry and on May 11, 1999 in Deed Book 255, Page 489, Madison County Registry, as the same may have been amended from time to time, be repealed and that the Revised and Restated Declaration of Covenants, Conditions and Restrictions for Cold Springs Ranch Subdivision set forth above be adopted in its place and stead and the Resolution was approved by the owners of 88% of the Lots in the subdivision.

This 9<sup>th</sup> day of February 2023.

COLD SPRINGS RANCH PROPERTY  
OWNERS ASSOCIATION, INC.

By: Michael F. Miller  
Michael F. Miller, President

ATTEST: Nancy Gosline  
Nancy Gosline, Secretary

STATE OF NORTH CAROLINA  
HAYWOOD COUNTY

I, Shelby N. Perusi, a Notary Public for the above state and county, certify that Michael F. Miller personally came before me this day and acknowledged that he is the President of Cold Springs Ranch Property Owners Association, Inc., a corporation, and that he, as President, being authorized to do so, executed the forgoing on behalf of the corporation.

Witness my hand and official seal, this the 9<sup>th</sup> day of February 2023.

Shelby N. Perusi  
Notary Public

My Commission Expires: 11-11-2026



STATE OF NORTH CAROLINA  
HAYWOOD COUNTY

I, Shelby N. Perusi, a Notary Public for the above state and county, certify that Nancy Gosline personally came before me this day and acknowledged that she is the Secretary of Cold Springs Ranch Property Owners Association, Inc., a corporation, and that she, as Secretary, being authorized to do so, executed the forgoing on behalf of the corporation.

Witness my hand and official seal, this the 9<sup>th</sup> day of February 2023.

Shelby N. Perusi  
Notary Public

My Commission Expires: 11-11-2026

