

PREPARED BY: C. MITCHELL HATCHETT, III
v. H/d for ATTORNEY AT LAW

State of North Carolina

**DECLARATION OF RESTRICTIVE
COVENANTS FOR MOORLANDS
RESERVE SUBDIVISION**

County of Wake

THIS DECLARATION made this 21 day of May, 2018, by Ponderosa Group, LLC. (hereinafter referred to as "Declarant"); and Bennett Funderburk and Sharon Funderburk (hereinafter referred to as "Funderburk").

WITNESSETH:

THAT WHEREAS, the Declarant is the owner and developer of real property located in Raleigh, North Carolina, being Lot 2 as shown on the plat entitled "Minor #1 Subdivision & Recombination Plat for Moorlands Reserve" by Cawthorne, Moss & Panciera, P.C., dated September 26, 2016, recorded in Book of Maps 2017, Page 148 Wake County Public Registry; Lots 3 & 4 as shown on the plat entitled "Minor #2 Subdivision Plat for Moorlands Reserve" by Cawthorne, Moss & Panciera, P.C., dated September 26, 2016, recorded in Book of Maps 2017, Page 322 Wake County Public Registry; Lots 5 & 6 as shown on the plat entitled "Exempt Subdivision Plat for Moorlands Reserve" by Cawthorne, Moss & Panciera, P.C., dated September 26, 2016, recorded in Book of Maps 2017, Page 559 Wake County Public Registry; and

WHEREAS Funderburk is the owner of Lot 1 as shown on the plat entitled "Minor #1 Subdivision & Recombination Plat for Moorlands Reserve" by Cawthorne,

Moss & Panciera, P.C., dated September 26, 2016, recorded in Book of Maps 2017, Page 148 Wake County Public Registry

WHEREAS, the Declarant is in the process of developing and subdividing said real property into a subdivision known as Moorlands Reserve Subdivision (the "Subdivision"); and

WHEREAS, the Declarant intends to sell and convey the Lots within the Subdivision and, before doing so, desires to impose upon them mutual and beneficial restrictions, covenants, equitable servitudes, and charges, under the general plan or scheme of improvements for the benefit of all Lots in the Subdivision and for the benefit of the Owners and future Owners thereof.

NOW, THEREFORE, the Declarant declares that all of the Lots in the Subdivision are held and shall be held, conveyed, and hypothecated, or encumbered, leased, rented, used, occupied, and improved subject to the provisions of this Declaration, all of which are declared by the Declarant, and agreed by Declarant's successors in title, to be in furtherance of a plan of development established for the purpose of enhancing and protecting the value, desirability, and attractiveness thereof.

The provisions of this Declaration are intended to create mutual and equitable servitudes upon each of the Lots in favor of each and all other Lots; to create reciprocal rights between the respective Owners of all of the Lots; to create privity of contract and privity of estate between the Owners of the Lots, their heirs, successors and assigns, and to operate as covenants running with the land for the benefit of each and all other Lots and parcels in the Subdivision and their respective Owners, present and future.

DEFINITIONS:

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

- A. "Declarant" means Ponderosa Group, LLC and current Owner of Lots 2 through 6 referenced above.
- B. "Owner" or "Lot Owner" means any person, firm, corporation, other legal entity, or combination thereof, who or which holds fee simple title to any Lot.
- C. "Plat" means the plats entitled "Minor #1 Subdivision & Recombination Plat for Moorlands Reserve" by Cawthorne, Moss & Panciera, P.C., dated September 26, 2016, recorded in Book of Maps 2017, Page 148 Wake County Public Registry; "Minor #2 Subdivision Plat for Moorlands Reserve" by Cawthorne, Moss & Panciera, P.C., dated September 26, 2016, recorded in Book of Maps 2017, Page 322 Wake County Public Registry; "Exempt Subdivision Plat for Moorlands Reserve" by

Cawthorne, Moss & Panciera, P.C., dated September 26, 2016, recorded in Book of Maps 2017, Page 559 Wake County Public Registry, recorded as aforesaid, and any and all subsequently recorded survey plats of the Subdivision, or any portion thereof, or any lands added to the Subdivision.

- D. "Single Family Dwelling" means a residential dwelling for one or more than one person, and if more than one person, persons related to each other by blood, marriage, or legal adoption, or in the alternative, a group of not more than four adult persons not so related who shall maintain a common household in such dwelling.
- E. "Subdivision" means the Lots shown on the Plat and any and all real property added thereto that are subjected to this Declaration, or to this Declaration as amended.
- F. "Lot" means any one or more of the Lots or other tracts or parcels created within the Subdivision or added to the Subdivision by recorded survey plat or by other means.

R E S T R I C T I O N S :

1. **LAND USE AND BUILDING TYPE:** Each Lot shall be used for residential purposes only, and no manufacturing establishment, factory, public garage, sanitarium or hospital, motel, hotel, trailer park, apartment building, condominium, multi-family housing building, or any building of similar nature may be maintained on the same, and no unsanitary, offensive, or unsightly conditions shall be allowed thereon. No house trailer, mobile home, travel trailer, manufactured home, or any type of temporary housing shall be placed or located upon any Lot as a residence.
2. **DWELLING SIZE:** Each principal residence constructed on any Lot shall consist of not less than 2500 square feet of enclosed heated square feet for single story homes and 3000 square feet of enclosed heated floor space if the residence contains one and one-half or two floors; no building may exceed two (2) stories in height. The landscaping and grassing of each Lot shall be completed within 1 year from the time any construction begins on any Lot. All exterior construction shall be complete within 1 year after it has commenced.
3. **BUILDING UNIT:** No Lot may be re-subdivided. Only one Single Family Dwelling may be constructed per Lot. No outbuildings of any kind may be constructed unless prior written permission is obtained from the Declarant;

4. **BUILDING LOCATION:** Any residence, building, or any other structure shall be built in accordance with the then current Wake County Zoning setbacks.
5. **BUILDING APPROVALS:** In order to maintain architectural beauty in the subdivision, and to guard against the erection therein of poorly placed, designed or proportioned structures, no building shall be erected, altered, or permitted to remain on any building until a plot plan showing the location of said building on the lot and the plans and specifications showing the type and exterior lines thereof have been submitted to and approved in writing by Declarant or by such person or persons as Declarant shall in writing designate. Exterior siding materials other than stone, brick, stucco, or hardiplank equivalent siding must be approved by Declarant or persons as it shall in writing designate. Vinyl siding shall not be permitted. Vinyl windows are allowed. In the event Declarant or the persons designated in writing by it fails to approve or disapprove such design or location within thirty days after said plans and specifications have been submitted as herein required, such approval will not be required and this covenant shall be deemed to have been fully complied with.
6. **PETS:** No animals, livestock or poultry of any kind, shall be raised, bred, kept on any lot, except that dogs, cats or other household pets may be kept provided that the Owner of any such pet, shall not allow such animal to be at large in the Subdivision. No animal may be kept on any Lot if it makes such an amount of noise as to frequently or habitually disturb Owners of other Lots.
7. **DRAINAGE:** It shall be the responsibility of each Lot Owner to maintain all portions of his Lot, including any drainage facilities located thereon. All soil disturbing activities, including without limitation grading house sites, constructing driveways, and landscaping, regardless of their extent, must conform to prevailing laws and regulations regarding erosion control, both during construction and afterward, and must not impair the erosion control measure previously installed by the Declarant.
8. **PROHIBITED ACTIVITIES:**
 - A. No commercial or business activities may be conducted on any Lot, except that this provision shall not prohibit in-home businesses or offices that do not invite the general public upon the premises, and that do not display advertisement for such business on the Lot. Commercially signed or wrapped vehicles of 10,000 pounds gross vehicle weight or less are permitted.
 - B. The leasing or renting of any dwelling on any Lot for a term of less than one year is strictly prohibited.

9. **PARKING:** It shall be the responsibility of each Lot Owner to provide adequate parking space for motor vehicles on his or her Lot. Parking within the rights of way of Nipper Road is prohibited. All parking areas and driveways on all Lots must be surfaced completely with concrete or asphalt. No unlicensed or inoperable vehicles may be maintained or kept on any Lot in the Subdivision. Campers, recreational vehicles, travel trailers, boats, or trucks used for commercial purposes, or similar vehicles, shall be permitted as long as they are parked behind the front elevation of the house.
10. **NOISE RESTRICTIONS:** In order to minimize noise pollution, the use of motorized lawnmowers, law tractors, grass trimmers, garden tillers, chain saws, blowers and other equipment (including but not limited to equipment with electric engines and gasoline powered engines) shall be prohibited before 8:00 a.m. and after 9:00 p.m. Activities which include the playing of loud music and/or having loud and/or late night parties are prohibited.
11. **MOTORIZED VEHICLES:** No Owner or Owners of any Lots shall operate or permit to be operated by those under their control, or by those who ought to be under their control motorcycles, three wheelers, four wheelers, ATVs, off-road vehicles or similar vehicles within the boundaries of the Subdivision, except for legitimate purposes or transportation to and from work into and out of the Subdivision. It is the intention of this restriction to prohibit sport riding or joy riding upon motorcycles and similar vehicles within the boundaries of the Subdivision. No vehicles may be operated within the Subdivision unless it is currently and legally licensed and insured. Any operator any motorized vehicle within the Subdivision must have a valid driver's license.
12. **EASEMENT FOR PUBLIC UTILITIES:** Declarant reserves unto itself, its successors and assigns, and reserves and grants to the Association (if any), and to all other public utility companies, a perpetual, alienable and releasable easement and right of way on, over, and under the ground to erect, maintain, and use electric and telephone poles, wires, cables, and conduits, sewers, water mains, and other suitable conduits and equipment for the transmission and discharge of electricity, telephone, gas, sewer, cable television and other public conveniences or utilities on, in, or over all roadway easements within the Subdivision and within the ten (10) foot wide strip immediately inside the boundary of each Lot; provided, in the event of the improvement of two (2) or more Lots as a unit, such easement shall not exist with respect to interior Lot lines unless use of such easement for such purposes has already begun. By reservation of said easements,

the Declarant does not obligate itself to provide any utility service to any Lot. The Declarant reserves the right to subject the property in the subdivision to a contract with Duke Energy for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or continuing monthly payment to Duke Energy by the individual Lot owners.

13. **ADDITIONAL LAND:** Declarant expressly reserves unto itself, its successors and assigns, the right to add additional lands to the Subdivision, and if the Declarant does add additional lands to the Subdivision then the definitions contained hereinabove of "Subdivision" shall be deemed to include the lands so added and definition contained hereinabove of "Lot" shall include all Lots created within said additional lands. The right herein reserved to the Declarant, its successors and assigns, to add additional lands to the Subdivision may be exercised by it any number of times. Further, Declarant specifically reserves unto itself, its successors and assigns, the right to burden the Subdivision roads, easements and rights of way, by granting easements and rights of way over the same to serve and to be appurtenant to lands added to the Subdivision and lands lying outside the boundaries of the Subdivision. It is specifically the intent of the Declarant to reserve unto itself, its successors and assigns, the right to establish additional easements and rights of way over the Subdivision roads to serve any and all lands later added to the Subdivision and any and all Lots created therein, and to serve lands lying outside the boundaries of the Subdivision.
14. **SUBDIVISION SIGN:** Declarant reserves unto itself, its successors and assigns, and declares for the benefit of any future Association, its successors and assigns, a perpetual easement for the erection, maintenance and repair of subdivision signs upon any Lot which adjoins any public road, which easement shall include the right to erect, maintain and repair walls and lighting at the site of the sign and to landscape the area in the vicinity of the sign.
15. **PROHIBITED STRUCTURES:** No outdoor clotheslines will be permitted on any Lot. No aluminum or metal swing sets, sculptures, statues, or other artificial yard toys or adornments will be permitted on any Lot without the express prior written permission of the Declarant. No fence exceeding five feet in height may be erected. No decorative items such as statuettes or renderings of animate or inanimate objects may be erected or maintained upon any Lot unless the same are installed so that they are not visible from any place outside the Lot and are approved in writing in advance by the Declarant.

16. **FUEL TANKS:** No fuel tanks or similar storage receptacles may be maintained on any Lot unless the same are installed within a building, are buried under ground, or are otherwise installed so that they are not visible from any place outside the Lot.
17. **TREE REMOVAL:** Except as set forth in paragraph 13 hereinabove, no tree having a diameter of twelve (12) inches or more measured one (1) foot above the ground be cut or removed from any Lot without the express prior written permission of the Declarant, unless such removal is necessary to effect the implementation of plans already approved by the Declarant.
18. **ANTENNAS:** No permanent or temporary antennae of any kind for television, radio, short-wave, or any other use may be erected, placed, maintained, or located upon any Lot without the express prior written permission of the Declarant, and any antennae approved by the Declarant must be installed, painted, and maintained in such a way as may be from time to time provided by the Declarant. The provisions of this restriction specifically include dish and saucer type antennae larger than 18 inches in diameter.
19. **SIGNS:** No sign of any kind shall be displayed to the public view on any Lot, except as provided in paragraph 14 hereinabove; however, with the prior written approval of the Declarant, a sign displaying the owner's name or a sign advertising the property for sale or rent may be maintained.
20. **MAILBOXES AND FLAGS:** All mailboxes must be of uniform design and color established by the Declarant and must be approved in advance by the Declarant before being erected. No flagpole extending beyond seven feet in height or length shall be erected upon any Lot or attached to any structure upon any Lot and no flag may be flown at any time except the flag of the United States of America or the flag of the State of North Carolina unless approved in writing in advance by the Declarant.
21. **COMMON AREAS:** No common areas exist within this subdivision.
22. **BUILDING CONSTRUCTION:** No building constructed on any Lot shall have tar paper, asbestos, unfinished plywood, stucco or rough hewn irregular edged type siding. No building constructed on any Lot shall have an exposed metal chimney. No building constructed on any Lot shall have visible concrete blocks, and any and all concrete blocks used in construction on any Lot shall be covered with stone, brick, wood, or similar siding. Concrete block foundations (which must be covered) may be covered with stucco. The exterior colors of all

buildings constructed in the Subdivision shall be approved in writing by the Declarant, and shall consist of earth tones. No bright colors may be used. No building constructed on any Lots shall have a mansard type roof or flat roof. No roof shall be a bright color. Asphalt composite shingle roofs shall be of the architectural style rather than three-tab style. Any log homes constructed in the Subdivision must be in compliance with all applicable building codes and must be approved in writing in advance by the Declarant. No residence or garage constructed or placed on any Lot shall have metal siding or a metal roof, unless approved in writing in advance by the Declarant. All dwellings placed or constructed on any Lot shall have a solid, continuous masonry foundation or shall be underpinned with masonry.

23. **UNDERGROUND UTILITIES:** All utility lines, including all electrical, telephone, cable television, water and sewer lines, installed in the Subdivision shall be installed underground.
24. **EASEMENT OF RIGHT OF WAY:** No Owner or subsequent Owner of any Lot may grant an easement or right of way across the Lot for any reason or at any time to any person or entity other than the Declarant's successors and assigns unless the same shall first be approved in writing by the Declarant, its successors and assigns.
25. **HOMEOWNERS FORMATION:** A Homeowners' Association may be formed in the future upon the approval of all of the then Lot Owners. In such event, each Lot and each Lot Owner shall and must automatically be a member of the Association. Each Lot and each Lot Owner shall be subject to all duly adopted articles, by-laws, rules, and regulations, and resolutions of the Association.

In the event an Association is formed, such Association shall have the power to assess dues upon the Owners. The Association shall have such other and further powers as may be adopted and set forth in its by-laws as may be adopted in the future.

In such event, any assessment levied against any Lot which so becomes delinquent shall constitute a lien upon such Lot when filed of record in the office of Clerk of Superior Court for Wake County, North Carolina, in the manner provided therefore by Article 2 of Chapter 44A, Statutory Liens on Real Property, of the North Carolina General Statutes, or its successor statute. The claim of lien may be foreclosed in a like manner as a mortgage on real estate under the Power of Sale under Article 2A of Chapter 45 of the General Statutes.

If any delinquent assessment is placed in the hands of any attorney for collection, there shall be added to the amount due all costs of collection, including all reasonable attorney's fees.

All assessments, interest, costs and attorney's fees shall be and constitute the personal joint and several obligations of each respective Lot Owner subject thereto. The Association or any other Lot Owner may bring an action against the Lot Owners in default to seek a money judgment for the amount of the assessments, interests, costs of collection and attorney's fees.

Any person may purchase the Lot at any sale ordered pursuant to an action to foreclose the lien.

26. **BREACH:** In the event of a violation or breach of any of these restrictive covenants, the persons and entities entitled to enforce them or any one or more of them, shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to restrain or enjoin the violation of the terms hereof.
27. **AMENDMENT:** This Declaration may be amended by means of a duly recorded amendment signed by the Declarant until such time as it has sold four (4) Lots in the Subdivision. Thereafter, this Declaration may be amended by means of a duly recorded amendment signed by the Owners of two-thirds ($\frac{2}{3}$) of the Lots subject to this Declaration. This Declaration may also be amended by the Association by a two-thirds ($\frac{2}{3}$) majority vote of its members at a duly called members meeting at which a quorum is present, and in such event the appropriate officers of the Association shall record the proper amendment.
28. **TERM:** This Declaration is to run with the land and shall be binding on all persons claiming under them for a period of twenty-five (25) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners of the Lots has been recorded, agreeing to change said covenants in whole or part.

IN WITNESS WHEREOF the Declarant has caused this Declaration to be properly executed as of the date written below, and Funderburk, as Owner of Lot 1, sets their hand and seal as of the date written below.

PONDEROSA GROUP, LLC.

BY:

Will Funderburk
Member

NORTH CAROLINA
Wake COUNTY

I, C. Mitchell Hatchett III a Notary Public for the state and county aforesaid, certify that William Funderburk personally came before me this day and acknowledged that he is a member of Ponderosa Group, LLC., a North Carolina Limited Liability Company, and that he, as a Member, by the authority duly given and as the act of the corporation, the foregoing instrument was voluntarily executed by him on behalf of said corporation. Witness my hand and official stamp or seal this the 21 day of May, 2018.

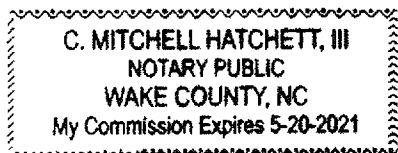
C. Mitchell Hatchett III

Notary Public

My Comm Exp: 5/20/2021

C. Mitchell Hatchett III

printed name of Notary Public



Bennett Funderburk (SEAL)
Bennett Funderburk

Sharon Funderburk (SEAL)
Sharon Funderburk

STATE OF NC
COUNTY OF Wake

I, certify that the following person (s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing documents for the purpose stated therein and in the capacity indicated:

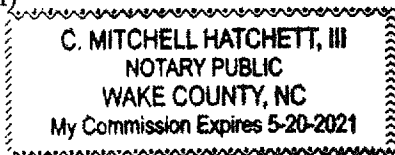
Bennett Funderburk and Sharon Funderburk name(s) of principal(s)

Date: 5/21/2018

C. Mitchell Hatchett, III
Notary Public

C. Mitchell Hatchett, III
Notary's printed or typed name

(Official Seal)



Comm. Exp. Date: 5/20/2021