

Prepared by and Return to:
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NORTH CAROLINA

WAKE COUNTY

AMENDED AND RESTATED
DECLARATIONS OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
MORNINGTON ESTATES
(AKA MORNINGTON SUBDIVISION)

This Amended and Restated Declaration of Covenants Conditions and Restrictions of Mornington Estates Home Owners Association Inc. (this "Restated Declaration") is entered into as of January 21, 2020, by 5908 – 5909 Rock Service Station Rd, LLC, a North Carolina limited liability company ("Declarant"), in order to amend that certain Declaration of Covenants Conditions and Restrictions of Mornington Estates Home Owners Association Inc. (the "Declaration") dated as of January 19, 2017 and recorded in the Office of the Wake County Register of Deeds in Book 16673, Page 377, and re-recorded on March 8, 2017 in Book 16715, Page 2167 with respect to Mornington Subdivision which is recorded in Book of Maps 2017, Pages 126 – 128, in the Office of the Register of Deeds of Wake County and re-recorded as Mornington Estates Subdivision in Book of Maps 2020, Pages 108 - 110. Capitalized terms not defined herein shall have the meaning set forth in the Declaration.

WHEREAS, the original Declaration includes an incorrect legal description for the Properties as Exhibit A and contains several other clerical errors, and Declarant desires to correct those errors; and

WHEREAS, the Declaration provides in Article XIII, Section 3 that "during any period in which a two class voting structure is in effect, Declarant may amend this Declaration without the approval of any other Member provided, the amendment does not materially alter or change any Owner's right to [the] use and enjoyment of such Owner's Lot or of the Common Area as set forth in this Declaration and the amendment does not adversely affect the title to any Lot"; and

WHEREAS, this Restated Declaration is not intended to set aside or affect the rights of any Owner who previously purchased a Lot in Mornington Estates subject to the Declaration nor does the Declarant assert any adverse claim on title;

NOW THEREFORE, Article XIII, Section 3 being met, Declarant hereby declares that:

1. **Amendment of Title of Declaration.** The title of the Declaration is hereby changed to Declaration of Covenants, Conditions and Restrictions for Mornington Estates Subdivision.

2. **Amendment of Exhibit A.** The entire "Exhibit A" of the Declaration is hereby deleted and the following inserted in lieu thereof:

Legal Description of Encumbered Properties: Lying and Being in Wake County, North Carolina, and being more particularly described as follows: All of the property surveyed and shown on that certain plat entitled "Morningson Subdivision, A Cluster Subdivision. Lots 1 thru 10 & 28 thru 42" which is recorded in Book of Maps 2017, Pages 126-128 and re-recorded as Morningson Estates Subdivision in Book of Maps 2020, Pages 108 - 110 in the Office of the Register of Deeds of Wake County, North Carolina ("Plat").

3. **Correction of Homeowners Association name throughout.** Each place that "Morningson Estates Home Owners Association, Inc." appears throughout the Declaration is hereby deleted and replaced with Morningson Estates Home Owners Association Inc.
4. **Correction of County name throughout.** Each place that "Franklin County" appears throughout the Declaration is hereby deleted and replaced with Wake County.
5. **Amendment of Article I, Section 19.** The entire Article I, Section 19 is hereby deleted and the following inserted in lieu thereof:

"Common Areas" shall mean and refer to those tracts of land with all improvements thereon which are deeded (whether in fee or by easement or otherwise) or leased to the Association and designated on the Plat as "Permanent Open Space Conservation of Natural Area;" Common Areas shall be, but are not limited to (without any obligation by invocation of Declarant to construct or install the same), any signage, irrigation and/or drainage facilities, detention ponds, natural areas, park areas, entrance areas, buffer areas, greenway areas, street planting areas, and other scenic easements. All Common Areas are to be devoted to and intended for the common use and enjoyment of the Members of the Association, their guests and visiting members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association.

6. **Continuing Effect.** Except as amended hereby, all other terms and conditions of the Declaration shall remain the same.
7. **Ratification.** Declarant hereby ratifies the terms and conditions of the Declaration, as amended, in its entirety.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed under seal in its name by its duly authorized office as of the 21 day of January, 2020.

5908 – 5909 Rock Service Station Rd, LLC,
a North Carolina limited liability company

By: Vuy My
Name: Donald Denihan
Title: Manager

NEW YORK
STATE OF ~~NORTH CAROLINA~~

COUNTY OF NEW YORK

I, Brenda Laverde, a Notary Public in and for said County and State, do hereby certify that Donald Denihan personally came before me this day and acknowledged that (s)he is the Manager of **5908 – 5909 Rock Service Station Rd, LLC**, a North Carolina limited liability company, and that (s)he, as Manager, being authorized to do so, executed the foregoing in the capacity indicated.;

WITNESS MY HAND AND NOTARIAL SEAL, this the 21 day of January, 2020.

Brenda Laverde
NOTARY PUBLIC

My Commission Expires:

2/4/2023

(Affix Seal)

BRENDA LAVERDE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01LA6386807
Qualified in New York County
My Commission Expires 02-04-2023

