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## DECLARATION OF COVENANTS AND RESTRICTIONS FOR

The Preserve at Stonegate

This declaration of covenants and restrictions, made this day of January 15, 2003 by Multiple Streams LLC hereinafter called the "Declarant". The use of "Declarant", applies to its successors, heirs, and assigns.

Now, therefore, the Declarant hereby declares that the real property described herein is and shall be held, transferred, sold and conveyed subject to the covenants and restrictions set forth.

### Restrictions:

Property Uses: All properties shall be used for private single family residential purposes. No duplexes or apartments. One guest house and necessary accessory buildings (for example, a detached garage or a greenhouse) may be constructed. No business, commercial, or industrial enterprise shall be conducted upon said premises.

### Other Dwellings:

No basement or partially completed dwelling shall be used as a separate residence. Guests may occupy a guest house, garage apartment, or basement on a no rental basis. No structure of a temporary character, house trailer, mobile home, modular home, tent, or shack shall be used on any property at any time as a residence. Tents and campers shall be allowed to be used on an owners lot for recreational purposes but no longer than six (6) days. No outside toilets may be placed on any lot except for a limited time during residence construction.

### Building Requirements:

- The principal dwelling shall not exceed 22 stories in height above ground.
- The principal dwelling shall have at least 1500 square feet of finished heated living area exclusive of porches, decks, and garages.
- All dwellings must have a permanent type exterior surface of natural wood, fiber cement siding, or natural stone (no vinyl, masonite, or other synthetic materials). All exposed masonry surfaces on dwellings and retaining walls shall be plastered or faced with natural stone.
- The color selections and building materials shall be harmonious with the natural environment.
- Each property owner shall install a septic system and well in accordance with regulations and specifications by

the applicable regulatory agency.

### **Improvement Approval Process:**

Before the start of any alteration to a property, property owner must submit to the Declarant the following:

- One copy of the final plans and specifications for any dwelling or structure.
  - One copy of the site plan showing the proposed location of the dwelling or structure, driveway, walkways, parking, and landscaping, fences (chain link and wire fences shall be out of view from the road, common areas, and other properties), satellite dishes (diameter two feet or less), outside lighting, or other improvements.
  - Actual material samples and color selections for siding, exterior trim, windows, roofing, and natural stone.
- Upon written request by property owners for approval of plans, Declarant shall have forty five (45) days to approve or disapprove the plans. In the event the Declarant fails to approve or disapprove plans within forty five (45) days, plan approval will not be required. Refusal of plans, location, or specifications may be based on any grounds and is at the Declarants discretion. Alterations to the exterior appearance of any dwelling or structure must go through the improvement approval process.
- The Declarant maintains control of the improvement approval process as long as the Declarant owns any lot or other portion of the community. At such time the Declarant no longer owns any lot or portion of the community, the Declarant releases the improvement approval process to the Property Owners Association (POA).

### **Siting:**

Declarant shall have the right to decide the location of dwellings and improvements to assure that desirable views and privacy are maintained for other property owners. Since it is the intent to maintain as natural a setting as possible, setbacks will be flexible.

### **Minimizing Construction Disturbances:**

Property owner shall require contractor to maintain building site in a reasonably clean and uncluttered condition. Construction may not commence before 7:00 am, continue after 7:00 pm, or take place on Sunday. Declarant may waive these restrictions if no undue nuisance is caused to any other property owner. Each property owner is responsible for any damage to the road caused by heavy equipment and other vehicles during construction.

### **Service Yards:**

All garbage and trash cans, utility meters, heating and air conditioning equipment, must be placed in enclosed areas and out of view from the road, common areas, and other properties.

### **Construction Completion:**

The exterior of all dwellings must be completed within three hundred sixty five (365) days from issuance of a building permit. Landscaping shown in the site plan must be installed within ninety (90) days from the issuance of a certificate of occupancy. Time is of the essence in these dates. Failure to comply with these dates shall result in a twenty-five (\$25.00) dollars per day assessment against the lot owner. All such assessed sums shall be paid to the POA general fund.

### **Parking:**

All vehicular parking shall be in garages or on the property owners driveway.

### **Prohibited Vehicles:**

No junk, heavy equipment, commercial vehicles, truck tractors, trailers, or inoperable motor vehicles shall be allowed upon any property. Recreational vehicles that are parked but not occupied and boats must be garaged

or out of view from the road, common areas, and other properties. No motorized dirt bikes, go carts, or similar vehicles shall be permitted in the community. All terrain vehicles (with four wheels) shall be operated during reasonable daylight hours so as not to become a nuisance to other property owners.

### **Tree and Foliage Removal:**

Trees measuring eight (8) inches or more in diameter may not be removed without Declarant approval unless the tree is within ten feet of the dwelling. No tree topping or selective trimming to improve a view from a lot or other reasons without Declarants approval. No trees or other forest foliage may be removed from any property until dwelling or driveway construction begins.

### **Animals:**

No animals, livestock, or poultry shall be kept or maintained on said property, except household pets which must be properly controlled by the owners so as to avoid becoming a nuisance or danger to other property owners.

### **Property Maintenance:**

Property owners agree to maintain premises in a presentable condition including but not limited to: keeping garbage in closed containers, cutting grass and weeding, and removing debris.

### **Utilities:**

All utilities must be underground. All fuel tanks shall be buried. The Declarant reserves an easement and right-of-way over, upon, across, and under lots and common areas for the erection, maintenance, and installation of electrical, telephone, cable television, cables, conduits, and other necessary equipment for the conveyance of these utilities. Additionally, an easement shall exist along the road for drainage and drainage ditches shall not be altered in any way.

### **Roadways:**

Only driveways leading to residences shall be constructed on any property. Driveway materials should be natural in appearance (no concrete). No private driveway whether leading to a residence or not, may provide access to any other property located outside The Preserve at Stonegate.

### **Property Subdivision and Additions:**

No lot shall be subdivided. One or more lots can be combined to create a larger lot. The Declarant shall have the right to bring within the coverage of this declaration additional property. Such additions are subject to all the covenants and restrictions for The Preserve at Stonegate.

### **Hunting:**

No hunting or trapping of any nature will be allowed or permitted on the property.

### **Duty to Insure:**

Each owner shall obtain insurance for any dwelling on the property for their replacement value. In the event of damage or destruction by fire or other casualty to the dwelling, owner has sixty (60) days from receipt of insurance proceeds to either clear debris and restore vegetative cover or start reconstruction of the destroyed property.

### **Property Owners Association**

#### *Creation:*

Every property owner and Declarant shall be a member of The Preserve at Stonegate Property Owners

Association, Inc., a non profit corporation to be organized and to exist under the laws of the State of North Carolina (hereinafter the POA). The POA purpose shall be to promote the property owners welfare, enforce the covenants and restrictions, to maintain the road and common areas within the community, and to affix, levy, and collect payment of charges and assessments in connection with the POA. The common areas to be owned by the POA include the areas labeled on the community plat plus the private road, entrance gate and sign, and various landscaping. The common areas and improvements are for the use and enjoyment of the property owners and shall remain private property. The POA may make reasonable regulations governing the use of the common areas.

As soon as seventy five (75) percent of the lots have been sold and conveyed, Declarant shall activate the POA. There shall be one membership for each lot owned as shown on the recorded community plat. When the POA becomes active, a meeting shall be called of all property owners to adopt By-Laws and elect a Board of Directors, all by majority vote of the property owners, voting in person or by proxy.

### **Assessments:**

Assessments shall be used for but not limited to improving and maintaining the community (such as the entrance gate, sign, bridge, road, landscaping, common area amenities, and snow, downed tree, and debris removal, paying taxes levied against common areas, any insurance carried by the POA, and payment of professional fees incurred by the POA). All repairs and maintenance shall be equal or better than the original work.

Annual and special assessments shall be fixed, established, and collected from time to time. Prior to the POA formation, Declarant shall be entitled to charge each property owner an annual assessment on January first in the amount of five hundred (\$500.00) dollars per year per property for road and common area maintenance (prorated for the current calendar year and collected upon closing). When the POA is active, the annual assessment amount shall be set by a two thirds vote of the property owners. Each property owner shall be notified a minimum of thirty (30) days in advance of each assessment. The annual assessment shall go into a general fund. When the general fund cannot cover a major expense, each lot owner agrees to pay their fractional share of the additional cost as a special assessment. At least two thirds of the property owners must agree to have such work performed.

### **Lien and Personal Obligation for Assessments:**

By acceptance of the deed, each property owner agrees to pay the assessments within thirty (30) days after the due date. Any delinquent assessments or charges, together with interest at the rate of eighteen (18) per cent per annum, and attorney fees shall be the property owners obligation. No property owner may exempt themselves from liability for such assessments by non-use of the common areas or abandonment of owners property. The personal obligation to pay any assessment together with interest, attorney fees, late charges, court costs and other costs of collection thereof, shall pass to the successors in title of such owner. Failure to make the required assessment payments in a timely manner shall cause a statutory lien to be attached to the property on behalf of the surrounding property owners.

### **Compliance:**

In the event a property owner fails to comply with any of the covenants and restrictions in this declaration, the Declarant or the Property Owners Association (POA) shall have the right, but not the obligation, to undertake any necessary action in order to cure such property owners default. All expenses incurred by the Declarant or POA in curing such default shall be charged to the defaulting property owner and shall be payable by such property owner to the general fund.

### **Waiver:**

Failure of Declarant or Property Owners Association to promptly enforce any covenants or restrictions contained herein shall not be deemed a waiver of the right to do so thereafter.

**Applicable Period:**

These covenants and restrictions shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in the described property for fifty (50) years from the above date. At such time the covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless a vote of a majority of property owners agree to change the covenants and restrictions.