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**DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS,  
CHARGES AND LIENS FOR MOOERS ROAD SUBDIVISION**

DECLARATION made as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by James P. Rosborough and Linda Rosborough, with a mailing address of 41 Mooers Road, Nottingham, New Hampshire 03290 (collectively, the “Declarant”), who hereby declare their intent to submit the land and improvements herein described, and all easements and appurtenances thereto, located in Nottingham, Rockingham County, New Hampshire, to be held, conveyed, encumbered, leased, used, occupied and improved subject to the provisions of this Declaration.

1. DEFINITIONS

Certain of the terms used in this Declaration are defined and shall have meaning as follows, unless the context clearly indicates a different meaning therefor:

- 1.1 “Association” means the Mooers Road Homeowners’ Association, a non-profit corporation, to be formed by Declarant pursuant to the terms of this Declaration.
- 1.2 “Common Expenses” shall mean and include the actual and estimated expenses incurred by the Association for the repair and maintenance of the Common Property, including any reserves, all as may be found to be necessary and appropriate by the Board of Directors of the Association pursuant to the Declaration, the Articles of Agreement, and the By-Laws.
- 1.3 “Common Property” shall be all land, improvements, and easements devoted to the social welfare, use, and enjoyment of Owners and designated in this Declaration, the Plan, or the deed conveying such land or easements to the Association. Common Property shall include the areas designated as “Proposed Open Space” on the Plan, and the Owners of Lots shall be conveyed an undivided

interest in such Common Property, which interest shall not be conveyed or transferred separately from a Lot.

- 1.4 “Declarant” means James P. Rosborough and Linda Rosborough, and any successors in interest thereto, except for purchasers of individual Lots for residential use.
- 1.5 “Declaration” means this instrument (as may be amended from time to time).
- 1.6 “Lot” means each of the residential building lots in the Subdivision as identified by number on the Plan, and any other lots that come to be a part of this Subdivision in the future.
- 1.7 “Owner” means one or more persons or entities owning a Lot.
- 1.8 “Plan” means the plan of land entitled “Open Space Residential Subdivision ‘Mooers Road Subdivision’, Tax Map 72; Lot 13-1, Mooers Road, Nottingham, NH”, prepared by Jones & Beach Engineers, Inc., dated June 12, 2022, with revisions to \_\_\_\_\_, and recorded in the Rockingham County Registry of Deeds as Plan # \_\_\_\_\_.
- 1.9 “Property” means the real property and all interests therein as shown on the Plan, including all buildings, structures and other improvements now or hereafter existing thereon, all easements, rights and appurtenances belonging thereto which is hereby made subject to the Declaration.
- 1.10 “Subdivision” shall mean the Mooers Road Subdivision, as shown on the Plan.

## 2. DEVELOPMENT OF SUBDIVISION

- 2.1 Unless otherwise amended by the Declarant, the Subdivision shall consist of eleven (11) single family, residential building Lots. The Lots shall be developed as individual sites for single-family detached residential homes with no more than one (1) home on a Lot.
- 2.2 The Common Property shall be maintained by the Association for the use and enjoyment by and for the Lot Owners, subject to the terms of this Declaration.
- 2.3 The rights and easements of enjoyment in and to the Common Property shall be limited solely to the Owners of the Lots and shall be subject to the following:
  - (a) the right of the Association to publish and enforce rules and regulations affecting the Common Property;

- (b) the right of the Association to levy assessments and charges against the Lots for the repair, improvement and replacement of Common Property and any improvements thereon;
- (c) the right of the Association to suspend the rights and privileges of any Owner related to the Common Property for any period during which any assessment owed to the Association remains unpaid; and
- (d) other easements, restrictions, agreements, and reservations of record, insofar as the same may be in force and applicable.

### 3. MOOERS ROAD HOMEOWNERS ASSOCIATION

- 3.1 The Mooers Road Homeowners' Association, Inc. will be a nonprofit corporation created pursuant to RSA Chapter 292, and charged with the duties and empowered with the rights set forth in this Declaration. The affairs of the Association shall be governed by its Articles of Agreement and By-Laws, and in conformity with the requirements of the Declaration.
- 3.2 The Owner of each Lot is deemed to have a membership in the Association. There shall be one (1) vote for each Lot. If a Lot is owned in common by multiple Owners, there shall still be only one (1) vote to be cast per agreement of the multiple Owners. If the multiple Owners are unable to agree as to how the vote shall be cast, the vote shall not be exercised.
- 3.3 The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Common Property and enabling the maintenance, repair, replacements, and improvements to the Common Property. The rules and regulations adopted by the Board of Directors shall be consistent with the rights and duties established by this Declaration, and shall no event conflict with the restrictions on the use of Common Property set forth in Section 4 hereof.
- 3.4 Each Lot shall be assessed an annual charge for Common Expenses. In addition, upon each Lot conveyance by the Declarant, the purchaser(s) of each Lot shall pay an initial payment to the Association for the establishment of a repair reserve fund. The terms and conditions governing the annual charge and the payment into the repair reserve fund and the collection thereof shall be determined by the Association. The Association shall have the right to adopt reasonable rules and regulations to make an assessment against a Lot for purposes of Common Expenses. There is and shall be a present lien, with statutory power of sale pursuant to RSA 479:25, against each Lot to secure the payment of all assessments levied by the Association against a Lot. The obligation to pay such assessments shall run with the land so that each successive record Owner of a Lot

shall become liable to pay all such assessments. The Association shall have the right to enforce and collect such assessments either through a suit at law or proceedings to foreclose the lien established by this Declaration. The lien of assessments may be perfected upon recording a notice of lien against a Lot.

- 3.5 The Association shall be responsible for maintenance, repair, replacement, and upkeep of the Common Property. All costs associated with maintenance, repair, and replacement of Common Property shall be a Common Expense to be allocated among and paid by all Owners.
- 3.6 As described in the Association Bylaws, initially the Declarant shall appoint the members of the Board of Directors until seventy-five percent (75%) of all Lots have been conveyed or such earlier time as Declarant elects, in its sole discretion.

#### 4. RESTRICTIONS ON COMMON PROPERTY

- 4.1 The Common Property, as shown on the Plan, shall remain undeveloped property for the exclusive use and enjoyment of the Owners.
- 4.2 No new permanent structure or improvement shall be constructed or placed on the Common Property, except for the installation, maintenance, repair, replacement and operation of fencing, sewer, water, and other utilities, storm water structures or such improvements required or requested by the Town of Nottingham.
- 4.3 The operation of motorized off-road vehicles and other recreational vehicles shall be prohibited on the Common Property.
- 4.4 The Common Property may be further restricted by rules and regulations properly adopted by the Association through its Board of Directors, so long as such rules and regulations do not contravene these covenants or the rights, restrictions, duties and obligations of the Association.
- 4.5 There shall be no mining, quarrying, excavation or removal of rocks, minerals, gravel, sand, topsoil or other similar materials on the Common Property, except in connection with any improvements made pursuant to the provisions of paragraph 4.2, above. No such rocks, minerals, gravel, sand, topsoil, or other similar materials shall be removed from the Common Property.
- 4.6 Plantings that are not native and vegetation maintenance other than for hazard trees, invasive or diseased plants or for wildlife management is prohibited within the Common Property. The Common Property shall not be used for disposal of yard waste or snow storage.

- 4.7 There shall be no dumping, injection, burning, or burial of manmade materials or materials then known to be environmentally hazardous on the Common Property.
- 4.8 There shall be no use of herbicides or pesticides within 50' of wetland boundaries .
- 4.9 No changes in topography, surface or sub-surface water systems, wetland, or natural habitats shall be allowed on the Common Property that would harm state or federally recognized rare or endangered species.
- 4.10 The restrictions regarding the use of the Common Property set forth in this Section 4 shall not be amended or terminated without the prior written approval of the Town of Nottingham and the New Hampshire Fish and Game Department.
- 4.11 Fertilizing: Limestone and wood ash shall be the only fertilizer used in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B.

## 5. RESTRICTIONS ON LOTS

The Property is intended for residential use only and the following provisions are in furtherance of this purpose.

- 5.1 Each Lot shall be occupied and used only for residential purposes by the Owner and his or her family, or be lessees or guests of the Owner, and only for such business or home occupation purposes as shall now or hereafter be permitted by any Town of Nottingham rule, ordinance or regulation, or by the Rules. This restriction shall not be construed to prohibit Owners from leasing buildings located on Lots in accordance with the provisions hereof. All leases shall refer to and incorporate by reference all of the restrictions and obligations contained in this Declaration. Declarant shall also have the right to lease buildings located on Lots which it owns.
- 5.2 No building or structure shall be erected, placed or maintained on any Lot except one dwelling to be used for a single-family and an accessory dwelling unit within such building or structure, a garage designed for not more than three (3) automobiles, and other structures accessory to a single-family residence.
- 5.3 No noxious or offensive use shall be made of any part of the Property and nothing shall be done therein which is or will become a nuisance or which shall impair the soundness or safety of any part of the Property. No use shall be made of any part of the Property which will constitute a fire hazard.
- 5.4 No animals, livestock or poultry, except a reasonable number of common household pets and chickens, shall be kept anywhere on the Property. No dogs

shall be permitted to run free on the Property except within a Lot which is adequately fenced to protect the escape of any such dog.

- 5.5 No building material of any kind or character shall be placed upon any Lot except for the immediate purpose of construction of a dwelling, or accessory structure.
- 5.6 The structures and ground on any Lot shall be maintained in a neat and attractive manner. All Lots shall be kept free of rubbish, debris, dead or fallen trees, or material of any kind which render the same unsanitary, unsightly, offensive or detrimental to any part of the Property.
- 5.7 No activity shall be carried on upon any Lot which may create annoyance or a nuisance. Any exterior lighting installed on any Lot shall be indirect or controlled with respect to direction, focus and intensity in such a manner as not to disturb the residents of adjacent property.
- 5.8 All oil or liquid fuel tanks maintained on any Lot shall be buried or confined within a dwelling house or other permitted structure.
- 5.9 Lot grades shall not be changed in such a way as to divert the natural flow of water onto adjoining properties, or to flood or damage public roads.
- 5.10 No earth, stone or gravel removed from the site of the foundations of the improvements of any Lot shall be allowed to remain on the Lot in an unsightly manner.
- 5.11 No incinerator and/or outdoor heating source primarily for indoor heating shall be erected or maintained by any Owner.
- 5.12 All lawns or other suitable landscaped areas shall be maintained in an attractive manner.
- 5.13 No trash, waste, debris or junk shall be allowed to remain on any Lot.
- 5.14 No obstruction of traffic on the public roads and no blocking of entries to the various Lots by reason of the parking of vehicles or trailers is allowed. Owners shall be responsible for the removal of any such obstruction, whether caused by members of their household or their lessees, invitees or guests.
- 5.15 Except as specifically permitted by this Declaration, no sign of any kind shall be erected or displayed to the public anywhere on the Property without the prior written consent of the Declarant during such time as the Declarant owns any Lot.

- 5.16 No mortgage made in good faith and for value upon any Lot or any part of the Property shall be defeated or rendered invalid by any breach of restrictions as to such land. In the event of any mortgage foreclosure, said restriction shall be binding upon the mortgagees as well as any new Owner acquiring through foreclosure, trustee's sale or otherwise.
- 5.17 No fencing shall be erected or installed between the primary building or structure on a Lot and the street.
- 5.18 The use of herbicides or pesticides shall be minimized.
- 5.19 A breach of any one or more of the foregoing covenants and restrictions shall entitle the Declarant and/or the other Owners to pursue any and all legal and equitable remedies; however, if no action shall have been commenced and notice thereof filed with the Rockingham County Registry of Deeds within twelve (12) months after the completion of any building, structure or other improvement, addition or landscaping, then the same shall be conclusively deemed to be in compliance with these restrictions.
- 5.20 Wetlands: There shall be no use of herbicides or pesticides within 50' of wetland boundaries. Clearing and grading shall be kept to a minimum with 50' of a wetland boundary.
- 5.21 Fertilizing: Limestone and wood ash shall be the only fertilizer used in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B.

6. CERTAIN RESERVED RIGHTS AND EASEMENTS.

- 6.1 Easement to Facilitate Development of the Property. The Declarant hereby reserves to itself and its agents, representatives, employees and contractors the right and easement to enter upon all or any portion of the Property with persons, vehicles, machinery and equipment for purposes of constructing, erecting, installing, operating, maintaining, repairing, modifying, rebuilding, replacing, relocating and removing buildings and their appurtenances, utilities of every character, roads, drives, walks and all such other structures and improvements as the Declarant, in its sole discretion, shall deem necessary or desirable to complete the development of the Property. This easement shall include, without limitation, the right to store vehicles, machinery, equipment and materials used or to be used in connection with such development work at, in or upon the Property, the right to remove sand, gravel, stone and soil from any portion of the Property, and other rights necessary or useful in Declarant's sole discretion to the development of the Property. Declarant's blanket development easement, including the right to haul materials to and from all portions of the Property and to engage in construction on

or about the Property, shall continue until the Subdivision is developed and completed in all respects.

6.2 Easement to Facilitate Sales.

- a. Model Homes and Houses. The Declarant and/or its representative(s) shall have the right and easement to maintain such model homes and sales offices on the Property as it, from time to time, may determine appropriate.
- b. Signs. The Declarant or its representative(s) shall have the right and easement to erect and maintain on any portion of the Property, including in or upon the buildings and structures forming any part thereof, such signs and other advertising and promotional notices, displays and insignia as it shall deem necessary or desirable. This Section shall not give the Declarant any rights with respect to Lots not owned or occupied by Declarant or any agent of Declarant. All such signs shall be in compliance with applicable law. The Declarant may prohibit all other signage until Declarant has completed the initial sales of homes in the Subdivision, including the sales of the model home(s).

6.3 Other Easements.

- a. Driveway Easement. Lot 6 and Lot 7, as shown on the Plan, are accessed by a shared driveway (the "Driveway"). The Owners of Lot 6 and Lot 7 shall take all reasonable steps to ensure that each party's use of the Driveway will not be impaired, interfered or interrupted. All costs and expenses of maintaining, repairing and replacing the Driveway shall be shared equally by the Owners of Lot 6 and Lot 7. Such maintenance is to include, without limitation, the following:
  - (1) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability;
  - (2) Snow plowing and any and all sanding and salting necessary for the removal of all ice and snow.

The Owners of Lot 6 and Lot 7 shall mutually agree as to their respective responsibilities for maintaining the Driveway. Subject to the mutual agreement of the Owners of Lot 6 and Lot 7, a third party may be appointed to maintain the Driveway in the manner as above outlined. Said



third party may receive a fee that is mutually acceptable to Owners of Lot 6 and Lot 7 to cover such costs.

- b. Utility Easements. The Declarant, its successors and assigns shall have the right to reserve or convey any easement across, over, under or through any Lot, Common Property or roadway reasonably necessary to provide electric, water, or other services to any other Lot, including the utility easement shown on the Plan. The location of such easements shall not unreasonably interfere with the use of any Lot for residential purposes.

## 7. AMENDMENT.

Except as otherwise provided herein, this Declaration may be amended by the vote of two-thirds (2/3<sup>ds</sup>) or more of the total voting power of all owners cast in accordance with these provisions and the Bylaws; provided, however, that (i) No amendment to the Declaration shall be effective until recorded at the Rockingham County Registry of Deeds; (ii) So long as Declarant owns one or more Lots, no amendment shall be adopted that could interfere with the construction, development, sale, lease or other disposition of a Lot or the Subdivision; (iii) No such amendment shall affect any rights reserved by the Declarant without the written consent of the Declarant; and (iv) Any rights or provisions established for the benefit of the Town of Nottingham shall not be amended without the consent of said Town.

*[The signature page follows.]*

The Declarant has caused this Declaration to be executed as of the date first hereinabove written.

\_\_\_\_\_  
James P. Rosborough

\_\_\_\_\_  
Linda Rosborough

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by James P. Rosborough and Linda Rosborough.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My Commission Expires: