

Prepared by and Hold for: Barringer, Barringer, Stephenson & Schiller, LLP (Box 16)

NORTH CAROLINA

WAKE COUNTY

**Supplemental Declaration Of Sub-Covenants,  
Conditions And Restrictions For  
Brackenridge Pointe Subdivision**

This SUPPLEMENTAL DECLARATION OF SUB-COVENANTS, CONDITIONS AND RESTRICTIONS FOR BRACKENRIDGE POINTE SUBDIVISION (hereinafter called "this Supplemental Declaration") is made this 28<sup>th</sup> day of March, 2002 by SOUTH FORTY VENTURES LLC, a North Carolina limited liability company (hereinafter called "Declarant"):

Laura M Riddick, Register Of Deeds

WITNESSETH: Presented & Recorded 04/04/2002 13:34:12

Book : 009365 Page : 01101 - 01108

WHEREAS, Declarant is the owner of certain Property in the Town of Holly Springs, County of Wake, State of North Carolina, which Property is more particularly described as follows (hereinafter called "the Property"):

Being all of lots 1 – 6, inclusive, lot 34 and lots 36 – 44, inclusive, according to a subdivision plat entitled "Brackenridge Pointe Map 1" prepared by Kenneth Close, Inc. and recorded in Book of Maps 2002, Page 502, Wake County Registry; and

Being all of lots 7 - 9, inclusive, lots 20 and 21, lots 28 – 33, inclusive, and lot 35 according to a subdivision plat entitled "Brackenridge Pointe Map 2" prepared by Kenneth Close, Inc. and recorded in Book of Maps 2002, Page 503, Wake County Registry; and

Being all of lots 10 - 19, inclusive and lots 22 – 27, inclusive according to a subdivision plat entitled "Brackenridge Pointe Map 3" prepared by Kenneth Close, Inc. and recorded in Book of Maps 2002, Page 504, Wake County Registry.

WHEREAS, Declarant will subject said Property to certain protective covenants, conditions, restrictions, reservations, and charges as hereinafter set forth and as set forth in that certain Declaration of Master Covenants, Conditions and Restrictions for Brackenridge Pointe recorded on April 4, 2002 in Book 009365, Page 01084, Wake County Registry (hereinafter called "the Master Covenants"); and,

WHEREAS, Declarant desires to create thereon a planned community of single family homes; and,

WHEREAS, Declarant desires to provide for the preservation and enhancement of the Property values and opportunities in said community for the maintenance of the Properties and improvements thereon, and to this end desires to subject the Property described above to the

covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said Property and each owner thereof; and,

NOW, THEREFORE, Declarant and other persons and/or entities joined herein hereby declare all of the Property described herein, and hereafter annexed hereunder, to be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which shall run with the said real Property, shall be binding on all parties having or acquiring any right, title, or interest in the described Properties or any part thereof, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Any undefined terms herein shall have the meaning and definition provided in the said Master Covenants mentioned above.

**ARTICLE II  
LAND USE**

Section 1. General. Each Lot shall be subject to the restrictions herein and in that certain said Declaration of Master Covenants, Conditions and Restrictions for Brackenridge Pointe as recorded in Book 009365, Page 01084, Wake County Registry.

Section 2. Land Use, Building Type and Dwelling Size. All Property designated for residential use shall be used, improved and devoted exclusively to residential use, except as allowed herein. No structure shall be erected, altered, placed or permitted to remain on any Lot other than on detached, single-family dwelling, not to exceed two and one-half (2½) stories in height, a private garage for not less than two (2) cars, and other out-buildings incidental to residential use of the Lot. Nothing herein shall be deemed to prohibit conversion of a Lot to a street. The minimum heated square footage of a dwelling may not be less than 2,000 square feet for a one-story dwelling; the minimum heated square footage shall be 2,500 square feet for any dwelling of more than one story with an enclosed area (exclusive of garages, decks, terraces, open and screened-in porches, patios and chimneys) of no less than 1,000 square feet for the ground floor.

Section 3. Building Setbacks. No dwelling shall be erected or maintained on any Lot outside of the building envelope shown on the recorded plat of the Subdivision or as otherwise required or permitted by the zoning ordinances of the Town of Holly Springs (the "Zoning Ordinance"). For purposes of these building setback requirements, decks, porches, patios, stoops, eaves, overhangs, bay windows, chimneys, carports and other similar projections shall be deemed to be part of the dwelling only to the extent that the same are deemed to be part of the dwelling under the Zoning Ordinance as it exists as of the date of issuance of a building permit for such dwelling. Any dwelling erected on a Lot other than a corner lot shall face the street on which the Lot abuts. On corner lots, a dwelling may be erected so as to face the intersection of the two streets on which the Lot abuts, or face either of the streets on which the corner Lot abuts.

**Section 4. Temporary Structures.** No residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, basement, shack, tent, garage, barn, or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently.

**Section 5. Fences.** No fence or wall shall be erected on any Lot closer to any street than the front or side building setback line. Chain-link or other metal fencing is not permitted. Any fence or wall installed within the Brackenridge Pointe Subdivision must meet all requirements of the Zoning Ordinance and must be approved as provided in Article IV of the said Master Covenants. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot of Lots, nor shall anything in this paragraph apply to any fence installed by the Declarant at any entrance to or along any street within the Subdivision.

**Section 6. Nuisances.** No individual or entity shall make or do any immoral, improper, offensive or unlawful use of any Lot or Common Area in Brackenridge Pointe. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No business trade or activity may be conducted on any Lot unless permitted by the appropriate Board of Adjustment or zoning inspector. In addition, all rules and regulations of the Association and of all governmental agencies having jurisdiction over Brackenridge Pointe shall be observed.

**Section 7. Animals.** No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling, except that dogs, cats, or other household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes.

**Section 8. Parking, Trailers and Boats.** Vehicles may be parked or stored only on portions of a Lot improved for that purpose (i.e., garage, driveway, carport or parking pad). No unenclosed parking shall be constructed or maintained on any Lot except a paved driveway and an attached paved parking pad, which pad shall be designed for the parking of not less than two (2) vehicles. Any driveway or parking pad constructed upon any Lot shall have an asphalt surface, a cement concrete surface, or brick pavers.

The Association may regulate or prohibit the parking of boats, campers, trailers, and the placing of tents and other such items on the Common Area and/or on any Lot except in a fully-enclosed garage. No mobile house trailer (whether on or off wheels), vehicle or enclosed body of the type which may be placed on or attached to a vehicle (known generally as "campers"), tractor trailer trucks or cabs, or commercial vehicle of any kind shall be parked on any Lot within the Subdivision or parked by an Owner, his family members or tenants on any street. No boat or boat trailer shall be parked on the street within the Subdivision. A boat and or boat trailer may be parked on kept on a Lot if it is parked or kept in such a manner that the vehicle is screened from the street. Screening may be either by fence or plantings, but in any case, the screening must comply with the Holly Springs Zoning Ordinances and be approved pursuant to the Master Covenants.

Additionally, no owner of a Lot shall store or keep a trail bike, motorcycle, motorized tri-wheel bike, tractor, truck or other such motorized riding vehicle owned by an Owner, his family member or tenants on the premises without specific written approval by the Association; provided, however, that each Member shall be entitled to store or keep one or more operational automobile(s) and/or pick-up truck(s) on the premises so long as such automobile(s) or truck(s) are parked in the aforesaid off-street paved parking space. In granting approval for any other vehicle(s), the Association may attach specific conditions which shall be binding on the Owner and occupants of the home built on the Lot.

**Section 9. Satellite Dishes and Antennas.** No radio or television transmission or reception towers or antennas shall be erected on a Lot other than a customary television or radio reception antenna, which shall not extend more than ten (10) feet above the top roof ridge of the house. However, a satellite antenna receiver or disc will be permitted on a Lot if: (i) the receiver or dish is not larger than two feet (2') in diameter; (ii) the receiver or dish is located on the side of the house away from the street and within the building setback lines applicable to that Lot; and (iii) the receiver or dish is located or screened in such a way that it cannot be seen from any street within the subdivision. Any such screening must be approved pursuant to Article IV of the Master Covenants. In no event shall any free-standing transmission or receiving tower be permitted on any Lot.

**Section 10. Signs.** Except as otherwise required by the Town of Holly Springs, no sign of any kind shall be displayed to the public view on any Lot except signs used by Declarant to advertise Lots for sale during the construction and sales period, one sign of not more than ten (10) square feet advertising the Property for sale or rent, and signs of not more than ten (10) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed in a lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election.

**Section 11. Swimming Pools.** No above-ground swimming pools shall be permitted in the Subdivision, except that small, inflatable and/or mobile wading pools shall be permitted.

**Section 12. Mailboxes.** No mailbox shall be placed or maintained on any Lot unless the same has been approved pursuant to the Master Covenants.

**Section 13. Clotheslines.** No clotheslines may be erected or maintained on any Lot.

**Section 14. Garbage; Unsightly Storage.** All trash and rubbish shall be kept in garbage cans stored behind the house in such a manner as not to be visible from the street upon which the house fronts. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar unsightly items shall be allowed to remain on any Lot for more than five (5) calendar days; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for collection by governmental or other similar garbage and trash removal units. In the event of curbside trash and/or garbage pickup, trash and/or garbage cans may be moved to the street on the night before the scheduled pickup, but all garbage cans must be returned to approved enclosure the night of the scheduled pickup.

**Section 15. Septic Tanks; Wells.** No septic tank shall be installed, used or maintained on any Lot. No well shall be installed, used or maintained on any Lot for human domestic water consumption, nor shall any well be connected in any manner whatsoever to the water mains, laterals and piping serving the dwelling, which mains furnish domestic water from sources beyond the boundaries of the Lot.

**Section 16. Removal of Trees.** Except in the case of an emergency situation that does not permit any delay, no living tree larger than 6 inches in diameter at a point measured 3 feet above the ground shall be removed from any Lot without the approval of the Declarant. The foregoing provision shall apply only to Lots that have been issued a certificate of occupancy issued by the Town of Holly Springs.

**Section 17. Exterior Maintenance.** The Owner of each Lot shall maintain the grounds and improvements on his Lot, including, by not limited to, plantings, landscaping and lawns, at all times in a neat and attractive manner.

**ARTICLE III  
GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Supplemental Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Conflicts.** In the event of any irreconcilable conflict between this Supplemental Declaration and the Bylaws of the Association, the provisions of this Supplemental Declaration shall control. In the event of an irreconcilable conflict between this Supplemental Declaration and the Articles of Incorporation of the Association, the provisions of this Supplemental Declaration shall control.

**Section 3. Severability.** Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 4. Subdivision of Lots.** No Lot shall be subdivided by sale or otherwise so as to reduce the total Lot area shown on the recorded map or plat, except by and with the written consent of the Architectural Committee.

**Section 5. Unintentional Violations.** Declarant, or the persons or firms to whom the architectural review and approval authority has been delegated pursuant to the Master Covenants may, but shall not be obligated to, waive any violation of the designated and approved building setback lines on any Lot, provided that, no waiver may be granted for a violation in excess of twenty-five percent (25%) of the applicable requirements. No such waiver shall be effective unless the Lot and all structures thereon are in full compliance with the applicable provisions of

the Holly Springs Zoning Ordinance or a variance has been obtained for such violation. Waivers shall be effective upon recording of same in the Wake County Registry.

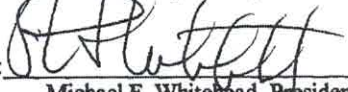
Section 6. Waiver of and Consent to Violations. Declarant may waive any violation of these Restrictive Covenants by an appropriate instrument in writing.

Section 7. Term. These covenants shall run and bind the land and all owners thereof for a period of twenty-five (25) years from the date they are recorded, after which time, they shall be automatically extended for successive periods of ten (10) year unless altered or amended as set forth below. These covenants may be amended during the first twenty-five (25) year period by an instrument signed by the then-owners of not less than eighty percent (80%) of the Lots, and thereafter by an instrument signed by then-owners of not less than seventy-five percent (75%) of the Lots.

Section 8. Declarant. Nothing contained in these Covenants shall be construed to permit interference with the development of the Lots by Declarant so long as said development follows the general plan of development previously approved by the Town of Holly Springs. The restrictions contained herein shall not be deemed to apply to any sales office, construction trailer, model home, or other temporary improvement installed by or with the approval of Declarant.

IN WITNESS WHEREOF, SOUTH FORTY VENTURES LLC, as Declarant hereunder, has caused this instrument to be executed by the President of MacGregor Development Company, its Administrative Member, and with its corporate seal thereunto affixed, all by order and authority duly granted for and on behalf of the said limited liability company, as of the day and year first above written.

**OWNER and DECLARANT:**  
South Forty Ventures LLC,  
a North Carolina limited liability company  
by: MacGregor Development Company,  
a North Carolina corporation, its Administrative Member

by:   
Michael F. Whitehead, President

CORPORATE SEAL

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Ann L. Harper, a Notary Public of the County and State aforesaid, do hereby certify that Michael F. Whitehead personally appeared before me this day and acknowledged that he is the President of MacGregor Development Company, a North Carolina corporation, which is the Administrative Member of South Forty Ventures, LLC, a North Carolina limited liability company, and the foregoing Supplemental Declaration of Sub-Covenants, Conditions and Restrictions For Brackenridge Pointe Subdivision was signed in its name by MacGregor Development Company, its Administrative Member and sealed with its corporate seal, all for and on behalf of the said limited liability company.

Witness my hand and official stamp or seal, this 28th of March 2002.



Ann L. Harper  
my commission expires: 8/8/06

Laura M Riddick  
Register of Deeds  
Wake County, NC



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**Wake County Register of Deeds  
Laura M. Riddick  
Register of Deeds**

**North Carolina - Wake County**

The foregoing certificate \_\_\_ of \_\_\_\_\_

\_\_\_\_\_  
*Ann C. Harper*  
\_\_\_\_\_

\_\_\_\_ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

*Laura M. Riddick*  
Assistant/Deputy Register of Deeds

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