WAKE COUNTY, NC
CHARLES P. GILLIAM
REGISTER OF DEEDS
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DECLARATION

OF

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

FAIRVIEW PARK

Prepared by and Mail to:
James H. Pardue, Attorney at Law
1140 Kildaire Farm Road, Suite 307
Cary, North Carolina 27511

NOTE FOR TITLE EXAMINER: ARTICLE XVI OF THIS DECLARATION REQUIRES AN INITIATION FEE TO BE PAID BY EVERY PURCHASER OF A LOT OTHER THAN A BUILDER.

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS

Submitted electronically by "James H. Pardue, Attorney at Law"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR FAIRVIEW PARK

This **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR FAIRVIEW PARK** is made as of the 19th day of February, 2018, by Fairview Park Developers, LLC, a North Carolina limited liability company ("Developer").

W I T N E S S E T H:

WHEREAS, Fairview Park Developers, LLC is the owner of the real property described on Exhibit "A;" and

WHEREAS, Fairview Park Developers, LLC desires to subject the real property described on Exhibit "A," and possibly other property, to the provisions of this Declaration to create a residential community.

NOW THEREFORE, Fairview Park Developers, LLC hereby declares that the real property described on Exhibit "A" of this Declaration, including any improvements which may be (but are not required to be) constructed on that property, is subjected to the provisions of this Declaration. Such real property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, contained in this Declaration. The provisions of this Declaration shall run with the title to the property now or hereafter subjected to this Declaration. This Declaration shall be binding on all persons having any right, title, or interest in all or any portion of the property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

ARTICLE I.
DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

"Act" shall mean and refer to Chapter 47F of the North Carolina General Statutes, known as the North Carolina Planned Community Act, as the same may be amended from time to time.

"Affliate" shall mean any person who controls Declarant, is controlled by Declarant, or is under common control with Declarant. A person controls Declarant if the person (i) is a general partner, member, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the Declarant, (iii) controls in any manner the election of a majority of the directors of the Declarant, or (iv) has contributed more than twenty percent of the capital of the Declarant. A person is controlled by Declarant if the Declarant (i) is a general partner, member, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than thirty percent of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

"Area of Common Responsibility" shall mean the Common Property, together with such other areas, if any, for which the Association has responsibility pursuant to this Declaration, any recorded plat, other covenants, contracts, or agreements.

"Additional Covenants" shall mean and refer to any covenants, conditions or restrictions now or hereafter recorded and imposed on portions of the Properties by or with the consent and joinder of the Declarant, and shall include any instrument recorded pursuant to Section 4.18.

"Association" shall mean Fairview Park Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

"Board of Directors" or "Board" of the Association shall be the appointed or elected body, as applicable, having its normal meaning under North Carolina law.

"Builder" shall mean and refer to any Person acquiring one or more Lots from Declarant for the express purpose of constructing a dwelling on the Lot and selling the improved Lot.

"Bylaws" shall refer to the Bylaws of the Association.

"Common Property" shall mean, if any, the real property, interests in real property, and personal property, easements, and other interests, together with improvements located on that property (if any) which are now or are hereafter owned by the Association for the common use and enjoyment of some or all of the Owners.

"Community" and/or "Property" shall mean the real property and interests described on Exhibit "A" and such additions to that property as may be made by Declarant or by the Association pursuant to this Declaration.

"Community Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination must be consistent with the Community Standard originally established by the Declarant.

"Declarant" shall mean and refer to Fairview Park Developers, LLC, a North Carolina limited liability company, as well as its successors and assigns pursuant to an express assignment or conveyance of any special Declarant rights hereunder to such successor or assign, all of which rights, including Declarant's voting, easement and development rights, shall be assignable and may be apportioned on a lot-by-lot basis. Any such assignment shall be recorded in the office of the Register of Deeds of the county in which the Community is located.

"Declarant's Period" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Register of Deeds for the County in which the Community is located, and continuing until the later of: (i) one (1) year after Declarant shall cease to own any property within the Community; or (ii) for so long as Declarant shall have the unilateral right to subject additional property to this Declaration, unless Declarant relinquishes or transfers all its Special Declarant Rights as provided in §47F-3-104 of the Act..

"Declaration" shall include this Declaration of Covenants, Conditions, Restrictions and Easements for Fairview Park, as the same may be supplemented or amended pursuant to any Supplementary Declaration or any amendment to this Declaration in accordance with its terms.

"Lot" shall mean and refer to any separately numbered portion of the Property shown on any now or subsequently recorded subdivision plat of the Property intended for use or used as a site for a any single-family attached or detached dwelling, patio (zero lot line) home, townhome or condominium unit and shall include any improvements constructed thereon and "Lots" shall refer to all such lots collectively. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of any other Owner or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant or an Affiliate, as the case may be, and to thereby create additional Lots, eliminate existing Lots or create additional Common Property. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by Declarant of such a revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

"Master Plan" shall mean and refer to the plan(s) for the Property and any additional property now or hereafter approved by the appropriate local governmental authority, as such plan may be amended from time to time.

"Master Plan Lot" shall mean and refer to any separately numbered portion of the Property shown from time to time on the Master Plan intended for use or used as a site for any single-family attached or detached dwelling, patio (zero lot line) home, townhome or condominium unit and shall include any improvements constructed thereon.

"Mortgage" means any mortgage, security deed, deed of trust, or similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

"Mortgagee" shall mean the holder of a Mortgage.

"Occupant" shall mean any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

"Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community; excluding any Person holding such interest merely as security for the performance or satisfaction of any obligation.

"Person" means a natural person, corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

"Secondary Association" shall mean and refer to any homeowners association other than the Association, including, without limitation, any townhome or condominium owners association, formed pursuant to Additional Covenants imposed by Declarant on portions of the Property for the purpose of providing for the further administration, protection, maintenance and control of the Lots subject to such Additional Covenants and any related property to be maintained for the benefit of the Owners of such Lots.

"Secondary Association Common Property" shall mean and refer to any portion of the Properties identified as common property" or "common elements" or otherwise identified as property to be held and/or maintained by the Secondary Association.

"Street Trees" shall mean and refer to trees within the street tree easement, if applicable, as required by the Town of Cary.

"Supplementary Declaration" means an amendment and/or supplement to this Declaration which subjects the land described therein to additional restrictions and obligations.

"Total Association Vote" means all of the votes attributable to members of the Association. If the Total Association Vote is taken during a time while Declarant has the right to appoint members of the Board of Directors, a Total Association Vote approving some item or proposition must contain the affirmative vote of Declarant or the item or proposition will be deemed not to have been approved.

ARTICLE II.
PROPERTY SUBJECT TO THIS DECLARATION

2.1. Property Subjected To This Declaration. The real property which is subject to the covenants and restrictions contained in this Declaration is the real property described in Exhibit "A."

2.2. Other Property. Only the real property described in Section 2.1 is made subject to this Declaration. However, Declarant may subject all or portions of the additional real property described in Section 9.1 by recording one or more Supplementary Declarations.

ARTICLE III.
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.1. Membership. Every Owner shall be deemed to have a membership in the Association. If a Lot is owned by more than one Person, there shall be only one (1) membership per Lot, and the votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

3.2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots.

There shall be two classes of membership with respect to voting rights:

(a) Class A Members. Class A Members shall be the Owners of all Lots except those owned by the Class B Member. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting. No fractional voting shall be allowed. Lots owned by Class A Members shall be "Class A Lots."

(b) Class B Member. The Class B Member shall be the Declarant. Subject to the provisions of this subsection, Declarant shall be entitled to nine votes for each Master Plan Lot that it owns. Lots owned by Class B Members shall be "Class B Lots." Upon expiration of the Declarant Period, Declarant shall have one vote for each Lot that it owns.

3.3. Declarant's Right to Appoint Directors and Officers of the Association. The Declarant shall have the right to appoint or remove any member or members of the Board or any officer or officers of the Association until such time as the first of the following events shall occur: (a) twenty (20) years from the date the Declaration was recorded; (b) the date on which 100% of the lots developed or to be developed as part of the Community (including all present and future phases) pursuant to development plans maintained by the

Declarant, as such plans may be revised and amended from time-to-time, have been conveyed to Persons other than Builders; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Declarant such authority to appoint and remove directors and officers of the Association. The directors selected by the Declarant need not be Owners or residents in the Community.

ARTICLE IV.
ASSESSMENTS

4.1. Purpose of Assessment. The assessments provided for in this Declaration shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots, as may be authorized from time to time by the Board, and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to such purposes and related to the use and enjoyment of the Common Property or the Lots, including but not limited to, the expenses of operating, maintaining, repairing and replacing any recreational facilities (including pool, bathhouse, play areas, viewing areas and the like), the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision; the maintenance of open spaces, street trees and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in dedicated rights-of-way within the Property), drives and parking areas within the Common Property; the procurement and maintenance of insurance in accordance with this Declaration; the maintenance of stormwater drainage facilities, dams and ponds, including retention or detention ponds, or other bodies of water, if any, located within the Common Property; the erection, maintenance and/or repair of signs, entranceways, landscaping, perimeter wall, irrigation and lighting within the Common Property, road medians and islands; the cost of operating, maintaining and repairing any street lights erected by the Association or the Declarant within the Common Property or in the rights-of-way of streets (whether public or private) or in any other easement provided therefor within the Property; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Property; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, stormwater facilities, street trees, and any other major expense for which the Association is responsible; and such other needs as may arise.

4.2. Creation of the Lien and Personal Obligation for Assessments. Each Owner agrees to timely pay to the Association: (a) annual assessments or charges; (b) special assessments; (c) specific assessments and (d) all other assessments or charges levied against any particular Lot, which are established and levied pursuant to the terms of this Declaration. Each Owner also agrees to pay reasonable fines as may be imposed in accordance with the terms of this Declaration.

4.3. Maximum Annual Assessment. Until December 31, 2018, the Maximum Annual Assessment shall be $700.00 for each Class A Lot. Beginning on January 1 of each year thereafter, the Maximum Annual Assessment shall automatically increase by ten percent over the maximum Annual Assessment for the previous year.

The provisions of this subsection shall not apply to, or shall they be a limitation upon, any change in the annual assessment or the Maximum Annual Assessment incident to a merger or consolidation as provided in §47F-2-121 of the Act.

4.4. Personal Liability. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for the assessments which are due at the time of conveyance; however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.

4.5. Certificate of Payment. The Association shall, within ten (10) business days after receiving a written request, furnish a certificate signed by an officer of the Association setting forth whether the assessments, other charges, and fines on a specified Lot have been paid. A properly executed certificate shall be binding upon the Association, the Board, and the Owner as of the date of issuance. The Board shall have the right to impose a reasonable charge for providing this certificate.

4.6. Annual Assessments. Annual assessments shall be levied equally on all similarly situated Lots and shall be paid in such manner and on such dates as may be fixed by the Board. The Board may allow annual assessments to be paid through periodic payments, and the Board shall have the right to accelerate any unpaid annual installments in the event an Owner is delinquent. Unless otherwise provided by the Board, the assessment shall be paid in quarterly installments.

4.7. Computation of Annual Assessments. The Board shall prepare a proposed budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve. The Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than thirty (30) days after the mailing of the notice. The Board shall cause the proposed budget, the assessments, and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum, to be mailed or delivered to each member at least thirty (30) days prior to the end of the current fiscal year. Quorum need not be present at the meeting. The budget and the assessment shall become effective unless disapproved at such meeting by the Owners entitled to cast at least fifty percent (50%) of the votes of the Association. In the event the membership disapproves the proposed budget, or the Board fails to establish a budget for the succeeding year, the budget in effect for the then current year shall continue for the succeeding year until changed by the Board. In the event the Board's budget is disallowed, the Board shall have the right to make a new budget retroactive to the start of the fiscal year. The initial annual assessment shall be $660.00.

4.8. Special Assessments. In addition to the other assessments authorized by this Declaration, the Association may levy special assessments from time to time. Special assessments must be approved at a meeting by at least two-thirds (2/3) of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

4.9. Lien for Assessment. All assessments and charges provided for herein, together with interest, and late fees, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made when a claim of lien is filed of record in the Office of the Clerk of Superior Court, Wake County, North Carolina.

4.10. Personal Obligation. Each such assessment and charge, together with interest, any late fees, fines, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner(s) of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

4.11. Effect of Nonpayment of Assessment. Any assessments (or installments) which are not paid when due shall be delinquent. Any assessment (or installment) which is delinquent for a period of more than thirty (30) days shall incur a late charge in an amount set by the Board. Any assessment (or installment) which is delinquent for a period of more than sixty (60) days shall incur a second late charge in an amount set by the Board. If the Assessment is not paid within ninety (90) days, a fifteen (15) day demand letter shall be mailed. After the fifteen (15) day demand period expires without payment, the Association shall engage an attorney to collect the payment and lien shall attach upon filing a claim of lien in the office of the Clerk of Superior Court in the county in which the Lot is located. The lien shall set forth the name and address of the Association, the name of the Owner of the Lot, a description of the Lot, and cover all assessments then due or which come due until the lien is canceled of record, and any other amounts provided in this Declaration or permitted by law. In the event that the assessment remains unpaid after thirty (30) days, the Association may institute suit to collect such amounts and foreclose its lien. The Association shall have the right to foreclose its lien by any method allowed by law. The Association shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same.

4.12. No Setoff or Deduction. No Owner subject to assessment may waive or otherwise exempt himself from liability for the assessments provided for in this Declaration. No setoff, diminution, or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action, for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The obligation to pay assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.

4.13. Application of Payments. All payments shall be applied first to costs, then to late charges, then to interest, and then to delinquent assessments.

4.14. Date of Commencement of Assessments. As to each Lot subject to assessment, assessments shall start on the first day of the month after the Lot is subjected to this Declaration. The first annual assessment shall be prorated according to the number of months then remaining in that fiscal year.

4.15. Declarant and Builder Assessment. Builders purchasing Lots shall pay twenty five percent (25%) of the regular assessment. The Declarant shall not pay dues.

4.16. Late Charges. All assessments and other charges established and levied pursuant to the terms of this Declaration shall accrue late charges, interest (not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due), and costs, including without limitation, reasonable attorneys' fees actually incurred. The assessments and charges shall be a continuing lien upon the Lot against which each assessment is made, and shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due.

4.17. Specific Assessment. Pursuant to this Section, the Board shall have the power to specifically assess as it shall deem appropriate, in its sole discretion. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may also specifically assess Owners for the following Association expenses (except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility):

a. Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefitted according to the benefit received; and

b. Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

c. Expenses incurred in bringing the Lot into compliance with the Declaration, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided the Board shall give the Lot Owner prior written notice and, if required by this Declaration or the Bylaws, an opportunity for a hearing before levying any Specific Assessment under this subsection.

4.18. Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may (but shall not be required to):

a. Advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association and the sum of the annual, special, and specific assessments collected by the Association in any fiscal year. Such advances shall, upon request of Declarant, be evidenced by promissory notes from the Association in favor of the Declarant. The failure of Declarant to obtain a promissory note shall not invalidate the debt; or

b. Cause the Association to borrow such amount, or a general borrowing, from a third party at the then prevailing rates for such a loan in the local area of the Community. Declarant, in its sole discretion, may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan; or

c. Acquire property for, or provide services to, the Association or the Common Property. Declarant shall designate the value of the property or the services provided and such amounts, at the request of the Declarant, shall be evidenced by a promissory note. Failure to obtain a promissory note shall not invalidate the obligation referred to in this Section.

4.19. Property Subject to Additional Covenants. Declarant, in its sole discretion, may subject portions of the Properties to Additional Covenants. Any such Additional Covenants may provide for the creation of a Secondary Association and may provide that such Secondary Association, with the consent of the Executive Board of the Association, may collect on behalf of the Association and thereafter remit to the Association, the assessments levied hereunder with respect to that portion of the Properties subject to such Additional Covenants. In addition, any such Additional Covenants may provide that, at the request of the Association, in the sole discretion of it Executive Board, the Secondary Association may enforce the lien of the Association securing the Association's assessments; provided, however, no such Additional Covenants shall in any way modify, diminish, annul or cancel the personal liability of any Owner for the payment of assessments hereunder or the Association's lien against each Lot which secures such payment.

ARTICLE V.
MAINTENANCE & CONVEYANCE OF COMMON PROPERTY TO ASSOCIATION

5.1. Association's Responsibility. The Association shall maintain in good repair all Areas of Common Responsibility, including (without limitation), maintenance, repair, and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain all lakes and associated dams in or serving the Community, to the extent maintenance of such lake is required and the lake is not otherwise maintained by a governmental entity or third party.

a. The Association shall also maintain all entry features, and common areas, operate and maintain street lights (if not maintained and operated by a governmental entity) for the Community including the expenses for water and electricity, if any, provided to all such entry features; all stormwater detention facilities and easements serving the Community (to the extent such facilities and easements are not maintained by a governmental entity or third party). The Association will maintain the street tree easement, if any, located within the Common Property or within the Lots, and street trees located within the easement. The Association will maintain any buffer plantings located within the Lots.

b. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association, within the Community, where the Board has determined that such maintenance would benefit the Owners. In order to maintain a uniform appearance, the Association shall have the right, but not the obligation, to maintain all or a portion of the lawns of Lots visible from the Common Green as depicted on the recorded map.

c. In the event that the Association determines that the need for maintenance, repair, or replacement of property described in (a) or (b) above is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance maintained by or on behalf of the Association, in whole or in part, then the Association may perform such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs thereof shall be an assessment against such Owner and such Owner's Lot subject to the Association's lien and collection rights provided for in this Declaration; provided, however, during Declarant's Control Period, any such action by the Association shall require the Declarant's prior written consent. Such Owner may request a hearing by the Board of Directors, or an adjudicatory panel appointed by the Board, to determine responsibility for the damages if the monetary amounts involved are less than or equal to the jurisdictional amount established for small claims under North Carolina law. The hearing shall afford notice of the charge to the Owner, an opportunity for the Owner to be heard and to present evidence, and a notice of decision by the Board. The Board of Directors or its appointees may not

assess liability in an amount in excess of the jurisdictional amount established for small claims under North Carolina law.

d. The maintenance shall be performed consistent with the Community Standard.

5.2. Owner's Responsibility. Except as provided in Section 5.1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community Standard and this Declaration. In the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible, the Association may perform such maintenance, repair, or replacement for the Owner at the expense of the Owner. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be an assessment levied against the Owner and a lien on such Owner's Lot in accordance with the provisions of Article IV hereof. The provisions of this Section shall continue to control even if the obligation to maintain any Lot or group of Lots is assigned to a Secondary Association. Although covenants of record may provide that a Secondary Association is responsible for such maintenance, the Owner of each Lot is ultimately responsible for the maintenance of such Owner's Lot in accordance with the provisions of hereof.

5.3. Conveyance of Common Property by Declarant to Association. The Declarant may convey to the Association any personal property, any improved or unimproved real property, leasehold, easement, or other property interest located within or adjacent to the Community. Such conveyance shall be accepted by the Association, in perpetuity, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. Declarant in recording any plat of the Property may identify thereon certain areas of land as "Open Space," "Common Area," "Common Property," or similar designation. Such designated properties, unless otherwise expressly provided, are expressly not dedicated to the public, but are intended to be conveyed by Declarant to the Association as Common Property. Declarant, however, reserves the right to reconfigure, in accordance with any applicable local governmental ordinances and regulations, all or any portion of such

areas and all or any one or more of the Lots shown on any recorded subdivision plat at any time prior to the conveyance of such property by recording a revised subdivision plat of the property and thereby increase or decrease the area of any "Open Space," "Common Area," "Common Property," or similarly designated property and/or increase or decrease the number or size of the Lots shown thereon. Any "Open Space," "Common Area," "Common Property," or similarly designated property conveyed to the Association shall be conveyed subject to all easements and restrictions then of record, including all easements and restrictions herein reserved and established, and the recording of a plat showing such areas shall not limit the rights of Declarant to further restrict such property and to grant and convey easements on, over or upon such property, prior to its conveyance to the Association, or otherwise in accordance with the terms of this Declaration.

ARTICLE VI.
USE RESTRICTIONS AND RULES

6.1. General. This Section sets out certain use restrictions that must be complied with by all Owners and Occupants. These use restrictions may only be amended as provided in this Declaration.

6.2. Residential Use. Except as otherwise herein provided with respect to the use of Lots as sales offices, construction offices and model homes, all Lots shall be used for residential purposes exclusively, provided, however, a home office or business may be maintained on a Lot so long as the principal use of the Lot is for single-family residential purposes and such ancillary use of the Lot for a home office or business is permitted by applicable local governmental ordinances, laws and regulations and otherwise is determined by the Association not to create a nuisance and conforms to all rules and regulations from time to time promulgated by the Association concerning same. However, the Board may permit a Lot to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or Bylaws, does not create a disturbance and does not unduly increase traffic flow or parking congestion. The Board may issue rules regarding permitted business activities. Notwithstanding the foregoing restrictions, the Declarant shall have the right to operate a sales office and a construction office from one or more Lots within the Community. In addition, except as otherwise herein provided with respect to use of the Property as sales offices, construction offices and models, no portion of the Property shall be used except for residential purposes and uses ancillary thereto, including recreational, park and skeet purposes. Garage sales, yard sales and similar activities shall be conducted only in accordance with all applicable federal, state and local laws and ordinances and the rules and regulations, if any, adopted by the Board.

6.3. Architectural Standards. No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. Except as provided above,

no exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Review Committee to be established by the Board.

a. The Architectural Review Committee may be established such that it is divided into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. There shall be no more than three members of each committee.

b. The Board may employ architects, engineers, or other persons as it deems necessary to enable the Architectural Review Committee to perform its review.

c. The Architectural Review Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the committee for all matters delegated.

d. Written design guidelines and procedures shall be promulgated for the exercise of this review, which guidelines may provide for a review fee.

e. During Declarant's Control Period, the Declarant shall have the right to appoint all members of the Architectural Review Committee. Upon the expiration or earlier surrender in writing of such right, the Board shall appoint the members of the Architectural Review Committee.

f. If the Architectural Review Committee fails to approve or to disapprove submitted plans and specifications within sixty (60) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with. As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the Architectural Review Committee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The Architectural Review Committee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction commenced in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictions have been violated and such Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in this

Declaration, record in the appropriate land records a notice of violation naming the violating Owner.

g. Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Architectural Review Committee, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, the Architectural Review Committee, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans or specifications and every Owner agrees that such Person or Owner will not bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Board, or the officers, directors, members, employees, and agents of any board, or the officers, directors, members, employees, and agents of any of them to recover any damages and hereby releases, remises, quitclaims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

h. Signs. Except as otherwise required by the Town of Cary, no sign, including a political sign, of any kind shall be displayed to the public view on any Lot except for signs used to advertise Lots for sale during the development, construction and sales period, one sign of not more than ten square feet advertising the property for sale or rent, and signs of not more than ten 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 on a Lot earlier than sixty days before such election and shall be removed within seven days after such election. No sign of any kind shall be displayed in or on the Common Property without the prior written consent of the Association. Notwithstanding the foregoing, Declarant shall have the right to erect and maintain signs of any type and size on any Lot which it owns and on the Common Property in connection with the development and sale of the Property. All signs maintained on any portion of the Property must comply with all applicable federal, state and local laws and ordinances. No sign shall be nailed or otherwise attached to trees, street light poles or street signs.

i. Vehicles. The term "vehicles," as used herein, shall include, without limitation, motorhomes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles.

The following activities are prohibited within the Community unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

i. Parking of any vehicles on streets or thoroughfares within the Community, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, boats and other watercraft, trailers, damaged, rusty, unkempt, unsightly, stored or inoperable vehicles in places other than enclosed garages; provided, (a) construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Areas and (b) visitors who occupy or stay within the Lot less than twenty four hours are exempt from this provision ;

ii. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage;

iii. Any boat, motorhome, trailer, or recreational vehicle left upon any portion of the Community for longer than three consecutive days is subject to removal upon written notice from the Association to the Owners of such boat, motorhome, trailer, or recreational vehicle, and the costs of such removal shall be an assessment against such Owner.

iv. Trucks with mounted campers which are an Owner's or Occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

j. Off Road. No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board.

k. Leasing. Lots may be leased for residential purposes. All leases shall have a minimum term of at least twelve (12) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner's Lot in accordance with the provisions of Article IV. The Board may promulgate rules and regulations governing leasing and the registration of leased properties with the Association.

l. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions, or design guidelines promulgated pursuant

thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied and assessed against the Owner and secured with a lien against such Owner's Lot in accordance with the provisions of Article IV.

m. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board, provided such pets are kept in accordance with applicable local governmental ordinances, rules and regulations. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs which are household pets shall be kept on a leash when outside of an Owner's residence. No pet which has caused any damage or injury shall be walked in the community, whether on a leash or otherwise. All pets shall be registered, licensed, and vaccinated as required by law. Pets which endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or Occupants must be removed by their owner upon request of the Board.

n. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier, or other sound device, except such devices as may be used exclusively for security purposes or as approved by the Architectural Review Committee, shall be located, installed, or maintained upon the exterior of any Lot unless required by law.

o. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

p. Antennas. No satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind shall be placed, allowed, or maintained within the Community, except that Declarant and the Association shall have the right, without the obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Community, and (I) satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (ii) satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennas designed to receive television broadcast signals ((I), (ii), and (iii), collectively, "Permitted Devices") shall be permitted, *provided that* any such Permitted Device is placed in the least conspicuous location on the Lot (generally being the rear of the Lot) at which an acceptable quality signal can be received and is not visible from the street, Common Area, or neighboring property or is screened from the view of adjacent Lots in a manner consistent with the Community Standard and any design guidelines.

q. Tree Removal. No trees that are more than four (4) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the Architectural Review Committee. However, no flowering trees, including, without limitation, dogwood trees, regardless of their diameter, shall be removed without the prior written consent of the Architectural Review Committee. Notwithstanding all of the above, no consent or approval is required for the removal of any trees, except street trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, septic field, sidewalk, residence, driveway, or the line formed by the highest normal pool elevation of any lake.

r. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may alter, obstruct, or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains, the right to alter same being expressly reserved to Declarant.

s. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

t. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, hot tubs, spas, and related equipment, and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Declarant reserves the right to dump and bury rocks on property within the Community as needed for efficient construction and to allow developers and builders within the Community to bury rocks removed from a building site. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community

except that Declarant may maintain a "burn pit" during development and construction of the Community. No permanent, temporary or mobile fire pits are allowed without the express written consent of the Architectural Review Committee.

u. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Architectural Review Committee. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations. Declarant's right to replat any Lot shall include the right to change the configuration of streets and otherwise make changes on the final plat for the Community as to how the streets and common areas in the Community are laid out.

v. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes rifles, pistols, "BB" guns, pellet guns, and small firearms of all types.

w. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any Lot without the prior written consent of the Architectural Review Committee. Notwithstanding the foregoing, the Declarant shall have the right to erect fencing of any type, at any location, on any Lot during the period that such Lot is being used by Declarant as a model home. The Board of Directors shall have the right to erect fencing of any type considered appropriate or desirable by the Board at any location on the Common Property.

x. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as required during construction, lines installed by or at the request of Declarant, existing lines and lines installed pursuant to any Duke Energy Carolinas easements.

y. Air Conditioning Units. No window air conditioning units may be installed.

z. Lighting. Except as may be permitted by the Architectural Review Committee, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) one (1) decorative post light, (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; or (e) front house illumination of model homes.

aa. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags (other than flags of the United States of America and the State of North Carolina) and similar items must be approved by the Architectural Review Committee.

bb. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Review Committee.

cc. Swimming Pools and Hot Tubs. No swimming pool, hot tubs or portable spas shall be permitted without the prior written consent of the Architectural Review Committee and then only if enclosed by an approved fence.

dd. Gardens and Play Equipment. No vegetable garden or play equipment (including, without limitation, basketball goals) shall be erected on any Lot without the prior written consent of the Architectural Review Committee, and any such items must be located between the rear dwelling line and the rear lot line. Without limiting the foregoing, basketball goals may be installed providing they are constructed of black poles, permanently mounted, not visible from the street, and the Architectural Review Committee approves the location, height, and type of goal and post.

ee. Mailboxes. Currently, the United States Postal Service requires a central mail kiosk. If individual mailboxes are allowed in the future, the following provision shall apply. All mailboxes located on Lots shall be of a similar style approved by the Architectural Review Committee. Replacement mailboxes may be installed after the type has been approved in writing by the Architectural Review Committee.

ff. Exteriors. Any change to the exterior color of any improvement located on a Lot, including, without limitation, the dwelling, must be approved by the Architectural Review Committee.

gg. Clothesline. No exterior clotheslines of any type shall be permitted upon any Lot.

hh. Exterior Security Devices. No exterior security devices, including, without limitation, window bars, shall be permitted on any residence or Lot. Signs less than 6" by 6" placed on the Lot or the exterior of the residence stating that such residence is protected by a security system shall not be deemed to constitute an exterior security device.

ii. Entry Features. Owners shall not alter, remove, or add improvements to any entry features constructed by the Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the Architectural Review Committee.

jj. Storage Sheds and Garages. Construction, installation, or placement of a storage shed, tree house, play house, detached garage, or a building separate from

the main house on the Lot is not permitted on any Lot, except that such a structure may be constructed and maintained on a Lot used as a site for a single-family detached dwelling, if the construction of such improvement has been approved in writing by the Architectural Review Committee, in its sole discretion. All plans (which must include the length, width, height, materials, colors, and location) must be submitted to the Architectural Review Committee for written approval prior to obtaining building permits or starting construction. The structure must be constructed, installed, or placed in a location inconspicuous as much as possible from public view. No two-story structures of this nature are permitted on any Lot within the Community. All materials used in the construction of such buildings must match the main dwelling located on the Lot.

kk. Sewer System. As long as reasonably adequate sanitary sewer service is supplied to a Lot by applicable governmental authorities, no private sewage system shall be permitted on that Lot.

ll. Wetlands. Portions of the Property may have been determined to meet the requirements for designation at a regulatory wetland. Notwithstanding anything to the contrary that may appear herein or in any other restrictive covenants applicable to such portions of the Property, any subsequent fill or alteration of any portion of the Property that has been determined to be a regulatory wetland under applicable laws of the United States or the state of North Carolina shall conform to the requirement of applicable wetland rules adopted by the United States or the state of North Carolina and in force at the time of the proposed alteration. The intent of this Section is to prevent additional wetland fill except as allowed under applicable federal, state and local laws and ordinances, so the Owner of any such portion of the Property should not assume that a future application for fill or alteration of a wetland will be approved. The Owner of any portion of the property subject to any such future application shall report the name of the development (in this case, Fairview Park), together with the name of the particular phase, section or subdivision within the Property, if any, in any application pertaining to wetland rules. The provisions of this Section are intended to ensure continued compliance with wetland rules adopted by the United States or state of North Carolina and this covenant may be enforced the United States or state of North Carolina. The provisions of this Section shall run with the Property and be binding on all Owners of any part of the Property and all persons claiming under them.

mm. Drone Operation.

i. For purposes of this Section, a "drone" is an unmanned aircraft system which is controlled by an operator on the ground or from a remote location without physical contact with the aircraft. The term includes remote-controlled model airplanes and helicopters as well as other remote-controlled aircraft. The Board may, from time to time and at any time, modify and expand the definition of "drone" set forth herein.

ii. Except as provided in subsection (iv), no person may operate a drone within the Community until the drone is: (a) registered with the Association in accordance with such procedures as the Board may establish from time to time; and (b) registered with the Federal Aviation Administration ("FAA"), if required by the FAA, and a copy of the certificate of FAA registration provided to the Association. Currently, the FAA requires registration of a drone if the drone exceeds 0.55 lbs. Information on registration of drones and additional Federal requirements for drones may be found at https://www.faa.gov/uas/.

iii. Except as provided in subsection (iv), the operator of a drone:

(A) may operate such drone within the Community only between the hours of 10:00 AM and 6:00 PM;

(B) must not allow the drone to enter into the airspace above any Lot other than the Lot occupied by the operator or on which the operator has been expressly authorized by the Owner or occupant to operate such drone.

(C) must not allow the drone to enter the airspace above any portion of the Common Area, Limited Common Area, or streets within the Community without the Board's prior written approval;

(D) must not operate the drone in a manner which tends to harass or invade the privacy of, or be offensive or detrimental to, Owners or occupants of other Lots, their guests or invitees, or persons using the public streets or common areas. The Board's judgment on such matters shall be determinative.

iv. This subsection mm. shall not apply to the Declarant during the Development and Sale Period. The Declarant and its permittees may periodically utilize drones in the Community for sales and marketing purposes, and for other purposes associated with development of the Community. This subsection mm. shall not apply to restrict operation of any drone within the Community by law enforcement or other public safety personnel acting in their official capacities, or by any governmental agency or utility provider or their employees or contractors for legitimate governmental or utility purposes, provided that the drone is used only to perform tasks within the scope of the operator's official capacity or duties and is operated in full compliance with all applicable laws and regulations. The Board may, in its discretion, grant exemptions for other categories of use subject to such conditions as the Board deems appropriate, provided that such exemptions are based on the nature of the drone use and operation within the Community and do not give preferential treatment to any particular business over its competitors.

nn. The Board may, from time to time, without consent of the members, promulgate, modify, or delete additional use restrictions, consistent with the restrictions herein contained, and rules and regulations applicable to the Community. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a majority of the Total Association Vote; provided, however, during Declarant's Control Period, any such use restrictions and rules must receive the prior written approval of Declarant.

Owners shall have no riparian rights with respect to the waters in any lake or stream within the Community and shall not be permitted to withdraw water from any lake or stream as may exist in the Community or as are made available for the use of all Owners and Occupants within the Community without the prior written consent of the Board or its designee. During Declarant's Control Period, Declarant may authorize and grant easements to withdraw water from such lakes or streams without the consent of the Association.

Notwithstanding anything contained in this Declaration to the contrary, no vegetable gardens, hammocks, statuary, swing sets or similar play equipment, basketball goals or similar athletic equipment, boats or boating equipment, pools, fences, clothes drying equipment, dog houses, dog runs or other pet enclosures, signs, retaining walls, or any other structure or thing which, in the sole discretion of the Board or its designee, tends to detract from the appearance of the Community, and especially any lake, shall be permitted on any Lot which abuts or is appurtenant to any lake within the Community or any lake made available for the use of all Owners and Occupants within the Community, without the prior written consent of the Architecture Review Committee or its designee.

ARTICLE VII.
INSURANCE AND CASUALTY LOSSES

7.1. Insurance on Common Property. The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall obtain insurance for all insurable improvements whether or not located on the Common Property which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

7.2. Liability Insurance. The Board shall obtain a general commercial liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least one million dollars

($1,000,000.00). If available, the Board is authorized to obtain directors' and officers' liability insurance coverage.

7.3. Declarant. The Board is authorized to obtain the insurance coverage required hereunder through the Declarant and to reimburse Declarant for the cost thereof. The Board shall not be required to comply with the provisions of this Section if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

7.4. Premiums. Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

7.5. Miscellaneous. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective benefitted parties, as further identified below. Such insurance shall comply with these provisions:

a. All policies shall be written with a company authorized to do business in North Carolina.

b. Exclusive authority to settle losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

c. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

d. All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually.

e. The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

I. A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;

ii. A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

iii. That no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;

iv. That no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

v. That any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

vi. That no policy may be canceled, subjected to nonrenewal, or substantially modified without at least thirty (30) days prior written notice to the Association.

f. In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be equal to at least three (3) months' assessments plus reserves on hand. As an alternative to an Association fidelity bond, the Board may use the management company's fidelity bond and be named as an additional insured or loss payee on their fielity bond. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, subjected to nonrenewal, or substantially modified without at least thirty (30) days prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the U.S. Department of Veterans Affairs, or the U.S. Department of Housing and Urban Development.

7.6. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If "all-risk" coverage is not reasonably

available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association acquires insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner as a specific assessment and shall be a lien on such Owner's Lot.

7.7. Damage and Destruction -- Insured by Association.

a. In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Board shall have the enforcement powers specified in this Declaration necessary to enforce this provision.

b. Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least eighty percent (80%) of the Total Association Vote otherwise agree; provided, however, during Declarant's Control Period, Declarant must also agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

c. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the

improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

d. In the event that it is determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

7.8. Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board shall have all enforcement powers specified in this Declaration.

ARTICLE VIII.
CONDEMNATION

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of this Declaration applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE IX.
ANNEXATION OF ADDITIONAL PROPERTY

9.1. Unilateral Annexation By Declarant.

a. The Declarant shall have the unilateral right, privilege, and option from time to time until ten (10) years after the recording of this Declaration to subject to the provisions of this Declaration the following property ("Annexation"):

I. All or any portion of the real property described in Exhibit "B;"

ii. Any property which is adjacent to the property described on Exhibit "B;" and

iii. Any tract of land, of which any portion is located within a five (5) mile radius of the property described in Exhibit "B."

For the purpose of determining whether property is "adjacent," the rights of way of public or private roads or utilities, as well as rivers and streams, and the like shall be deemed not to separate otherwise adjacent property. Annexation may be accomplished by filing for record, in the county in which the property to be annexed is located, a Supplementary Declaration describing the property being subjected.

Any such annexation shall be effective upon the filing for record of such Supplementary Declaration unless otherwise provided therein.

Declarant shall have the right, in connection with the annexation of other property, to modify the terms of this Declaration as it may apply to the annexed property.

As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property.

b. The rights reserved unto Declarant to subject additional land to the Declaration shall not impose any obligation upon Declarant to subject any of such additional land to this Declaration or the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

9.2. Other Annexation. Subject to the consent of the owner(s) thereof and the consent of the Declarant (during Declarant's Control Period), upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots, the Association may annex real property to the provisions of this Declaration describing the property to be annexed and filed for recording in the land records of the county in which the Community is located. A Supplementary Declaration shall be signed by the President of the Association whose signature shall be attested by the Secretary of the Association, and any such annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

ARTICLE X.
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Section apply to both this Declaration and the Bylaws, notwithstanding any other provisions contained therein.

10.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the legal description of the encumbered Lot, therefore becoming an "eligible holder"), will be entitled to timely written notice of :

a. Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

b. Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided that, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; and

c. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

10.2. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

10.3. Applicability of Section. Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or North Carolina law for any of the acts set out in this Section.

10.4. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD, or VA subsequently delete any of their respective requirements which necessitate the provisions of this Section or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Section to be recorded to reflect such changes.

10.5 Subordination of Assessment Lien to Mortgages. The assessment lien provided for herein on any Lot shall be subordinate to the lien of any mortgage or deed of trust.

ARTICLE XI.
EASEMENTS

11.1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point. In no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

11.2. Easements for Use and Enjoyment.

a. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

i. The right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests, and invitees;

ii. The right of the Association to suspend the voting rights of a Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

iii. The right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided that, the lien and encumbrance of any such Mortgage given by the Association shall be: 1) in accordance with all applicable Federal, State and local law, rules and regulations; and 2) subject and subordinate to any rights, interests, options, easements, and privileges herein reserved or established for the benefit of Declarant, or any Lot or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community. Any such Mortgage on the Common Property shall be subject to approval by at least eighty percent (80%)

of the Total Association Vote (excluding votes held by the Declarant) and by the Declarant during Declarant's Control Period. Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements, or privileges herein reserved or established for the benefit of Declarant, or any Lot or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community;

iv. The right of the Association to dedicate or grant licenses, permits, or easements over, under, and through the Common Property to governmental entities for public purposes;

v. The right of the Association, acting through the Board without Member, Mortgagee or agency approvals, to dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Property which are not inconsistent with and do not unreasonably interfere with the intended use of the Common Property and otherwise for such purposes and subject to such conditions as may be agreed to by the Association's Board; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded in the Register of Deeds for the County in which the Community is located;

vi. The right of the Association to dedicate or transfer any real property interest in all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association subject to Paragraph 5.3. No such dedication or transfer shall be effective unless approved by the express written consent of the Town of Angier and an instrument agreeing to such dedication or transfer has been approved by the affirmative vote of at least eighty percent (80%) of the Total Association Vote (excluding votes held by the Declarant) and by Declarant during Declarant's Control Period, and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Property or cause any Lot or any remaining Common Property to fail to comply with applicable laws, regulations or ordinances;

vii. The right of the Association, acting through the Board, to impose rules and regulations for the use and enjoyment of the Common Property and improvements thereon, which regulations may further restrict the use of the Common Property, and specifically including the right to establish rules and regulations concerning parking and vehicular traffic flow on and along the streets and roadways, whether public or private, within or

abutting the Community, which rules and regulations may restrict or prohibit on-street parking and may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a Lot to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Association's Board; and

vi. The easements, conditions and restrictions herein reserved and established for the benefit of the Declarant, the Association and others.

b. Delegation. Any Lot Owner may delegate such Owner's right of use and enjoyment in and to the Common Property and facilities located thereon to the members of such Owner's family and to such Owner's tenants and guests and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Lot, if leased.

11.3. Easements for Access, Utilities and Other Purposes. There is hereby reserved and established in favor of the Declarant and the Association blanket non-exclusive easements upon, across, above, and under all property within the Community, including all Lots, for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving all or any portion of the Community or any portion or any portion of the additional property specifically described on Exhibit B hereto (whether or not such additional property is added to the Community), and for such other purposes that are not inconsistent with and do not unreasonably interfere with the intended use of such property. This easement shall include, without limitation, access, gas, water, sanitary sewer, telephone, electricity, cable television, security, as well as storm drainage and any other service or system which the Declarant or the Association might decide to have installed to service the Community or any portion of the additional property specifically described on Exhibit B hereto (whether or not such additional property is added to the Community). It shall be expressly permissible for the Declarant, the Association, or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, pipes, cables, and other equipment related to the providing of any such access, utility or service. Should any party furnishing or receiving any such utility or service request a specific license or easement by separate recordable document, the Declarant or the Board, as the case may be, shall have the right to grant such easement.

11.4. Easement for Drainage. Declarant hereby reserves a perpetual easement across the Community for the purpose of altering drainage and water flow across the Community. This right shall include, but is not limited to, altering swales, installing drains, drainage ditches, pipes, inlets, headwalls, and altering channeling, or piping waterflow across any Lot or any property in the Community. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

11.5. Easement for Entry. In addition to the other rights reserved and established in favor of Declarant and the Association, the Declarant and the Association each shall have the right (but not the obligation) to enter upon any property or Lot within the Community for emergency, security, and safety reasons. This right may be exercised by the Declarant, the Association their respective designee, any officer of the Board, and all governmental employees, policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard or condition in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

11.6. Easement for Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of Declarant or the Association across such portions of the Community, determined in the sole discretion of the Declarant and the Association, as are necessary to allow for the maintenance required by this Declaration or any Secondary Covenants, including without limitation Section 5.2. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Owners' property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

11.7. Easement for Entry Features and Street Trees and Street Tree Easement. There is hereby reserved to the Declarant and the Association an easement for ingress, egress, installation, construction, landscaping, and maintenance of entry features, street trees and the street tree easement, if applicable, and similar streetscapes for the Community, over and upon each Lot as more fully described on the recorded subdivision plats for the Community. The easement and right herein reserved shall include the right to cut, remove, and plant trees, shrubbery, flowers, and other vegetation around such entry features, street trees and street tree easement and the right to grade the land under and around such entry features.

11.8. Construction and Sale Period Easement. Notwithstanding any provisions contained in the Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, and any amendments thereto, during Declarant's Control Period, Declarant reserves an easement across such portions of the Community as Declarant may reasonably deem necessary for any or all of the purposes hereinafter set forth. This reserved easement shall include an easement for such facilities and activities which, in the sole opinion of Declarant, may be required, convenient, or incidental to the development, construction, and sales activities related to property within or near the Community. This easement shall include, without limitation:

a. The right of access, ingress, and egress for vehicular and pedestrian traffic, and construction activities over, under, on, or in any portion of the Community as well as any Lot in the Community;

b. The right to tie into any portion of the Community with driveways, parking areas, and walkways;

c. The right to tie into or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services;

d. The right (but not the obligation) to construct recreational facilities on Common Property;

e. The right to carry on sales and promotional activities in the Community;

f. The right to place direction and marketing signs on any portion of the Community, including any Lot or Common Property;

g. The right to construct and operate business offices, signs, construction trailers, model residences, and sales offices incidental to the construction, development, and sales activities; and

h. Declarant and any such builder or developer may use residences, offices, or other buildings owned or leased by Declarant or such builder or developer as model residences and sales offices, and may also use recreational facilities available for use by the Community as a sales office or for marketing purposes without charge. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, and reasonable steps shall be taken to protect such property from damage. Any damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent until the Declarant's rights hereunder have terminated as provided in this Declaration.

11.9. Irrigation Easements. There is hereby reserved to the Declarant and the Association a blanket easement to pump water from ponds, lakes, and other bodies of water located within the Community for irrigation purposes.

11.10. Fence Easement. Declarant hereby reserves an easement across any Lot which borders upon or contains a portion of any water facility, detention pond, or retention pond for the purpose of access to such facility or pond, and for the purpose of erecting any fence which is either required by the subdivision development and construction plans or governmental regulation, rule, ordinance, or plan approval requirement.

ARTICLE XII.
GENERAL PROVISIONS

12.1. Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, the rules and regulations, and the use restrictions, as they may be lawfully amended

or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and any such restrictions which may be placed in the deed to such Owner's Lot, if any. In the event of a conflict between the provisions of this Declaration and the Bylaws, the Declaration shall prevail. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws, or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or in a proper case, by an aggrieved Owner. To determine fines and sanctions against Owners, a hearing shall be held before the Board of Directors or an adjudicatory panel appointed by the Board. The Owner shall be given notice of the charge, an opportunity to be heard and to present evidence, and a notice of decision by the Board. If a fine is imposed it may not exceed one hundred dollars ($100.00) for the violation and for each day more than five days after the notice of decision that the violation continues. Such fines shall be assessments secured by a lien. If a sanction is imposed it may continue without further hearing until the violation is cured. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of lien, a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions, or design guidelines, and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

12.2. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of the Community to abate or remove, using such force as may be reasonably necessary, any structure, thing, or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorneys' fees, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

12.3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by Declarant, the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law. If North Carolina law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provision shall be automatically extended for successive periods of ten (10) years, unless a written instrument reflecting disapproval signed by the then Owners of two-thirds (2/3) of the Lots and the Declarant (during Declarant's Control Period) is recorded within the year immediately preceding the beginning of a ten (10) year renewal period.

12.4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, the Department of Housing and Urban Development, the Veterans Administration, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage Loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent in writing. Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration, Declarant may unilaterally amend this Declaration for any other purpose; provided that, any such amendment shall not materially adversely affect the substantive rights of any Lot Owners hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended:

I. During Declarant's Control Period, with the affirmative written consent of the Declarant and upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots; and

ii. Following the expiration of Declarant's Control Period, upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots.

12.5. Partition. The Common Property shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots located within the Community.

12.6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

12.7. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held

invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this Declaration are declared to be severable.

12.8. Captions. The captions are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

12.9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

12.10. Indemnification. To the fullest extent allowed by applicable North Carolina law, the Association shall indemnify every officer of the Association and director of the Association against any and all expenses, including, without limitation, attorneys' fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer of director, may be entitled. This indemnification shall also include attorneys' fees and expenses incurred in enforcing this indemnification. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

12.11. Books and Records.

a. Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by Declarant or any member of the Association or by the duly appointed representative of any member and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to such Person's interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe. Any management company, bookkeeper, or similar record keeper hereby agrees by acceptance of employment to cooperate and provide records

in paper, electronic or similar forms, as requested by the Association, to the Association, or any subsequent management company, bookkeeper or similar record keeper. The preceding sentence shall be broadly interpreted to facilitate the transfer of all information and minimize the time and expense of doing so.

b. Rules for Inspection. The Board shall establish reasonable rules with respect to: (1) notice to be given to the custodian of the records; (2) hours and days of the work when such an inspection may be made; and (3) payment of the cost of reproducing copies of documents.

c. Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

12.12. Financial Review. A review of the books and records of the Association shall be made annually in the manner as the Board may decide; however, after having received the Board's financial statements, by a majority of the Total Association Vote, the Owners may require that the accounts of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements within ninety (90) days of the date of the request.

12.13. Notice of Sale, Lease, or Acquisition. In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sales or lease, the name of the purchaser or lessee of the Lot, copy of lease, up-to-date contact information and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably require.

12.14. Agreements. Subject to the prior approval of Declarant (during Declarant's Control Period), all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

12.15. Implied Rights. The Association may exercise any right or privilege given to it expressly by the Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

12.16. Electronic Transactions. The Association may conduct any transaction or transactions by electronic means, and this provision shall constitute the agreement by the Association, its members and directors to the conduct of transactions by electronic means.

ARTICLE XIII.
VARIANCES

Notwithstanding anything to the contrary contained herein, the Declarant and the Board or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws, and any rule, regulation, or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

ARTICLE XIV.
LITIGATION

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in this Declaration, (c) proceedings involving challenges to *ad valorem* taxation, or (d) counterclaims brought by the Association in proceedings instituted against it.

ARTICLE XV.
CAPITALIZATION OF ASSOCIATION

Upon acquisition of record title to a Lot by each Owner, other than Declarant or a Builder, a contribution ("Initiation Fee") equal to the annual assessment shall be made by or on behalf of the purchaser to the Association as set forth below. The Initiation Fee shall be in addition to, not in lieu of, any annual or special assessments. The Initiation Fee shall be payable at closing, shall not be prorated, and the Association shall have all rights under the Declaration for enforcement of assessments if it is not paid. The Initiation Fee shall be deposited into an account of the Association and disbursed from that account (a) up to two-thirds (2/3) of the Initiation Fee may be disbursed to pay expenses and costs of the Association in accordance with the Declaration and Bylaws, as amended, and (b) one-third (1/3) of the Initiation Fee shall be held by the Association as a long term "Maintenance Reserve" to be disbursed by the Association for maintenance of any property which the Association is required or permitted to maintain, in its sole discretion. The Initiation Fee referred to in this paragraph shall be payable upon each subsequent transfer, sale or other

conveyance of the Lot. **The Initiation Fee will be charged to subsequent purchasers of a Lot**.

IN WITNESS WHEREOF, the Declarant herein, hereby executes this instrument under seal this the 19th day of Febuary , 2018.

DECLARANT:

Fairview Park Developers, LLC,
a North Carolina limited liability company

By: _____
Richard L. Van Tassel II, Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, do hereby certify that Richard L. Van Tassel II personally appeared before me this day and acknowledged that he is the manager of Fairview Park Developers, LLC, a North Carolina Limited Liability Company and further acknowledged the due execution of this instrument on behalf of the Limited Liability Company.

Witness my hand and official seal, this the 19th day of February , 2018.

_____
Notary Public

My commission expires: _____

[Notary Seal]

JAMES H. PARDUE
NOTARY PUBLIC
WAKE COUNTY, N.C.
My Commission Expires 2-9-2022.

EXHIBIT "A"

Being all of Phase 1
Fairview Park Subdivision
As shown on map recorded in Map Book 2018, Pages 155 through 158,
Wake County Registry.

TIMMONS GROUP
YOUR VISION ACHIEVED THROUGH OURS.

Exhibit "B"

LEGAL DESCRIPTION OF AN ASSEMBLAGE OF PARCELS TOTALING 2,581,588 SF, OR 59.265 AC., IN SWIFT CREEK TOWNSHIP, WAKE COUNTY, NC.

BEGINNING at an iron pipe found on the easterly right-of-way of Lawdraker said point being the southwest corner of the property of Jerrold P Ruehle (DB. 10328. PG. 2461);

Thence, S 89° 22' 35" E for a distance of 1224.55 feet to an Iron Pipe Found;
Thence, N 00° 28' 51" E for a distance of 259.74 feet to an Iron Rod Found, said Iron Rod also being the southwestern corner of the Ryan and Heather Baker property (DB. 12960, PG. 2756);
Thence, S 86° 34' 01" E for a distance of 484.26 feet to an Iron Rod Found;
Thence, S 86° 25' 54" E for a distance of 268.19 feet to an Iron Rod Found;
Thence, S 87° 43' 34" E for a distance of 26.64 feet to an Iron Pipe Found;
Thence, S 45° 05' 41" E for a distance of 398.12 feet to an Iron Rod Found, said Iron Rod also being the southern corner of the property of Gerald R. Atkins (DB. 3434, PG. 852);
Thence, N 44° 55' 26" E for a distance of 257.12 feet to an Iron Pipe found;
Thence, S 45° 10' 33" E for a distance of 72.00 feet to an Iron Rod Set;
Thence, S 44° 40' 03" E for a distance of 160.24 feet to an Iron Rod Set;
Thence, S 45° 05' 00" E for a distance of 30.06 feet to an Iron Rod Set;
Thence, S 44° 53' 07" W for a distance of 8.66 feet to an Iron Pipe Found;
Thence, S 45° 05' 16" E for a distance of 126.78 feet to an Iron Pipe Found;
Thence with a curve to the left whose radius is 889.49 feet an arc distance of 7.49 feet and whose long chord bears S 50° 53' 12" E for a distance of 180.32 feet to an Iron Rod Set;
Thence, S 22° 05' 17" E for a distance of 75.27 feet to an Iron Pipe Found;
Thence, S 12° 59' 37" W for a distance of 26.49 feet to an Iron Rod Set;
Thence with a curve to the left whose radius is 8,788.10 feet an arc distance of 156.00 feet and whose long chord bears S 12° 27' 09" W for a distance of 156.00 feet to an Iron Pipe Found;
Thence, S 12° 32' 47" W for a distance of 9.70 feet to an Iron Rod Set;
Thence, S 12° 00' 27" W for a distance of 209.95 feet to an Iron Pipe Found;
Thence, S 10° 36' 55" W for a distance of 581.08 feet to an Iron Pipe Found, said point also being the northeastern corner of Lot 16, Summer Oaks Subdivision (BM. 1997, PG. 822);
Thence, N 87° 06' 21" W for a distance of 271.66 feet to an Iron Pipe Found;
Thence, N 87° 05' 43" W for a distance of 268.15 feet to an Iron Rod Found;
Thence, N 87° 07' 30" W for a distance of 397.34 feet to an Iron Pipe Found, said pipe also being a corner of the Anthony C. and Kelly R. Braam property (DB. 8091, PG. 1840);

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Thence, N 00° 51' 15" E for a distance of 205.20 feet to an Iron Rod Set;
Thence, N 89° 07' 26" W for a distance of 100.08 feet to an Iron Rod Set;
Thence, N 00° 54' 24" E for a distance of 50.00 feet to an Iron Rod Set;
Thence, S 89° 07' 26" E for a distance of 100.00 feet to an Iron Pipe Found, said Pipe also being the southeastern corner of the Tara M. and Kyle Pegram property (DB. 15944, PG. 285);
Thence, N 00° 52' 34" E for a distance of 503.82 feet to an Iron Pipe Found;
Thence, N 71° 02' 08" W for a distance of 598.68 feet to an Iron Pipe Found, said Pipe also being the northwestern corner of the Stephen B. and Patricia Ann Scardino property (DB. 8666, PG. 2279);
Thence, S 00° 52' 22" W for a distance of 402.01 feet to an Iron Pipe Found, said pipe also being along the western property line of the Christopher J. and Teri S. Gentri property (DB. 10935, PG. 820);
Thence, N 88° 50' 45" W for a distance of 368.81 feet to an Iron Pipe Found;
Thence, N 00° 57' 56" E for a distance of 96.94 feet to an Iron Pipe Found;
Thence, N 88° 51' 41" W for a distance of 979.76 feet to an Iron Pipe Found, said Iron Pipe also being along the eastern right-of-way of Lawdraker Road;
Thence along said right-of-way, N 10° 29' 38" E for a distance of 94.24 feet to a point on an Iron Rod Set;
Thence, N 11° 26' 49" E for a distance of 203.13 feet to an Iron Rod Set;
Thence, N 13° 11' 23" E for a distance of 322.70 feet to an Iron Pipe Found, said point also being the POINT OF BEGINNING and containing 2,581,655 square feet or 59.267 acres, more or less.

The property described hereon is subject to all rights-of-way, easements and restrictions of record.