WAKE COUNTY, NC
TAMMY L. BRUNNER
REGISTER OF DEEDS
PRESENTED & RECORDED ON
04-01-2021 AT 09:44:49

BOOK: 018432 PAGE: 01153 - 01193

Prepared by and hold for:
Robert A. Brady, Attorney at Law: 160 Iowa Lane, Cary North Carolina 27511

DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR ELIZABETH SPRINGS SUBDIVISION

THE FOLLOWING STATEMENTS ARE REQUIRED BY THE NORTH CAROLINA PLANNED COMMUNITY ACT:

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA OR THE DISPLAY OF POLITICAL SIGNS.

Submitted electronically by "Robert A. Brady, 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.

STATE OF NORTH CAROLINA

COUNTY OF WAKE

DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR ELIZABETH SPRINGS SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by EXPERIENCEONE HOMES, LLC, a North Carolina limited liability company, with its principal place of business in Wake County, North Carolina, hereinafter referred to as the "Declarant"; Pinnacle Bank, a Tennessee banking corporation, hereinafter referred to as "Lender #1", Hugh M. Queener, hereinafter referred to as "Trustee #1", and T.R. Smith, Inc., a North Carolina corporation, hereinafter referred to as "Lender #2" and Robert A. Brady, Attorney at Law, hereinafter referred to as "Trustee #2";

W I T N E S S E T H

WHEREAS, the Declarant is the owner of certain property located in the Town of Rolesville, Wake County, North Carolina, a portion of which is more particularly described as:

> **BEING** all of Lots 1-22 and 77-82, inclusive, Phase One, Elizabeth Springs Subdivision, as shown on map entitled "FINAL PLAT, ELIZABETH SPRINGS SUBDIVISION, PHASE ONE, Wake Forest Township, Rolesville, Wake County, North Carolina", recorded in Book of Maps 2021, Pages 119 - 126, Wake County Registry.

WHEREAS, Declarant has executed a Deed of Trust to Trustee #1 for Lender #1 pledging the property to secure indebtedness from Declarant to Lender #1, said Deed of Trust having been heretofore recorded in Book 17509, Page 1104 of the Wake County Registry; and,

WHEREAS, Declarant has executed a Deed of Trust to Trustee #2 for Lender #2 pledging the property to secure indebtedness from Declarant to Lender #2, said Deed of Trust having been heretofore recorded in Book 18239, Page 145 of the Wake County Registry; and

WHEREAS, the Declarant desires to create on that portion of the above properties described in Article II hereof a planned development community to be known as **ELIZABETH SPRINGS SUBDIVISION**, and to provide for the preservation of values, for the maintenance of

common facilities and services, and for a vehicle for the administration and enforcement of these Covenants and restrictions; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of North Carolina, a nonprofit corporation, Elizabeth Springs Property Owners Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth;

NOW, THEREFORE, Declarant declares that the real property described in Article II, and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments ("Assessments"), affirmative obligations, and liens (all hereinafter sometimes referred to as "the Covenants" or the "Covenants and Restrictions") hereinafter set forth.

ARTICLE I
DEFINITIONS

The following words and terms when used in this Declaration or any Supplemental Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to Elizabeth Springs Property Owners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

(b) "Elizabeth Springs Subdivision" shall mean and refer to the lands in Rolesville, North Carolina, which are shown as Elizabeth Springs on the Declarant's Master Plan as revised from time to time.

(c) "Declarant" shall mean, ExperienceOne Homes, LLC, a North Carolina limited liability company, its successors and assigns.

(d) "Developer" shall mean, ExperienceOne Homes, LLC, a North Carolina limited liability company, its successors and assigns.

(e) "Affiliate" shall mean any corporation owning more than fifty percent (50%) of the voting stock of the Declarant, or which is owned or controlled by the Declarant or the Developer, and any partnership or joint venture in which the Declarant or a Developer has fifty percent (50%) or more of the cash flow from such partnership or joint venture.

(f) "Property" or "Properties" shall mean and refer to the existing property described in Article II hereof, and additions thereto, as are subjected to this Declaration or any Supplementary Declaration under the provisions of Article II hereof.

(g) "Owner" shall mean and refer to the Owner as shown by the Real Estate Records in the Register of Deeds Office of Wake County, North Carolina, whether it be one (1) or more persons, firms, associations, corporations or other legal entities, of fee simple title to any residential Lot situated upon the Properties but, notwithstanding any applicable theory of a deed of trust, shall not mean or refer to the mortgagee or holder of a deed of trust, its successors or assigns, unless and pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or Tenant of an Owner. In the event that there is recorded in the Office of the Register of Deeds of Wake County, North Carolina, a long-term contract of sale covering any Lot or parcel of land within the Properties, the Owner of such Lot or parcel of land shall be the Purchaser under said contract and not the fee simple title- holder. A long-term contract of sale shall be one where the Purchaser is required to make payments for the Property for a period extending beyond nine (9) months from the date of the contract and where the Purchaser does not receive title to the Property until all such payments are made, although the Purchaser is given the use of said Property.

(h) "Tenant" shall mean and refer to the lessee under a written agreement for the rent and hire of a Residential Unit in Elizabeth Springs Subdivision.

(i) "Resident" shall mean and refer to each Owner and Tenant of a Residential Unit who resides in Elizabeth Springs Subdivision.

(j) "Member" shall mean and refer to all those Owners and Tenants who are Members of the Association as defined in Section 1 of Article III.

(k) "Master Plan" shall mean and refer to the drawing which represents the conceptual plan for the future development of Elizabeth Springs Subdivision. Since the concept of the future development of Elizabeth Springs Subdivision is subject to continuing revision and change by the Declarant, present and future references to the "Master Plan" shall be references to the latest revision thereof.

(l) "Common Properties" shall mean and refer to those tracts of land designated as "Common Open Space" - "OS" and "Amenity Center" on recorded maps of the Properties with all improvements thereon which are deeded or leased to the Association. The term "Common

Properties" shall also include any personal property acquired or leased by the Association if said property is designated a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Members of the Association, their guests, and visiting members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association.

(m) "Resource Conservation Areas" shall mean and refer to those tracts of land designated as "Resource Conservation Area" – "RCA" on recorded maps of the Properties with all improvements thereon which are deeded or leased to the Association. The term "Resource Conservation" shall include all tracts as proposed by the Declarant and established by the Town of Rolesville Planning Director pursuant to Article 8 of the Rolesville Unified Development Ordinance, as may be amended from time to time.

(n) "Board of Directors" shall mean those persons elected or appointed to act collectively as the directors of the Association. Directors may, but are not required to be Members or Owners.

(o) "Bylaws" shall mean the bylaws of the Association as they are now or hereafter exist.

(p) "Institutional Lender" shall mean any bank, insurance company, trust company, real estate investment trust, savings and loan association, pension fund, or other mortgage lender holding a mortgage or deed of trust on any of the Property.

(q) "Lot" or "Residential Lot" shall mean all residential lots or units approved from time to time by the Town of Rolesville to be included within Elizabeth Springs Subdivision for use as a site for a single-family detached dwelling, single-family duplex unit, single-family patio home (or zero lot line), single-family condominium unit, single-family townhouse unit, single-family cooperative apartment unit or single-family apartment unit.

(r) "Unit" or "Residential Units". The Residential Lots may herein be referred to from time to time as "Residential Units".

(s) "Exempt Property" shall mean and refer to the following classifications of property within the Properties, which property shall be exempt only from the payment of dues:

(1) All land designated on the Master Plan for intended use, or by actual use if applicable, by the Declarant, the Declarant's Affiliates, the Developer, the Developer's Affiliates and the Association;

(2) All lands and any improvements thereon designated in any way as Common Properties or Resource Conservation Areas;

(3) All lands designated on the Master Plan or on recorded plats as Dedicated Open Space, Common Open Space, Public Greenways, Greenways, Public Roads, Resource Conservation Area, and Open Space and any improvements thereon which are defined in subparagraph (1) of this paragraph (s);

(4) Property which is used for the maintenance, operation and service of facilities within Common Properties, Resource Conservation Areas and facilities within Open Space Areas which are defined in subparagraph (1) of this paragraph (r); and,

(5) Property which is used for the maintenance, operation, and service of utilities within the Properties.

(t) "Hardscape Improvements" shall mean and refer to any vertical man-made improvements constructed or erected upon a Residential Lot, including, but not limited to a residential structure, a garage, a fence and a storage building or shed.

As used herein, the singular shall include the plural, and *vice versa*, for each of the foregoing.

ARTICLE II
EXISTING PROPERTY AND ADDITIONS

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to this Declaration is described as follows:

> **BEING** all of Lots 1-22 and 77-82, inclusive, Phase One, Elizabeth Springs Subdivision, as shown on map entitled "FINAL PLAT, ELIZABETH SPRINGS SUBDIVISION, PHASE ONE, Wake Forest Township, Rolesville, Wake County, North Carolina", recorded in Book of Maps 2021, Pages 119 - 126, Wake County Registry.

All of the real property hereinabove described shall sometimes be referred to herein as the "Existing Property". The Declarant intends to develop the Existing Property in accordance with a Master Plan prepared in its Planning Department and placed on display in its Reception and Sales Office, and other areas. The Declarant reserves the right to review and modify the Master Plan at its sole option from time to time based upon its continuing research and design program. The Master Plan shall not bind the Declarant, its successors and assigns, to adhere to the Master Plan

in the development of the land shown thereon. Subject to its right to modify the Master Plan as stated herein, the Declarant shall convey to the Association certain properties designated on the Master Plan as properties which may be transferred to the Association, as, in the reasonable exercise of its discretion, it so chooses without regard to the relative location of such portions or sections within the overall plan. Once conveyed to the Association, these properties shall become Common Properties. The Declarant shall not be required to follow any predetermined sequence or order of improvements and development; and, it may bring within the plan of these Covenants additional lands, and develop the same before completing the development of the Existing Property. Other than as stated in this paragraph, the Declarant shall have full power to add to, subtract from or make changes in the Master Plan regardless of the fact that such actions may alter the relative maximum potential voting strength of the various types of membership of the Association. The Declarant shall incorporate and organize the Association prior to the sale or occupancy of any Residential Lot.

Section 2. Additions to Existing Property. Additional lands may become subject to, but not limited to, this Declaration in the following manner:

(a) "Additions". During the period of development, which shall by definition extend from date of this Declaration to December 31, 2040, the Declarant, its successors and assigns shall have the right, without further consent of the Association, by Supplementary Declaration, to bring within the plan and operation of this Declaration additional property. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times.

The additions authorized under this and the succeeding subsection shall be made by recording a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property. The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Declarant, to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration, but such modifications shall have no effect upon the Property described in Section 1, Article II above, or upon any other additions to the Properties.

(b) "Other Additions". Upon approval in writing of the Association pursuant to a simple majority of the vote of those present at a duly called meeting, the owner of any property

who desires to add such property to the plan and operation of this Declaration and to subject it to the jurisdiction of the Association, shall record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient which are not inconsistent with the plan or this Declaration, but such modifications shall have no effect upon the Property described in Section 1, Article II above, or upon any other additions to the Properties.

(c) "Merger". Upon merger or consolidation of the Association with another association, as provided for in the By-Laws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Existing Property, together with the Covenants and Restrictions established upon any other properties, as one plan. No merger or consolidation shall effect any revocation, within the Existing Property, including, without limitation, the maximum limits on Assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association or Institutional Lenders.

(d) Additional lands that become subject to this Declaration under the provisions of this Section 2 may in the future be referred to as a part of Elizabeth Springs Subdivision. Also, the name Elizabeth Springs Subdivision may be used by the Declarant to refer to other nearby properties not subject to this Declaration.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The Declarant (so long as it owns a Residential Unit within Elizabeth Springs Subdivision) shall be a Member of the Association, and any creditor of an Owner of a Residential Unit who acquires title to the Properties or any portion thereof pursuant to foreclosure shall be a Member of the Association. Every Owner of a Residential Unit shall be a

Member of the Association. Owners who are exempt from the payment of Assessments shall not be Members of the Association unless otherwise specified herein.

Section 2. Voting Rights. The Association shall have two (2) types of regular voting membership.

(a) **TYPE "A":** Type "A" Members shall be all Owners of Residential Units, excluding Declarant, its successors and assigns, of Property situated within the bounds of the property described on Exhibit "A" and each Type "A" Member shall be entitled to one (1) vote for each Residential Unit Owned by such Member.

(b) **TYPE "B":** Type "B" Member shall be the Declarant (Developer) and shall be entitled to two thousand forty (2,040) votes for each Residential Unit owned by it.

Section 3. Governance. The Association shall be governed by a Board of Directors consisting of three (3) Members.

Section 4. Election of the Board of Directors.

(a) The Type "A" Members together with the Type "B" Member Developer of the Property described on Exhibit "A" shall elect three (3) Directors;

(b) The method of electing directors shall be as determined by the Developer of the Property described on Exhibit "A"; provided, however, when any property entitling the Owner to membership in the Association is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants partnership or in any other manner of joint or common ownership, or if two (2) or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, all such Owners shall be Members of the Association. The vote for such Property shall be exercised as the Owners thereof determine, but in no event shall more than the number of votes specified in Section 2 of this Article III be cast for any Property, and no fractional vote shall be cast.

(c) Notwithstanding any provision in this Section 4of this Article III to the contrary, the right of the "Type B" Member to control the Board of Directors shall terminate not later than fifteen (15) years after the conveyance of the first Residential Lot.

Section 5. Quorum Required for Any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of

the members at an open meeting of the Association shall be as provided in Article III, Section 4 of the By-Laws.

Section 6. Proxies. All Members of the Association may vote and transact business at any meeting of the Association by proxy as provided in Article III, Section 5 of the By-Laws.

Section 7. Ballots by Mail. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote for the Members and a ballot on which each Member may vote for or against each such motion. Each ballot that is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 5 of this Article III. Provided, however, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON PROPERTIES AND RESOURCE CONSERVATION AREAS

Section 1. Members' Easements of Enjoyment in Common Properties and Resource Conservation Areas. Subject to the provisions of these Covenants, the rules and regulations of the Association and any fees or charges established by the Association, and the provisions of Covenants, rules and regulations of "Sub-Associations" established within the Properties, every Member, and every guest and tenant of such Member, shall have a right of easement of enjoyment in and to the Common Properties and the Resource Conservation Areas, and such easement shall be appurtenant to and shall pass with the title of every parcel within the Properties.

As determined in the sole and uncontrolled discretion of the Board of Directors, certain Owners of Exempt Properties, and certain Tenants and guests, may have access to and enjoyment of the Common Properties and the Resource Conservation Areas subject to rules and regulations and user fees established by the Board of Directors.

Section 2. Title to Common Properties and Resource Conservation Areas. The Declarant covenants for itself, its successors and assigns, that it shall convey by deed to the Association, at no cost to the Association, and subject to (i) this Declaration of Covenants and Restrictions, (ii) all other restrictions and limitations of record at the time of conveyance, (iii) any restrictions, limitations, conditions, or determinations as to the purposes and uses of the conveyed properties as stipulated in said deed, and (iv) any commitments by the Declarant to construct

certain improvements thereon as stipulated in said deed, those Common Properties and Resource Conservation Areas described in Section 4 of this Article IV hereof; except such Common Properties and Resource Conservation Areas as are required to be deeded to the Town of Rolesville as designated in the Master Plan. Notwithstanding the foregoing, each Developer agrees to convey to the Town of Rolesville that portion of the Common Properties or Resource Conservation Areas located on its portion of Elizabeth Springs Subdivision as is required to be deeded to the Town of Rolesville on the Master Plan in a manner and sequence consistent with the development schedule of all Developers.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Properties and Resource Conservation Areas, and providing services authorized herein and in aid thereof to mortgage said properties provided, however, that any such mortgage is with the prior consent of two-thirds of the votes entitled to be voted by the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of such two-thirds by Members voting in person or by proxy at a duly called meeting of the Association; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures;

(c) The right of the Association to suspend the right to vote and the right to use that portion of the Properties designated as "Common Open Space" - "OS" or "Resource Conservation Area" – "RCA" of any Member or Tenant or guest of any Member for any period during which the payment of any Assessment against property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any Assessment or a breach of the rules and regulations of the Association shall not suspend the right to use any roads belonging to the Association subject to the rules, regulations and fees, if any, established by the Association for such use.

(d) The right of Declarant or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility or drainage easements on any part of the Common Properties or Resource Conservation Areas; and

(e) The right of the Association to give or sell all or any part of the Common Properties or Resource Conservation Areas, including lease-hold interests, subject to (i) the provisions of this Declaration of Covenants and Restrictions and (ii) all other restrictions and limitations of record at the time of conveyance, to any public agency, authority, public service district, utility or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided, however, that no such gift or sale of any parcel of land and improvements thereon, or determination as to the purposes or as to the conditions thereof, shall be effective unless such dedication, transfers, and determinations as to purposes and conditions shall be authorized by the affirmative vote of three-fourths (¾) of the votes cast at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Member of the Association at least thirty (30) days prior to such meeting. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer of any parcel of land and improvements thereon affecting the Common Properties or Resource Conservation Areas prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership. The gift or sale of any personal property owned by the Association shall be determined by the Board of Directors in its sole and uncontrolled discretion.

(f) The right of the Declarant or the Association to convey all or part of the Common Properties or Resource Conservation Areas to the Town of Rolesville.

Section 4. Conveyance of Common Property and Resource Conservation Area. The Declarant covenants for itself, its successors and assigns, that it will convey to the Association the Common Property and Resource Conservation Area shown on each recorded "phase" or "section" map of the Properties prior to the conveyance of any Residential Lot or Unit shown on such map, and that, prior to fifteen (15) years from the date of the conveyance of the first Lot in Elizabeth Springs Subdivision, they shall convey to the Association, at no cost to the Association, and subject to all the restrictions and limitations of the various Articles of this Declaration and any other restrictions and limitations of record, all properties designated as Common Properties or Resource Conservation Areas on recorded maps of the Property.

ARTICLE V

COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant covenants, and each Owner of each Residential Unit within the Properties, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association:

(a) Annual Assessments or charges;

(b) Landscape Maintenance and Irrigation Assessments or charges; and

(c) Special Assessments or charges for the purposes set forth in this Article, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual Assessments, Landscape Maintenance and Irrigation Assessments and Special Assessments, together with such interest thereon and costs of collection thereof including a reasonable attorney's fee as hereinafter provided, shall be a charge and continuing lien on the real property and improvements thereon against which each such Assessment is made, and shall also be the personal obligation of the Owner of such property at the time when the Assessment first became due and payable. Co-owners shall be jointly and severally liable for the entire amount of the Assessment.

Section 2. Purpose of Assessments. The Annual Assessments and Landscape Maintenance and Irrigation Assessments levied by the Association shall be used exclusively for the purposes outlined in Article VI hereof.

Section 3. Application of Maximum Assessment and Maximum Landscape Maintenance and Irrigation Assessment. The Maximum Regular Annual Assessment and the Maximum Landscape Maintenance and Irrigation Assessment, as set forth in subparagraph (a) of this Section 3 and as is automatically increased annually pursuant to the provisions of subparagraph (d) below, shall be levied by the Association. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by an Assessment less than the Maximum Regular Annual Assessment or the Maximum Landscape Maintenance and Irrigation Assessment, it may levy such lesser Assessment.

If the Board of Directors shall levy less than the Maximum Regular Annual Assessment or the Maximum Landscape Maintenance and Irrigation Assessment for any Assessment year and thereafter, during such Assessment year, determine that the important and essential functions of the Association cannot be funded by such lesser Assessment, the board may, by a majority of voting power (subject to an affirmative vote of two-thirds (⅔) of the votes cast at a duly called meeting of the Association), levy a Supplemental Assessment. In no event shall the sum of the initial and Supplemental Assessments for that year exceed the applicable Maximum Regular Annual Assessment or the applicable Maximum Landscape Maintenance and Irrigation Assessment.

If the Board of Directors, by a majority of voting power, determines that the important and essential functions of the Association will not be properly funded in any one (1) year, or in any one (1) year and all subsequent years, it may request approval of a specified increase in the Maximum Regular Annual Assessment or the Maximum Landscape Maintenance and Irrigation Assessment for either one (1) year only, or for that one (1) year and all subsequent years, by the vote of the Members at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5. Should the Members vote in favor of such proposed increase, it shall be deemed approved and may be levied by the Board. An increase in the Maximum Regular Annual Assessment or the Maximum Landscape Maintenance and Irrigation Assessment for one (1) year only pursuant to the provisions hereof shall in no way affect the Maximum Regular Annual Assessment or the Maximum Landscape Maintenance and Irrigation Assessment for subsequent years on increases thereof in subsequent years.

(a) From and after the date of recording of this Declaration, the Maximum Regular Annual Assessment for Residential Units owned by a Resident shall be Seven Hundred Twenty and No/100 Dollars ($720.00) for each Residential Unit and may be automatically increased in each instance by percentage as set forth in Section 3(d) of this Article, and as may be increased pursuant to the provisions set forth immediately above. Said Maximum Regular Annual Assessment shall be payable quarterly. From and after the date of recording of this Declaration, the Maximum Annual Assessment for Residential Units owned by a builder ("Builder Rate") shall be One Hundred Eighty and No/100 Dollars ($180.00) for each Residential Unit and may be automatically increased in each instance by the percentage set forth in Section 3(e) of this Article, and may be increased pursuant to the provisions set forth immediately above. The Builder Rate

shall apply to each Residential Unit from such time as said Residential Lot is transferred from the Developer to the builder until the earlier of; (i) the date that a certificate of occupancy is issued for the residence constructed upon said Residential Until, or (ii) nine (9) months from the date that said Residential Unit is transferred to the builder.

(b) All Assessments shall be payable quarterly.

(c) The Board of Directors may authorize a billing agent to collect the Assessments provided for herein.

(d) From and after January 1, 2021, the Maximum Regular Annual Assessment may be automatically increased each year by an amount of ten percent (10%) per year over the previous year.

(e) The amount of the annual dues for each Residential Unit shall be paid quarterly, in full, and in advance at the time of the first (1st) conveyance of said Residential Unit to its first (1st) purchaser.

Section 4. Special Assessments for Improvements and Additions. In addition to the maximum Regular Annual Assessments authorized by Section 3 hereof, the Association may levy Special Assessments for the following purposes:

(a) Construction, reconstruction, repair, or replacement of capital improvements upon the Common Properties and Resource Conservation Areas, including the necessary fixtures and personal property related thereto;

(b) For additions to the Common Properties or Resource Conservation Areas;

(c) To provide for the necessary facilities and equipment to offer the services authorized herein;

(d) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein;

(e) Such Special Assessment, before being charged, must have received the approval of the Members of the Association by the favorable vote of seventy-five (75%) percent of the votes cast at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5. The notice of such meeting shall include one (1) statement from those Directors favoring the Special Assessment and one (1) statement from those Directors opposing the Special Assessment, containing the reasons for those Directors' support and opposition for the Assessment. Neither statement shall exceed five (5) pages in length.

This provision shall be interpreted to mean that the Association may make in any one (1) year an Annual Assessment up to the maximum set forth in Section 3 of this Article V, plus an additional Special Assessment. Such Special Assessment in any one (1) year may not exceed a sum equal to the amount of the Maximum Regular Annual Assessment for such year except for emergency or repairs required as a result of storm, fire, natural disaster, or other casualty loss. The fact that the Association has made an Annual Assessment for an amount up to the Maximum Regular Annual Assessment shall not affect its right to make a Special Assessment during the year.

Section 5. Reserve Funds. The Association shall establish reserve funds from its Annual Assessments to be held in reserve in an interest drawing account or investments as a reserve for:

(a) Major rehabilitation or major repairs;

(b) For emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss;

(c) Initial costs of any new service to be performed by the Association; and

(d) For the periodic maintenance, repair, and replacement of improvements to the Common Properties and Resource Conservation Areas that it is obligated to maintain.

Section 6. Date of Commencement of Annual Assessments, Due Date, Initial Units Subject to Assessment. Notwithstanding anything in the foregoing to the contrary, the Annual Assessments provided for herein shall commence no earlier than the date that this Declaration is recorded but not later than December 31, 2021.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the amount of the Annual Assessment. Written notice of Assessment shall thereupon be sent to every Member subject thereto.

Section 8. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; the Lien; Remedies of Association". If the Annual Assessment or any Special Assessment is not paid on or before five (5) days after the due date specified in Section 3(b) hereof, then such Assessment shall be deemed delinquent and shall (together with interest thereon at the maximum annual rate of 10% from the due date and cost of collection thereof including a reasonable attorney's fee as hereinafter provided) become a charge and continuing lien on the land and all improvements thereon against which such Assessment is made.

If the Assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owners personally and there shall be added to

the amount of such Assessment the costs of preparing the filing of the Complaint in such action and a reasonable attorney's fee, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and reasonable attorney's fee together with the costs of the action. Such personal obligation shall not pass to the successor in title to the land unless assumed by such successor, or is required by applicable law.

Section 9. Subordination of the Lien. The Lien of the Assessments provided for herein shall be subordinate to the lien of any first deed of trust now or hereafter placed upon any properties subject to Assessment. In the event a creditor acquires title to any property subject to Assessment pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure, said creditor shall be subject only to Assessments accruing after such acquisition.

Section 10. Exempt Property. All Properties defined as "Exempt Property" in Article I (r) shall be exempt from the Assessment, charge and lien created herein.

Section 11. Annual Statements. The President, Treasurer, or such other Officer as may have custody of the funds of the Association shall annually, within one hundred twenty (120) days after the close of the fiscal year of the Association, prepare and execute a general itemized statement showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the name of any creditor of the Association, provided, however, that this requirement shall be construed to apply only to creditors of more than One Thousand and No/100 Dollars ($1,000.00). Such Officer shall furnish to each Member of the Association who may make request therefore in writing, a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be furnished to such Member either in person or by mail. Any holder of a first mortgage on a Lot(s) or Unit(s) (and any Insurers or Guarantors of such first mortgage) shall be entitled upon written request to a financial statement for the immediately preceding fiscal year.

Section 12. Annual Budget. The Board of Directors shall prepare and make available to each Member of the Association, at least thirty (30) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following fiscal year. The fiscal books of the Association shall be available for inspection at all reasonable times.

Section 13. Working Capital Fund. Simultaneously with the first closing of the sale of each home constructed on a Residential Unit to a homeowner after the issuance of a certificate of occupancy by the Town of Rolesville for said home, the purchaser shall remit the sum of Seven

Hundred Twenty and No/100 Dollars ($720.00) to be held as a working capital fund. The purpose of said fund is to insure that the Association Board will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payment of regular assessments.

ARTICLE VI

FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Properties. The Association shall be authorized to own and/or maintain Common Properties and Resource Conservation Areas, equipment, furnishings and improvements devoted to the following uses:

(a) For roads, roadways, roadway medians, roadway islands, and parkways along said roads or roadways, cul-de-sac islands and neighborhood or other area entrances (including signs) throughout the Properties;

(b) For sidewalks, walking paths or trails, bicycle paths, pedestrian underpasses, and bridle paths through the Properties;

(c) For providing any of the services which the Association is authorized to offer under Section 2 of this Article VI;

(d) For purposes set out in deeds by which Common Properties and Resource Conservation Areas are conveyed to the Association, provided that such purposes shall be approved by the Members of the Association as set out in Section 4 of this Article VI;

(e) For water and sewage facilities and any other utilities, if not adequately provided by a private utility, Wake County or the Town of Rolesville.

(f) For the cleaning, landscaping and maintenance of all roadway medians and islands, parkways along said roadways, cul-de-sac islands and neighborhood and other area entrances (including signs).

Section 2. Services. The Association shall be authorized, but not required, except as specified in Section 3 of this Article VI, to provide the following services:

(a) Cleaning and maintenance of all Common Properties and Resource Conservation Areas, and also all public properties which are located within or in a reasonable proximity to the Properties such that their deterioration would affect the appearance of the Properties as a whole;

(b) Landscaping and beautification of roads, roadways, parkways, lakes, parks, sidewalks, walking paths, bike trails, Common Properties and Resource Conservation Areas;

(c) Landscaping and irrigation of the portion of each interior Residential Lot extending from the Use/Maintenance Easement Point as shown on the recorded plat of said Residential Lot to the curb of the street abutting said Residential Lot, and on each corner Residential Lot from any Hardscape Improvement on said Lot to the curb of the front and side streets abutting said Lot. Should no Hardscape Improvement(s) be established to the rear of said Use/Maintenance Easement Point on said corner Lot, said landscaping and irrigation shall extend to the interior Lot line of said corner Lot. Any requirement to irrigate landscaping shall be suspended to the extent the requirement would otherwise be prohibited during any period in which the Governor of the State of North Carolina, and North Carolina state agency or any unit of local government has imposed water conservation measures. The Association may not fine or otherwise penalize an Owner of any Residential Lot for violation of an irrigation requirement during a drought as hereinabove designated.

(d) Lighting of roads, signs, landscaping, sidewalks, walking paths, bike trails, and any recreational and community facilities located within the Properties;

(e) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;

(f) To take any and all actions necessary to enforce all Covenants and Restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any Covenants or Restrictions applicable to the Properties;

(g) To set up and operate an Architectural Review Board for the purposes outlined in Article VII hereof;

(h) To construct improvements on Common Properties and Resource Conservation Areas for use for any of the purposes authorized in this Article, or as may be required to provide any of the services authorized in this Article;

(i) To provide administrative services, including, but not limited to legal, accounting, and financial; and communication services, including, but not limited to, community newsletters and newspapers to inform Members of activities, notices of meetings, referendums, and other issues and events of community interest;

(j) To provide liability and hazard insurance covering improvements and activities on the Common Properties and Resource Conservation Areas;

(k) To construct mailboxes, signs and other standard features for use throughout the Properties;

(l) To provide any or all of the above listed services to another association of Owners of real property under a contract, the terms of which must be approved by the Board of Directors.

Section 3. Minimum List of Functions and Services. The "Minimum List of Functions and Services" shall establish and define the minimum level of functions and services which the Association must furnish or cause to be furnished to its Members. So long as the Declarant is engaged in the development of Properties which are subject to the terms of this Declaration, the Association shall not reduce the level of functions and services it furnishes to its Members below such minimum level without the prior written consent of the Declarant. The "Minimum List of Functions and Services" is as follows:

(a) The Association shall provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation of the Association and the Bylaws of the Associations, including, but not limited to, legal, accounting, financial and communications services.

(b) The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

(1) The Association shall set Assessments, levy cash Assessments, notify the Members of such Assessments, and collect such Assessments.

(2) The Association shall prepare accurate indexes of Members, Property Classifications, Votes, Assessments, the Cumulative Maximum Number of Residential Lots and Family Dwelling Units Authorized in the Properties, and the Maximum Regular Annual Assessment.

(3) The Association shall operate an Architectural Review Board;

(4) The Association shall maintain and operate all Common Properties and Resource Conservation Areas;

(5) The Association shall hold Annual Meetings, Special Meetings, and Referendums as required, hold elections for the Board of Directors as required and give Members "proper notice" as required;

(6) The Association shall prepare Annual Statements and Annual Budgets, and shall make the financial books of the Association available for inspection by Members at all reasonable times.

(c) The Association shall provide appropriate liability and hazard insurance coverage for improvements and activities on all Common Properties and Resource Conservation Areas.

(d) The Association shall provide appropriate directors' and officers' legal liability insurance, and indemnify persons pursuant to the provisions of the Bylaws of the Association.

(e) The Association shall keep a complete record of all its acts and corporate affairs.

(f) The Association shall (except where such services are adequately provided by governmental agencies) provide cleanup of Common Properties and Resource Conservation Areas throughout the Properties as determined by the Board.

(g) The Association shall (except where such services are adequately provided by governmental agencies) provide general maintenance of all identification, informational and directional signs and neighborhood and other area signs, including, but not limited to, painting, light replacement, repair work and replacement as needed.

(h) The Association shall operate and maintain all streetlights that may be located within all Common Properties or Resource Conservation Areas.

(i) The Association shall provide regular maintenance and cleanup of all Common Properties and Resource Conservation Areas, including, but not limited to, mowing of grass, fertilization as needed, landscape maintenance as needed, pickup and disposal of trash, repair, maintenance and replacement of sprinkler systems, and painting, repairs to and replacement of all improvements as needed.

(j) The Association shall pay all ad valorem property taxes assessed against the Common Properties and Resource Conservation Areas prior to default.

(k) Insurance coverage on the Property shall be governed by the following provisions:

(1) "Ownership of Policies". All insurance policies upon the Common Property and Resource Conservation Areas shall be purchased by the Association for the benefit of all the Association, the Owners, and the Declarant.

(2) "Coverage". All buildings and improvements upon and all personal property included in the Common Properties and Resource Conservation Areas and facilities shall be insured in an amount equal to one hundred percent (100%) insurable

replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:

(i) Loss or damage by fire and other hazards covered by standard extended coverage endorsement, and

(ii) Such other risks as from time to time shall be customarily covered with respect to buildings on the land.

(iii) Such policies shall contain clauses providing for waiver of subrogation.

(iv) The Association may elect not to insure items of personal property having an individual value of less than Five Hundred and No/100 Dollars ($500.00).

(3) " "Liability". Public liability insurance shall be secured by the Association with limits of liability of no less than One Million and No/100 Dollars ($1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group or a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.

(4) "Premiums". Premiums for insurance policies purchased by the Association shall be paid by Association and charged to the Owners as an assessment according to the provisions of Article V above; provided that premiums on account of hazard insurance coverage for individual Lots shall be apportioned to the individual Owners according to the amounts of the coverage required.

(5) "Proceeds". All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees, and the Declarant, as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or stated in the Bylaws and for the benefit of the Owners and their mortgagees.

(6) Proceeds of insurance policies received by the Association as insurance trustee shall be placed in the Association's treasury for the following:

(i) "Expense of the Trust". All expenses of the insurance trustee shall be first paid or provisions made therefor.

(ii) "Reconstruction or Repair". The remaining proceeds shall be paid to defray the cost of repairs (if the Board of Directors elects to repair). Any proceeds remaining after defraying such cost shall be retained by the Association.

(7) All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association or those held in trust, shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties in an amount equal to three (3) months' assessments plus reserves accumulated.

Section 4. Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified in Section 3 of this Article VI. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association. The functions and services which the Association is authorized to carry out or to provide, may be added or reduced at any time upon the affirmative vote of fifty one percent (51%) of the votes cast by the Type "A" Members at a duly called meeting of the Association; provided, however, no such changes shall be effected without the prior written consent of the Declarant so long as the Declarant or its successors or assigns is a "B" Member of the Association.

Section 5. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with the prior consent of two-thirds of the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of two-thirds of the Association.

Section 6. Maintenance of Property Not Owned by the Association. The Association shall be authorized to render services of a governmental nature not furnished by the local government in the case of maintenance of property not owned by it.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. Purpose. The primary purpose of these covenants and restrictions and the foremost consideration in the origin of same has been the creation of a community which is aesthetically pleasing and functionally convenient. The establishment of certain objective standards relating to design, size and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of Property and of technological advances and environmental values. In order to implement the purposes of these covenants, the Declarant may establish and amend from time to time objective standards and guidelines, including, but not limited to, Architectural Standard and Construction Specifications, Uniform Sign Regulations, Uniform Mailbox Regulations, Landscape Guidelines, and Environmental Rules and Regulations as defined hereinafter, and which shall be binding on all Property Owners within Elizabeth Springs Subdivision.

Section 2. Controls.

(a) No building, fence, or other structure shall be erected, placed, or altered, nor shall a building permit for such improvement be applied for on any Property in Elizabeth Springs Subdivision until the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or structure, drives, and parking areas) shall have been approved in writing by the Declarant, or by the Architectural Review Board of the Association if such review responsibility has been delegated to the Association by the Declarant. In addition, the Declarant may require prior written approval of a landscape plan. The Declarant further reserves the right to promulgate and amend from time to time architectural standards and construction specifications (hereinafter referred to as the "Architectural Standards and construction Specifications") for specific neighborhoods and areas or for all Properties within Elizabeth Springs Subdivision and such Architectural Standards and Construction Specifications shall establish, define, and expressly limit those standards and specifications which will be approved in said neighborhoods and areas or within the Properties, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design, and construction technique. Refusal or approval of plans, location, exterior color or finish, or specifications may be based by the Declarant upon any ground, including purely aesthetic

considerations, which in the sole and uncontrolled discretion of the Declarant shall seem sufficient. No alteration in the exterior appearance of any building, structure, or other improvements, including exterior color or finish, shall be made without like prior written approval by the Declarant. One (1) copy of all plans and related data shall be furnished the Declarant for its records. In the event approval of such plans is neither granted nor denied within sixty (60) days following receipt by the Declarant of written demand for approval, the provisions of this paragraph shall be thereby waived.

(b) In order to assure that buildings and other structures will be located and staggered so that the maximum view, privacy, sunlight and breeze will be available to each building or structure within the confines of each Property, and to assure that structures will be located with regard to the topography of each Property, taking into consideration the location of large trees and other aesthetic and environmental considerations, the Declarant reserves the right to control absolutely and solely to decide (subject to the provisions of the Zoning Ordinances of the County of Wake and Town of Rolesville, North Carolina) the precise site and location of any building or structure on any Property in Elizabeth Springs Subdivision for reasons which may in the sole and uncontrolled discretion and judgment of the Declarant seem sufficient. Such location shall be determined only after reasonable opportunity is afforded the Property Owner to recommend a specific site. The provisions of this paragraph shall in no way be construed as a guarantee that the view, privacy, sunlight, or breeze available to a building or structure on a given Property shall not be affected by the location of a building or structure on an adjacent Property.

(c) Each Property Owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on said property in accordance with reasonable standards established by the Declarant.

(d) Except as may be required by legal proceedings, no sign shall be erected or maintained on any Property by anyone including, but not limited to, a Property Owner, a tenant, a realtor, a contractor or a subcontractor, until the proposed sign size, color, content, number of signs and location of sign(s) shall have been approved in writing by the Declarant. Refusal or approval of size, color, content, number of signs, or location of sign(s) may be based by the Declarant upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Declarant seems sufficient. The Declarant further reserves the right to promulgate and amend from time to time uniform sign regulations (the "Uniform Sign Regulations") which

shall establish standard design criteria for all signs, including, but not limited to, real estate sales signs, erected upon any Property in Elizabeth Springs Subdivision.

The Declarant and its agents shall have the right, whenever there shall have been placed or constructed on any Property in Elizabeth Springs Subdivision any sign which is in violation of these restrictions, to enter immediately upon such Property where such violation exists and summarily remove the same at the expense of the Property Owner.

(e) It shall be the responsibility of each Property Owner, tenant, contractor, or subcontractor to prevent the development of any unclean, unsightly, unkempt, unhealthy, or unsafe conditions of buildings or grounds on any Property which shall tend to substantially decrease the beauty or safety of Elizabeth Springs Subdivision, the neighborhood as a whole, or the specific area. The Declarant and its agents shall have the right to enter upon any Property for the purpose of correcting such conditions, including, but not limited to, the removal of trash which has collected on the Property, and the cost of such corrective action shall be paid by the Property Owner. Such entry shall not be made until fifteen (15) days after the Owner of the Property has been notified in writing of the need to take corrective action and unless such Owner fails to perform the corrective action within said fifteen (15) day period; provided, however, that should such conditions pose a health or safety hazard, such entry shall not be made until the Owner has been notified in writing of the need to take immediate corrective action and unless such Owner fails to perform the corrective action immediately. The provisions of this paragraph shall not create any obligation on the part of the Declarant to take any such corrective action.

(f) A mailbox kiosk will be constructed at a location that shall be mutually agreed upon among Declarant, the Town of Rolesville and the United States Postal Service. Said kiosk is designed to replace the conventional mailbox installation that has been traditionally utilized in single-family residential development. Mailboxes as traditionally utilized in single-family residential developments shall not be allowed within Elizabeth Springs. The Declarant reserves the right to establish uniform mailbox regulations (the "Uniform Mailbox Regulations") that shall define the rights and methods of access to the mailbox kiosk.

(g) Prior to the occupancy of a building or structure on any Property, proper and suitable provisions shall be made for the disposal of sewage by connection with the sewer mains of the Rolesville public sewer system, or to a system approved by the Town of Rolesville.

(h) Prior to the occupancy of a building or structure on any Property, proper and suitable provisions for water shall be made by connection with the water lines of the Town of Rolesville.

(i) The Declarant reserves unto itself, its successors and assigns, and its agents, a perpetual, alienable, and releasable easement and right, on, over and under the Properties to erect, maintain, operate, and use electric, Community Antenna Television, and telephone poles, wires, cables, conduits, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage, or other public conveniences or utilities on, in or over those portions of such Property as may be reasonably required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of such Property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these covenants by the Declarant, or (b) such portion of the Property as may be designated as the site for a building on a plot plan for erection of a building which has been filed with the Declarant and which has been approved in writing by the Declarant. These easements and rights expressly include the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation to maintain reasonable standard of health, safety, and appearance. The Declarant further reserves the right to locate wells, pumping stations, siltation basins, tanks and other utility apparatus within Elizabeth Springs Subdivision in any Common Area or Resource Conservation Area or any Property designated for such use on the applicable plat of said Property, or to locate same upon any Property with the permission of the Owner of such Property. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not create any obligation on the part of the Declarant to provide or maintain any such utility or service. The Owner of each Lot shall have the right to install, maintain and use on such Lot one antenna, aerial, or satellite dish to receive video programming that is (i) not larger than one meter in diameter, (ii) blends with the color of the roof or wall where it is installed, and (iii) is installed on the rear roof or wall of the residence constructed on the Lot. No other exterior antennas, aerials, satellite dishes or other reception device shall be constructed, installed, placed or affixed unless approved in accordance with the architectural approval procedures contained in this Declaration. Installation of an antenna deviating from the above provision shall be approved pursuant to the architectural control provisions if reasonably

necessary to permit the reception of an acceptable quality signal. HAM radios, two-way radios and other hobby or professional radio communication transmission equipment are prohibited. Declarant or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus of any size for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property.

(j) Except as reserved and permitted in (i) above, no antenna or dish shall be placed on or erected upon any property within Elizabeth Springs Subdivision.

(k) The Declarant reserves the right to promulgate and amend from time to time landscape guidelines (referred to hereinafter as the "Landscape Guidelines") which shall establish approved standards, methods, and procedures for landscape management on specific Properties in Elizabeth Springs Subdivision and such authorized standards, methods, and procedures may be utilized by the Owners of such specified Properties without prior written approval by the Declarant; provided, however, no live trees measuring three inches (3") or more in diameter at a point two feet (2') above ground level may be removed without the prior written approval of the Declarant and no such trees may be removed from any areas designated as "greenway" on any recorded maps of the property. Approval for the removal of trees located within ten feet (10') of the main dwelling or accessory building or within ten feet (10') of the approved site for such building shall not be necessary unless such removal will substantially decrease the beauty of the Property.

(l) No construction (except for utility lines and streets approved by the Town of Rolesville) shall be permitted within ten feet (10') on either side of any areas designated as "walking trails" on any recorded maps of the Property.

(m) No swing sets, basketball goals, trampolines, playground equipment or any other exterior recreational equipment shall be placed on any Residential Unit within Elizabeth Springs Subdivision without prior Architectural Review Board approval.

(n) Except with prior written approval of the Town of Rolesville all areas designated on the Master Plan as "Buffer Areas" shall be left in their undisturbed, natural state, and no improvements may be constructed, erected, placed or allowed to remain therein other than utility lines (and easements) and pedestrian and vehicular access ways (including streets and roads); provided, however, the Declarant, the Association, and any Property Owner adjoining such areas

(subject to the approval of Declarant or its delegate) may plant trees, flowers and shrubs within such areas.

(o) No improvements or encroachments of any kind shall be constructed or placed in any 100-year floodplain within any Residential Lot.

Section 3. Review Board. The Architectural Review Board shall be composed of at least two (2) but not more than five (5) Members, all of whom shall be appointed by the Board of Directors of the Association. It is the intention of the Declarant that all improvements to a Residential Unit shall be subject to the approval of the Declarant; and that approval of improvements to a Residential Unit by the Architectural Review Board shall not be required until such time as the review responsibility has been delegated to the Association by the Declarant.

ARTICLE VIII
GENERAL PROVISIONS

Section 1. Duration. The Covenants and Restrictions of this Declaration and any Amendments thereto shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, Declarant, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon expiration of said thirty (30) year period, this Declaration shall be automatically extended for successive periods of ten (10) years. The number of ten (10) year extension periods hereunder shall be unlimited, and this Declaration shall be automatically extended upon the expiration of the initial thirty (30) year period, or upon the expiration of each subsequent ten (10) year extension period, unless at a duly called meeting of the Association, eighty percent (80%) or more of the total votes entitled to be cast by all the Members of the Association shall vote in favor of terminating this Declaration at the end of its then current term. The presence at the meeting of Members or proxies entitled to cast sixty percent (60%) of the total vote of the Membership shall constitute a quorum. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each member at least thirty (30) days in advance of said meeting. In the event that the Members of the Association vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the Resolution of Termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the

date that Notice of such Meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes present at said meeting, the total number of votes necessary to adopt a Resolution terminating this Declaration, the total number of votes cast in favor of such Resolution, and the total number of votes cast against such Resolution. Said certificate shall be recorded in the Register of Deeds Office, Wake County, North Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the Termination of this Declaration.

Section 2. Amendments by Declarant. During the period of development as defined in Article II, Section 2(a), Declarant may unilaterally, and in its sole discretion, without the consent, approval or joinder of any Owner, the Association or any other Person (except to the extent that legal requirements or in cases where the consent or joinder of a governmental authority is required), and without any meeting of the Association, amend this Declaration for any purpose that is not prohibited by the General Statutes of North Carolina or any other legal requirement. Any amendment of the Declaration by the Declarant shall be effective upon the later of the date of its recording in the Wake County Register of Deeds or the effective date specified therein.

Section 3. Amendments by Members. Unless amended as allowed under Section 2 of this Article, all proposed Amendments to this Declaration shall be submitted to a vote of the Members at a duly called meeting of the Association subject to the quorum requirements established by Article III, Section 5, and any such proposed amendment shall be deemed approved if two-thirds (⅔) of the votes of each type of Member cast at such meeting vote in favor of such proposed amendment. Notice shall be given each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the Amendment, the effective date of the Amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such Amendment was adopted), the date of the meeting of the Association at which such Amendment was adopted, the date that notice of such meeting was given, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes present at said meeting, the total number of votes cast for and against the Amendment, the number of votes necessary to adopt the Amendment,

the total number of votes cast in favor of such Amendment and the total number of votes cast against the Amendment. Such Addendum shall be recorded in the Office of the Register of Deeds, Wake County, North Carolina.

So long as Declarant is entitled to elect a majority of the Members of the Board of Directors of the Association, no Amendment or Termination of this Declaration shall be made without the consent of Declarant; and until the end of the period of development no Amendment of this Declaration shall be made without the consent of Declarant which would have the effect of creating a disproportionate increase in the Maximum Regular Annual Assessment, the actual assessment levied, or any Special Assessment of any Class of Owners.

Section 4. Notices. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when delivered personally or sent by mail, with the proper postage affixed, to the address of such Member. It shall be the obligation of each Member to immediately notify the Secretary of the Association in writing of any change of address.

Section 5. Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any provision hereof, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these Covenants; and failure by the Association or any Member or the Declarant to enforce any Covenant or Restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 6. Severability. Should any Covenant or Restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any Court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 7. Interpretation. The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration of Covenants and Restrictions, and to construe and interpret its provisions, and its determination, construction, or interpretation shall be final and binding. In all cases, the provisions of this Declaration of

Covenants and Restrictions shall be given that interpretation or construction that will best tend toward the consummation of the general plan of improvements.

Section 8. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 9. Other Agreements. Notwithstanding anything contained herein to the contrary, all the provisions of these Covenants shall be subject to and conform with the provisions of:

(a) The Zoning Ordinances of the Town of Rolesville and County of Wake, North Carolina, and the rules and regulations promulgated thereunder, as may from time to time hereafter be amended or modified;

(b) The Master Plan for the development of Elizabeth Springs Subdivision as may from time to time hereinafter be amended or modified;

None of the provisions of this Section 9 are or shall in any way be construed to be or to constitute a conveyance, transfer, disposition, waiver or relinquishment of any right, title, and interest of Declarant or the Association, as their respective rights, titles, and interests may appear, in and to or under any of the above referenced instruments or documents to or for the benefit of any other person, firm or corporation.

Section 10. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from Declarant and/or the Association contemplated under this Declaration, Declarant and/or the Association shall not be liable to an Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such review, acceptances, inspections, permissions, consents or required approvals, whether given, granted, or withheld.

Section 11. Termination of Association. In the event that this Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any Court or other tribunal having jurisdiction over the parties hereto or if the Members of the Association should vote not to renew and extend this Declaration as

provided for in Article VIII, Section 1, all Common Properties and Resource Conservation Areas owned by the Association at such time shall be transferred to a trustee appointed by the Superior Court of Wake County, North Carolina (the "Trustee"). The Trustee shall own and operate said Common Properties and Resource Conservation Areas for the use and benefit of Owners within the Properties as set forth below:

(a) Each Residential Unit located within the Properties shall be subject to an Annual Assessment that shall be paid by the Owner of each such Residential Unit to Trustee. The amount of such Annual Assessment and its due date shall be determined solely by the Trustee, but the amount of such Annual Assessment on any Unit shall not exceed the amount actually assessed against that Unit in the last year that assessments were levied by the Association, subject to the adjustments set forth in subparagraph (b) immediately below;

(b) The Maximum Regular Annual Assessment which may be charged by Declarant or Trustee hereunder on any particular Lot or parcel may be automatically increased each year by an amount of ten percent (10%).

(c) Any past due Annual Assessment together with interest thereon at the maximum annual rate allowed by law from the due date and all costs of collection including reasonable attorneys' fees shall be a personal obligation of the Owner at the time the Annual Assessment became past due, and it shall also constitute and become a charge and continuing lien on the Residential Unit and all improvements thereon, against which the Assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

(d) The Trustee shall be required to use the funds collected as Annual Assessments for the operation, maintenance, repair, and upkeep of the Common Properties and Resource Conservation Areas. The Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. The Trustee shall not have the obligations to provide for operation, maintenance, repair, and upkeep of the Common Properties and Resource Conservation Areas once the funds provided by the Annual Assessment have been exhausted.

(e) The Trustee shall have the right to convey title to the Common Properties and Resource Conservation Areas, and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee shall have the power to dispose of the Common Properties and Resource Conservation Areas free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by two-thirds (⅔) vote of each Type of Member or in the alternative shall be found to be in the best interests of the Owners of property within the Properties by the Superior Court of Wake County, North Carolina. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties and Resource Conservation Areas, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair, and upkeep of such properties, then for the payment of any obligations distributed among the Owners of property within the Properties, exclusive of the Trustee, in a proportion Assessment on property owned by a particular Owner bears to the total Maximum Regular Annual assessments for all property located within the Properties.

Section 12. Management and Contract Rights of Association. Declarant may enter into a contract with a Management Company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. However, no such contract shall be binding upon the Association except through express adoption or ratification of the terms and conditions of such contract. Any contract or lease entered into by Declarant or by the Association while the Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract without justification or penalty after transfer of management by the Declarant to the Association.

Section 13. Rights of Noteholders. Any Institutional Lender of a first mortgage (and any Insurer or Guarantor of such first mortgage) on a Unit or Lot will, upon written request, be entitled to:

(a) Inspect the books and records of the Association during normal business hours,

(b) Receive an annual financial statement (audited if required herein) of the Association within ninety (90) days following the end of its fiscal year;

(c) Receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings;

(d) Receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage;

(e) Receive written notice of any sixty-day delinquency in the payment of assessments or charges owed by the owner of any Unit on which it holds the mortgage;

(f) Receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owner's Association;

(g) Receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders; and,

(h) Be furnished with a copy of the master insurance policy.

Section 14. Easements.

(a) "Walks, Drives, Utilities, Etc. " All Properties shall be subject to such easements for walkways, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, streets and electric power lines, television antenna lines, other utilities; ingress, egress and regress and otherwise as shall be established by Declarant any recorded maps or deeds of easement, and the Association shall have the power and authority to grant and establish further such easements upon, over, under and across the Property.

(b) "Easement to Correct Drainage". For a period of ten (10) years from the date hereof, Declarant reserves an easement and right on, over and under any property comprising Elizabeth Springs Subdivision to maintain and to correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonable necessary. The exercise of the rights hereby reserved shall be in Declarant's sole and independent discretion. Should Declarant choose to exercise said rights, after such action has been completed, Declarant shall restore the affected property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take action to all affected Owners.

(c) "Easement to Wake County and Town of Rolesville". An easement is hereby established for municipal, state or public utilities serving Elizabeth Springs Subdivision, their agents and employees over all Common Properties and Resource Conservation Areas hereby or hereafter established for setting, removing, and reading utility meters, maintaining and replacing utility or drainage connections, and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

(d) Declarant and the Association reserve the right to subject the Property to a contract with Duke Energy Corporation for the installation of above ground or underground electric cables and lines and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Duke Energy Corporation by the Owner of each Unit within said Property.

(e) Declarant hereby reserves an easement of access to and over the Common Properties and Resource Conservation Areas for the purposes of installing utilities and other improvements required or necessary in the proper development of Elizabeth Springs Subdivision.

(f) Declarant hereby reserves the right to subject the Property to a contract with a public and/or private provider of wireless telecommunication services for wireless telephone and/or internet connection services, either or both of which may require an initial payment and/or a continuing monthly payment to said provider by the Owner of each Unit within said Property.

Section 15. Member Type Approvals. In all provisions in this Declaration, the Articles of Incorporation and By-Laws of the Association which require approval of a percentage of Members, such shall mean the percentage of all eligible voting Members.

Section 16. Dissolution of Association / Disposal of Common Properties and Resource Conservation Areas. If the Association is dissolved, then the Association shall convey to the Town of Rolesville the Common Properties, the Resource Conservation Areas and all of its rights under this Declaration. If for any reason the Association disposes of all or part of the Common Properties and Resource Conservation Areas, then the Association shall acquire, or shall acquire and convey to the Town of Rolesville, such additional open space as may be necessary to cause the Properties to comply with all the open space requirements of the Code of Ordinances of the Town of Rolesville, as in effect on the 31st day of March, 2021.

Section 17. No Partnership or Joint Venture. This Declaration shall not be construed to create a partnership, joint venture or similar relationship or arrangement between the Declarant, Lender #1, Trustee #1, Lender #2, or Trustee #2. Lender #1, Trustee #1, Lender #2, and Trustee #2 join in execution hereof for the sole purpose of consenting to the Declarant's actions herein.

Section 18. Indemnification. Declarant, the Members, the Owners, and the Association shall indemnify and hold Lender #1, Trustee #1, Lender #2, and Trustee #2 (collectively, the "Indemnified Parties") harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and costs and expenses (including

attorneys' fees and disbursements) that result in actual cost and expense to the Indemnified Parties and arise directly or indirectly from or out of, or in any way connected with this Declaration or the Property. ***The provisions of this section shall survive repayment and performance of the secured obligations to Lender #1 and Lender #2, dissolution of the Association, any disposal or reconveyance of the Property, and the exercise by any of the Indemnified Parties of any and all rights and remedies set forth herein or in any loan or collateral documents.***

[*SIGNATURES AND NOTARY ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES*]

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of the day and year first above written.

EXPERIENCEONE HOMES, LLC

By: _____ (SEAL)
Paul C. Schmidt, Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Paul C. Schmidt, personally came before me this day and acknowledged that he is Manager of EXPERIENCEONE HOMES, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by said Manager.

Witness my hand and official stamp or seal, this 25th day of March, 2021.

_____
Notary Public

My commission expires: 12/15/21

CARRIE H STEPHENSON
Notary Public, North Carolina
Harnett County
My Commission Expires
December 15, 2021

PINNACLE BANK

By: _____(SEAL)

STATE OF TENNESSEE

COUNTY OF DAVIDSON

I, the undersigned Notary Public of the County and State aforesaid, certify that Hugh Queener, personally came before me this day and acknowledged that he is Chief Administrative Officer of Pinnacle Bank, a Tennessee banking corporation, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp or seal this 25th day of March, 2021.

_____
Notary Public

My Commission Expires: 5/2/2022

VICKY SEVER
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

By: _____(SEAL)
Hugh M. Queener, Trustee

STATE OF Tennessee

COUNTY OF Davidson

I, the undersigned Notary Public of the County and State aforesaid, certify that Hugh M. Queener, personally came before me this day and acknowledged that he is Trustee for Pinnacle Bank, and that by authority duly given he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp or seal this 25th day of March, 2021

_____
Notary Public

NOTARY STAMP OR SEAL

My Commission Expires: 5/2/2022

VICKY SEVER
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

T.R. SMITH, INC.

By: _____(SEAL)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned Notary Public of the County and State aforesaid, certify that T. R. Smith, personally came before me this day and acknowledged that he is President of T.R. Smith, Inc., a North Carolina corporation, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp or seal this 30 day of March, 2021.

_____
Notary Public

My Commission Expires: Aug. 3, 2021

LAUREN L. WARD NOTARY PUBLIC WAKE COUNTY, NC

NOTARY STAMP OR SEAL

By: _____(SEAL)
Robert A. Brady, Trustee

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned Notary Public of the County and State aforesaid, certify that Robert A. Brady, personally came before me this day and acknowledged that he is Trustee for T.R. Smith, Inc., and that by authority duly given he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal this 31 day of March, 2021.

_____
Notary Public

NOTARY STAMP OR SEAL

My Commission Expires: 09-28-2022

JANE W. JARMON
NOTARY PUBLIC
WAKE COUNTY, N.C.
My Commission Expires 09-28-2022.

EXHIBIT A

BEING all of Lots 1-22 and 77-82, inclusive, Phase One, Elizabeth Springs Subdivision, as shown on map entitled "FINAL PLAT, ELIZABETH SPRINGS SUBDIVISION, PHASE ONE, Wake Forest Township, Rolesville, Wake County, North Carolina", recorded in Book of Maps 2021, Pages 119 - 126, Wake County Registry.