

STATE OF SOUTH CAROLINA } COVENANTS, CONDITIONS  
 } AND RESTRICTIONS FOR  
COUNTY OF Spartanburg } Elmwood Cottages SUBDIVISION

WHEREAS Declarant is the developer of a certain tract of land located near Old Furnace Rd in Spartanburg County known as Elmwood Cottages *Subdivision*, containing 14.61 acres, more or less, shown on a plat for Mark III Properties, Inc., made by 3D Land Surveying, dated 07/17/2020 and recorded in Plat Book 178 at Page 114 on September 25, 2020 in the Office of Register of Deeds for Spartanburg County, South Carolina (said plat along with any amendments or modifications thereto shall be referred to herein as the "Plat") and reference to which Plat is hereby craved for a complete metes and bounds description.

WHEREAS, the Declarant desires to impose certain restrictive covenants upon the Property in order to ensure its use for residential purposes, to prevent impairment of the attractiveness of the Property, and to maintain the desired quality of the Subdivision with no greater restriction on the free and undisturbed advantages to the other Lot owners;

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, conveyed, and used subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the title to the Property and be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

### ARTICLE I - DEFINITIONS

Section 1. **“Additional Property”** shall mean and refer to any additional real estate that is or may become contiguous, adjacent to, or neighboring the Property, all or a portion of which may be made subject to the terms of the Declaration in accordance with the provisions of this Declaration.

Section 2. **“Annual Assessment”** shall have the meaning set forth in Article IV, Section 4 of the Declaration.

Section 3. **“Approved Builder”** shall mean and refer to those builders which have been selected by Declarant to construct homes for sale in the Subdivision.

Section 4. **“Articles of Incorporation”** shall mean and refer to the articles of incorporation of the Association filed with the Secretary of State of South Carolina, as amended and modified from time to time.

Section 5. **“Association”** shall mean and refer to Elmwood Cottages Homeowners’ Association, a South Carolina non-profit corporation, its successors and assigns.

Section 6. **“Board of Directors”** or **“Board”** shall mean and refer to the body



responsible for administering the Association, selected as provided in the Bylaws and serving the same role as the board of directors under South Carolina corporate law.

Section 7. **“Bylaws”** shall mean and refer to the bylaws of the Association, attached hereto as “Exhibit A“, and any amendments or modifications thereto.

Section 8. **“Common Area”** shall mean and refer to those portions of the Property that are designated on the Plat as “Common Area“ including but not limited to, any real property or easements owned by the Association for the common use and enjoyment of the Owners together with any other portions of the Property or any Additional Property that shall be designated by Declarant or the Association (as the case may be) as “Common Area” in a recorded amendment to this Declaration or in some other recorded document.

Section 9. **“Declarant”** shall mean and refer to **Mark III Properties, LLC**, a Delaware Limited Liability Corporation, and its successors and assigns to whom the rights of Declarant are specifically assigned as evidenced by an instrument signed by Declarant and recorded with the Office of the Register of Deeds for Spartanburg County, South Carolina. Declarant may, at its option, assign only a portion of its rights hereunder, or all of such rights in connection with the appropriate portions of the Property. In the event of such partial assignment, the assignee shall not be deemed to be the Declarant, but may exercise those rights assigned to it by the Declarant. Any such assignment may be made on a non-exclusive basis. At such time as Declarant no longer is the Owner of a Lot in the Subdivision, the rights of Declarant under this Declaration shall inure without further action to the Association.

Section 10. **“Declaration”** shall mean and refer to this Covenants, Conditions and Restrictions for Coventry Subdivision, as it may be amended or supplemented from time to time.

Section 11. **“Director”** shall mean and refer to the Spartanburg County Assistant Administrator for Public Works or any of that person’s duly authorized representatives.

Section 12. **“Initiation Fee”** shall have the meaning set forth in Article IV, Section 3 of the Declaration.

Section 13. **“Lot”** shall mean and refer to any number plot of land shown on the Plat, excluding the Common Area.

Section 14. **“Member”** shall mean and refer to every person or entity who holds membership with voting rights in the Association.

Section 15. **“Owner”** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including Declarant if it owns a Lot and any Approved Builder that owns a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

Section 16. **“Plat”** shall mean and refer to: (i) the plat of record of aforementioned Subdivision recorded immediately preceding these Covenants, Conditions and Restrictions (ii) any revisions, supplements, or amendments thereof, and (iii) subsequent plats of Elmwood Cottages Subdivision hereafter recorded by Declarant in the Office of the Register of Deeds for Spartanburg County, and any revisions, supplements, or amendments thereto.

Section 17. **“Property”** and **“Properties”** shall mean and refer to the real property shown on the Plat(s) including the Common Area and Lots, and such Additional Property as may hereafter be annexed into the Subdivision as hereinafter provided.

Section 18. **“Special Assessment”** shall have the meaning set forth in Article IV, Section 5 of the Declaration.

Section 19. **“Special Individual Assessment”** shall have the meaning set forth in Article IV, Section 5 of the Declaration.

Section 20. **“Storm Water Management Facility”** shall mean any structural storm water management measure used to treat storm water runoff including, but not limited to, basins, ponds, proprietary devices, low impact development features, water quality buffers, filtration and/or other treatment devices.

Section 21. **“Subdivision”** shall mean and refer to the Property commonly known as Elmwood Cottages Subdivision as the same is shown on the Plat including the Common Area(s), Open Space(s), Amenity Area(s), if any.

Section 22. **“Open Space”** shall mean and refer to those portions of the Property that are designated on the Plat as “Open Space“ including but not limited to, land areas that are not occupied by buildings, structures, parking areas, streets, alleys, or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, and recreational areas and facilities.

## ARTICLE II - PROPERTY RIGHTS

**Section 1. Owners’ Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area that shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the maintenance and lighting of entrances, the Common Area, fences, landscaping, sprinkler systems, light fixtures and related bulbs and other reasonable expenses.

(b) The right of the Association and Declarant to suspend the voting rights of an

Owner for any period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations and the right of the Association to impose a Special Individual Assessment for such infractions;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority. Except as provided otherwise herein, no such dedication or transfer by the Association shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3) of each class of members and has been recorded with the Office of Register of Deeds for Spartanburg County, South Carolina;

(d) The right of the Association, in accordance with the Articles of Incorporation and its Bylaws, to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;

(e) The right of the Association, in accordance with its Articles of Incorporation and its Bylaws, to borrow money for the purpose of improving the Common Area and facilities thereon. No such mortgage of the Common Area shall be effective unless an instrument agreeing to such mortgage of the Common Area is signed by two-thirds (2/3) of each class of members; and

(f) The right of the Association to exchange portions of the Common Area with the Declarant for substantially equal areas of the properties for the purpose of eliminating unintentional encroachments of improvements onto portions of the Common Area or for any other purpose or reason.

**Section 2. Delegation of Use.** Any Owner may delegate, in accordance with the Bylaws, his or her rights of enjoyment of the Common Area to the members of his or her immediate family and their guests, tenants, or contract purchasers who reside on the Lot of such Owner.

**Section 3. Leases of Lots.** Any lease agreement between an Owner and a lessee for the lease of such Owner's residence on its Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, and the Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease.

**Section 4. Declarant's Covenant to Convey Title to Common Area.** Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to its property designated herein as Common Area to the Association any time before such time as the Declarant conveys the last Lot to some person other than Declarant. Additionally, if Storm Water Management Facilities are located within the Common Area, the Declarant shall take the following actions at or prior to the time in which the Subdivision is fifty (50%) percent built: (1) convey fee simple title to the applicable Storm Water Management Facilities to the Association, and (2) file any and all necessary documentation defining the responsible party for maintaining the Storm Water Management Facilities with the Director. The Common Area shall be free from any monetary liens but subject to easements of record, including any easements established by this Declaration. The



Association shall accept the conveyance of all such Common Area and Storm Water Management Facilities pursuant to this Section. Similarly, Declarant will convey to the Association such additional Common Area as is annexed in the future, immediately following its annexation pursuant to the terms of this Declaration. The Association shall accept the conveyance of all such additional Common Area pursuant to this Section.

### **ARTICLE III- MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Membership.** Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

**Section 2. Voting Rights.** The Association shall have two classes of voting membership:

**Class A Members.** "Class A Members" means all Owners, with the exception of the Declarant and Approved Builder(s), and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the owners of the specific Lot determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B Members.** "Class B Members" means the Declarant and any Approved Builder(s) who own a Lot within the Subdivision, and shall be entitled to three (3) votes for each Lot owned by Declarant or Approved Builder(s), respectively.

The Class B Membership shall cease and be converted to Class A Membership when Declarant and any Approved Builder(s) elect by written notice to the Association to convert their Class B Membership to Class A Membership or when the last Lot in the Subdivision is transferred by deed to an entity or individual other than the Declarant or an Approved Builder.

### **ARTICLE IV - COVENANT FOR MAINTENANCE AND ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot (except for Declarant and Approved Builder(s)) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) a one-time Initiation Fee, (2) annual assessment or charges, and (3) special assessments for capital improvements, such assessments to be established and collected as herein provided. The "Initiation Fee" shall be a charge collected at the initial closing of a Lot to an entity other than the Declarant or an Approved Builder, and again each time the subject Lot is transferred of record. The Annual Assessments, Special Assessments, and Special Individual Assessments (collectively "Assessments" and individually an "Assessment") together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made as of that date upon which such Assessment is made and continuing until paid. Each such fee and Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of

such lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by them, but shall remain a lien upon the transferred lot.

**Section 2. Purpose of Assessments.**

(a) The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and in particular for the improvement and maintenance of services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to,

- i. the costs of repairs, replacements and additions, labor, equipment, materials management and supervision of the Common Area;
- ii. the payment of taxes assessed against the Common Area;
- iii. the maintenance of water and sewer mains in and upon the Common Area;
- iv. the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in dedicated right-of-way), drives and parking areas within the Common Area,
- v. the procurement and maintenance of insurance in accordance with the Bylaws;
- vi. the maintenance of lakes, ponds, retention areas or other bodies of water located within the Common Area or open space, if any, as well as the maintenance of dams and areas surrounding such water;
- vii. the maintenance of any "sign easement" areas located on any Lot, as shown on the Plat;
- viii. the maintenance of entranceways, landscaping and lighting of the Common Area, road medians, islands and entranceways, and the lighting of streets (whether public or private);
- ix. the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area;
- x. the costs associated with duties of the Architecture Review Committee;
- xi. the employment of attorneys and other agents to represent the Association when necessary;
- xii. the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area and those other portions of the Subdivision which the Association may be obligated to maintain. Such reserve fund is to be established out of the Annual Assessments or Special Assessments for common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of

any expense of operating and managing the Subdivision, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the Bylaws. When a Lot Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Subdivision.

(d) The Declarant and the Association shall be responsible for maintenance and repair of the Storm Water Management Facilities until title to the Storm Water Management Facilities is transferred to the Association, at which time the Association shall be solely responsible for the maintenance and repair thereof. Maintenance and repair of the Storm Water Management Facilities is mandatory per local, state, and federal regulations. In addition to, or in lieu of criminal penalties authorized by the Spartanburg County Revised Storm Water Management Ordinance No. 4281, Spartanburg County has the authority to assess a civil penalty of not more than seven thousand five hundred dollars (\$7,500.00) per violation against any person who has violated any provisions of this ordinance.

(e) Funds for storm water management will be kept separate from other funds as a line item in the Association's overall budget.

(f) The Association shall Maintain the Lot Landscaping as determined by the Board in the front, side and back yards of all lots in a neat, orderly and attractive manner. The Association shall not be obligated to Maintain any Lot Landscaping within any enclosed or fenced areas on a Lot. Nor shall the Association be required to perform Lot Landscaping when an unsafe condition exists on a Lot, including a loose animal. The Maintenance of the Lot Landscaping may include, but shall not necessarily be limited to: the cutting or trimming of grass, trees and shrubs; the re-seeding, re-sodding or replanting of grass; the replanting trees or shrubs; the re-mulching and weeding of mulched areas, the repair and replacement of Lot irrigation installed by the Declarant or the Association; and the routine, customary application of fertilizer, pesticide and algaecide or fungicide, if necessary or recommended. The Association shall not be required to Maintain any shrubbery, grass and other landscaping other than the usual and customary landscaping provided by the Declarant or its replacement provided by the Association. The Association shall have the right to remove any Lot Landscaping which becomes a nuisance. The Association shall have the sole discretion to determine the time at which such Lot Landscaping shall take place, the manner and materials to be used. The replacement of Lot Landscaping of any particular Lot, which is necessitated by deterioration of existing materials, shall also be the responsibility of the Association.

**Section 3. Initiation Fee.** The Initiation Fee shall be assessed in the amount of one-third (1/3) of the Annual Assessment paid by the purchaser of a Lot and shall be paid or transferred to the Association contemporaneously with each transfer of ownership of any Lot to a party other than the Declarant or an Approved Builder. The Initiation Fee shall not be prorated. The Initiation Fee shall be used for common expenses and can be used for unforeseen expenditures or to acquire equipment or services deemed necessary or desirable by the Board for common Association purposes.

**Section 4. Annual Assessment.** The initial Annual Assessment shall be set by the Declarant. Once the initial Annual Assessment has been set, the Annual Assessment shall be paid on a calendar year basis unless changed by the Board of Directors.

From and after January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the maximum Annual Assessment may be increased each year by the Declarant or the Board by not more than ten (10%) percent above the maximum Annual Assessment for the previous year without a vote of the Owners. From and after January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the maximum Annual Assessment may be increased above ten (10%) percent of the maximum Annual Assessment for the previous year only by an affirmative vote of two-thirds (2/3) of all Owners who are voting in person or by proxy, at a meeting duly called for this purpose.

**Section 5. Special Assessments and Special Individual Assessments.**

(a) In addition to the Annual Assessments, the Association may levy, in any calendar year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement in the Subdivision, or for other special or extraordinary, but not recurring purposes, as identified and approved by the Board, provided that any such assessment shall be approved by an affirmative vote of 2/3 of all Owners who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot or otherwise.

(b) In addition to the Annual Assessments and the Special Assessments, the Board shall have the power to levy a Special Individual Assessment applicable to any particular Owner (1) for the purpose of paying the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Area, including the public roads (prior to their acceptance for public maintenance), whether occasioned by an act or omission of such Owner, members of such Owner's family, or such Owner's agents, guests, employees, or invitees and not as a result of ordinary wear and tear, or (2) for the payment of fines, penalties, or other charges imposed against any Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws, or any rules and regulations promulgated by the Association or Declarant pursuant to this Declaration or the Bylaws. The due date of any Special Individual Assessment levied pursuant to this Section shall be fixed in the Board's resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall

send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least ten (10) days prior to the date upon which such Special Individual Assessment shall be due.

**Section 6. Notice and Quorum for any Action Authorized under Sections 4 and 5.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all Owners not less than thirty (30) days and no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast forty (40%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Uniform Rate of Assessment.** Both Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots.

**Section 8. Date of Commencement of Annual Assessments.** The Annual Assessments provided for herein shall commence as to all Lots owned by Class A Members as of the filing of this Declaration. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. Subsequent Annual Assessments will be due not more than once in a twelve-month period as determined by the Board. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance. Notwithstanding the provisions of this Section 8, Lots owned by Declarant or Approved Builder(s) shall be exempt from the Initiation Fee, Annual Assessments, Special Assessments, and Special Individual Assessments during Declarant's or Approved Builder's ownership of the Lot(s). The Initiation Fee, Annual Assessments, Special Assessments, and Special Individual Assessments for such Lot(s) shall commence upon the date of sale of the Lot to a Class A Member.

**Section 9. Effect of Nonpayment of Assessments: Remedies of the Association.** Any Initiation Fee, Annual Assessment, Special Assessment, or Special Individual Assessment not paid within thirty (30) days after the due date shall be subject to a \$25 late fee and bear interest from the due date at the rate of fifteen (15%) percent per annum. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same, or foreclose the lien created herein against the Lot subject to the Assessment in the same manner as prescribed by the laws of the State of South Carolina for the foreclosure of mortgages, and interest, costs, and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to

the amount of such Assessment. No Owner may waive or otherwise escape liability for payment of the Assessment provided for herein by nonuse of the Common Area or abandonment of his or her Lot nor shall damage to or destruction of any Improvements on any Lot by fire or other casualty result in any abatement or diminution of the Assessments provided for herein.

**Section 10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association.** Upon default by the Association in the payment to the appropriate governmental authority of any ad valorem taxes levied against the Common Area or assessments for public improvements to or for the benefit of the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in the Subdivision shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments (including any late payment penalties) in an amount determined by dividing the total taxes, assessments, and penalties due the governmental authority by the total number of Lots in the Subdivision. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or equity or may elect to foreclose the lien against the Lot of the Owner. This Section shall not become applicable until Class B Membership ceases to exist.

**Section 11. Subordination of the Lien to Mortgages.** The lien of the Assessments against a Lot provided for herein shall be subordinate to the lien of any first mortgage upon such Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such foreclosure sale or transfer. No foreclosure sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

**Section 12. Obligation of the Declarant with respect to Maintenance Assessments.** So long as the Declarant owns at least one Lot in the subdivision, Declarant may opt to either pay all expenditures in excess of collections (deficit funding) or choose to have its Lots subject to the regular Assessments. After fifty (50%) percent of the Lots are conveyed to Owners other than the Approved Builder (s), any such deficit funding will be considered a loan to the Association and Declarant may require the Association to reimburse Declarant in full prior to the expiration of Class B Membership.

## **ARTICLE V – COVENANT FOR STORM WATER MANAGEMENT FACILITIES**

**Section 1. Responsibilities and Maintenance of Common Areas.** Subject to the provisions of Article II, Section 4 of this Declaration, the Declarant and its successors and assigns, including the Association, will own and maintain the Common Area, Open Space and all Storm Water Management Facilities (structural and non-structural) located within the Common Area or

Open Space including but not limited to, structural and non-structural Storm Water Management Facilities, buffers, low impact development and associated elements. Within these areas, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the performance of storm water features, easements, buffer areas or which may change the direction of flow of storm water or drainage channels, or obstruct or retard the flow of water through the storm water features in these areas.

Pet waste signs/stations, which are shown on the final plat if required, are to be located in all Common Areas used for recreation to encourage all homeowners to dispose of their pet waste appropriately. The Association will be responsible for maintaining, repairing, and/or replacing the sign/stations.

**Section 2. Adherence to Storm Water Plan.** The Association shall maintain the Storm Water Management Facilities in accordance with the approved storm water plan (Instrument # 2015088936) and the maintenance requirements for each element of the Storm Water Management Facilities, including manufactured devices.

- (a) The Declarant, its heirs, successors and assigns, will perform the work necessary to keep the Storm Water Management Facilities in good working order as appropriate.
- (b) [Omitted]
- (c) No alterations of the Storm Water Management Facilities and appurtenances thereto will be permitted without prior written consent and approval of the storm water permitting agency.
- (d) All property owners in all phases of development in the Subdivision shall be equally responsible for inspection, maintenance, and repair of all Storm Water Management Facilities in the subdivision in the absence of a homeowner's or property owners association.
- (e) Easements for Storm Water Management: For those Storm Water Management Facilities not located within a Common Area or Open Space owned by the Association, there shall be a non-exclusive perpetual easement upon, over, under and across all portions of the Property utilized for the surface water or storm water management system. Additionally, the Association shall have a perpetual nonexclusive easement for drainage over the entire surface water or storm water management system. No person shall alter the drainage flow of the surface water or storm water management system, including buffer areas or swales, without the prior written approval of the storm water permitting agency.

**Section 3. Right of Access.** Any authorized agent shall be allowed the right of ingress and egress over the Property and any easement areas, at a reasonable time and in a reasonable manner, for the purpose of operation, maintenance, or repair of the Storm Water Management Facilities, as required.

**Section 4. Responsibilities of Owners.**

- a. Lot Development. During the construction or renovation of a dwelling, the Approved Builder shall control erosion and sedimentation during and after construction, stabilize cleared areas, limit stockpiles, protect storm water inlets during construction, remove temporary control systems after construction, and limit the placement of gutters and drains. The Approved Builder shall comply with the local government and the storm water management plan requirements for erosion and sediment control.
- b. Interference with Storm Water Management System Elements. Owner will not interfere with any storm water management system elements on Owner's Lot so as to preclude the function of the element. This includes low impact design elements, which are incorporated into the storm water management system.
- c. Altering Flow of Surface Water Drainage. Owner will not alter, change or obstruct the flow of any surface water drainage in a storm water management system element on the Owner's Lot.
- d. Use of Area of Lot Subject to Storm Water Management System Easement. Owner may use any portion of Owner's Lot subject to a storm water management system easement so long as Owner's use is not inconsistent with the storm water management system easement.

**Section 5. Additional Resources.** The Association should work with the Soil & Water Conservation District to be proactive in environmental education (good housekeeping practices) of Owners and residents within the Subdivision to include, but not be limited to: purpose of storm water management & features; car washing; disposal of yard waste; pet waste impact and disposal; use of fertilizers and herbicides; use and proper disposal of oils from cars, motorcycles and lawn mowers, carpet cleaning water and cooking grease.

**ARTICLE VI – ARCHITECTURAL CONTROL**

Until such time as the Class B Membership expires, Declarant shall annually appoint the members of the Architecture Review Committee which will be comprised of at least three (3) members.

**Section 1. Plan of Design Approval.** All residences, outbuildings, and other structures initially constructed within the Subdivision by an Approved Builder (collectively, "Initial Improvements") shall be built in accordance with plans and specifications which have been previously approved by Declarant. Under no circumstances shall any additional architectural approval be required as to the Initial Improvements constructed by any Approved Builder. Other than the Initial Improvements constructed by an Approved Builder, no building, fence, wall, porch, deck, or any other structure or improvement (collectively, "Improvements"), including, without limitation, the alteration or painting of the exterior surface of any Improvement, shall be undertaken



upon any Lot unless the plans and specifications and location of the proposed Improvement shall have been expressly approved in writing by the Architecture Review Committee. No subsequent alteration or modification of any Improvements or construction, erection or installation of additional Improvements may be undertaken or allowed to remain on any Lot without the review and express written approval of the Architecture Review Committee in accordance with the provisions of this Declaration.

**Section 2. Architecture Review Committee.** Until such time as the Class B Membership expires, Declarant shall annually appoint the members of the Architecture Review Committee, the exact number of members of the Architecture Review Committee being designated by Declarant from time to time. Each member shall be generally familiar with residential and community development design matters and knowledgeable about the Declarant's concern for a high level of taste and design standards within the Subdivision. In the event of the death or resignation of any member of the Architecture Review Committee, Declarant, for so long as it has the authority to appoint the members of the Architecture Review Committee, and thereafter the Board, shall have full authority to designate and appoint a successor. Members of the Architecture Review Committee may be removed and replaced at any time with or without cause, and without prior notice, by Declarant, for so long as Declarant has the right to appoint the members thereof, and thereafter by the Board. Subsequent to the expiration of Class B Membership (and earlier if Declarant specifically assigns this right to the Board), the Board shall designate the number of and appoint the members of the Architecture Review Committee on an annual basis. At any time, Declarant may elect not to designate the number of and/or appoint the members of the Architecture Review Committee and may assign this right to the Board. If such appointment to the Board occurs, all references to the Architecture Review Committee shall mean and include the Board.

**Section 3. Procedure.** No building, fence, wall, or other structure shall be commenced, erected, or maintained upon any Lot or Common Areas, nor shall any exterior addition to, or change, or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to the Architecture Review Committee and approved in writing by the Architecture Review Committee as to harmony of external design and location in relation to surrounding structures and topography.

**Section 4. Rejection of Plans and Specifications.** The Architecture Review Committee shall have the right to refuse to approve any plans, specifications, and/or plot plans, taking into consideration the suitability of the proposed building or other Improvements, the materials of which it is to be built, whether or not it is in harmony with the surroundings, and the effect it will have on other residences already constructed in the Subdivision.

**Section 5. Submittal of Plans to Architecture Review Committee.** Prior to the commencement of any construction, other than the Initial Improvements made by the Approved Builder(s), each Owner shall submit to the Architecture Review Committee, in duplicate, plans and drawings, in a one-eighth (1/8) scale or larger, which shall contain, at a minimum:

- (a) front, rear and side elevations;

- (b) floor plans showing major dimensions and openings;
- (c) exterior building material to include color and type of material (vinyl, aluminum, cedar, etc.);
- (d) exterior trim color;
- (e) roofing material and color;
- (f) other materials necessary to illustrate the character of the proposed construction;
- (g) a statement of the estimated completion dates of all construction and improvements; and
- (h) other standards set forth within this Declaration (and any amendments hereto) or as may be published by the Architecture Review Committee.

These requirements also pertain to any alterations and/or additions to existing structures.

The documents and other information required to be submitted shall be delivered or mailed to the Architecture Review Committee of Elmwood Cottages Subdivision at HOA Community Management or some other designee as may be appointed by Declarant or the Board. One complete set shall be retained by the Architecture Review Committee and the other complete set shall be returned to the applicant, with the Architecture Review Committee's approval or disapproval clearly noted thereon.

**Section 6. Effect of Failure to Approve or Disapprove.**

(a) In the event the Architecture Review Committee, or its designated committee fails to approve or disapprove such plans within thirty (30) days after they have been received by the Architecture Review Committee, such approval will be automatic. The terms "Building" or "Improvements" shall be deemed to include the erection, placement, or alteration of any wall, fence driveway, or parking area, or any such activity undertaken subsequent to initial construction.

(b) If an Owner erects any Improvement on a Lot and a suit to enjoin the erection of or to require the removal of such Improvements is not brought by a person or entity having standing to sue within three (3) months from the commencement of construction of such Improvements, then this Article shall be deemed to have been fully satisfied; provided, however, that a Special Individual Assessment may be levied against the Owner for said violations.

**Section 7. Hardships.** The Architecture Review Committee is authorized to modify or amend, during or before the construction or alteration of any Improvement, the provisions of this Declaration concerning set-back and location and size of Improvements for any particular Lot if in the reasonable opinion of the Architecture Review Committee, such shall be necessary to prevent undue hardship.

**Section 8. Enforcement.** In addition to the rights of the Declarant and the Association to enforce the provisions of this Declaration as set forth hereinafter, the Architecture Review Committee shall have the specific, nonexclusive right to enforce the provisions contained in this

Article VI and/or to prevent any violation of the provisions contained in this Article VI by a proceeding at law or in equity against the Owner violating or attempting to violate any such provisions contained herein. The Architecture Review Committee shall also have the right to request that the Board levy upon an Owner a Special Individual Assessment for said violations. In the event that the Architecture Review Committee, the Declarant or the Association resorts to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement, or otherwise to remedy a violation of this Article VI, the Architecture Review Committee, the Declarant, or the Association, as applicable, shall be entitled to recover court costs, reasonable attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the offending Owner's Lot.

**Section 9. Reservation of Rights by Declarant.** The Declarant expressly reserves the right to assign any of the duties, powers, functions, and approval authority set forth in this Declaration to any assignee at Declarant's sole discretion.

**Section 10. Exculpation.** Neither Declarant, any Approved Builder nor any member of the Architecture Review Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architecture Review Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architecture Review Committee. FURTHER, NEITHER DECLARANT, ANY APPROVED BUILDER NOR ANY MEMBER OF THE ARCHITECTURE REVIEW COMMITTEE SHALL BE LIABLE FOR DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURE REVIEW COMMITTEE PROVIDED FOR IN THIS DECLARATION. EVERY OWNER WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURE REVIEW COMMITTEE FOR APPROVAL AGREES, BY THE SUBMISSION OF SUCH PLANS AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST THE DECLARANT, ANY APPROVED BUILDER, THE ASSOCIATION, THE BOARD, ANY MEMBERS OR OFFICERS OF THE ASSOCIATION OR OF THE BOARD, OR ANY MEMBER OF THE ARCHITECTURE REVIEW COMMITTEE, TO RECOVER ANY SUCH DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

**Section 11. Maintenance of Lot.** It shall be the responsibility of each Owner of a Lot to prevent the accumulation of litter, trash, packing crates, or any other accumulations which shall create an unkempt condition of the buildings or grounds on a lot and/or which shall otherwise tend to substantially decrease the beauty of the Subdivision as a whole or the specific area. No loose trash will be permitted to be strewn about the Subdivision at any time. Garbage containers must be kept

out of sight from the street, except during garbage collection hours. All personal use items shall be stored inside when not in use. These items include, but are not limited to, yard tools, sprinklers, wheel barrows and children's toys which would create a nuisance for the community. Owners shall follow the requirements for maintenance set forth in any applicable landscaping guidelines provided to the Owners by the Declarant and/or the Association. All Improvements on the lot shall be kept within reasonable neighborhood standards as determined by the Architecture Review Committee. In the event the requirements of this section are not adhered to, the Association shall send written notice to the Owner via certified mail giving an additional period for compliance of ten (10) days, unless a hardship or special circumstance requires additional time. If the violation continues, the Association may at its sole discretion hire contractors or other personnel to correct said violation and bill the Owner for all costs incurred. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right and easement to unobstructed vehicular and pedestrian access over and upon each Lot at all reasonable times to perform maintenance as provided for in this Article. In the event the Association performs such exterior maintenance, repair, or replacement, the cost of such maintenance, replacement, or repairs shall be assessed to the Owner as a Special Individual Assessment and shall become a lien against the Lot of such Owner.

## **ARTICLE VII - USES PERMITTED AND PROHIBITED**

**Section 1. Residential Use of Property.** All Lots in the Subdivision shall be used for single-family, residential purposes only and no business or business activity shall be carried on or upon any Lot at any time, except with the written approval of the Board; provided however, that nothing herein shall prevent Declarant or any Approved Builder from using any Lot owned by Declarant or such Approved Builder for the purpose of carrying on business related to the development, improvement and sale of Lots in the Subdivision.

**Section 2. Use of Outbuildings and Similar Structures.** No tent, shack, garage, barn, storage building, or other out-buildings shall be erected upon any Lot without approval from the Architecture Review Committee and, if approved, such structure(s) shall not be used as a residence either temporarily or permanently. No structure of a temporary nature or an unfinished house shall be used as a residence and no house trailer, modular home, manufactured home or mobile home shall be placed on any Lot either temporarily or permanently.

**Section 3. Trailers, Boats, Boat Trailers.** Any boat or boat trailers, camping trailer, recreational vehicle, utility trailer and/or similar equipment used for the personal enjoyment of a resident of a Lot shall at all times be neatly stored and positioned so as to be inconspicuous or shall be within a covered and screened area and such placement is subject to Architecture Review Committee approval. The Architecture Review Committee may ask that such equipment be removed at any time it is deemed to be a nuisance by the Board or the Architecture Review Committee. A Special Individual Assessment will be imposed for all costs and expenses incurred by the Association and/or the Architecture Review Committee in connection with any violation of this Section.

**Section 4. Offensive Activities.** No obnoxious or offensive activity shall be permitted anywhere on a Lot or Common Area(s) nor shall anything be done which may become an annoyance, nuisance, or menace to the Subdivision. No Lot or any part thereof shall be used for any business, commercial, or public purpose, except as set forth in Article VII, Section 1 above.

**Section 5. Livestock.** No animals shall be kept, maintained, or quartered on any Lot or tract in the Subdivision except that cats, dogs, rabbits, hamsters, or caged birds may be kept in reasonable numbers as pets for the pleasure of Owners so long as said animals do not constitute a nuisance or menace to the neighborhood.

**Section 6. Aesthetics, Natural Growth, Screening.** Tall shrubbery or hedges shall be trimmed to reasonable limits where traffic hazards may be created. Further, all Owners shall be required to maintain their Lots and any Improvements thereon at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the Subdivision or the surrounding property.

Clotheslines and portable basketball goals shall not be allowed. No bird baths, vegetable gardens, frog ponds, lawn sculpture, artificial plants, birdhouses, rock gardens or similar types of accessories and lawn furnishings, sand boxes or other children's play equipment shall be permitted in the front or side yards of any Lot and the installation or location of a swing set and/or permanent basketball goal on a Lot must receive prior written approval of the Architecture Review Committee.

**Section 7. Vehicles.** Each Owner subject to these restrictions shall provide space for the off-street parking of automobiles prior to the occupancy of any building or structure constructed on a Lot in accordance with reasonable standards established by the Architecture Review Committee. Vehicles shall not be parked in any front or side yard except in areas designated as a driveway or parking area. Vehicles in disrepair shall not be stored within the Subdivision. No passenger vehicles without current registration and license tags will be allowed in the Subdivision or on any Owner's Lot. Vehicles being repaired out of doors must have work completed within twenty-four (24) hours. Visiting guests only may use paved streets for temporary parking of their vehicles. No commercial vehicles in excess of 10,500 pounds gross vehicle weight may be stored or housed in the Subdivision at any time.

Street parking shall be for temporary parking only and is prohibited as a long-term parking solution. The Board or its designee shall have the specific right to impose Special Individual Assessments for extended on-street parking. Special consideration may be granted by the Board for extenuating circumstances.

**Section 8. Garbage and Refuse Disposal.** No portion of a Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage or other waste shall only be temporarily stored awaiting pickup and must be kept in adequate sanitary containers. All equipment for the storage or disposal of trash, garbage or other waste shall be kept in a clean and sanitary condition. Any container used to store garbage, refuse and debris until collected by a public or private waste disposal service shall be stored on each Lot so that it shall be out of sight from all

streets. All containers shall be removed from the street within twenty-four (24) hours of garbage pick-up.

**Section 9. Outdoor Fires.** No outside burning of wood, leaves, trash, garbage or other refuse shall be permitted on any Lot, except that an outdoor fireplace or permanent outdoor firepit may be approved by written approval from the Architecture Review Committee as further described herein.

**Section 10. Fences and Walls.** All fences, walls, and other screens or types of barriers must be approved prior to installation pursuant to Article VI, Section 1. Both material and locations of any fences, walls, and other screens or types of barriers must be expressly approved in writing by the Architecture Review Committee.

**Section 11. Above Ground Pools.** No above-ground pool shall be constructed or placed on any Lot, except that inflatable pools for small children are acceptable.

**Section 12. Garages.** No residence shall be constructed without having at least a one-car garage which will be maintained permanently as a functional garage, with the exception that sales models constructed by Approved Builder(s) are not required to have functional garages while they are being used as sales models; however, there must be space to be converted to functional garage space upon conveyance of the Lot to a Class A Member.

**Section 13. Driveways and Entrances to Garages.** All driveways and entrances to garages shall be concrete or some other substance approved in writing by the Board or the Architecture Review Committee and of a uniform quality.

**Section 14. Signage.** No signs shall be permitted on any Lots except that a single sign offering the Lot for sale may be placed on such Lot, provided such sign is approved by the Architecture Review Committee. Further, so long as Class B Membership exists, Declarant reserves the right to place additional signs as needed within the Subdivision. The Board, through the Architecture Review Committee, reserves the right to allow additional signs as deemed appropriate after Class B Membership ceases.

**Section 15. Mailboxes.** All residences shall have a special mailbox which will be available from a source to be specified by the Declarant. Common box units as required by the USPS shall be located throughout the neighborhood. Initial placement of these units shall be determined by the Declarant and/or Approved Builder with maintenance being the responsibility of the Association.

**Section 16. General Rules and Regulations.** The Board shall have the power to formulate, publish, and enforce reasonable general rules and regulations concerning the use and enjoyment of the yard space of each Lot and the Common Area(s). Such rules and regulations, along with all policy resolutions and policy actions taken by the Board, shall be recorded in a Book of Resolutions, which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours and with reasonable notice.

## ARTICLE VIII – EASEMENTS

**Section 1. Easements Along Lot Lines.** In addition to other easements as are shown on the Plat, a five foot easement is reserved over and across each side and rear lot line, and a ten foot easement is reserved over and across the front lot line of each Lot, for drainage, utility, cable television, gas, water, power, sewer, and telephone installation and maintenance; provided that should two Lots be consolidated to support one residence, then and in that event, the easements herein above provided shall apply only with respect to the exterior lines of such consolidated Lot.

**Section 2. Reservation of Right to Grant Utility Easements.** Declarant specifically reserves the right to grant specific easements to any utility services at any time following the date hereof until any specific Lot shall be conveyed by Declarant. The right is reserved to authorize the laying and placement of sewer, gas, and water pipelines, telephone, cable television, telegraph, and electrical light poles and drainage lines, drop inlets, and culverts on any of the streets and easements shown on the Plat. An easement for the installation and maintenance of utilities and drainage facilities is hereby reserved over all streets and easements.

**Section 3. Access Easement.** Easements for access to the Subdivision are reserved as indicated on the Plat and in recorded easements. The Declarant hereby grants, gives and conveys to each Owner and Approved Builder(s) a perpetual, nonexclusive easement over the areas designated as a “Court,” “Drive,” “Road,” “Street,” “Way,” “Lane,” or “Avenue” on the Plat for vehicular and pedestrian ingress and egress to and from the Subdivision. The easements granted under this Section are reserved and shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or a part of the Subdivision, subject to Declarant's right to amend the Plat in the future. Declarant specifically reserves the right to dedicate or convey any street, road or driveway to any governmental entity at any time following the date hereof without the consent or approval of any Owner or the Association.

## ARTICLE IX - SETBACK, LOCATION, AND SIZE OF IMPROVEMENTS

**Section 1. Setbacks.** No building shall be erected on any Lot nearer to the front lot line or nearer to the side street line than the building setback line shown on the Plat. Any such building shall face toward the front line of the Lot except that buildings to be constructed on corner Lots shall face in the direction designated by the Architecture Review Committee. No building shall be located nearer to any interior side lot line than the distance determined by applicable building codes.

**Section 2. Detached Buildings.** Detached buildings, approved as provided in this Declaration shall be of the same exterior material as the house on the Lot and of a size no greater than 12' x 12' and shall be placed no nearer to any Lot line than the distance determined by applicable building codes. **THE LOCATION OF ALL DETACHED BUILDINGS SHALL BE APPROVED IN ADVANCE BY THE ARCHITECTURE REVIEW COMMITTEE.**

**Section 3. Barriers and Obstructions.** No wall, fence, or hedge shall be erected between the street and the front corner of the main body of a house on any Lot. All walls, fences and hedges are subject to approval by the Architecture Review Committee and can be placed no closer to the street than the middle of the house on any Lot. Further, no walls, fences or hedges will be allowed to obstruct views on corner lots and therefore should not extend past side or rear building setback lines on corner lots.

**Section 4. No Subdivision of Any Lot.** No Lot shall be recut so as to face in any direction other than is shown on the Plat nor shall it be recut so as to make any building site smaller than is provided for on the Plat.

**Section 5. Combination of Lot.** One or more Lots or parts thereof may be combined with the adjacent Lots to form a single building Lot when (i) such combination is permitted by all applicable laws and regulations and (ii) such combination is approved, in writing, by the Board. In such event, the building line requirements provided herein shall apply to such Lots as combined and side line easements as shown on the Plat(s) shall be moved to follow the new side line so that the easement will run along the newly established side line.

## **ARTICLE X - GENERAL PROVISIONS**

**Section 1. Enforcement.** The Declarant, any Approved Builder (so long as it owns a Lot), the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation, or Bylaws. The Declarant or the Association shall have the right to impose Special Individual Assessments for infractions of such restrictions. In the event that the Declarant, any Approved Builder, any Owner, or the Association resorts to litigation to remedy a violation of this Declaration, such Owner, Declarant, Approved Builder, or the Association, as applicable, shall be entitled to recover court costs, reasonable attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the offending Owner's Lot. Failure by the Declarant, the Association, an Approved Builder, or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant, the Association, the Approved Builder, and any Owner shall have the right to request that law enforcement, public safety and animal control officers come on the Subdivision to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by a judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Amplification.** The provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws, but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws on the other, be



interpreted, construed and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, the provisions of this Declaration shall prevail over any inconsistent provision contained in the Articles of Incorporation or Bylaws to the contrary, to the extent permitted by law.

**Section 4. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Declarant specifically reserves the right to amend this Declaration, or any portion hereof, on its own motion without the consent of any other Owners or Members so long as Declarant owns at least one (1) Lot in the Subdivision. After Class B Membership has ceased, this Declaration may be amended by a recordable instrument signed by Owners representing not less than sixty-seven (67%) percent of the Lots. Any amendment must be recorded with the Office of the Register of Deeds of Spartanburg County, South Carolina. As long as Declarant owns any Lot in the Subdivision, no amendment shall be effective without the written consent of Declarant. Similarly, as long as any Approved Builder owns any lot in the Subdivision, no amendment shall be effective without the written consent of said Approved Builder.

**Section 5. Annexation.**

(a) Additional Property may be annexed into the Subdivision and made subject to this Declaration by the Declarant by filing a supplemental declaration of record. Subject to subparagraph (b) below, such annexation must be approved by two-thirds (2/3) of each class of members.

(b) Notwithstanding the above, Additional Property may be annexed by the Declarant without the consent of the Class A Members within ten (10) years of the date of this instrument; provided, however, that should Declarant elect to improve and develop all or part of the Additional Property, Declarant shall not have the right to impose covenants and restrictions which materially differ from those contained herein without the written approval of the Association.

**Section 6. Notices.** All notices, requests, demands, and other communications allowed, made, or required to be made pursuant to the terms of this Declaration shall be in writing and shall be deemed to be given or made when personally delivered (including personal delivery by Federal Express or other nationally recognized overnight private courier service) or the date that is three (3) days after the date of postmark of any notice when deposited with the United States Mail, addressed in any such event to the party to whom such communication is directed at such address as is set forth below or at such other address as may hereafter be designated in writing by the respective parties hereto:

If to Declarant:

Mark III Properties, LLC

P.O. Box 170248  
Spartanburg, SC 29301

If to Association or Architectural Review Committee:

Elmwood Cottages Homeowners' Association  
c/o Hinson Management  
8499 Valley Falls Road  
Boiling Springs, SC 29316

If to Owner (other than Declarant or Approved Builder):

at the address of Owner's Lot

If to an Approved Builder:

at the address provided by the Approved Builder to the Declarant or Association

#### **ARTICLE XI - MISCELLANEOUS**

**Section 1. Notice of Conveyance.** The Owner of each Lot shall cause written notice to be delivered to the Association upon the conveyance of any Lot by the Owner, advising the Association of the conveyance.

**Section 2. Declarant's Rights.** Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or in the Bylaws, as applicable. Furthermore, no such transfer shall be effective unless it is in a written instrument signed by both the Declarant and the transferee and duly recorded in the public records of Spartanburg County, South Carolina. Nothing in this Declaration shall be construed to require the Declarant or any transferee to develop any of the property adjacent to or contiguous with the Property.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sales of units shall continue, it shall be expressly permissible for the Declarant and Approved Builders to maintain and carry on upon portions of the Common Area and public streets such facilities and activities as, in the sole option of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such units, including, but not limited to business offices, signs, model units, sales offices, and rental units. The Declarant and Approved Builders authorized by Declarant shall have easements for access to and use of such facilities as well as vehicular access for construction along public streets. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to units owned by the

Declarant and any common area or other facilities which may be owned by the Association, as models, sales offices, or rental units.

In addition, notwithstanding any contrary provision of this Declaration, the Bylaws, or any Association rules, the Declarant shall have the right to replat or revise the recorded plats relating to any portion of the Property without the consent of any Owner other than the Owner(s) of the Lots in which the boundaries are altered.

So long as Declarant owns Property within the Subdivision, Declarant may, without the express written consent of any Owner, the Board, the Association or the Architecture Review Committee, include in any contract or deed hereafter executed covering all or any portion of the Subdivision, any additional covenants or restrictions applicable to such lands, so long as they are consistent with and do not lower the standards set forth in this Declaration and do not violate any covenants or restrictions then in effect and recorded against the Subdivision. Further, the Declarant may make any amendments to the Declaration which are necessary to comply with the guidelines established by, or the requirements of, any governmental authority, title insurer or institutional lender without the express written consent of any Owner, the Association, the Board of Directors, or the Architecture Review Committee.

So long as the Declarant continues to have rights under this Article, no person or entity shall record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or similar instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the public records.

[Signature Page Below]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hands and seals this 20 day of August, 20 20.

**MARK III PROPERTIES, LLC**

WITNESSES:

Samh Castle

Melody Spack

BY:

Print Name: John W. Beason, Jr

Title: VP

STATE OF SOUTH CAROLINA )

COUNTY OF Spartanburg )

**ACKNOWLEDGMENT**

I, Melody S. Terpack, Notary Public for the State of South Carolina, do hereby certify that John W. Beason, Jr, in his/her capacity as VP of Mark III Properties, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 20th day of August, 20 20.

Melody Spack

Notary Public for South Carolina

Printed Name of Notary: Melody S. Terpack

My Commission Expires: 9.25.28

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Recorded 12 on 08/26/2020 11:05:16 AM  
Recording Fee: \$25.00  
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**BYLAWS OF ELMWOOD COTTAGES HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I**  
**NAME AND LOCATION**

Section 1.1 Name. The name of the corporation is Elmwood Cottages Homeowners' Association, Inc. hereinafter referred to as the "Association."

Section 1.2 Location. The principal office of the Association shall be located in Spartanburg County, South Carolina.

Section 1.3 Registered Agent. The registered agent for the Association shall be Hinson Management, Inc. unless otherwise agreed upon by the Board of Directors. The registered office of the Association must be located in South Carolina and may be, but need not be, identical with the principal office.

Section 1.4 Purpose. The purpose for which the Association is organized is to further the interests of Owners of Lots in Elmwood Cottages Subdivision located in Spartanburg County, South Carolina, and in connection therewith to provide services to such property Owners, manage and maintain the Common Areas, and administer and enforce all covenants and restrictions dealing with the Property and any other purposes allowed by law.

**ARTICLE 2**  
**DEFINITIONS**

All capitalized terms when used in these Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision which has or will be executed by Mark III Properties, LLC and duly recorded in the Land Records for Spartanburg County, South Carolina as the same may be supplemented and amended from time to time (the "Declaration").

**ARTICLE 3**  
**MEETINGS OF MEMBERS**

Section 3.1 Membership. The Members of the Association, hereinafter referred to as "Members", shall at all times be limited to the Declarant (as defined in the Declaration), any Approved Builder, and Owners of Lots in the Subdivision.

Section 3.2 Annual Meeting. The first annual meeting of the Members shall be held on such date as determined by the Board of Directors within one year from the date of incorporation of the Association or during the first calendar year that Assessments are charged to the Owners. Each subsequent annual meeting of the Members may be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock, P.M. or on such other date and time as determined by the Board of Directors. If the day for the annual meeting of the Members is a

legal holiday, the meeting may be held at the same hour on the first day following which is not a legal holiday.

Section 3.3 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-tenth (1/10) of all of the votes appurtenant to the Lots.

Section 3.4 Place of Meetings. All meetings of the Members may be held at such place, within Spartanburg County, South Carolina or Spartanburg County, South Carolina, as shall be determined by the Board of Directors of the Association.

Section 3.5 Notice of Meetings. Written notice of each meeting of the Members shall be given by mailing a copy of such notice by first class mail, postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.6 Membership List. An alphabetical list of the names of all Members who are entitled to vote and their addresses shall be prepared by the Secretary and shall be available for inspection by any Member beginning on the next business day after notice of any meeting is given and continuing through the meeting, at the Association's principal office or at a place identified in the meeting notice in the city where the meeting will be held. This list shall also be available at the meeting for inspection by any Member.

Section 3.7 Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights.

- (a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.
- (b) Class B Lots. Class B Lots shall be all Lots owned by Declarant or an Approved Builder which have not been conveyed to purchasers who are not affiliated with an Approved Builder or Declarant. Declarant and an Approved Builder shall be entitled to three (3) votes for each Class B Lot which each party owns.

Section 3.8 Relinquishment of Control. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (i) the date on which the last Lot in the Subdivision is transferred by deed to an entity or individual other than the Declarant or an Approved Builder;
- (ii) when Declarant and any Approved Builder elect by notice to Association in writing to convert their Class B membership to Class A membership.

Section 3.9 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, twenty-five percent (25%) of the votes appurtenant to the Lots shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 3.10 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing dated within eleven months prior to the Meeting and filed with the Secretary. Every proxy shall be revocable by (i) appearing at the Meeting and voting in person, (ii) filing a valid substitute proxy or cancellation of proxy with the Secretary prior to the call to order of the Meeting, or (iii) conveyance by the Member of his Lot.

Section 3.11 Action by Members. Except as provided otherwise in the Articles of Incorporation, the Declaration, or these Bylaws, any act or decision approved by a vote of no less than two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present shall be regarded as the act of the Members. The Members present at a duly called or held meeting at which a quorum is present may continue to do business at the meeting or any adjournment thereof notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 3.12 Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 3.13 Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if: (i) a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's

minute book; or (ii) such action is approved by written ballot as authorized by the South Carolina Code of Laws, 1976, as amended.

#### **ARTICLE 4** **BOARD OF DIRECTORS**

Section 4.1 Number. The business and affairs of the Association shall initially be managed by a Board of three directors, who will be appointed by Declarant during and for so long as there is a Class B membership.

Section 4.2 Initial Directors. The initial directors shall be selected by the Declarant. Such initial directors shall serve for one year terms at the election of the Declarant or until such time as the Class B membership terminates and their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board of Directors are as follows:

**Name**

Laura Henthorn  
John Beeson  
Jay Beeson

Section 4.3 Nomination. Following the expiration of the Class B membership, nomination for election to the Board of Directors may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. If applicable, the Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee may be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment may be announced at each annual meeting. The Nominating Committee may make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4.4 Election. Directors may be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4.5 Term of Office. The term of all successor directors elected by the Members shall expire at the next annual meeting of Members; provided, however, the directors shall continue to serve until their successors are elected and qualified or until their earlier resignation, removal from office, incapacity, or death.

Section 4.6 Removal. After the Class B Membership shall cease, any Director may be removed from the Board of Directors, with or without cause, by a two-thirds (2/3) vote of the



Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the Board of Directors. Until such time as the Class B shall cease, Board members shall serve at the leisure of Declarant and can be removed with or without cause by Declarant.

Section 4.7 Compensation. No director shall receive compensation for any service he or she may render to the Association. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

Section 4.8 Salaries of Employees and Agents. Except as provided elsewhere in these Bylaws, the Board of Directors may set the salaries of all employees and agents of the Association, if any.

## ARTICLE 5 MEETINGS OF DIRECTORS

Section 5.1 Regular Meetings. Meetings of the Board of Directors may be held on a regular basis as often as the Board of Directors see fit, on such days and at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 5.2 Special Meeting. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 5.3 Notice of Meetings. Notice of each special meeting of the Board of Directors, stating the time, manner, and place of the meeting, shall be given by or at the direction of the Secretary of the Association by mailing the same to each director at his residence or business address not fewer than three days before such meeting, or by giving the same to him personally or by telegraphing or telephoning the same to him at his residence or business address not later than the day before the day on which the meeting is to be held.

Any and all requirements for call and notice of meetings may be dispensed with if all directors are present at the meeting or if those not present at the meeting shall at any time waive or have waived notice thereof.

Section 5.4 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 5.5 Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board of Directors action if written consent to the action in

question is signed by all of the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

Section 5.6 Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board of Directors meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 5.7 Liability of the Board of Directors. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

## ARTICLE 6 POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 6.1 Powers. The Board of Directors shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, including but not limited to the recreational facilities and the personal conduct of the Members, their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the recreational facilities of a Member, including the rights to use the recreational facilities, or other Common Area during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties;
- (f) employ attorneys to represent the Association when deemed necessary;

(g) grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under, and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Subdivision;

(h) appoint and remove at pleasure all officers, agents, and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient;

(i) do anything necessary or desirable, including, but not limited to, establishing any rules or regulations which the Association deems necessary to carry out the purposes of the Association as set forth herein or as permitted by law;

(j) to enforce the provisions of the Declaration and any additional or supplementary declaration and any rules or regulations made hereunder or thereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessments against any Owner for violation of such provisions, rules, or regulations pursuant to the provisions of the Declaration; and

(k) to levy Assessments as more particularly set forth in the Declaration.

Section 6.2 Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least one-third (1/3) of the votes appurtenant to the Lots;

(b) Supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration:

(1) Fix the amount of the Assessments as more particularly described in the Declaration;

(2) Send written notice of each assessment to every Owner subject thereto before its due date; and

(3) Foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid (A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.);

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Association;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Areas to be maintained.

## ARTICLE 7 OFFICERS AND THEIR DUTIES

Section 7.1 Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 7.2 Election of Officers. The election of officers may take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 7.3 Term. Each officer of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 7.4 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Directors may, from time to time, determine.

Section 7.5 Resignation, Removal and Vacancies. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 7.6 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

Section 7.7 Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 7.8 Duties. The duties of the officers are as follows:

**President**

(a) The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds, and other written instruments and shall co-sign all checks and promissory notes.

**Vice-President**

(b) The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board of Directors.

**Secretary**

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board of Directors and of the Members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

**Treasurer**

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

**ARTICLE 8**  
**COMMITTEES**

Section 8.1 Executive Committee. The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate an Executive Committee to consist of two or more of the Directors of the Association, which, to the extent provided in said resolution, shall have and may exercise the powers of the Board of Directors in the management of the business

and affairs of the Association and to do all things, including actions specified by these Bylaws to be performed by the Board of Directors, in the same manner and with the same authority and effect as if such acts had been performed by the Board of Directors; but the Board of Directors shall at all times have the power to reverse an action taken by the Executive Committee, provided that the exercise of such power by the Board of Directors shall not in any way abrogate the obligations or duties owing by the Association to third parties who have acted in reliance on the action taken by such committee.

All proceedings and action taken by such committee shall be reported to the Board of Directors at the regular meeting of the Board of Directors or special meeting called for such purpose next following such proceedings or action.

Section 8.2 Nominating Committee. The Association may appoint a Nominating Committee, as provided in these Bylaws.

Section 8.3 Other Committees. The Board of Directors may create such other committees as the Board of Directors may from time to time appoint.

Section 8.4 Compensation. Members of committees, as such, shall not receive any salary or compensation for their services; provided, however, that a committee member may serve the Association in another capacity and receive compensation therefor.

## ARTICLE 9 BOOKS AND RECORDS

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration (along with any amendments thereto or Supplemental Declaration(s) recorded on or after the date of these Bylaws), the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

## ARTICLE 10 ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay Assessments to the Association, as defined in the Declaration. Any Assessments which are not paid when due shall be delinquent. Any Assessment not paid within thirty (30) days after the due date, as set forth in the Declaration, shall be subject to a \$25 late fee and shall bear interest from the due date at the rate of fifteen percent (15%) per annum and the Association may bring an action at law or in equity against the Member personally obligated to pay the same or foreclose the lien against the Lot subject to the Assessment in the same manner as prescribed by the laws of the State of South Carolina for the foreclosure of mortgages, and interest, costs, and reasonable attorneys' fees for representation of the Association in such an action or foreclosure shall be added to the amount of such Assessment. The late charges, costs of collection, and reasonable attorneys' fees related to any such action shall be added to the amount of such assessment, all in accordance

with the provisions of the Declaration. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Subdivision (including but not limited to the Common Area(s)) or abandonment of his or her Lot nor shall damage to or destruction of any Improvements on any Lot by fire or other casualty result in any abatement or diminution of the Assessments.

### ARTICLE 11 CORPORATE SEAL

The Association may, but is not required by law, to have a seal in circular form.

### ARTICLE 12 AMENDMENTS

Section 12.1 These Bylaws may be amended at a regular or special meeting of the Members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy.

Notwithstanding anything in this Section 12.1 to the contrary, the Class B Members may at their option amend these Bylaws without obtaining the consent or approval of any other person or entity.

Section 12.2 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

### ARTICLE 13 MISCELLANEOUS

The fiscal year of the Association shall be the calendar year and shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of incorporation and end on the 31<sup>st</sup> day of December of the year of incorporation.

### ARTICLE 14 INDEMNIFICATION OF DIRECTORS AND OFFICERS

To the extent permitted by law, the Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him or her in connection with the defense of or as a consequence of any threatened, pending, or completed action, suit, or proceeding (whether civil or criminal) in which he or she is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he or she shall be adjudged in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of a

duty, or in relation to a proceeding by or for the right of the Association in which a director or officer was adjudged liable to the Association or in relation to a proceeding where a director or officer was adjudged liable on the basis that personal benefit was improperly received by that director or officer.


The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust, or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust, or other enterprise.

Nothing contained in this Article 14 or elsewhere in these Bylaws shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

I, Donald B. Wildman as Sole Incorporator of the Association do hereby adopt and approve the foregoing Bylaws, this the 8th day of May, 2020.

  
\_\_\_\_\_  
Donald B. Wildman  
Sole Incorporator





STATE OF SOUTH CAROLINA	)	<b>Elmwood Cottages Subdivision</b>
	)	<b>Phase 3</b>
COUNTY OF SPARTANBURG	)	

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION is made as of the date set forth on the signature page hereof by **Mark III Properties, LLC**, a Delaware limited liability company ("Declarant").

**WITNESSETH:**

WHEREAS, on September 25, 2020 Declarant recorded that certain Declaration of Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision in Deed Book 129-J at Page 520 in the Office of the Register of Deeds for Spartanburg County, whereby certain property belonging to Declarant was submitted to the terms and conditions of said Declaration of Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision (the "Original Declaration"). The Original Declaration and all amendments, supplements and assignments thereto shall be collectively referred to herein as the "Declaration"; and

WHEREAS, Declarant now desires to subject additional property to the Declaration.

NOW, THEREFORE, Declarant does hereby declare and subject the property shown on a survey prepared for **Mark III Properties** by 3D Land Surveying, dated November 15, 2021, and

recorded in Plat Book 180 at Page 792-793 in the Office of the Register of Deeds for Spartanburg County (the "Property") to the terms and conditions of the Declaration.

Except as amended or supplemented hereby or previously amended or supplemented, the aforementioned terms and conditions of the Declaration shall remain unchanged and in full force and effect. All capitalized terms used herein which are not defined herein shall have the same meanings given them in the Declaration.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration by and through its duly authorized officer this 26th day of January 2022

Signed, Sealed and Delivered

in the presence of:

Keshi M. Antosh  
Melody S. Terpak

Mark III Properties, LLC

By: [Signature]  
Name: John W. Beeson, Jr.  
Title: President

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

ACKNOWLEDGMENT

I, the undersigned notary public, do hereby certify that John W. Beeson, Jr. as President of Mark III Properties, LLC, being duly authorized, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN TO this 26th day of January, 2022

Melody S. Terpak (SEAL)  
Notary Public for South Carolina  
Print Name of Notary Public: Melody S. Terpak  
My commission Expires: 9-25-28

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

Elmwood Cottages Subdivision  
Phase 2

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELMWOOD SUBDIVISION is made as of the date set forth on the signature page hereof by **Mark III Properties, LLC**, a Delaware limited liability company ("Declarant").

WITNESSETH:

WHEREAS, on September 24, 2020 Declarant recorded that certain Declaration of Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision in Deed Book 178 at Page 114 in the Office of the Register of Deeds for Spartanburg County, whereby certain property belonging to Declarant was submitted to the terms and conditions of said Declaration of Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision (the "Original Declaration"). The Original Declaration and all amendments, supplements and assignments thereto shall be collectively referred to herein as the "Declaration"; and

WHEREAS, Declarant now desires to subject the property known as Phase 2 of Elmwood Subdivision as more particularly shown on a survey entitled, "Elmwood Cottages Subdivision Phase 2" prepared for **Mark III Properties, LLC** by 3D Land Surveying dated 8/28/2020 and recorded in Plat Book 178 at Page 361 in the Office of the Register of Deeds for Spartanburg County (the "Property") to the terms and conditions of the Declaration.

Except as amended or supplemented hereby or previously amended or supplemented, the aforementioned terms and conditions of the Declaration shall remain unchanged and in full force

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Dorothy Earle, Register Of Deeds

and effect. All capitalized terms used herein which are not defined herein shall have the same meanings given them in the Declaration.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration by and through its duly authorized officer this 23 day of October, 2020.

Signed, Sealed and Delivered

in the presence of:

Paul Costa

Stephanie M. Elter

Mark III Properties, LLC

By: [Signature]  
Name: Laura B. Herthorn  
Title: Secretary

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

ACKNOWLEDGMENT

I, the undersigned notary public, do hereby certify that Laura B. Herthorn as Secretary of Mark III Properties, LLC, being duly authorized, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN TO this 23 day of October, 2020.

Stephanie M. Elter (SEAL)

Notary Public for South Carolina

Print Name of Notary Public: Stephanie M. Elter

My commission Expires 9.25.28

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

**AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR OLIVIA SPRINGS SUBDIVISION**

Elmwood Cottages

THIS AMENDMENT TO COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION (the "Amendment") is made on the date hereinafter set forth by Mark III Properties, LLC, a Delaware limited liability company, hereinafter referred to as "Declarant".

WHEREAS, on September 25<sup>th</sup>, 2020, the Covenants, Conditions, Easements and Restrictions for Elmwood Cottages Subdivision were recorded in Deed Book 129-J at Page 520 in the Office of the Register of Deeds for Spartanburg County (hereinafter, the "Original Declaration", which together with all supplements and amendments thereto heretofore made, if any, are referred to as the "Declaration"); and,

WHEREAS, the Declarant wishes to amend the Declaration for Elmwood Cottages Subdivision as set forth herein.

NOW THEREFORE, the Declaration is hereby amended as follows:

- A. The existing text of Article I, Section 11 of the Declaration being the definition of "Director" is removed and replaced with the following:

**"Section 11. [Intentionally Omitted]."**

- B. The existing text of Article II, Section 4 of the Declaration being Declarant's Covenant to Convey Title to Common Area is amended to remove the second sentence.

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Recording Fee: \$25.00

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Dorothy Earle, Register Of Deeds

- C. The existing text of Article IV, Section 2(d) of the Declaration is removed and replaced with the following:

“Section 2(d). [Intentionally Omitted].”

- D. The existing text of Article V, Section 2 of the Declaration is removed and replaced with the following:

“Section 2. [Intentionally Omitted].”

- E. The existing text of Article I, Section 10 of the Declaration being the definition of “**Declaration**” is amended to replace Coventry with Elmwood Cottages.

Except as amended or supplemented hereby or previously amended or supplemented, the aforementioned terms and conditions of the Declaration, shall remain unchanged and in full force and effect.

[Signatures on Following Page]



IN WITNESS WHEREOF, the undersigned, being the Declarant has hereunto set their hands and seals this 7 day of December, 2020.

MARK III PROPERTIES, LLC, a Delaware limited liability company

WITNESSES

Shah Castle  
Melody S. Terpack

By: [Signature]  
Print Name: Laura B. Henthorn  
Title: Secretary

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF Spartanburg )

ACKNOWLEDGEMENT

I, Melody S. Terpack Notary Public for the State of South Carolina, do hereby certify that Laura B. Henthorn, in his/her capacity as Secretary of Mark III Properties, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 7 day of December, 2020.

[Signature]  
Notary Public for South Carolina  
Printed Notary Name: Melody S. Terpack  
My Commission Expires: 9.25.28

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DOROTHY EARLE REGISTER OF DEEDS  
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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION (the "Amendment") is made on the date hereinafter set forth by Mark III Properties, LLC, a Delaware limited liability company, hereinafter referred to as "Declarant".

WHEREAS, on September 25, 2020, Mark III Properties, LLC recorded those certain Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision in Deed Book 129-J at Pages 520-543 in the Office of the Register of Deeds for Spartanburg County, South Carolina (hereinafter referred to as the "Declaration"); and

WHEREAS, the Declaration makes reference in several sections to an Initiation Fee and the Declarant wishes to amend the Declaration to remove any and all references to said Initiation Fee; and

WHEREAS, Declarant now desires to amend the Declaration as set forth herein.

NOW THEREFORE, the Declaration is hereby amended as follows:

1.) The existing text of Article I, Section 12 of the Declaration is removed and replaced with the following: "**Section 12.** Intentionally omitted."

2.) The existing text of the first sentence of Article IV, Section I of the Declaration is removed and replaced with the following: "Each Owner of any Lot (except for Declarant and Approved Builder(s)) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual

assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as herein provided.”

3.) The existing text of the second sentence of Article IV, Section 1 of the Declaration is removed.

4.) The existing text of Article IV, Section 3 of the Declaration is removed and replaced with the following: “**Section 3.** Intentionally Omitted.”

6.) Any and all references to the term “Initiation Fee” in Article IV, Section 8 of the Declaration are removed from said Article IV, Section 8 of the Declaration. No portion of the existing text of Article IV, Section 8 of the Declaration is intended to be altered by this amendment other than the removal of the term “Initiation Fee” where it appears in said Article IV, Section 8.

7.) Any and all references to the term “Initiation Fee” in Article IV, Section 9 of the Declaration are removed from said Article IV, Section 9 of the Declaration. No portion of the existing text of Article IV, Section 9 of the Declaration is intended to be altered by this amendment other than the removal of the term “Initiation Fee” where it appears in said Article IV, Section 9.

Except as amended or supplemented hereby or previously amended or supplemented, the aforementioned terms and conditions of the Declaration shall remain unchanged and in full force and effect. All capitalized terms used herein which are not defined herein shall have the same meanings given them in the Declaration.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, being the Declarant, has hereunto set its hand and seal this 11<sup>th</sup> day of January, 2021.

MARK III PROPERTIES, LLC

WITNESSES:

Stephanie M. Etn  
Melody Spack

By: [Signature]  
Print Name: Laura B. Herthorn  
Title: Vice-President

STATE OF SOUTH CAROLINA )  
COUNTY OF Spartanburg )

ACKNOWLEDGMENT

I, Melody S. Spack the undersigned Notary Public of the County and State aforesaid, do hereby certify that Laura B. Herthorn, in his/her capacity as Vice-President of Mark III Properties, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2021.

[Signature]  
Notary Public for South Carolina  
Printed Name of Notary: Melody S. Spack  
My Commission Expires: 9-25-28

DEE-2022-3976



DEE BK 135-N PG 239-241

Recorded 3 Pages on 01/26/2022 12:50:33 PM

Recording Fee: \$25.00

Office of REGISTER OF DEEDS, SPARTANBURG, S.C.  
Dorothy Earle, Register Of Deeds

STATE OF SOUTH CAROLINA	)	Elmwood Cottages Subdivision
	)	Phase 3
COUNTY OF SPARTANBURG	)	

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ELMWOOD COTTAGES SUBDIVISION is made as of the date set forth on the signature page hereof by **Mark III Properties, LLC**, a Delaware limited liability company ("Declarant").

WITNESSETH:

WHEREAS, on September 25, 2020 Declarant recorded that certain Declaration of Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision in Deed Book 129-J at Page 520 in the Office of the Register of Deeds for Spartanburg County, whereby certain property belonging to Declarant was submitted to the terms and conditions of said Declaration of Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision (the "Original Declaration"). The Original Declaration and all amendments, supplements and assignments thereto shall be collectively referred to herein as the "Declaration"; and

WHEREAS, Declarant now desires to subject additional property to the Declaration.

NOW, THEREFORE, Declarant does hereby declare and subject the property shown on a survey prepared for **Mark III Properties** by 3D Land Surveying, dated November 15, 2021, and

recorded in Plat Book 180 at Page 792-793 in the Office of the Register of Deeds for Spartanburg County (the "Property") to the terms and conditions of the Declaration.

Except as amended or supplemented hereby or previously amended or supplemented, the aforementioned terms and conditions of the Declaration shall remain unchanged and in full force and effect. All capitalized terms used herein which are not defined herein shall have the same meanings given them in the Declaration.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration by and through its duly authorized officer this 20<sup>th</sup> day of January 2022

Signed, Sealed and Delivered

in the presence of:

[Signature]  
[Signature]

Mark III Properties, LLC

By: [Signature]  
Name: John W. Beason, Jr.  
Title: President

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG ) A C K N O W L E D G M E N T

I, the undersigned notary public, do hereby certify that John W. Beason, Jr. as President of Mark III Properties, LLC, being duly authorized, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN TO this 20<sup>th</sup> day of January, 2022

[Signature] (SEAL)  
Notary Public for South Carolina  
Print Name of Notary Public: Melody S. Terpach  
My commission Expires: 9-25-28

DEE-2024012285  
 Recorded 8 on 04/01/2024 01:09:20 PM  
 Recording Fee: \$25.00  
 Office of REGISTER OF DEEDS, SPARTANBURG, S.C.  
 ASHLEY B. WILLIAMS REGISTER OF DEEDS  
 BK:DEE 145-X PG:177-184

ELMWOOD COTTAGES HOMEOWNERS'  
 ASSOCIATION, INC.

STATE OF SOUTH CAROLINA  
 COUNTY OF SPARTANBURG

RECORDING OF DOCUMENTS PURSUANT TO  
 THE SOUTH CAROLINA HOMEOWNERS  
 ASSOCIATION ACT (S.C. CODE ANN. §§ 27-30-  
 110 TO -170):

1. ELMWOOD COTTAGES (COMMUNITY PARKING  
 GUIDELINES)

**CROSS REFERENCE:** *COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ELMWOOD COTTAGES  
 SUBDIVISION, recorded in Deed Book 129J at Pages 520-543.*

WHEREAS, the South Carolina Homeowners Association Act (S.C. Code Ann. §§ 27-30-110 to -170) requires Homeowners Associations to record Governing Documents, Rules, Regulations, and amendments thereto; and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Elmwood Cottages Subdivision was recorded on September 25, 2020 in the Office of the Register of Deeds for Spartanburg County in Deed Book 129J at Pages 520-543 (the "**Declaration**"); and

WHEREAS, pursuant to the Declaration, Elmwood Cottages Homeowners' Association, Inc. is the Homeowners Association for Elmwood Cottages Subdivision; and

NOW THEREFORE, Elmwood Cottages Homeowners' Association, Inc. does hereby record the following pursuant to the South Carolina Homeowners Association Act:

1. Elmwood Cottages (Community Parking Guidelines) – attached as **Exhibit A**.

*(Signature Page to Follow)*

AFTER RECORDING, PLEASE RETURN TO:  
 MCCABE, TROTTER & BEVERLY, P.C.  
 4500 FORT JACKSON BLVD., SUITE 335  
 COLUMBIA, SOUTH CAROLINA 29209  
 MTB FILE NO.: 22370.5



IN WITNESS WHEREOF, Elmwood Cottages Homeowners' Association, Inc. has by its duly authorized officer set its hand and seal this 22<sup>nd</sup> day of MARCH, 2024.

SIGNED SEALED AND DELIVERED  
in the presence of:

ELMWOOD COTTAGES HOMEOWNERS  
ASSOCIATION, INC.

Martha Odd  
(Witness #1)

By: William Thornton (L.S.)

Print Name: WILLIAM THORNTON

Kelly USSERY  
(Witness #2/Notary Public)

Title: SECRETARY

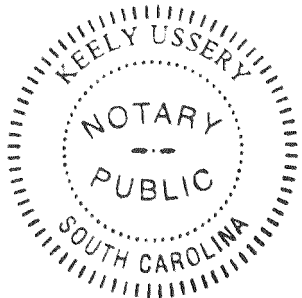
STATE OF SOUTH CAROLINA )

COUNTY OF Spartanburg )

ACKNOWLEDGEMENT

I, Kelly USSERY, Notary Public for the State of South Carolina, do hereby certify that Elmwood Cottages Homeowners' Association, Inc., by William Thornton its secretary, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 22<sup>nd</sup> day of MARCH, 2024.



Kelly USSERY  
Notary Public for South Carolina  
My commission expires: 11/08/2031

**EXHIBIT A**

**ELMWOOD COTTAGES**  
**(Community Parking Guidelines)**

*Passed by the Elmwood Cottages Board of Directors on February 26, 2024*

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**1. Purpose and Scope:**

1.1. The Purpose of this document is to provide guidelines for Homeowner and guest Vehicle Parking, both permitted and prohibited within the Elmwood Cottages Subdivision, as well as details of the assessments and penalties which will be applied for continued violations.

1.2. The Scope of this document is to establish more detailed guidelines to the COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R’s), as interpreted by the Board, of the Elmwood Cottages Subdivision, specifically regarding Vehicle Parking within the Subdivision. These guidelines are based upon ARTICLE VII - USES PERMITTED AND PROHIBITED, Section 7 of the CC&R, and shall apply to all Homeowners and Guests.

**2. General:**

2.1. ARTICLE VII, Section 7. Vehicles. Each Owner subject to these restrictions shall provide space for the off-street parking of automobiles prior to the occupancy of any building or structure constructed on a Lot in accordance with reasonable standards established by the Architecture Review Committee (“ARC”). Vehicles shall not be

parked in any front or side yard except in areas designated as a driveway or parking area. Vehicles in disrepair shall not be stored within the Subdivision. No passenger vehicles without current registration and license tags will be allowed in the Subdivision or on any Owner's Lot. Vehicles being repaired out of doors must have work completed within twenty-four (24) hours. Visiting guests only may use paved streets for temporary parking of their vehicles. No commercial vehicles in excess of 10,500 pounds gross vehicle weight may be stored or housed in the Subdivision at any time.

Street parking shall be for temporary parking only and is prohibited as a long-term parking solution. The Board or its designee shall have the specific right to impose Special Individual Assessments for extended on-street parking. Special consideration may be granted by the Board for extenuating circumstances.

- 2.2 All Homeowners have garages that should be capable of housing at least one (1) vehicle, where the other bay may be used as storage by some Homeowners, and the driveways are capable of accommodating two (2) or more vehicles. In the event that the Homeowner has more than three (3) vehicles, then the Homeowner is responsible to ensure that the garage and driveway can accommodate these vehicles.
- 2.3 Elmwood Cottages Subdivision does not have sidewalks or overflow parking, and if most, if not all Homeowners parked overnight in the street, emergency vehicle access could be severely impeded.
- 2.4 Parking requests as further discussed herein must be submitted in writing to Hinson Management, Inc. ("Hinson Management" or "HOA Management Company"). A link to submit such parking requests will be available on the HOA Management Company's website at <https://www.hinsonmanagement.com/elmwood-cottages>.

### **3. Homeowner Vehicle Parking**

#### **3.1. PERMITTED/ALLOWED:**

- 3.1.1. Homeowners may park one (1) vehicle in the street directly in front of their own property during the hours of 6:00AM to 10:00PM. However, vehicles shall neither be parked directly across from a neighbor's driveway nor directly in front of a neighbor's house unless permission is granted by the neighbor. If the Homeowner is not home while a vehicle is parked in the street, a neighbor or friend shall have access to a key to move the vehicle should an emergency situation arise while away.

- 3.1.2. Under extenuating circumstances, such as construction/remodeling/ moving in or out, etc. where access to driveway or garage parking is not possible, Homeowners may park more than 1 vehicle on the street, subject to the conditions stipulated in Section 3.1.1 above. Permission will be required in advance from the Board to park multiple vehicles on the street.
- 3.1.3. On street parking is a concession to Homeowners and is meant to be on a temporary basis only as needed by Homeowners for short term solutions and is not a right to continuously park on the street in perpetuity. The Board reserves the right to impose assessments, penalties and or fines if continued violations occur.

### 3.2. PROHIBITED/RESTRICTED:

- 3.2.1. Homeowner vehicles shall not be parked overnight in the street between the hours of 10:00PM and 6:00AM, except when written permission is provided by the Board of Directors for Elmwood Cottages Subdivision (“Board“) granting temporary parking permission. In this case, the Homeowner shall provide a written explanation for requiring overnight parking (e.g. an email sent to the HOA Management Company for Board Approval), detailing the reasons why an exemption is required, the length of time required and the make and model of the specific vehicle which will require the exemption.
- 3.2.2. If multiple vehicles from the same household are parked on the street during permitted hours, permission must be obtained from the Board in writing beforehand for each vehicle. If permission is not obtained, the Board reserves the right to impose assessments, penalties and/or fines for violations for each separate vehicle.
- 3.2.3. If multiple vehicles from the same household are parked on the street during prohibited hours and permission has not been obtained from the Board in writing beforehand for each vehicle, the Board reserves the right to impose assessments, penalties and/or fines for violations for each separate vehicle.
- 3.2.4. Vehicles shall not be parked in any front or side yard except in areas designated as a driveway or parking area. In other words, parking on your lawn or any other grassed area within the Subdivision, is strictly prohibited. However, this may not apply to vehicles requiring access over the lawn to perform construction that was previously approved with an ARC Request.
- 3.2.5. Vehicles in disrepair shall not be stored within the Subdivision at any time.
- 3.2.6. No passenger vehicles without current registration and license tags will be allowed in the Subdivision or on any Homeowner's Lot. Any such vehicles will be reported to the relevant authorities and may be subject to removal or towing at the owner's expense.

- 3.2.7. Vehicles being repaired out of doors must have work completed within twenty-four (24) hours. Work shall be contained to the driveway or garage unless written permission is provided by the HOA Board to perform work in the street. If work, as permitted by the Board, is performed in the street, all debris and stains from that work shall be cleaned by the Homeowner.
- 3.2.8. No commercial vehicles in excess of 10,500 pounds gross vehicle weight may be stored or housed in the Subdivision at any time.

#### **4. Visitor Vehicle Parking**

- 4.1 Visiting guests only may use paved streets for temporary parking of their vehicles if no space is available either on the homeowner's driveway or in the garage. Temporary parking for guests shall be defined as a maximum of a 2-week (14 day) period, unless written permission is provided by the Board for an extended period. The Homeowner shall notify the HOA Management Company prior to the guest visit
  - 4.1.1 For purposes of this Section, 3 days prior is considered reasonable, including the expected period for parking.
- 4.2 For unplanned or last-minute overnight guest parking, the Board will accept a delayed request for on-street overnight parking. No violation notice will be issued for a single overnight stay if the homeowner informs the Board as soon as possible the next day. For continued further overnight parking requests for visitors, please inform the Board as per Section 4.1 above.

#### **5. RV's, Trailers, Moving Pods**

- 5.1. RV's including Travel trailers, Fifth wheels, Toy haulers, class A, B, or C Motorhomes
  - 5.1.1. Homeowners with recreational vehicles ("RVs") are permitted to temporarily park the RV on their own driveway for loading and unloading purposes only. A maximum period of eight (8) hours will be allowed for this purpose, after which time the vehicle must be removed. Parking of RVs on the street for loading or unloading is not allowed.
  - 5.1.2. If overnight RV parking is required, Homeowners should contact the Board to obtain written permission beforehand. The vehicle must remain on the driveway if overnight parking is authorized. Parking of RVs overnight on the street will not be permitted at any time.
  - 5.1.3. If the type of RV cannot be safely accommodated, i.e. the RV is longer or wider than the driveway, parking is not permitted and alternative loading or unloading methods must be sought. No protrusion from the end of the driveway into the street will be allowed.

5.1.4. Violation notices will be issued subject to the provisions detailed in Section 6.0 Violations/Assessments/Penalties below.

5.2. Trailers, including construction and vehicle trailers.

5.2.1. Construction vehicles and trailers may be parked on driveways, including overnight if required, for a maximum of one (1) night only without requiring prior Board approval. For longer periods of continued storage, e.g. during construction projects, etc., prior approval from the Board must be obtained.

5.2.2. The use of driveways for extended trailer storage or long-term parking is not permitted. Trailers must be stored in the garage or in back yards and must not be visible from the street.

5.2.3. Trailer overnight parking or storage on the street is not permitted at any time.

5.3. Moving pods

5.3.1. The placement of moving pods on the street overnight will be permitted with prior notification to the Board detailing the location, size and time period that will be required.

5.3.2. Any pod placed in a dangerous or unsafe location will need to have safety lighting and/or safety warning triangles placed to warn traffic of the hazard.

5.3.3. Permission will be granted for up to five (5) continuous days of on-street storage. Any longer requirement will be subject to Board approval and permission must be sought in advance.

5.4. Damage

5.4.1. Any damage to driveways or lawned areas of the property caused by RV parking will be solely the responsibility of the homeowner.

5.4.2. If any damage is caused to the Subdivision communal areas or landscaping, the homeowner will be held fully responsible for the cost of any repairs.

5.4.3. If any damage is caused to roadways or streets during the placement or removal of any vehicle or equipment, the responsible Homeowner will bear full responsibility for the costs of any necessary repairs.

## **6. Violations/Assessments/Penalties**

6.1. Failure to comply with Vehicle Parking items provided in Section 3, herein, shall be considered as a Violation and subject to the following:

6.1.1. A violation letter will be submitted to the Homeowner, and the Homeowner shall immediately rectify the parking violation to ensure compliance. If the

parking violation pertains to a vehicle that does not have a current registration and license tag refer to Section 6.1.4, herein. Otherwise, proceed to Section 6.1.2, herein.

- 6.1.2. Failure to comply or a repeat violation may be subject to a Special Individual Assessment in an amount determined by the Board. This assessment shall be paid to the HOA Management Company within ten (10) calendar days of written notification of the violation starting on the date of the written notice to the Homeowner. An appeal by the Homeowner may be requested thru the HOA Management Company within the same 10-day period; however, the Board shall have the final determination for the assessment.
- 6.1.3. Further failure to comply, the HOA Board may impose additional Special Individual Assessment(s) and/or request legal action against the Homeowner. Of course, this is considered as a last resort, and should be avoided whenever possible.
- 6.1.4. If the parking violation pertains to a vehicle that does not have a current registration and license tag, then the County will be contacted. Fines and towing imposed by the County shall be at the Homeowner's or vehicle owner's expense.

## **7. Schedule of Penalties**

- 7.1. First violation – Violation letters will be sent from Hinson with a request to remedy the issue as soon as possible.
- 7.2. Second violation - \$100 penalty for each separate vehicle, see Section 6.1.2 above for payment details.
- 7.3. Third violation - \$500 penalty for each separate vehicle.
- 7.4. If no resolution is reached or payment has not been made, a court judgement will be sought. This will incur additional costs for administration and legal fees which will be passed on to the offending parties.