

**EAGLES NEST PHASE II SUBDIVISION**  
**PROTECTIVE COVENANTS**

**Johnston County, North Carolina**

THIS DECLARATION OF PROTECTIVE COVENANTS, made June 1, 2017, by- Douglas Y Perry an individual entity hereinafter called "declarant".

**WITNESSETH**

That whereas, the declarant is the owner of the real property described in article one of this declaration and is desirous of subjecting said real property to the Protective Covenants hereinafter set forth, which shall be and is for the benefit of all such property and for each owner thereof, and shall inure to the parcel thereof, and shall apply to and bind the successors in interest and any owner thereof.

NOW, THEREFORE, the declarant hereby declares that the real property described in referred to in Article I hereof is and shall be held, transferred, sold, and conveyed subject to the Protective Covenants set forth below:

**ARTICLE I**

The real property which is, and shall be held, transferred, sold, and conveyed subject to these Protective Covenants set forth in the articles of this declaration is located in the County of Johnston, State of North Carolina, and is more particularly described as follows:

BEING all of that certain tract of land containing 55.39 acres as is described in **Book 83, page 218**, Johnston County Registry. The tract of land shall be known as Eagles Nest Phase II Subdivision.

The real property described in Article I is subject to these Protective Covenants and restrictions hereby declared to insure the best use and most appropriate development and improvement of each lot therefore; to protect the owners of lots against improper use of surrounding lots as will depreciate the value of their property, to preserve so far as practicable, the natural beauty of said property; to guard against the erection of poorly designed or proportioned structures, and structures built of improper or unsuitable materials, to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes with appropriate locations on the lots; to prevent hazardous and inharmonious improvement on the lots; to secure and maintain proper setbacks from streets, and adequate free space between structures, and in general to provide adequately for a high type and quality of improvement in said property and thereby to enhance the values of investments made by purchasers of lots therein.

**ARTICLE II**

**LAND USE AND BUILDING TYPE.** No lot shall be used for any purpose except residential houses and garages associated with the houses. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single family dwelling not to exceed two and one-half stories in height, a garage for not more than three cars...

**ARTICLE III**

**SITE & HOUSE PLAN DEVELOPMENT.** No building, fence, storage building, workshop or any other structure shall be erected, placed or altered on any premises in said development until the building plans, specifications, and plat showing the location of such improvements, have been approved in writing by the declarant or Home Owner Board as to conformity and harmony of external design with existing improvements with respect to exterior appearance, topography and finished ground elevation by a duly authorized representative of the declarant. No fence or wall shall be erected, placed or altered on any lot unless similarly approved by a duly authorized representative of the declarant or the Home Owner Board. In the event said duly authorized representative of the declarant or Home Owner Board shall fail to approve or disapprove of such design or location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the erection of such improvements or the makings of such alterations has been commenced prior to the completion thereof in the case of major improvements, such approval will not be required and this covenant will be deemed to have been fully complied with. The declarant or the Home Owner Board must approve the exterior colors of all buildings constructed in said subdivision and the declarant or Home Owner Board must approve the location of each structure and whether or not construction according to a "reversed" plan shall be permitted. All such approval must be made by the declarant or Home Owner Board in writing prior to the commencement of any construction. All outbuildings shall match materials and colors used on the main dwelling.

The declarant hereby appoints a Temporary Review and approval Architectural review committee composed of three (3) persons to review all proposed houses and lots and issue in writing the finding (or approval) of such house. The initial Architectural committee shall be composed of Douglas Y Perry, Andrew "Yates" Perry and Amanda P Buchner. This committee shall act to approve or disapprove all matters of the Subdivision until a Home Owner Board is formed.

All builders that erect or place any building on any lot in the subdivision must be licensed contractors by the state of North Carolina and approved in writing by the authorized representative of the declarant.

**ARTICLE IV**

**DWELLING SIZE.** Except with the prior written approval of the duly authorized representative of the declarant or Home Owner Board, any residential structure erected or placed on any lot shall have a minimum size as follows:

- A. One story dwelling with garage (not carport) -- 1300 square feet heated area, exclusive of any porches, breezeways, steps and garages.
- B. One story dwelling without garage \_\_\_ 1400 square feet heated area, exclusive of any porches, breezeways, and steps.
- C. Two-story dwelling with garage must have a ground floor of at least 900 square feet and a total area of 1400 square feet.
- D. Two-story dwelling without garage must have at least 1600 square feet.

**ARTICLE V**

**BUILDING LOCATION.** No building shall be located on any lot nearer to the front lot line than 35 feet unless approved by the Declarant or the Home Owner Board in advance... No building shall be located on any lot nearer to a side street than 25 feet in the case of a corner lot. No building or garage shall be located nearer than 12 feet to an interior lot line and 40

feet to rear property line. The duly authorized representative of the declarant may for cause waive a violation of the setback requirement provided for herein. This waiver shall be executed in writing. Declarant or Home Owner Board reserves the right to waive in writing any minor violation of this article of this declaration, and for purpose hereof, any violation which does not exceed **twenty (20%)** percent shall be considered a minor violation. Declarant or Home Owner Board reserves the right to waive these requirements if they pertain to the placement of an accessory building provided that said placement does not violate any applicable governmental zoning requirements.

On some lots, regulations imposed by the Johnston County Health Department may require the location of a house on a particular lot in such a manner as to cause a violation of the setbacks hereinabove set out. In such an event, the location of the house on said lot as dictated by compliance with the regulations of the Johnston County Health Department shall be deemed to comply with the setback requirements set forth herein. In such an event, the Declarant shall cause to be recorded in the office of the Register of deeds of Johnston County, a document stating the application of Johnston County Health Department regulations to a particular lot and that lot's compliance with the setback requirements for lots in the subdivision based on compliance with the setback requirements imposed by the Johnston County Health Department.

#### **ARTICLE VI**

**PERIOD OF CONSTRUCTION.** Construction must begin on any lot purchased within 2 years from the purchased date and completed within 3 years of the purchase date. If construction is not started within 2 years after purchase date of the lot, the lot must be offered back to the developer at the original lot price. If the house is not completed within 3 years of the purchase date of the lot, the lot and unfinished house must be offered back to the developer at the original lot cost plus the appraised value of the unfinished house. These starting and completion times may be extended, no more than 10%, by the representative of the declarant or Home Owner Board.

#### **ARTICLE VII**

**EASEMENTS.** Easements for installation and maintenance of utilities, drainage facilities, roads, electric lines and fences are reserved as shown on the recorded plat and also over the rear 10 feet of each lot and 7.5 feet on each side line unless shown in excess of such distances on recorded plat, in which case the plat shall control. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow or drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement areas of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

#### **ARTICLE VIII**

**NUISANCE.** No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No signs or billboards shall be erected or maintained on the premises, except that of a real estate marketing sign of a size traditionally used in Johnston County shall be allowed upon the premises for the purpose of advertising a house for sale. No trade materials or inventories may be stored or regularly parked on the premises. No business activity or

trade of any kind whatsoever, which shall include, but not be limited to the use of any residence as a doctor's office or professional office of any kind, a rooming house, a boarding house, an antique shop or gift shop, shall be carried on upon any lot.

#### **ARTICLE IX**

**TEMPORARY STRUCTURE.** No structure of a temporary character, including, but not limited to, a trailer, mobile home, tent, shack or other outbuilding shall be erected or placed on any lot covered by these covenants. No transmission receiving devices such as HAM radio towers shall be placed or erected on any lot. All above ground swimming pools shall be located at the rear of house and screened so it does not show from the streets or adjacent houses. No outside storage of campers or other type seasonal vehicle may be parked on premises unless out of site from subdivision streets. Excluding small fishing boats, no automobiles or trucks, without valid up-to-date license plates, shall be permitted upon said premises, unless said automobiles or trucks are kept in an enclosed storage area to the rear of any dwelling; it being the intent of this covenant to prevent unused or abandoned vehicles upon any building lot and to prevent the unsightliness of same. All trailers must be stored to the rear of the house so as not to be visible from the street. Satellite dishes shall be permitted so long as the dish does not exceed 2 feet in diameter and is located behind the dwelling unit. Mailboxes (i.e. CBU's - cluster box units) will be furnished and installed at the entrance to the subdivision by the developer. One mailbox unit will be assigned to each lot...

#### **ARTICLE X**

**FOUNDATION AND EXTERIOR SIDING.** Except with the prior written consent of the duly authorized representative of the declarant, all foundations on any structure erected on any lot covered by these covenants shall be brick, masonry or stone construction. All exposed exterior wall surfaces of any structure shall be constructed of brick, cement board, vinyl siding, wood siding, cedar shingles, or a combination of the above. No metal cased windows ( use wood, vinyl, or composite materials) shall be used in any building.

#### **ARTICLE XI**

**ANIMALS.** . Dogs, cats, and other household pets may be kept provided they are not kept, or bred, or maintained, for any commercial purpose. No more than 2 dogs can be kept on any lot and they must be leashed or fenced. No more than two cats. No other livestock or poultry of any kind shall be raised, bred, or kept on any lot.

#### **ARTICLE XII**

**APPEARANCE.** Each owner shall keep his building site free of tall grass, undergrowth, dead trees, trash and rubbish and properly maintain so as to present a pleasant appearance. No lot shall be used or maintained as a dumping ground for rubbish, and all trash, garbage or other wastes shall be kept only in sanitary containers. In the event an owner does not properly maintain his building site as above provided, the declarant or Home Owner Board may have any required work done and the owner shall pay the cost for such work. All equipment for the storage and disposal of trash and rubbish shall be kept clean and sanitary.

#### **ARTICLE XIII**

**DRIVEWAYS AND FENCES.** All drives are to be concrete. Any lot requiring a drive in excess of 100 feet must have concrete a minimum of 100 feet from the road. Fencing must not exceed a height of 42 inches and must be approved by an authorized representative of the declarant or the Home Owner Board. Fencing not visible from street may, if approved, may

exceed 42 inches and may be chain linked. In no event will a fence of any type be permitted in front yards. All fences must be approved on a per lot basis.

**ARTICLE XIV**

**UTILITIES.** The grantors reserve the right to subject the property in the subdivision to a contract with Wake Electric Membership Corporation for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require a continuing monthly payment to Wake Electric Membership Corporation by the individual lot owners. Cable TV and telephone service may also be contracted for by the Home Owners Association and installed in the streets and easements.

**ARTICLE XV**

**ENFORCEMENT.** Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant; either to restrain to violation or to recover damages for said violation.

**ARTICLE XVI**

**TERM.** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of **twenty-five** years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of **ten** years, unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

**ARTICLE XVII**

**SEVERABILITY.** Invalidation of any one of these covenants or any part thereof judgement or court order in no way shall effect any of the other provisions which shall remain in full force and effect, and the failure of any one person or persons to take action to enforce the provisions of these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not present the enforcement of such covenant or covenants in the future.

**ARTICLE XVIII**

**HOMEOWNER'S ASSOCIATION.** The Declarant shall form a Homeowner's Association to administer, enforce, and maintain the subdivision. The Declarant shall administer the Association until 60% of the lots are sold. After the 60% are sold, the Homeowner's Association shall be turned over to the existing home owners. These home owners shall then meet and form a 9 member board from among the owners of the lots. This Board shall exercise control of the subdivision through the Homeowner's Association... The Homeowners Association Board that that has been elected will decide on all issues that come before the Association Board including how the entrance should be taken care of, the subdivision fencing system (if constructed), entrance sign planting, sign lighting, landscaping the common areas. The Homeowner's Association shall also be responsible for maintaining the drainage facilities outside the street right-of-ways by means of a once a month inspection by a knowledgeable person and perform an inspection after each large rainstorm (over 0.5 inches). Any control measures in the drainage areas shall be repaired if damaged.

**MOTOR BIKES & FOUR WHEELERS.** No motor bikes or four wheelers, licensed or unlicensed, shall be operated on the banks and shoulders or any road ways constructed in the

said subdivision. In order to prevent excessive noise pollution and provide for safety, no motor bikes or four wheelers may be operated on the streets of the said subdivision.

IN WITNESS WHEREOF the declarant has caused this instrument to be executed in its corporate name by its Owner and attested by a certified Notary.

By: *Douglas Y. Perry*  
Douglas Y. Perry Owner (Declarant)

Seal Stamp North Carolina, Johnston County  
I, a Notary Public of the County and State aforesaid, certify that  
Douglas Y. Perry personally appeared before  
me this day and acknowledged the execution of the foregoing instrument.  
Witness my hand and official stamp or seal, this 3 day of October, 2017  
~~2018~~

My commission expires: 9-5-21 Notary Public *Adilene M. Santos*

