

REGISTER OF DEEDS
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AMENDMENT
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Prepared by: Village Hearth Cohousing, LLC and Paige C. Kurtz, Attorney

Return after recording to: ^{PAIGE KURTZ} 715 Kimbrough St., Raleigh, NC 27608

AMENDED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR VILLAGE HEARTH

NORTH CAROLINA
DURHAM COUNTY

THIS DECLARATION made this 21 day of February, 2020, by Village Hearth Cohousing, LLC, A North Carolina Limited Liability Company, of Durham County, North Carolina (the "Declarant") and all successors in title and their heirs and assigns of all lots included within the lands described herein.

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real estate situated in the County of Durham and State of North Carolina, legally described on Exhibit "A," together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate;

WHEREAS, Declarant desires to submit the real property and the improvements located thereon to the terms and provisions of the North Carolina Condominium Act, and declares the same to be known as Village Hearth, a condominium, to protect the real property, to further a plan for ownership of the real property, to create a harmonious and attractive residential development that is an LGBT-focused, aged 55 and older, senior cohousing community, to promote and safeguard the health, comfort, safety, convenience and welfare of the owners, to provide a uniform plan of development, and to provide for the maintenance of the common areas of the real property;

WHEREAS, the individual lots in this development will be in close proximity with each other and share a common entranceway, amenities and party walls, it is important to provide a clear set of rules that will be regulated by the Homeowners Association;

AND WHEREAS, this Declaration is designed to protect the value and desirability of the real property, shall run with the real property, shall be binding on all parties having any right, title or interest in the real property or any part thereof, their heirs, successors in interest and assigns and shall inure to the benefit of each owner thereof;

NOW, THEREFORE, Declarant, as the owner of said property, hereby declares that the property shall be sold subject to the covenants, conditions and restrictions set forth, and all present and future owners of said homes, for themselves, their heirs, successors and assigns, by the purchase or acquisition of said homes agree to be bound by the restrictions and covenants contained in this Declaration, as follows:

ARTICLE I **DEFINITIONS**

Definitions. As used herein, the following words and terms shall have the following meanings:

1.1 **Act.** The North Carolina Condominium Act as currently set forth in N.C.G.S. Chapter 47C, Articles 1 through 4, as amended.

1.2 **Board or Board of Directors.** The Board of Directors as described in the Bylaws.

1.3 **Building.** The structure containing the Homes, which comprises a part of the Property.

1.4 **Bylaws.** The Bylaws of the HOA which are hereby incorporated herein and made a part hereof by this reference.

1.5 **Common Elements or Common Areas.** All portions of the Property except the Homes for which the Declarant, Village Hearth Cohousing, LLC or the HOA shall have obligations and duties. The foregoing includes all real property that is not deeded to Owners and that is for the common use and enjoyment of the Community. The foregoing also includes community water system/wells, entrances and centralized parking.

1.6 **Common Expenses.** Expenditures made or liabilities incurred by or on behalf of the HOA, together with any allocations to reserves, including, but not limited to, expenses of administration, maintenance, insurance, operations, repair or replacement of the Common Areas, allocations to general operating reserves and any authorized additions thereto, any amount for general working capital and general operating reserves, amounts for reserve fund replacements, and to make up any deficit in assessments in Common Expenses in any prior year or any expense or liability covered by the levy of a special assessment.

1.7 **Community and/or Village Hearth and/or Village Hearth Community.** The community of people that live on the Property and includes Declarant, Owners, Members and the HOA, including tenants.

1.8 **Community Building.** Any non-resident building or structure that is not a Home or a Unit.

1.9 **Decision Making.** The way decisions are made by the Community and the HOA which involves an effort to accommodate the needs of the whole group rather than a traditional majority vote. Members/Owners shall attempt to reach consent at two separate meetings before putting any matter to a vote and if such consent is not reached, the matter may be put forward by any Member/Owner to the Members/Owners for a binding vote. A vote of 75% of the Member Households at a meeting shall constitute a binding decision upon the Membership so long as a quorum, as defined in Section 1.27, of the Member Households was present at the vote, with one vote per Member Household. Members may elect to vote by proxy by delivering a written proxy to another Member/Owner who will be attending the meeting at which the vote is called.

1.10 **Declaration.** This document and all the Covenants, Conditions and Restrictions and all provisions set forth in this document, which may from time to time, be amended.

1.11 **Declarant.** Declarant means Village Hearth Cohousing, LLC, a North Carolina Limited Liability Company and any other person who has executed this Declaration, except Security Holders and persons whose interest in the Property will not be conveyed to Owners.

1.12 **Declarant Control Period.** The period commencing on the date hereof and continuing until the earlier of (i) the date two (2) years after any development right to add new Homes was exercised, or (ii) the date upon which Declarant surrenders control of the Community, or (iii) the date one hundred twenty (120) days after the Declarant has conveyed Seventy-five (75%) of the then recorded Units to Owners other than the Declarant, or (iv) two years after Declarant has ceased to offer Homes for sale in the ordinary course of business. Upon termination of the Declarant Control Period, if not sooner done, the Declarant shall transfer the ownership of the land and the Common Areas, described herein, excluding any record ownership of the Owners, to the HOA.

1.13 **Exclusive Use Common Element.** The portion or portions of the Common Areas described in Section 1.5 subject to rights for the exclusive use of one or more, but fewer than all, of the Owners by the Declaration or by operation of N.C.G.S. §47C-2-102(2) and (4).

1.14 **First Mortgage and First Mortgagee.** A First Mortgage is a mortgage or deed of trust which has been recorded so as to give constructive notice thereof, and which is a first lien on the Home described therein. A first Mortgagee is the holder, from time to time, of a First Mortgage or Beneficiary of the Deed of Trust, as shown by the records of the office in which the First Mortgage is recorded, including a purchaser at foreclosure sale upon foreclosure of a First Mortgage until expiration of the mortgagor's period of redemption. If there be more than one holder of a First Mortgage, they shall be considered as, and act as, one First Mortgagee for all purposes under this Declaration and the Bylaws.

1.15 **Home or House.** Any residential building used for human occupancy and which includes a kitchen, indoor plumbing, electricity, heating and air conditioning (including all equipment, whether interior or exterior) and at least one bedroom.

1.16 **HOA.** The Village Hearth Homeowners Association, Inc., a non-profit corporation organized under Chapter 55A of the North Carolina General Statutes formed for the purpose of maintaining the Common Areas which shall consist of a Board of Directors.

1.17 **Lot.** A lot within the Property, whether developed or undeveloped, as designated on the Plat.

1.18 **Lot Owners**. The record owner of title of any fee simple interest in a Lot included within the Property.

1.19 **Member**. All members of Village Hearth Cohousing, LLC. Only Owners are eligible for membership.

1.20 **Member Households**. Refers to each self-defined subset of all Members who intend to purchase and occupy a particular Home of the Community together.

1.21 **Natural Areas**. Those portions of the Common Area set aside for the benefit of wildlife and each Owner's enjoyment of the Property.

1.22 **Occupant**. Any person that resides in a Home.

1.23 **Owner or Owners**. The record owner of title for any Unit/Home included within the Property. The foregoing does not include persons or entities that hold an interest in any Unit as security for the performance of an obligation.

1.24 **Outbuildings**. Any non-resident building or structure, other than the Common House.

1.25 **Plat**. The survey of the Property and the plans for the Community, consisting of Pages 1 through 6, inclusive, and being recorded in the Durham County Registry in Condominium Plat Book 13, Pages 174-179, inclusive. The Plat is incorporated herein by reference and is made an integral part of this Declaration.

1.26 **Property**. The real estate described on Exhibit "A," together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.27 **Purchaser**. Any person, other than a Declarant or a Person in the business of selling real estate for his or her own account, who by means of a voluntary transfer acquires a legal or equitable interest in a Home other than (i) a leasehold interest (including renewal options) of less than five (5) years, or (ii) as security for an obligation.

1.28 **Quorum**. There shall be a quorum at any meeting of the Members/Owners if there are Member Households present representing more than 50% of the active Member Households. A Member/Owner may participate in a meeting and count toward the quorum if participating by "speaker phone" or "video conference" provided such Member/Owner can hear and be heard by all other participants. Inactive Member Households and Member Households that deliver their vote by proxy shall not count towards the number of Member Households necessary to constitute a quorum.

1.29 **Real Estate**. Any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law, pass with a conveyance of land though not described in the contract of sale or instrument of conveyance, including parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water.

1.30 **Residential Unit Upgrades**. Any improvement to the Home which is an upgrade, improvement or betterment of the standard residential unit fixtures, equipment and finishes.

1.31 **Rules and Regulations**. The Rules and Regulations adopted by the HOA from time to time as provided in the Declaration and Bylaws for the purpose of governing the use and enjoyment of Village Hearth.

1.32 **Security for an Obligation**. The vendor's interest in a contract for deed, the mortgagee's interest in a mortgage, trustee's interest in a deed of trust, or the holder's interest in a lien.

1.33 **Security Holder**. Any person owning a Security for an Obligation in a Home.

1.34 **Special Declarant Rights**. All of Declarant's reserved rights as defined in the Act and in this Declaration.

1.35 **Stormwater Facility Agreement**. The Stormwater Facility Agreement and Covenants recorded in the Durham County Registry in Deed Book 8581, Pages 159 through 175, inclusive. The Stormwater Facility Agreement is incorporated herein by reference and is made an integral part of this Declaration.

1.36 **Tenant**. Any person that resides in a Home while the Owner of such Home resides elsewhere or any person that resides in a Home with the owner pursuant to a rental agreement.

1.37 **Unit**. Each individual unit as shown on the Plat, inclusive of Village Hearth, and all appurtenant easements, benefits and burdens, and any additional units brought within the jurisdiction of these covenants and restrictions unilaterally by the Declarant.

ARTICLE II LAND USES AND COMMUNITY AMENITIES

Common Areas shall be used for the benefit of Village Hearth as decided by the Declarant and/or HOA. The total area of space that is used for non-residential purposes may not exceed 25% of the Property. The title and interest in the Common Elements appurtenant to each Home and the proportionate liability for common expenses and share of the Association revenues, if any, shall be equal for all Homes. Each Owner shall own an undivided 3.57% interest in the Common Elements and Common Expenses

It is intended that Village Hearth be subject to the provisions of the Housing for Older Persons Act ("HOPA") in that 80% of the occupied Homes be occupied by at least one person which is 55 years of age or older.

Requests for specific Common Area uses or rental of community amenities can be brought to the HOA by any Member or Owner. Non-members and non-Owners shall not be allowed to purchase use of community amenities. There shall be no commercial use of the Common Areas. Before any use of Common Areas is implemented, whether for community or individual purposes, a plan shall be submitted to the community for approval; the plan shall contain sufficient detail to allow an informed decision to be made and to assess the costs of the project to the community (special assessment or impact on monthly assessment). Should the community grant to a Member or Owner the right to individual use of a Common

Area, that right shall not be withdrawn unless: (1) the community determines that use to be in conflict with this Declaration or the use is not for the stated purpose; (2) the Member(s) or Owner(s) using the land indicate a desire or willingness to discontinue that use; or (3) the Member(s) or Owner(s) using the land sell their Home.

Natural areas shall remain untouched and undeveloped, except as allowed by the HOA for the construction of paths/trails, gardens, foot bridges and benches and other uses as allowed by law and approved by the HOA. The HOA may cause additional improvements to be made to the Common Areas as approved by the HOA.

Common Areas may only be conveyed or subjected to security interests by Decision Making, as defined above, of the HOA and written approval of the HOA. Proceeds of any sale or financing are the property of HOA.

ARTICLE III DEVELOPMENT COMMITTEE

The Declarant, or its duly appointed successors and/or assignees, shall constitute the membership of the Development Committee. The Development Committee, or its designee(s) which may include the HOA, shall have the duties and responsibilities specified herein unless otherwise stated.

ARTICLE IV APPROVAL OF BUILDING PLANS AND DEVELOPMENT OF LOTS

No building shall be erected, placed or altered upon any land in said community until the building plans, specifications and the location for the building on the land has been approved by the Development Committee, or its designee(s). The Development Committee, or its designee(s) shall consider conformity and harmony of external designs with the existing structures in the Community and the Owners' needs or aesthetics. The Development Committee, or its designee(s) shall review building plans, including additions, porches, canopies and other changes to the exteriors of Homes to ensure that the quality of workmanship will result in reasonable maintenance costs.

ARTICLE V TIMELY COMPLETION OF CONSTRUCTION

When construction of any structure has begun, work must be pursued diligently and must be completed within a reasonable time.

ARTICLE VI BUILDING LOCATIONS

All Buildings, the Community Building, Homes and Outbuildings shall have minimum setbacks as follows: thirty (30') feet or other such minimums as required by applicable City or Building Codes. All building setback lines shall be measured from property lines.

ARTICLE VII
BUILDING SIZE AND MAINTENANCE OF HOMES

7.1 **General Description of Units.** There will be no more than 32 Homes at Village Hearth, with 28 homes to be initially built by the Declarant. Subdivision of Homes is prohibited. Any additions to the Homes, such as porches, patios, sunrooms or other livable spaces must be approved by the HOA or committee designated by the HOA.

7.2 **Home Boundaries.** The vertical and horizontal perimetric boundaries of each Home shall consist of the unfinished perimeter walls, the subfloors (whether wood or concrete), and the bottom surfaces of the ceiling joints, as applicable, and all as more particularly shown and described on the Plat. All lath, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces therein shall be a part of the Home. All other portions of such walls, floors, or ceilings not included within the Homes are a part of the Common Elements. Interior walls, combines, fixtures, appliances, cabinets, other facilities, approved porches, patios, sunrooms, other livable spaces and other improvements lying completely within the boundaries of a Home, if any, shall be a part of such Home.

7.3 **Exclusive Use Common Area.** Certain portions of the Common Area are set aside for the exclusive use of the Occupants of certain Homes and constitute Exclusive Use Common Areas. At this time, the only existing Exclusive Use Common Areas are backyards for each Home as designated on the Plat. Under no circumstances may any backyard be used, rented, licensed or assigned for use by any Owner other than an Occupant of a Home who uses the space in connection with the occupancy of the Home.

7.4 **Party Walls.** Due to the type of Homes being constructed, there will be Party Walls. Each wall which is built as a part of the original construction of the Homes upon the property and placed on the dividing line between the Units shall constitute a "Party Wall." No alterations will be made to any Party Wall other than alterations to the interior surfaces. Removal of Party Walls is prohibited. No Home may be sub-divided, and no opening may be made between any residential units. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners who make use of the Wall. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has use of the Party Wall may restore it. If another Owner thereafter makes use of the Party Wall, they shall contribute to the cost of restoration thereof in proportion to such use. However, this contribution shall not limit the right of any Owner to recoup costs from others under any rule of law regarding liability for negligent or willful acts or omissions. Any Owner who by their negligent or willful acts or omissions causes the Party Wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection from the elements. The right of any Owner to contribution from any other Owner for Party Walls shall be appurtenant to the land and shall pass to such Owner's successors in title. In the event of any dispute concerning a Party Wall, the matter will be brought to the Community to assist in resolving the dispute, and the Community will fulfill the role of arbitrator.

7.5 **Homeowners' Responsibility for Maintenance.** All interior maintenance of the Homes is the responsibility of the Owner, including any patios, decks or fences as allowed by the HOA. Each Owner shall keep the backyard maintained in good condition and repair and in compliance with rules and regulations as promulgated by the HOA. Each Owner shall maintain their Home at all times in a good and clean condition, and repair and replace, at their expense, all portions of the Home; shall perform their responsibilities in such manner as not to unreasonably disturb other Owners; shall be responsible for

securing the Home in the event of a broken window or exterior door; shall promptly report to the Board, or its agents, any defect or need for repairs the responsibility for which is that of the HOA. To the extent that such expense is not covered by the proceeds of insurance carried by the HOA, the Owner shall pay all costs to repair and replace any portion of another Home that has become damaged or destroyed by reason of his/her own acts or omissions, or the acts or omissions of any Occupant of their Home. Such payment shall be made upon demand by the Owners of such other Home. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

In the event that the HOA determines that any Owner has failed or refused to discharge properly his obligations with respect to maintenance, cleaning, repair or replacement required under this Declaration, then the HOA, except in the event of an emergency, shall give the Owner written notice of the HOA's intent to provide such necessary maintenance, cleaning, repair or replacement at the Owner's sole cost and expense and setting forth the actions deemed reasonably necessary by the HOA. Owner shall have fifteen (15) days in which to complete such actions in a good and workmanlike manner and if the action is not capable of completion within fifteen (15) days, to diligently pursue completion. In the event of an emergency or of the failure of the Owner to comply with this provision after notice, the HOA may provide any such maintenance, cleaning, repair or replacement at such Owner's sole cost and expense and the costs shall be added to and become a part of the assessment to the Owner and the Home and shall become a lien against such Home as provided herein.

7.6 HOA Responsibility for Maintenance. The HOA will be responsible for the following exterior home maintenance: (1) painting of siding and trim and/or replacement of any rotted materials, (2) cleaning of siding and gutters, 3) replacement, washing and re-coating of roofs, (4) termite prevention and/or treatment systems, and (5) to repair and/or replace items due to damage not caused by the Owners, beyond normal wear and tear.

ARTICLE VIII RESERVED EASEMENTS

8.1 Encroachments. In the event that, by reason of the construction, reconstruction, rehabilitation, alteration or improvement of the buildings or improvements comprising a part of the Property, any part of the Common Area now or hereafter encroaches upon any part of any Home, or any part of any Home now or hereafter encroaches upon any part of the Common Area, or upon any part of another Home, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Area or Homes so encroached upon.

8.2 Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the Bylaws, an Owner, the HOA, the Board, or any other person, is authorized to enter upon the Home or the Common Areas to repair, maintain, restore or reconstruct all or any part of a Home or the Common Area, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstructions are hereby declared and granted.

8.3 Declarant's Easement. Declarant hereby reserves such easements through the Common Areas as may be reasonably necessary for the purposes of discharging its obligations, exercising Special Declarant

Rights, and completing the development and construction of the Community, which easements shall exist as long as reasonably necessary for such purposes.

8.4 **Easements to Run With Land.** All easements and rights described in this Article VIII are appurtenant easements running with the land, and except as otherwise expressly provided in this Article VIII shall be perpetually in full force and effect and shall inure to the benefit of and be binding upon Declarant, the HOA, Owners, Security Holders, Occupants and any other person having any interest in the Community or any part of any thereof. The Homes and every part thereof shall be conveyed and encumbered subject to all easements and rights described in this Article VIII, whether or not specifically mentioned in any such conveyance or encumbrance.

8.5 **Other Easements and Agreements.** There are certain other recorded easements and agreements which encumber or are appurtenant to the Property, which are shown on the plats recorded in Plat Book 13, Page 174-179, recorded in in Durham County Registry.

ARTICLE IX GENERAL USE RESTRICTIONS

9.1 **Compliance with Declaration, Bylaws and Rules and Regulations.** Each Owner and Occupant shall comply with all applicable provisions of this Declaration, the Articles of Incorporation of the HOA, and rules and regulations promulgated by the Board or the HOA, as amended, and any city, county, state or federal laws, regulations or requirements. Owners shall make all payments of taxes and other charges, the nonpayment of which entitles the unpaid party to assert a lien on an Owner's Home or the nonpayment of which would subject the Owner to civil or criminal liability or would jeopardize the full force or effect of any certificate of occupancy issued for a Home or the Building itself or would jeopardize such other Owner's right to occupy or use beneficially his/her respective Home or any part thereof, or would result in the imposition of a lien against any other property of an Owner. Failure to comply shall be grounds for an action by the HOA, an aggrieved Owner, or any person adversely affected, for recovery of damages, injunction or other relief.

9.2 **Use Restricted; Use by Declarant.**

- (a) The Homes shall be occupied and used by the Owners for residential purposes only. Owners may use a room or rooms in the residence as an office, provided that the primary use of the Home is as a residence. The HOA shall have the authority to adopt rules and regulations regarding the use of offices within the Community.
- (b) No Owner shall do or permit to be done, anything in his Home which would impair the soundness or safety of the Community, or which would be noxious or offensive or an interference (including noise) with the peaceful possession and proper use of other Homes, or which would require any alteration of or addition to any of the Common Elements (except as required by law), or which would otherwise be in violation of law, or which would cause the insurance rates for the insurance carried by the HOA, or by any other Owner or his Home or personal property kept on the Property, to increase above commercially reasonable rates available for similar purposes. All Members, Owners, guests and invitees shall be bound by any noise guidelines established by the HOA.

- (c) No Owner shall cause or permit the escape, disposal or release of any biologically active or other hazardous substances or materials anywhere on the Property in any manner not sanctioned by law for the temporary storage and use of such substances or materials. All garbage and items to be recycled shall be placed only in designated receptacles.
- (d) Except as permitted by applicable law, no television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed to the exterior portion of a Home or to the Common Elements without express prior written permission of the HOA or as provided for in the Rules and Regulations.
- (e) Declarant or the HOA may make changes in any Home or in the Common Elements at any time to meet mandatory requirements of applicable laws.
- (f) Owners shall not store anything within or on the Common Elements without the prior approval of the HOA. The HOA may make reasonable rules regarding the storage of things within or on the Common Elements.
- (g) The display of signs, banners or flags may be specifically regulated by the HOA and the HOA may make reasonable rules regarding such displays.
- (h) Owners may make improvements or alterations within their Home that do not in any way change the Common Elements, impair the structural integrity of the Buildings or the mechanical, plumbing or electrical systems, or affect access in and out of the Home. Owners are financially responsible for any losses arising out of the work. Prior to the commencement of any work, the Owner shall:
 - i. Secure all proper governmental permits necessary for the completion of the work;
 - ii. Provide insurance against all losses commonly insured against arising out of the work;
 - iii. Minimize the disturbance to other Owners during the work;
 - iv. Provide waivers of all materialmen's lien rights which may arise as a result of the alteration upon completion of work;
 - v. Indemnify and hold harmless Declarant, the HOA and other Owners from any damage resulting from any disturbance to, or compromise of, the structural support of the Building;
 - vi. Reimburse the Declarant and the HOA for any expenses incurred by the HOA to repair damage to Common Elements or Buildings.
- (i) Changes by Owners to Common Elements are prohibited without the prior written consent of the HOA. Common Elements may not be partitioned and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Home to which that interest is allocated is void.

ARTICLE X RENTAL USE

It is the Declarant's intention that residents of Village Hearth shall be Owners and full participants in the Community. Declarant's vision for the property is to create housing with an emphasis on affordable

housing utilizing limited rentals, co-buying and home sharing where people work together while continuing to contribute to one another and to the wider community. For specific guidelines regarding rental use of Homes, refer to the HOA and its Rules and Regulations.

ARTICLE XI HOMEOWNERS ASSOCIATION AND ASSESSMENTS

The Homeowners Association will consist of Owners as defined in the Declaration. This HOA shall be created after all Homes have been sold by Declarant or at an earlier date, if Declarant so desires and designates in writing. The HOA shall have the power to form Committees to facilitate the management of the Community and the operation of the HOA. Committees shall have the authority at the direction of the HOA to formulate, publish and distribute the Rules and Regulations that shall govern the Community consistent with this Declaration and the Bylaws. All Members and Owners shall be deemed to have read and understood all such Rules and Regulations and to be bound by them. Committees shall use Decision Making to formulate the Rules and Regulations.

Each Owner shall by the acceptance of the Deed of Conveyance to the Unit become a member of the HOA and shall be subject to the dues and assessments as may be established by the HOA (or Declarant). Each Member/Owner shall have the right to participate in the decisions of the HOA. Membership shall be appurtenant to and may not be separated from the ownership of any Unit. Until such time as the first assessment for common expenses by the HOA, the Declarant will be responsible for all common expenses.

All powers granted in the Declaration or the Bylaws to the HOA shall be exercisable by the Board, except as otherwise expressly provided in the Declaration, the Bylaws, or the Act. The HOA may adopt and enforce reasonable rules and regulations not in conflict with the Declaration and supplementary thereto, as more fully provided in the Bylaws. Upon establishment of the HOA, the HOA shall reimburse the Declarant for all expenses incurred by the Declarant in performing the obligations and duties of the HOA.

Except as provided for by the Declarant, every Owner covenants and agrees to pay: (1) monthly assessments and/or (2) special assessments for capital improvements and major repairs to roadways or Common Areas. No Owner may exempt himself from liability for his contribution towards the assessments by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his or her Home.

Each Owner agrees to pay each assessment levied by the HOA (or Declarant) within thirty (30) days after the due date. If not paid, such assessments, together with interest at 1.5% per month, costs and attorneys' fees shall be a charge on the land and shall be a continuing lien on the lot when filed with the Durham County Clerk of Court. If any payment thereof becomes delinquent, the lien may be foreclosed, and the Home sold, or a money judgment obtained. The HOA is specifically authorized to charge service, collection, consulting and administration fees regarding unpaid assessments. The Board shall take prompt action to collect any periodic and special assessments due from any Owner which remains unpaid for more than thirty (30) days from the due date thereof and the Board shall have the right and duty to attempt to recover such assessments and the expenses of the proceeding in an action to recover the same brought against such Owner. Mortgagees and guarantors of mortgages shall have the right to timely written notice of any delinquency of more than 60 days for any assessment due on a Home.

11.1 Personal Liability of Transferees; Statement; Liability of First Mortgage.

Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person (or entity) who was the Owner of such property at the time when the assessment was due. The personal obligation for assessments which are delinquent at the time of transfer of a Home shall not pass to the transferee of said Home unless said delinquent assessments are expressly assumed by said transferee or recorded as liens in the Durham County Clerk of Court.

ARTICLE XII

MAINTENANCE OF PRIVATE ROADWAYS AND COMMON AREAS

12.1 Common Elements.

(a) **By the HOA.** The management, replacement, maintenance, repair, alteration and improvement of the Common Areas shall be the responsibility of the HOA, and the cost thereof shall be a Common Expense to the extent not paid by the Owners. The HOA shall also maintain a reserve of 30% of the annual assessments for general repairs. The HOA shall conduct a reserve study every three (3) years. All damage caused to a Home by any work on or to the Common Areas done by or for the HOA shall be repaired by the HOA, and the cost thereof shall be a Common Expense. The HOA shall also be responsible for the maintenance of the storm water and retention pond as shown on the Plat, as well as any bonds required by the City, County or State. The HOA will maintain utility accounts for the Common Areas which shall be part of the periodic assessments to the Owners.

(b) **By Home Owners.** Each Owner shall pay all costs to repair and replace all portions of the Common Elements that may become damaged or destroyed by reason of the Owner's or any Occupants' (of the Owner's Home) intentional actse. Such payment shall be made upon demand by the HOA.

12.2 Right of Entry.

(a) **By the HOA.** The HOA, and any person authorized by the HOA, may enter any Home or any of the Common Areas in case of any emergency or dangerous condition or situation originating in or threatening that Home or any of the Common Areas for the purposes of performing any of the HOA's duties or obligations or exercising any of the HOA's power, of this Declaration or the rules with respect to that or any other Home, or the Common Areas. The HOA shall be responsible for the repair of any damage caused by the HOA or its authorized person to the entered Home and the cost thereof shall be a Common Expense. All such entries shall be made and done to cause as little inconvenience as possible to the Owner and Occupant of the entered Home or any portion of the Common Areas allocated to the Owner.

(b) **By Owners.** Each Owner and Occupant shall allow other Owners and Occupants, and their representatives, to enter his or her Home, or Common Areas allocated to his or her Home, when reasonably necessary for the purpose of altering, maintaining, repairing, or replacing the Home, or performing the duties and obligations of this Declaration or the Rules for the Owner or Occupant making such entry, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner or Occupant whose Home or Common Area is

to be entered. In case of an emergency or dangerous condition or situation, such right of entry shall be immediate. The Owner shall be responsible for repairs of any damages to the extent such damages are in an area not otherwise the responsibility of the HOA.

ARTICLE XIII OBLIGATIONS REGARDING STORMWATER FACILITIES

The Property includes one or more stormwater management facilities (hereafter "Facility/ies") that is/are the perpetual responsibility of the Association. Such Facilities are the subject of a Stormwater Facility Agreement and Covenants ("Stormwater Agreement") between Declarant, the Association, and the City of Durham ("the City") that is binding on the Association. The Stormwater Agreement is recorded at Deed Book 8581, Page 159-175, Durham County Register of Deeds. The Property subject to that Stormwater Agreement is the "Property" referred to in this Article. The Stormwater Facilities must be maintained in accordance with City Requirements, which include all ordinances, policies, standards, and maintenance protocols and in accordance with the recorded Stormwater Agreement. In particular the City's current "Owner's Maintenance Guide for Stormwater BMPs Constructed in the City of Durham" (available at the time of recording this document at <http://durhamnc.gov/DocumentCenter/View/2239>) and the operation and maintenance manual prepared specifically for the Facility/ies contain requirements that apply to the Association's Facilities.

Nothing in the remaining Article of these Restrictive Covenants filed by Declarant as part of this Declaration or any subsequent modifications of this Declaration may reduce the Association's or Lot Owners' obligations with regard to the Facility/ies. Such additional covenants may increase the obligations or provide for additional enforcement options.

The Stormwater Facility/ies and their location are as follows:

- i. One wet detention pond (WP) designed to have a drainage area of 4.16 acres, a design storm surface area of 14,840 square feet and a design storm storage volume of 44,714 cubic feet.

In addition to the above obligations, the Association's obligations with regard to the Facilities are:

1. **Inspections/Routine Maintenance.** In accordance with City Requirements, the Association shall cause the Facility/ies to be inspected i) annually; and, ii) after major storm events that cause visual damage to the Facility; and iii) upon notification from the City to inspect. The inspection shall be performed by a registered North Carolina Professional Engineer or a North Carolina Registered Landscape Architect certified by the City who shall document those things mandated under City Requirements. The inspection shall occur annually during the month in which the Facility/ies as-built certification was accepted by the City, which month may be determined through contact with the City of Durham Department of Public Works, Stormwater Division. The inspection shall be reported to the City as further described below.

2. **Repair and Reconstruction.** The Association shall repair and/or reconstruct the Facility/ies as it determines is necessary, and, at a minimum, as set forth in City Requirements or as directed by the City to allow the Facility/ies to function for its intended purpose, and to its design capacity. The Association shall provide written reports regarding major repair or reconstruction to the City in accordance with City Requirements.

3. **Stormwater Budget Line Items & Funding.** The dues of the Association shall include amounts for upkeep and reconstruction of the Facilities which shall be included in dues charged to Lots or Members from the point that Lots or Members are charged dues for other common purposes. The Association shall maintain two (2) separate funds in its budget for the Facility/ies. The first, the "Inspection and Maintenance Fund," shall be for routine inspection and maintenance expenditures and shall be used for annual inspections, maintenance, and minor repairs. The funds for this purpose may be maintained as part of the Association's general account. The second fund, the "Major Reconstruction Fund," shall be a separate, increasing reserve fund that will build over time and provide money for major repairs to and eventual reconstruction of the Facility/ies. The Major Reconstruction Fund shall be maintained in an account that is separate account from the Association's general account as described below. At a minimum, the Association shall, annually, earmark \$2,867.00 from its collected dues for the Inspection and Maintenance Fund and \$678.00 for the Major Reconstruction Fund. These minimum amounts shall be increased annually by 3% per year over the prior year's amount. The Association may set a higher amount in its discretion, or if directed by Durham Director of Public Works after an examination of the Facility/ies. The Association shall set dues at a sufficient amount to fund each of the two-line items in addition to the Association's other obligations. The Association may compel payment of dues through all remedies provided in these Covenants or otherwise available under law.

4. **Assessments/Liens.** In addition to payment of dues, each Lot shall be subject to assessments by the Association for the purpose of fulfilling the Association's obligations under this Article and under the Stormwater Agreement. Such assessments shall be collected in the manner set forth in these Covenants. As allowed under N.C.G.S. §47F, or successor statutes, or, for condominiums, as allowed under N.C.G.S. §47C, or successor statutes, all assessments remaining unpaid for 30 days or longer shall constitute a lien on the Lot. Such lien and costs of collection may be filed and foreclosed on by the Association. In addition, the Association's rights may, in the discretion of the City, be exercised by the City, as a third-party beneficiary of the recorded Stormwater Agreement and/or as Attorney in Fact for the Association, as provided in Section 7 of the recorded Stormwater Agreement.

5. **Stormwater Expenditures Receive Highest Priority.** Notwithstanding any contrary provisions of the covenants of which this Article is a part, to the extent not prohibited by law, the inspection, maintenance, repair, and replacement/reconstruction of the Facility/ies shall receive the highest priority (excluding taxes and assessments and other statutorily required expenditures) of all Association expenditures.

6. **Separate Account for Major Reconstruction Fund. Engineer's Report.** The Association shall maintain the Major Reconstruction Fund for the Facility/ies in an account separate from the Association's general account. The Association shall use the Fund only for major repairs and reconstruction of the Facility/ies. No withdrawal shall be made from this fund unless the withdrawal is approved by two Association officials who shall execute any documents allowing such withdrawal. Prior to withdrawing funds from this account, the Association shall (i) obtain a written report from an engineer approved in accordance with City Requirements regarding repairs or reconstruction needed and approximate cost of such repair or reconstruction; and (ii) submit such report to the Director of the City's Department of Public Works, and notify the Director of the repairs or reconstruction to be undertaken on the Facility, the proposed date, and the amount to be withdrawn from the Major Reconstruction Fund. In the event of an emergency, withdrawal and expenditure of funds may be made after telephone notification to the Stormwater Services Division of the Department.

7. **Annual Reports to City.** The Association shall provide to the City annual reports in substance and form as set forth in City Requirements. This annual report shall be signed by an officer of the Association, who shall attest as to the accuracy of the information in such report. If prepared by a professional management company hired to manage the Association's affairs, the report shall so

indicate. The Officer's signature and attestation shall be notarized. At a minimum each report shall include:

- i. the annual Facilities inspections report described in section (1) above;
- ii. a bank or account statement showing the existence of the separate Major Reconstruction Fund described in Section (6) above and the balance in such fund as of the time of submission of the report;
- iii. a description of repairs exceeding normal maintenance that have been performed on the Facility/ies in the past year, and the cost of such repairs;
- iv. the amount of Association dues being set aside for the current year for each of the two stormwater funds – the Inspection and Maintenance Fund and the Major Reconstruction Fund.

8. **Facility/ies to Remain with Association; Lot Owners' Liability.** To the extent not prohibited by law, the Facility/ies shall remain the property of the Association and may not be conveyed by the Association. In the event the Association ceases to exist or is unable to perform its obligations under this Agreement, all Lot Owners as defined in the Stormwater Agreement referenced above, excluding the Lots owned by the Association, shall be jointly and severally liable to fulfill the Association's obligations under this Agreement. Such Lot Owners shall have the right of contribution from other owners with each Lot's pro rata share being calculated as Lot Owner's proportional obligations are otherwise defined in these Covenants. The City may also exercise the rights described in Section 7 of the recorded Stormwater Agreement and other remedies provided by law.

9. **City Rights; Liens Against Owners.** In addition to rights granted to the City by ordinance or otherwise, the City shall have the following rights, generally summarized below, and more explicitly set forth in the Stormwater Agreement referenced above:

- (a) Direct the Association in matters regarding the inspection, maintenance, repair, and /or reconstruction of the Facility/ies;
- (b) If the Association does not perform the work required by ordinance, by these covenants, and by the Stormwater Agreement referenced above, do such work itself, upon 30 days' written notice to the Association.
- (c) Access the Facility/ies for inspection, maintenance, and repair, crossing as necessary the lot(s) on which the Facility/ies are located and all other private and public easements that exist within the Property subject to these covenants.
- (d) Require reimbursement by the Association of the City's costs in inspecting, maintaining, repairing, or reconstructing the Facility/ies, as provided in the Stormwater Agreement referenced above.
- (e) Enforce any debts owed by the Association as described in the Stormwater Agreement referenced above against Lot Owners if such debts are not fully paid by the Association. The debt may be allocated to Lot Owners as provided in the other sections of these Covenants and may be made a lien on each owner's property, may be added to each owner's utility bills, and may result in foreclosure, as provided in Section 7 of the Stormwater Agreement referenced above.

10. **No Dissolution.** To the extent not prohibited by law, the Association shall not enter into voluntary dissolution unless the Facility is transferred to a person who has been approved by the City and has executed a Stormwater Agreement with the City assuming the obligations of the Association. Under the Stormwater Agreement referenced above, individual Lots and Lot Owners continue to be liable for the Facility/ies in the event the Association is dissolved without a new Stormwater Agreement between the City and a responsible party that is assuming the Association's obligations.

11. **No Amendment.** Without the prior written consent of the City, which may be given by the Durham City Manager, and notwithstanding any other provisions of these Restrictive Covenants, the Association may not amend or delete this Article with the exception of supplementing its provisions in a more detailed manner to better describe Members' or Lot Owners' obligations regarding each other.

12. **Stormwater Agreement Supersedes.** The Stormwater Agreement referenced above supersedes any limiting provisions contained elsewhere in other Articles of these Covenants. However, such Articles may supplement the obligations of the Association as set forth in that Agreement, and/or the obligations of and remedies against individual Lot Owners or Members bound by these Covenants.

ARTICLE XIV LEGACY PROVISIONS AND OPTION TO PURCHASE

Village Hearth is a community that leaves a legacy to its current and future Members/Owners. In recognition of the many intrinsic values, fiscal investment and "sweat equity" contributed by the Members/Owners in Village Hearth (past, present or future), assistance in the form of maintenance of the exteriors of the Homes, or any other financial assistance, the HOA reserves an Option to Purchase all Units or Homes upon the terms and conditions set forth below.

This Option to Purchase is intended to last for the maximum duration allowable by law. It is anticipated that if an Owner owns a Home in excess of the maximum allowed for Options, that the Owner will grant a new Option to Purchase to the HOA to avoid the unintentional consequence of a Unit being sold or transferred without the protections of this Article.

The Option to Purchase shall not apply when a lender forecloses on a Unit and shall not preclude or impair in any way the right of the first Mortgagee to foreclose or take title to the Unit. In the event of a foreclosure sale, the new purchaser shall be bound by this Declaration. The HOA's right of first refusal shall not prevent or hinder a lien holder's right to remedies contained in its deed of trust or mortgage, including its right to accept a deed in lieu of foreclosure and its right to sell or lease any home acquired by the mortgage holder.

The HOA reserves the right of first refusal to purchase any Home to be transferred to another person. Upon presentation to the HOA of a bona fide offer to purchase, the HOA may purchase the Home for no less than the amount of the offer. The HOA must accept or reject the right of first refusal within ten (10) days of its receipt. If no such action by the HOA is taken, the right shall be deemed refused. If the HOA accepts its right of first refusal, the closing shall occur within 60 days of the acceptance. Closing costs shall be allocated between the Owner and the HOA.

Any individual having an ownership interest in the Home (including, but not limited to heirs, executor(s), guardians, or other designated appointees or trustees) shall join in any sale, conveyance or transfer of the Home to the HOA, should the HOA exercise its Option to Purchase, and shall execute any and all documents necessary to do so. This Option to Purchase shall be specifically enforceable against any

non-complying parties, including specific performance, injunction, reversion or eviction. All costs, including attorneys' fees, shall be recoverable by the HOA in the event legal action is required.

**ARTICLE XV
BINDING EFFECT AND DURATION OF RESTRICTIONS**

The restrictions and covenants shall run with the land and each Home Owner, by accepting ownership of said Home, accepts the same subject to the restrictions, covenants, and reservations herein contained and agrees for themselves, their heirs, administrators, and assigns to be bound by each of such restrictions and covenants, jointly and severally.

These restrictions shall be binding upon all persons claiming under them, until 2038, at which time said restrictions and covenants shall be automatically extended for successive periods of ten (10) years unless by Decision Making of the then Owners of the Units covered by these restrictions and covenants, it is agreed to change said covenants in whole or in part or to terminate such restrictions and such change or termination is recorded in the Durham County Registry.

**ARTICLE XVI
ENFORCEMENT**

If the parties, or any of them, or their heirs, successors or assigns shall violate or attempt to violate any of the restrictions or covenants herein, it shall be lawful for any other person or persons owning any Home or Unit described above to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such restriction or covenant, either to prevent it, him, her or them from doing so, or to recover damages or other dues for such violation.

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**ARTICLE XVII
INSURANCE AND CASUALTY DAMAGE**

17.1 **Casualty Insurance.** The HOA shall maintain casualty insurance upon the Property, the Buildings (including the contents purchased by the HOA, but excluding the personal property in the Homes) and the Common Areas (including the contents) in the name of the HOA against damage and destruction by fire, vandalism and other perils in the amount of the full (100%) replacement value (including all structural elements, but excluding any exterior doors and windows which serve only the Homes). The insurance shall include an extended coverage endorsement of the kind required by an institutional lender to repair and restore the Buildings The proceeds thereof shall be payable to the HOA, as trustee for all Owners and Security Holders as their interest may appear and be disbursed pursuant to this Declaration. Such insurance shall be in an amount equal to but not less than the full insurable value of the Property on a replacement cost basis and shall insure against such risks and contain such provisions as the Board from time to time shall determine, but at a minimum shall conform in all respects to the requirements of the Act.

17.2 **Public Liability Insurance.** The HOA shall maintain public liability insurance for the benefit of the Owners, Occupants, the HOA, the Board, the Declarant, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board;

provided that the public liability insurance shall be for at least One Million Dollars (\$1,000,000.00) per occurrence for disease, illness, death, bodily injury, and property damage occurring upon, in or about, or arising from or relating to the Property, Common Areas or Buildings or any portion thereof, including without limitation, water damage, legal liability, hired automobile, non-owned automobile and off-premises employee/Board coverage. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Owners as a group to an Owner. Said insurance shall contain a severability-of-interest enforcement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefited parties against such liability arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the streets, sidewalks, and public spaces adjoining the Community; and insure the HOA, the Board, the manager, if any, and their respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the Homes.

In no event shall the insurance coverage obtained and maintained by the HOA be brought into contribution with insurance purchased by the Owners or their mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the HOA pursuant to the requirements hereof shall exclude such policies from consideration.

17.3. **Other Insurance.** The HOA shall maintain such policies, containing such terms, amount of coverage, endorsements, deductible amounts, named insureds, loss payees, standard mortgage clauses, notice of changes or cancellation and an appropriate insurance company rating that shall satisfy the minimum requirements imposed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Federal Housing Administration or any successor thereto.

17.3 **Fidelity Insurance.** The HOA shall maintain fidelity crimes or employee dishonesty insurance covering Board members, officers and employees of the HOA in an amount which covers that maximum amount of funds in the custody of the HOA at any one time. The HOA may procure such other insurance, including worker's compensation insurance as required, or as it may from time to time deem appropriate to protect the HOA or the Owners.

17.4 **Individual Insurance Policy for Home Owner.** Each Owner shall obtain and keep continuously in force insurance for their own personal property and property damage coverage for the Owner's Home/Unit (excluding the exterior Building coverage as provided by the HOA) in a minimum amount equal to (or greater) than 100% of the replacement value of their Home, including any Residential Unit Upgrades, due to damage and destruction by fire, vandalism, or other perils. The HOA shall maintain a list of standard residential unit fixtures, equipment and finishes provided included in the insurance provided by the HOA and this list shall be available for review by any Owner upon request.

Each owner shall also maintain public liability insurance, bodily injury insurance, fire and legal liability insurance in an amount not less than \$100,000.00. No party shall have priority over the mortgagee pursuant to its mortgage in the event that insurance proceeds are paid to an Owner. In the event of a renter, renter's insurance shall be required in addition to the Owner's coverage responsibility.

If all or any part of the Property shall be damaged or destroyed, the same shall be repaired or replaced, and proceeds of insurance shall be used and applied in accordance with the provisions of this Declaration. Mortgagees and guarantors of mortgages shall have the right to timely written notice of any

casualty loss that affects a material portion of the Unit or the Home securing the mortgage, or any lapse, cancellation or material modification of any insurance policy maintained by the HOA.

17.5 **Releases and Waivers of Subrogation Rights.** The Association and each Owner are hereby deemed to release and waive unto each other all rights to claim damages for any injury, loss, cost or damage to persons or to property or any other casualty, as long as the amount of such injury, loss, cost or damage has been paid under the terms of any casualty, property, general liability, or other policy of insurance (or provided that such amount would have been paid under the terms of an insurance policy such party is required to maintain under the terms of this Declaration if such party fails to obtain such insurance); to the full extent such releases or waivers are permitted under applicable law. Respecting all policies of insurance carried or maintained pursuant to this Declaration, and to the extent permitted under such policies, the Association and the Owners each waive their insurance carriers' rights of subrogation against the other parties.

ARTICLE XVIII CONDEMNATION

In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the same shall be repaired or restored, and the award paid on the account thereof shall be used and applied in accordance with this Declaration. Mortgagees and guarantors of mortgages shall have the right to timely written notice of any condemnation that affects a material portion of the Project or the Home securing the mortgage. No party shall have priority over the mortgagee pursuant to its mortgage in the event that condemnation proceeds are paid to an Owner. Any action to terminate the legal status of the Community after substantial destruction or condemnation occurs or for other reasons must be agreed to by mortgagees that represent 51% of the votes of the Homes that are subject to mortgages.

ARTICLE XIX AMENDMENT

This Declaration may only be amended by Decision Making of the Members/Owners representing seventy-five (75%) of the Homes in the HOA. One vote per home shall be allowed. Prior to any amendment, all Owners shall be given at least thirty (30) days' notice of the meeting and the nature of the amendment to be made. Any amendments of a material adverse nature to mortgagees must be agreed to by mortgagees that represent at least 51% of the votes of the Homes that are subject to mortgages. Each approved amendment shall be reduced to writing and signed by the Declarant or the Owners who have consented to the change. Every amendment shall be executed and recorded by the Declarant or the HOA and shall be effective upon recording with the Durham County Register of Deeds. Except where permitted by the Act, if applicable, no amendment to the Declaration shall reduce or impair any rights reserved by the Declarant without consent of the Declarant, increase the number of Homes or change the boundaries of any Home or the uses to which any Home is restricted, in the absence of unanimous consent of the Owners. Notwithstanding the foregoing, this Declaration may be amended by the Declarant or the HOA to comply with any provision of law or to correct manifest errors herein.

The dedication of this Property to this Declaration or the Act herein shall not be revoked except by an affirmative vote of the Owners representing at least seventy-five percent (75%) of the Owners as evidenced by the execution of a termination agreement, with notice to all lien holders of at least thirty (30) days. Termination shall be in accordance with the Act. No amendment or termination that is contrary to, or

inconsistent with, any requirements or provisions of the Act shall be valid. Mortgagees and guarantors of mortgages shall have the right to timely written notice of any proposed amendment or revocation of this Declaration.

**ARTICLE XX
GENERAL PROVISIONS**

20.1 **Conflict with the Law; Severability.** Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the law, the provisions of the law shall control unless the law permits the Declaration to override the law, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph, or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph, or clause to any other person or circumstances.

20.2 **Interpretation of Declaration.** Whenever appropriate, singular may be read as plural or plural may be read as singular. Compound words beginning with the prefix “here” shall refer to this entire Declaration and not merely to the part in which they appear.

20.3 **Captions.** The captions herein are only for convenience and reference and do not define, limit, or describe the scope of this Declaration, or the intent of any provision.

20.4 **Exhibits.** Exhibits “A” and “B” attached hereto are hereby made a part hereof.

ARTICLE XXI
ACKNOWLEDGEMENT OF BINDING DOCUMENTS AND AGREEMENTS

IN WITNESS WHEREOF, the Declarant has signed and sealed this Declaration the day and year first above written.

VILLAGE HEARTH COHOUSING, LLC
A North Carolina Limited Liability Company

Tamil L. Ike
BY: Member-Manager

Patricia McCaulay
BY: Member-Manager

STATE OF NORTH CAROLINA
COUNTY OF Durham

I, Amy Sarvis Swanson, a Notary Public of the County and State aforesaid, certify that Tamil Ike and Patricia McCaulay personally came before me this day and acknowledged that each of them is a Member-Manager of Village Hearth Cohousing, LLC, and that by authority duly given and as the act of the company, the annexed Declaration was signed in its name.

WITNESS my hand and notarial seal, this 21 day of February, 2020.

AMY SARVIS SWANSON
Notary Public
Durham Co., North Carolina
My Commission Expires Oct. 23, 2020

Amy Sarvis Swanson
Notary Public
My Commission Expires: 10/23/2020

RECEIVED
COMMUNICATIONS SECTION
FEB 21 1964
U.S. AIR FORCE
WASHINGTON, D.C.

EXHIBIT A

Legal Description

In the State of NC, County of Durham,

BEGINNING AT A STAKE ON THE SOUTH SIDE OF INFINITY ROAD (COUNTY ROAD 1639), SAID STAKE BEING IN THE WEST LINE OF THE WORTH LUTZ PROPERTY AS SHOWN ON PLAT RECORDED IN DEED BOOK 371, PAGE 162, DURHAM COUNTY REGISTRY; THENCE WITH THE WEST LINE OF SAID LUTZ PROPERTY S 18° 58' E 720.4 FEET TO A STAKE; THENCE S 18° 54' 30" E 1642.28 FEET TO A POINT IN THE CENTER LINE OF THE ENO RIVER; THENCE WITH THE CENTER LINE OF SAID RIVER THE FOLLOWING COURSES AND DISTANCES: S 60° 00' W 350.00 FEET; S 27° 00' W 160.00 FEET; S 50° 00' W 600.00 FEET; S 45° 00' W 620.00 FEET; S 35° 00' W 250.00 FEET; S 46° 00' W 250.00 FEET; S 73° 47' W 256.14 FEET; N 69° 15' W 650.00 FEET; S 86° 00' W 300.00 FEET; N 22° 15' W 350.00 FEET; N 05° 73' 40" W 400.00 FEET; N 42° 30' W 150.00 FEET; S 88° 15' W 500.00 FEET; N 73° 40' W 400.00 FEET; N 85° 00' W 290.00 FEET; S 48° 30' W 450.00 FEET; THENCE N 54° 39' 45" W 90.20 FEET TO A STAKE; THENCE S 37° 15' 29" W 155 FEET TO A STAKE; THENCE N 02° E 220.25 FEET TO A STAKE; THENCE N 44° W 379.65 FEET TO A STAKE; THENCE N 74° 30' W 697.89 FEET TO A STAKE; THENCE N 18° 57' 05" W 10 FEET TO A STAKE ON THE SOUTH SIDE OF INFINITY ROAD; THENCE ALONG AND WITH THE SOUTH SIDE OF INFINITY ROAD N 71° 02' 55" E 5,165.66 FEET TO A STAKE, THE POINT AND PLACE OF BEGINNING AND BEING THAT PROPERTY DESCRIBED AS TRACT 2 IN DEED DATED SEPTEMBER 13, 1971, FROM CRESCENT LAND AND TIMBER CORP. TO THE ERVIN COMPANY, RECORDED IN DEED BOOK 380, PAGE 808, DURHAM COUNTY REGISTRY AND ALSO BEING A PART OF THE PROPERTY CONVEYED TO CRESCENT LAND AND TIMBER CORP. BY DEED OF HOWARD W. GAMBLE AND WIFE DATED JULY 17, 1967, RECORDED IN DEED BOOK 334, PAGE 558, DURHAM COUNTY REGISTRY, TO WHICH REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAME.

PROPERTY ID: 179857

PROPERTY ADDRESS: 1000 INFINITY ROAD, DURHAM, NC 27712

ALSO DESCRIBED AS:

BEGINNING AT A POINT ON THE SOUTHERN RIGHT OF WAY OF INFINITY ROAD (SR 1639); THENCE N70°56'32"E A DISTANCE OF 199.94' TO A POINT; THENCE S18°53'36"E A DISTANCE OF 1,204.35' TO A POINT, THENCE S18°56'26"E A DISTANCE OF 296.60' TO A POINT; THENCE S71°05'11"W A DISTANCE OF 193.28' TO A POINT; THENCE N18°54'49"W A DISTANCE OF 42.04' TO A POINT; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 100.90', WITH A RADIUS OF 206.00', WITH A CHORD BEARING OF N32°56'42"W, WHICH A CHORD LENGTH OF 99.89' TO A POINT; THENCE WITH A REVERSE CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 24.43', WITH A RADIUS OF 23.00', WITH A CHORD BEARING OF N16°33'01"W, WITH A CHORD LENGTH OF 23.30' TO A POINT; THENCE

#657142
013095-0106

Exhibit A-1

N61°00'08"W A DISTANCE OF 35.80' TO A POINT; THENCE S28°59'52"W A DISTANCE OF 80.31' TO A POINT; THENCE S59°27'27"E A DISTANCE OF 45.20' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARCH LENGTH OF 29.52', WITH A RADIUS OF 23.00', WITH A CHORD BEARING OF S71°12'08"E, WITH A CHORD LENGTH OF 27.54' TO A POINT; THENCE WITH A COMPOUND CURVE TURNING TO THE RIGHT WITH AN ARCH LENGTH OF 42.24', WITH A RADIUS OF 156.00', WITH A CHORD BEARING OF S26°40'14"E, WITH A CHORD LENGTH OF 42.11' TO A POINT; THENCE S18°54'49"E A DISTANCE OF 42.04' TO A POINT; THENCE S71°05'11"W A DISTANCE OF 306.76' TO A POINT; THENCE N18°54'59"W A DISTANCE OF 1,026.29' TO A POINT; THENCE N71°05'37"E A DISTANCE OF 349.90' TO A POINT; THENCE N18°50'54"W A DISTANCE OF 474.21' TO A POINT; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF 649,122.51 SQUARE FEET, OR 14.9018 ACRES, BY JEFFREY P. WILLIAMS, PLS, DATED MARCH 26, 2019.

#657142
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Exhibit A-2

EXHIBIT B

ALLOCATION OF COMMON ELEMENTS AND COMMON EXPENSE SHARES

Units	Common Element and Expense Share
646 sf "A" units (7)	$2.93\% \times 7 = 20.5\%$
990 sf "B" units (7)	$3.43\% \times 7 = 24\%$
1152 sf "C" units (14)	$3.96\% \times 14 = 55.5\%$
Total	100%