

# Covenant Overview and Extracts

This document is intended to address the portions of the covenants that are most frequently questioned, without requiring a full review of the entire document. Much of the content consists of excerpts from the covenants, accompanied by explanatory comments. Readers are encouraged to consult the full covenants if any questions or concerns arise regarding the information presented here.

It should be noted that North Carolina General Statute Chapter 47F, which governs homeowners associations in the state, applies to The Springs at High Rock only on a limited basis, as the community predates the statute. Certain provisions of Chapter 47F apply in full, while others apply only to the extent that the existing covenants of The Springs do not address a particular issue.

## **What are a set of Covenants and why are they applicable to me?**

[HOA covenants](#) (Declaration of Covenants, Conditions, and Restrictions, or CC&Rs) are legally binding rules created by homeowners associations to govern property use, maintenance, and aesthetics. They ensure neighborhood uniformity, maintain community standards, protect property values, and prevent nuisances.

When you buy a home in an HOA community the deed to your property is legally tied to the Covenants. Generally, the deed will state something along the lines of: "Subject to the Declaration of the Restrictive Covenants of the Springs at High Rock Subdivision".

## **Benefits of Covenants?**

An HOA's regulations, standards, and well-maintained common spaces all contribute to protecting property values in the community. HOA communities are a great fit for people aligned with these goals.

## **What is the role of the HOA Board of Directors and what tasks must they undertake?**

HOA board members are unpaid volunteers responsible for governing the association, maintaining common areas, enforcing rules (CC&Rs), and managing finances to protect property values. They have fiduciary duties to act in the community's best interest.

## **Quotes from a law firm focused on community law:**

#1: DO NOT BE PROUD OF CHOOSING NOT TO RAISE ASSESSMENTS IN SEVERAL YEARS.

We often hear directors proudly state they have not raised their annual assessments in 3, 4, or 5 years. Unfortunately, failing to raise assessments, especially over the course of several years, jeopardizes an association's financial well-being and may lead to decreased property values.

**#2 DO NOT AVOID MAKING DIFFICULT DECISIONS BECAUSE IT WILL MAKE HOMEOWNERS ANGRY.**

It is important to remember that directors serving on a board have a fiduciary duty to the association, not to individual homeowners, or a group of homeowners. That being said, a board must act in the best interests of the association, regardless of the reaction from homeowners. A good example of an action that often upsets homeowners is increasing annual assessments; however, as noted above, there are consequences for failing to act in the association's best interests, likely resulting in a violation of a board's fiduciary duty. When it comes to making difficult decisions as a board, remember that it is impossible to make everyone happy and the board's duty is to the corporation.

### **How to make changes to the Covenants**

Changes and amendments to this Declaration shall require an affirmative vote of at least ~~sixty-six percent (66%)~~ (Note: 47F-2-117 required change) sixty-seven percent (67% = currently 350 lots) of the lot Owners and the vote of the Declarant, its successors, and assigns.

## **DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

### **ARTICLE II**

### **RIGHTS AND DUTIES OF THE ASSOCIATION AND PROPERTY OWNERS ASSESSMENTS**

#### **Section 1. Amenity Use**

Owner, and the members of such Owner's family who reside with such Owner or are overnight guests of such Owner, shall have the right to use the recreational areas within the Common Property, subject however to such Owner paying when due the dues and assessments of the Association and abiding by all rules and regulations of the Association, including without limitation those governing the use of the recreational areas and the Common Property. Non-Owners shall only be entitled to use the recreational areas on such terms and conditions as the Association may select.

#### **Section 2. Assessments**

(a) It is understood (by way of example and without limitation) that the assessment funds shall be used for such matters concerning Common Property as the following: maintenance, repair and replacement of improvements within the recreational areas, the seeding and reseeded road right-of-ways and Common Areas, erosion control, repairing of road shoulders, surfacing, patching and resurfacing of parking lot and road pavement, placement of gravel, and planting and maintenance of shrubs, trees and seasonal flowers, and maintenance of street lights.

(b) Assessments may be used for the purpose of adding to recreational facilities.

(d) Annual assessment may be increased or decreased by the board of directors of the Association without a vote of the membership to an amount not more than fifteen percent (15%) in excess of the annual assessment for the previous year. A majority vote of each class of voting members of the

Association must approve an increase or decrease in the yearly assessment if the increase or decrease exceeds the assessment for the previous year by more than fifteen percent (15%).

### **Section 3. Special Assessments**

(a) For purposes of maintenance and operating expenses; requires a majority of voting members.

### **Section 5. Duty to Make Repairs**

(c) Notwithstanding the foregoing, each Owner of a lot shall be solely responsible for any repairs to a road right-of-way or other Common Property caused by the negligent act or acts of said owner, his or her invitees, agents, licensees, or guests. For these purposes, it shall be a negligent act for any building material to be unloaded on any road or road right-of-way.

### **Section 6. Charges on Unpaid Assessments**

Any assessment not paid within thirty (30) days after the due date shall be subject to such late charges and shall bear interest at a rate per annum as shall be determined by the board of directors of the Association, which interest rate shall not exceed the highest rate of interest allowed by law. The initial late charge imposed for late payment of any assessment is \$25.00 and shall be charged as to any assessment that is not paid within 30 days of its due date. The initial interest rate for late payment is 18% per year (1.5% per month) which shall commence to accrue on any assessment or other account balance that is not paid within thirty (30) days of the date due. The initial date upon which liens may be filed for failure to make payment of assessments and other charges is thirty (30) days after the due date.

*Comment: The HOA files liens once an account is 2 quarters in arrears or owing more than \$500. To perfect the lien the HOA is allowed to include costs of collection including reasonable attorney fees. In the case of a vacant lot, once an account gets to be behind by \$1,000 the HOA will begin foreclosure. Homes will not generally be foreclosed on while the Board has a documented process for taking possession of vacant lots to perfect a lien. If payment cannot be collected, the HOA has generally been willing to accept a unencumbered Deed for the property in lieu of forcing a foreclosure. If foreclosure happens, the property will be auctioned off at the courthouse with the minimum bid being the amount of past due assessments and fees owed to the HOA plus all collection and attorney fees.*

## **ARTICLE III**

### **MEMBERSHIP, VOTING RIGHTS, OFFICERS AND MEETINGS**

#### **Section 3. Board of Directors**

There shall be five (5) members of the board of directors of the Association who shall serve until such time as their successors are duly elected

(a) Suspend the voting rights (if any) of an Owner for any period during which assessment on his lot remains unpaid and enforce collections of the same.

## **ARTICLE V**

### **ARCHITECTURAL CONTROL**

(a) In order to control design and location of the houses and other improvements to be constructed, erected, placed, or installed (hereinafter "improvements") upon the lots in the Subdivision, the Declarant hereby creates an Architectural Review Committee (hereinafter "ARC") for the purpose of reviewing, approving, suggesting changes to, and rejecting plans and specifications for such improvements (regardless of when such improvements are made), and the landscaping of each lot. ARC is also created for the purpose of reviewing, approving, suggesting changes to, and rejecting swimming pools, out buildings, boat houses, ramps, piers, driveways, enclosures for satellite dishes, and if Declarant so desires, for mailbox design. ARC will be responsible for the control of size, color, materials, and content of rental and sales signs in this Subdivision, and for the approval or disapproval of boats, boat trailers, house trailers, motor homes, tractor trailer trucks, or any other such vehicle, that are kept or maintained or located upon any lot unless located within enclosed garages.

(b) ARC shall consist of three persons designated or elected by a majority vote of the board of directors.

(c) Except within the building site (unless within 20' of the main dwelling), no trees of any kind in excess of 6 inches in diameter at ground level may be removed from any lot without prior approval of the ARC. No building, fence, wall, outbuilding, or any other accessory feature to the dwelling or any other structure upon any lot shall be commenced, erected, placed, maintained, or altered on any lot or combination of contiguous lots until the Complete Construction Plans (hereinafter "Plans") are approved in writing by the Committee or its designated agents.

(d) The Plans include the complete constructions plans, the plot plan (showing proposed location and elevation of such building, fences, walks, drives, parking area, etc.) proposed building plans and specifications, exterior color, finish and materials. The areas over which the approval shall be required shall include but shall not be limited to the size and plan of the principal residential structure, and all accessory buildings, structures and improvements on the lot, the location of the well, the size and plan of the garage or carport, location and manner of construction of each driveway, swimming pool, utility building, patio, tennis court, and other improvements for athletic, recreational, or gymnastic purposes, and all other exterior improvements, the composition and color of raw and finished materials used on the exterior of all structures, and the location and type of any landscaping, shrubbery, and other plantings.

(e) The ARC or its designated agents shall have 30 days after physical receipt of the plans to accept or reject the same in whole or in part. If no response by the Committee has been made in writing within said 30 days, the plans shall be deemed to be approved as submitted.

**ARTICLE VII  
CAPTIONS, ENFORCEMENT AND INVALIDATION**

**Section 3.**

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 violation or to recover damages. In the event it is necessary to enforce this Declaration by appropriate legal or equitable proceedings, the party or parties violating or attempting to violate the same shall be liable for the cost of such proceedings including reasonable attorney's fees.

*§ 47F-3-107.1. Procedures for fines and suspension of planned community privileges or services. Unless a specific procedure for the imposition of fines or suspension of planned community privileges or services is provided for in the declaration, a hearing shall be held before the executive board or an adjudicatory panel appointed by the executive board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the association in G.S. 47F-3-102(11) and (12). Any adjudicatory panel appointed by the executive board shall be composed of members of the association who are not officers of the association or members of the executive board. The lot owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day more than five days after the decision that the violation occurs. Such fines shall be assessments secured by liens under G.S. 47F-3-116. If it is decided that a suspension of planned community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. The lot owner may appeal the decision of an adjudicatory panel to the full executive board by delivering written notice of appeal to the executive board within 15 days after the date of the decision. The executive board may affirm, vacate, or modify the prior decision of the adjudicatory body. (1997-456, s. 27; 1998-199, s. 1; 2005-422, s. 4.)*

*§ 47F-3-116 Defines the process for addressing a violation or delinquency of assessments by way of a Lien*

**DECLARATION OF RESTRICTIVE COVENANTS  
GENERAL USE RESTRICTIONS**

**1. What can be Built**

All homes must be used for residential purposes only, and no structure shall be erected, placed, altered or permitted to remain on any lot other than one detached, single-family dwelling and related structures incidental to the residential use of the lot, such as garages and boat houses.

**2. Minimum Home Size**

Each single-family dwelling shall have an enclosed, heated living area, (*generally known as Gross Living Area (GLA)*) (exclusive of open porches, garages, and other unheated spaces) not less than

One Thousand Eight Hundred (1,800) square feet on the waterfront and the majority of other lots within the community except as noted below, regardless of the number of stories. The design, location, and construction of all improvements on each lot (regardless of when such improvements are made) and the landscaping of each lot must be approved in advance by the Architectural Review Committee, hereinafter referred to as the "ARC", which ARC is established pursuant to the Declaration.

Phase 1: 1,400/1,800 – only one lot qualifies for 1,400

Phase 2: 1,600 – all undeveloped lots

Phase 3-4: 1,600/1,800 – a total of 7 lots qualifying for 1,600

Phase 5: 1,600 – all undeveloped lots

Phase 6-12 and up: 1,800 – all undeveloped lots

*Comment: In total there are approximately 50 lots that are undeveloped that qualify for 1600 sq ft. However, the vast majority of these lots will likely have homes built on them that meet or exceed 1800 sq ft. So, in effort to make it easy to understand, the ARC recommends that all future homes meet the 1800 sq ft requirement. If someone presents a home on one of the few lots that allows for 1,600 sq ft, ARC will approve said home as long as it meets the aesthetic requirements.*

### **3. Setbacks**

Front setback line shall not be closer than fifty (50) feet to any existing or newly constructed road, unless with prior written approval. Side setbacks are 10'. Deviation may be granted if strict compliance creates a hardship.

### **4. Combining Lots**

More than one lot (as shown on said plat(s)) or portions thereof, may be combined to form one or more lots with written consent. No lots may be subdivided except with written consent)

*Comment: Combining lots does not mean reduced assessments as each originally sold lot remains responsible for its own assessments regardless of ownership.*

### **6. Road Right-of-Way**

No signs, fencing or parking permitted within the road right-of-way.

### **7. Construction**

No building, fence, wall, pool, outbuilding, driveway, or any other accessory feature to the dwelling or any other structure upon any lot shall be commenced, erected, placed, maintained or altered, and no well may be drilled, on any lot or combination of contiguous lots until the Complete Construction Plans (hereinafter "Plans") are approved in writing by the ARC or its designated agents. The ARC's refusal or approval of plans may be based upon purely aesthetic considerations, which in its sole discretions of the ARC shall deem sufficient.

### **8. New residential buildings only.**

### **9. New home completed within one year, with some exceptions.**

#### **14. Animals**

No animals or poultry or any kind may be kept or maintained on any of said lots, except a reasonable number of dogs and cats and other indoor household pets.

#### **18. Clotheslines, Satellite Dishes, Mailboxes**

No outside clotheslines shall be permitted. No satellite dishes shall be permitted unless concealed from view from all lots and open spaces. Mailboxes shall be of a design, color and choice of material as designated by the Declarant or, if the Declarant so designates, by the ARC, and may not violate North Carolina Department of Transportation standards.

#### **19. Junk**

There shall be no junk automobiles, **junk of any sort**, unserviceable vehicles, or salvage stored or placed or allowed to remain on or in any portion of this Subdivision. Unless located within enclosed garages, no large boat and/or boat trailer (over 28 feet in length), travel trailer, motor home, tractor trailer truck, or any other such vehicle shall be kept or maintained or located upon any lot unless and except with prior approval of the ARC. Other boats and/or boat trailers (less than 28 feet in length) must be stored behind the building set back line (50' from road). No vehicles that are disabled or under repair shall be kept upon any lot unless located within enclosed garages. Unlicensed automobiles, including antique cars, if present, must be stored out of sight in a garage. Large trucks shall not be parked on a regular basis within this Subdivision. No lot shall be used for storage of building materials prior to the issuance of the building permit for the primary residence. Large truck shall be defined as any non-passenger vehicle larger than a pick-up truck.

#### **20. No Signs**

No billboards or signs of any description shall be displayed upon any lot with the exception of those approved by the Declarant or if the Declarant designates, by the ARC.

*Political sign restriction per 47F-3-121, 24"x24", 45 days prior to 7 days after election.*

#### **21. Tree Removal**

Except within the building site or within 20 feet of the main dwelling, no trees of any kind in excess of 6 inches in diameter **at ground level** may be removed from any lot without prior approval of the ARC.

#### **26. Enforcement of Covenant Rules (NC 47F)**

Enforcement of these Restrictions may be at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction herein contained. In the event of enforcement of these Restrictions at law or in equity and a violation hereof is judicially determined, then the violator shall be assessed with the costs of such actions, including without limitation reasonable attorney's fees. *See 47F-3-107.1*

## DECLARATION OF RESTRICTIVE COVENANTS

### TRANQUILITY LAKES PHASE 12

(d) No hunting is permitted within the Tranquility Lakes Phase 12, including all designated common areas. The discharge of firearms is strictly prohibited anywhere within the Tranquility Lakes Phase.

(e) No swimming permitted on the inland ponds.

(h) Fishing permitted by rod and reel or hook and line only. Members must be in good standing. All non-members must be accompanied by an association member. State limits apply.

(k) Feeding of geese is strictly prohibited.

(j) All guests must be accompanied by an Association member.

### Questions at a glance:

- 1) What are covenants and why do we have them
  - a. see homes on Highway 8 near Abbott's Creek for a reason why covenants are important
- 2) What if we don't like what is in the covenants – 47F-2-117, 67%
- 3) How are the covenants enforced – 47F-3-107.1
- 4) Can the HOA enforce speeding – 47F-3-102
- 5) Creation of Rules – 47F-3-102
- 6) Political signs – 47F-3-121
- 7) What can I park in my driveway – DECLARATION OF RESTRICTIVE COVENANTS - GENERAL USE RESTRICTIONS – 19. Junk
- 8) Who can write and enforce rules – 47F-3-102

