

Prepared by/Return to:

Stricklin Law Firm, P.A.

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

DECLARATION OF COVENANTS

CONDITIONS AND RESTRICTIONS

FOR PERRYTOWN ESTATES,

PHASE ONE AND PHASE THREE

This Declaration, made the 27 day of September, 2021, by D.R. Horton, Inc., a Delaware corporation, hereinafter referred to as "Declarant" or "Developer" for the purposes hereinafter stated, and consented to by B&H Enterprise of New Bern, LLC, a North Carolina Limited Liability company("B&H"), as the owner of all or a portion of the Property as defined below;

WITNESSETH:

Whereas, B&H is the owner of certain real property in Craven County, North Carolina, known as "PERRYTOWN ESTATES, PHASE ONE" and "PERRYTOWN ESTATES, PHASE

THREE” which are shown on the plats of record in the office of the Register of Deeds of Craven County, North Carolina, in Plat Cabinet I at Slide 159 D&E and Plat Cabinet 1 Slide 147 H, to which reference is made for a more particular description (the “Property”) and hereby consents to this Declaration.

Declarant is or will be the owner of all or a portion of the Property.

NOW, THEREFORE, Declarant declares that the property described above shall be held, sold and conveyed subject to the North Carolina Planned Community Act set forth in Chapter 47F of the North Carolina General Statutes (the “Act”), as well as the following easements, restrictions, covenants, and conditions.

## ARTICLE I

### DEFINITIONS

SECTION 1. Additional Property shall mean and refer to any lands, in addition to the above described Property, annexed to and made a part of the Planned Community (as hereinafter defined) pursuant to the provisions of this Declaration, whether such lands are now owned or hereafter acquired by Declarant or others, and whether developed by Declarant or others.

SECTION 2. Allocated Interest shall mean the Common Expense Liability and votes in the Association allocated to each lot,

SECTION 3. Association shall mean and refer to Perrytown Estates Home Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns, the Owners Association organized pursuant to the act of the purposes set forth herein.

SECTION 4. Common Elements shall mean and refer to all lands and easements within or appurtenant to the Planned Community owned or enjoyed by the Association, other than a Lot, and intended for the common use and enjoyment of the Owners, including, without limitation, any private roads and storm water retention ponds. Common Elements shall also include any areas designated on any plats for the Planned Community as “Open Space”, “Common Area”, “Common Element”, “Recreation Area”, “Amenity Area”, “Conservation Easement” or other similar designation.

SECTION 5. Common Elements Expenditures means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

SECTION 6. Common Expense Liability means the liability for Common Expenses allocated to each Lot as permitted by the Act, this Declaration or otherwise by law.

SECTION 7. Declarant shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by the context) and shall mean and refer to D.R. Horton, Inc., a Delaware corporation, its successors and assigns, if

such successors or assigns should acquire undeveloped property from the Declarant or a Lot not previously disposed of for the purpose of development and reserves or succeeds to any Special Declarant Right.

SECTION 8. Affiliate of Declarant means any person who succeeds to any special Declarant rights and who controls, is controlled by, or is under common control with a Declarant. A person "controls" a Declarant if the person is any of the following:

- a. A general partner, officer, director, or employer of the Declarant.
- b. Directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting interest in the Declarant.
- c. Controls in any manner the election of a majority of the directors of the Declarant.
- d. Has contributed more than twenty percent (20%) of the capital of the Declarant.

A person "is controlled by" a Declarant if the Declarant (i) is a general partner, officer, director, or employer of the person; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting interest in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than twenty percent (20%) of the capital of the person. Control does not exist if the powers described in this subdivision are held solely as security for an obligation and are not exercised.

SECTION 9. Declaration shall mean this instrument as it may be from time to time amended or supplemented.

SECTION 10. Executive Board or Board shall be used interchangeably with the Board of Directors and means the body, regardless of name, designated in this Declaration or otherwise to act on behalf of the Association.

SECTION 11. Limited Common Elements shall mean areas and facilities within any Lot which are for the exclusive use of the Lot owner but which the Association is obligated to maintain pursuant to the terms of this Declaration.

SECTION 12. Lot(s) shall mean and refer to any portion of the Planned Community designated for separate ownership by a Lot Owner, together with any dwelling situated thereon.

SECTION 13. Lot Owner or Owner shall mean the Declarant or other Person who owns fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 14. Master Association shall mean Perrytown Estates Home Owners Association, Inc..



SECTION 15. Person means a natural person, corporation, business trust, estate, trust, partnership, association; joint venture, government, governmental subdivision, or agency or other legal or commercial entity.

SECTION 16. Planned Community shall mean and refer to the Property plus any Additional Property made a part of it by the exercise of any Special Declarant Right.

SECTION 17. Purchaser means any person, other than a Declarant or a person in the business of selling real estate for the purchasers own account, who by means of a voluntary transfer acquires a legal or equitable interest in a Lot, other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.

SECTION 18. Reasonable Attorney's Fees means attorney's fees reasonably incurred without regard to any limitations on attorney's fees which otherwise may be allowed by law.

SECTION 19. Special Declarant Rights means rights reserved for the benefit of a Declarant including without limitation the right (i) to complete improvements indicated on plats and plans filed with this Declaration; (ii) to exercise any development right reserved to the Declarant by this Declaration or otherwise; (iii) to maintain sales offices, management offices; signs advertising the Planned Community, and models; (iv) to use easements through the Common Elements for the purpose of making improvements within the Planned Community or within real estate which may be added to the Planned Community; (v) to make Planned Community part of a larger planned community or group of planned communities; (vi) to make the Planned Community subject to a Master Association; (vii) to appoint or remove any officer or Executive Board Member of the Association or any Master Association during the Declarant Control Period; (viii) to permit other land to be annexed to and made a part of the Planned Community In accordance with the terms of this Declaration; (ix) the right to grant access to adjoining properties from Featherstone Lane or any other portion of the planned community.

SECTION 20. Stormwater Permit shall mean State Stormwater Management Permit # SW7180606 issued by the North Carolina Division of Energy, Mineral & Land Resources (DEMLR), Department of Environmental Quality (DEQ), and NPDES General Stormwater Permit NCG-0100001(Construction Activities), including any amendments thereto.

SECTION 21. Dwelling means a single family residential dwelling located on a Lot.

SECTION 22. Builder shall mean any Owner acquiring one or more Lots for the express purpose of constructing a Dwelling on the Lot and selling the improved Lot.

## ARTICLE II

### PROPERTY RIGHTS AND EASEMENTS

SECTION 1. Owners' Property Rights and Easement of Enjoyment. Every Owner shall have and is hereby granted a right and easement of enjoyment in and to the Common Elements, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the Association may make and amend reasonable rules and regulations governing use of the Common Elements by the Owners, and limiting the number of guests of Members;
- (b) the Association may grant a security interest in or convey the Common Elements, or dedicate or transfer all or part of the Common Elements, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by at least 80 percent of the Members, excluding the Developer; provided, however, that the Association may without the consent of the Owners grant easements, leases, licenses and concessions through or over the Common Elements. No conveyance or encumbrance of Common Elements shall deprive any Lot of its rights of access or support.

SECTION 2. Easements in Favor of the Declarant and the Association. The following easements are reserved to Declarant and the Association, their successors and assigns:

- (a) easements as necessary in the lands constituting the Common Elements and that portion of each Lot not occupied by a structure for the installation and maintenance of utilities and drainage facilities (including the right of Declarant and the Association to go upon the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone lines, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water and or other public conveniences or utilities on, in or over each Lot and such other areas as are shown on the plat of the Property or any Additional Property recorded or to be recorded in the office of the Register of Deeds of the county where the Planned Community is located; the right to cut drain ways, swales and ditches for surface water whenever such action may appear to the Developer or the Association to be necessary in order to maintain reasonable standards of health, safety and appearance; the right to cut any trees, bushes or shrubbery; the right to make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance; and the right to locate wells, pumping stations, and tanks within residential areas, or upon any Lot with permission of the owner of such Lot. No structures or plantings or other material shall be place or permitted to remain upon such easement areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion. These easement areas (whether or not shown on the recorded plats for the Planned Community) and improvements within such areas shall be maintained by the respective Owner except those for which a public authority or utility company is responsible;
- (b) easements over any public streets and all private streets, if any, access easements, and Common Elements within the Planned Community as necessary to provide access, ingress and egress, to any Additional Property;



- (c) an easement of unobstructed access over, on, upon, through and access across each Lot and the Limited Common Elements located thereon, if any, at all reasonable times to perform any maintenance and repair to the Limited Common Elements required by this Declaration. This easement shall also run in favor of the Association and the Association's agents, employees, successors and assigns.

SECTION 3. Other Easements. The following easements are granted by Declarant to others:

- (a) an easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all Lots and Common Elements in the performance of their duties;
- (b) in case of any emergency originating in or threatening any Lot or Common Elements regardless of whether any Lot Owner is present at the time of such emergency, the Association or any other person authorized by it, shall have the right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners, and such right shall be immediate;
- (c) the Association is granted an easement over each Lot for the purposes of providing Lot maintenance when an Owner fails to provide maintenance and upkeep in accordance with this Declaration.

SECTION 4. Nature of Easements. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property or any Additional Property, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

### ARTICLE III

#### RIGHTS OF DEVELOPER

The Declarant shall have, and there is hereby reserved to the Declarant, the Special Declarant Rights as are herein defined and the following rights, powers and privileges which shall be in addition to the Special Declarant Rights and any other rights, powers and privileges reserved to the Declarant herein:

SECTION 1. The Architectural Control Committee. All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any Lot within the Property or any Additional Property.

SECTION 2. Plan of Development. The right to change, alter or re-designate the allocated planned, platted, or recorded use or designation of any of the lands constituting the Planned Community including, but not limited to, the right to change, alter or re-designate road, utility and drainage facilities and easements and to change, alter or re-designate such other present and proposed amenities, Common Elements, or facilities as may in the sole judgement and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors assigns, the right to re-plat any one (1) or more Lots shown on the plat or to further subdivide tracts or Lots shown on any such subdivision plat into two or more Lots; to recombine one or more tracts or Lots, or a tract and Lots to create a larger tract or Lot (any Lot resulting from such recombination shall be treated as one Lot for purposes of Assessments); to eliminate from this Declaration Lots that are not otherwise buildable or are needed or desired by Declarant for access or are needed or desired by Declarant for use as public or private roads or access areas, whether serving the Planned Community or other property owned by the Declarant or others, or which are needed for Common Elements or amenities, and to take such steps as are reasonably necessary to make such re-platted Lots or tracts suitable for use as a building site or access area or roadway or Common Elements. The Declarant need not develop, or develop in any particular manner, any lands now owned or hereafter acquired by the Declarant, including any lands shown on plats of the Planned Community as "Future Development". Any such lands shall not be subject to this Declaration unless Declarant expressly subjects them hereto by filing of a supplemental declaration in the Register of Deeds office of the county where the Planned Community is located. Declarant is required by DEMLR to state herein the maximum allowed built-upon area for all lots which Declarant has planned to develop within the Planned Community. By listing the maximum built-upon area herein for all such lots, Declarant does not obligate itself to develop in any particular manner or for any particular uses any lands now owned or hereinafter acquired by Declarant which are not shown on the recorded plats reference herein.

SECTION 3. Amendment of Declaration by the Declarant. This Declaration may be amended without member approval by the Declarant, or the Board of the Association, as the case may be, as follows:

- (a) in any respect, prior to the sale of the first Lot;
- (b) to the extent this Declaration applies to Additional Property;
- (c) to correct any obvious error or inconsistency in drafting, typing or reproduction;
- (d) to qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status;
- (e) to incorporate or reflect any platting change as permitted by Section 2 of this Article or otherwise permitted herein;
- (f) to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any Additional Property or to qualify the Property or any Additional Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to sponsored by, or under the substantial control of the United States



Government or the State of North Carolina, regarding purchase or sale of such Lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare, A letter from an official of any such corporation or agency, including, without limitation, the Department of Veterans Affairs, U. S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion. The Declarant may at any time amend this Declaration to change the maximum allowable built-upon area as permitted by DEMLR. Notwithstanding anything else herein to the contrary, only the Declarant, during the Declarant Control Period, shall be entitled to amend this Declaration pursuant to the Section.

SECTION 4. Annexation of Additional Property. Declarant may annex to and make a part of the Planned Community any other real property, whether now owned or hereafter acquired by Declarant or others, and whether developed by the Declarant or others (the "Additional Property"). Other than any annexation made by the Declarant, its successors or assigns, Annexation of Additional Property to the Planned Community shall require the assent of 67 percent of the Class A Members who are voting in person or by proxy at a meeting called for this purpose; provided.

SECTION 5. Sales Model. So long as the Declarant or its designee shall retain ownership of any Lot, it may utilize any such Lot, or portion of the Common or Limited Elements for offices, models or other purposes relating to the construction, sale or rental of Lots and dwellings including the right to place "For Sale" or "For Rent" signs on any Lots. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose.

## ARTICLE IV

### HOMEOWNERS' ASSOCIATION

SECTION 1. Formation of Association. A Lot Owners' association shall be incorporated no later than the date the first Lot in the Planned Community is conveyed. The Association shall be a nonprofit corporation organized pursuant to the Nonprofit Corporation Act of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to manage the planned community of PERRYTOWN ESTATES, PHASE ONE AND PHASE THREE, operate and maintain the Common Elements and any Limited Common Elements in accordance with this Declaration, its Charter and Bylaws. The Association shall be empowered to perform and/or exercise those powers set forth in the Act as it maybe be amended from time to time, in addition to any powers and authority otherwise granted to it.



SECTION 2. Membership. Every Lot Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Lot ownership.

SECTION 3. Voting Rights. The Association shall have two classes of voting Membership.

*Class A.* Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is prohibited.

*Class B.* The Declarant shall be a Class B Member and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events whichever occurs earlier:

- (a) when the holder of Class B membership no longer owns any Lot; or
- (b) on December 31, 2035; or
- (c) upon the voluntary surrender of all Class B Membership by the holder thereof.

The Period during which there is Class B Membership is sometimes referred to herein as the "Declarant Control Period". During the Declarant Control Period, the Declarant shall have the right to designate and select the Executive Board of the Association and the right to remove any person or persons designated and selected by the Declarant to serve on the Executive Board, and to replace them for the remainder of the term of any person designated and selected by the Declarant to serve on the Executive Board who may resign, die, or be removed by the Declarant.

SECTION 4. Government Permits. After completion of construction of any facilities required to be constructed by Declarant pursuant to permits, agreements and easements for the Planned Community, all duties, obligations, rights and privileges of the Declarant under any water, sewer, stormwater and utility agreements, easements and permits for the Planned Community with municipal or governmental agencies or public or private utility companies, shall be the duties, rights, obligations, privileges and the responsibility of the Association, notwithstanding that such agreements, easements or permits have not been assigned or the responsibilities thereunder specifically assumed by the Association. There shall be additional provisions made in this Declaration concerning stormwater facilities and the Stormwater Permit.

SECTION 5. Common Elements. The Association shall at its sole cost and expense be responsible for the operation and maintenance of each Common Element within the Planned Community from the date of completion of its construction or improvement by the Developer, whether or not (i) such Common Element has actually been deeded to the Association, or (ii) any permit issued by a governmental agency to Declarant for the construction and operation of the common Element has been transferred from the Declarant to the Association or assumed by the Association. If the Declarant is required by any government agency to provide any operation or maintenance activities to a Common Element for which the Association is liable to perform such operation and maintenance pursuant to this section, then the Association agrees to reimburse the

Declarant the cost of such operation and maintenance within 30 days after Declarant renders a bill to the Association thereof. The Association agrees to levy a Special Assessment within 30 days of receipt of such bill to cover the amount thereof if it does not have other sufficient funds available. Declarant shall be entitled to specific performance to require the Association to levy and collect such Special Assessment.

SECTION 6. Road and Drainage Maintenance. Streets in Perrytown Estates shall be owned and maintained by the Declarant until such time as the streets are deeded to the Perrytown Estates Property Owner's Association, Inc., or accepted for maintenance by the North Carolina Department of Transportation. Stormwater management and drainage facilities outside of the North Carolina Department of Transportation right of way in Perrytown Estates shall be maintained by the Declarant until such time as the common areas and easements are deeded and/or dedicated to the Perrytown Estates Property Owner's Association, Inc.

SECTION 7. Offsite Septic System Restrictions. Lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 13 will not support a complete septic tank system and, therefore, require a separate parcel for each of those Lots for the installation, repair and maintenance of septic system drain fields.

Offsite septic system Lots 1A, 2A, 3A, 4A, 5A, 6A 7A, 8A, 10A, 11A, 12A, and 13A shall be deeded as part of Lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 13 respectively, for the installation, repair and maintenance of septic system drain fields.

Lots 1A, 2A, 3A, 4A, 5A, 6A 7A, 8A, 10A, 11A, 12A, and 13A are restricted for the installation, repair and maintenance of septic system drain fields, and for walking or dog walking. No other activity shall be carried on within these Lots. the Association shall be responsible to mow the grass within the Off-Site Septic Area.. The Declarant has caused to be installed the sewer pressure line located in a dedicated easement from each lot to their respective offsite easement. Each easement area shall be appurtenant to and run with their respective Lots, even if such easement is not mentioned in the Deed of conveyance for such Lots. The respective Lot Owner is also responsible for the maintenance of the sewer pressure line as part of their septic system, at their own expense.

No structure, fencing, planting, or other material shall be placed or permitted to remain within these Lots which may interfere with the installation and maintenance of the septic systems. Vehicular traffic shall be prohibited on Lots 1A, 2A, 3A, 4A, 5A, 6A 7A, 8A, 10A, 11A, 12A, and 13A, other than that necessary for the installation and maintenance of the respective offsite septic systems.

This restriction shall remain in effect until such time as the above mentioned offsite septic system easements are terminated due to public or other alternative sewer system is utilized to serve the respective lots.



## ARTICLE V

INSURANCE AND BONDS

SECTION 1. Insurance. Commencing not later than the time of the first conveyance of a Lot to a Person that is not a Declarant, it shall be the duty of the Association to maintain in effect casualty and liability insurance as follows to the extent it is reasonably available.

- (a) Amount and Scope of Insurance. All insurance policies upon the Common Elements shall be secured by the Board of Directors, or its designee on behalf of the Association which shall obtain such insurance against (1) loss or damage by fire or other hazards normally insured against in an amount after application of any deductibles of not less than 80 percent of the insurable replacement cost of land excavation, foundation and other items normally excluded from property policies, and (2) such other risks, including public liability insurance, as from time to time shall be customarily required by private institutional mortgage investors for projects similar in construction, location and use as the Planned Community and the improvements thereon for at least \$1,000,000.00 for bodily injury, including deaths of person and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and deaths of persons in connection with the operation, or maintenance or use of the Common Elements and legal liability arising out of lawsuits relating to employment contracts of the Association. If the insurance described in subsection (a) of this section is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Lot Owners;
- (b) Insurance Provisions. The Board of Directors shall make diligent efforts to insure that said insurance policies provide for the following:
- (1) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Lot Owners and their employees, agents, tenants and invitees;
  - (2) a waiver by the insurer of its right to repair and reconstruct instead of paying cash;
  - (3) coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days prior written notice to the named insured and all mortgagees;
  - (4) coverage will not be prejudiced by act or neglect of the Lot Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Planned Community over which the Association has no control;
  - (4) the master policy on the Planned Community cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Lot Owners;



(5) the master policy on the Planned Community cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured;

(c) Premiums. All premiums on such insurance policies and any deductibles payable by the Association upon loss shall be a common expense;

(d) Proceeds. All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board as insurance trustee or to such attorney-at-law or institution with trust powers as may be approved by the Board of Directors;

(e) Policies. All insurance policies purchased by the Board of Directors shall be with a company or companies permitted to do business in the State of North Carolina and holding a rating of "A" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Board of Directors, and shall provide that all proceeds thereof shall be payable to the Board of Directors;

(f) Distribution of Insurance Proceeds. Subject to the provisions of Section 47F-3-113(g) of the Act of the proceeds of insurance policies shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (1) all reasonable expenses of the insurance trustee shall be first paid or provision made therefore;
- (2) the remaining proceeds shall be used to defray the cost of repairs for the damage or reconstruction for which the proceeds are paid. Any proceeds remaining after defraying such cost shall be retained by the Association for such common expenses or purposes as the Board shall determine.

SECTION 2. Fidelity Bond. The Association may maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association, as follows (provided, however, that if the Association shall delegate some or all of the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association):

- (a) The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all Lots plus reserve funds;
- (b) Fidelity bonds requires herein must meet the following requirements:
  - (1) fidelity bonds shall name the Association as an obligee;
  - (2) the bonds shall contain waivers by the issuers of the bonds of all defenses upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions;

- (3) the premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense;
- (4) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to the Association, to any insurance trustee and each institutional holder of a first lien on any Lot.

## ARTICLE VI

### COVENANTS FOR ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each Lot Owner covenants and agrees to pay to the Association of the following assessments (collectively the "Assessments")

- (a) Annual Assessments;
- (b) Special Assessments;
- (c) Insurance Assessments;
- (d) Ad Valorem Tax Assessments; and
- (e) Working Capital Assessments.

The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the Assessments are made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

SECTION 2. Purpose of annual Assessments. The Annual Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the Property and Additional Property and for the maintenance, repair, improvement and replacement of the Common Elements and any Limited Common Elements. The funds arising from said assessment or charges, may be used for any of the following purposes: Operations, maintenance, and improvement of the Common Elements, and any Limited Common Elements, including payment of utilities; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees and governmental charges; establishing working capital; paying dues and assessments to any organization, Master Association, or other association of which the Association is a member, and in addition, doing any other things necessary or desirable in the opinion of the Executive Board to keep the Common Elements and Limited Common Elements in good operating order and repair.



SECTION 3. Annual Assessments. The Executive Board shall adopt a proposed annual budget at least 90 days before the beginning of each fiscal year. Within 30 days after adoption of the purposed budget for the Planned Community, the Executive Board shall provide to all of the Lot owners a summary of the budget and noticed of a meeting to consider its ratification, including a statement that the budget may be ratified without a quorum. The budget is ratified unless at the meeting a majority of all the Lot Owners in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Executive Board. The annual Assessment for each Lot shall be established based on the annual budget thus adopted. The due date for payment shall be established by the Executive Board. The Executive Board shall have the authority to require the assessment be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

SECTION 4. Special Assessments. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to the year only for the following purpose:

- A. To defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements and any Limited Common Elements, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the Members of each class who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting of Owners called for the purpose of approving such Special Assessments shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting.
- B. Without a vote of the Members, to provide funds to reimburse the Declarant as provided for in Article IV, Section 5, hereof.

SECTION 5. Insurance Assessment. All premiums on insurance policies purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a Common Expense, and the Association may in any assessment year levy against the Owners equally an insurance Assessment, in addition to an Annual Assessments, which shall be in an amount sufficient to pay the annual cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment.

SECTION 6. Ad Valorem Tax Assessments. All ad valorem taxes levied against the Common Elements, if any, shall be a Common Expense, and the Association may in any assessment year levy against the Owners equally an "Ad Valorem Tax Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay such ad valorem taxes in such year not included as a component of the Annual Assessment.



SECTION 7. Working Capital Assessments. Upon the sale of each Lot in the Community after it has been improved with a residence for which a certificate of occupancy has been issued, the purchaser of said Lot shall pay an amount as determined by the Board of Directors for the HOA from time to time to the Association as working capital to be used for operating and capital expenses of the Association. Amount paid into the working capital fund are not to be considered as advance payment of the Annual or any other assessments. The conveyance of a Lot to a Builder is hereby specifically excluded from the collection of a Working Capital Assessment. A Working Capital Assessment shall only be collected from an Owner upon the transfer of a Lot to an Owner other than a Builder.

SECTION 8. Rate of Assessment. The Association may differentiate in the amount of Assessments charged when a reasonable basis for distinction exists, such as between vacant Lots of record and Lots of record with completed dwellings for which certifications of occupancy have been issued by the appropriate governmental authority, or when any other substantial difference as a ground of distinction exists between Lots. However, Assessments must be fixed at a uniform rate for all Lots similarly situated.

SECTION 9. Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date that the Lot is first occupied for residential purposes. A Lot shall be deemed to be occupied for residential purposes when it has been improved with a dwelling for which a certificate of occupancy has been issued and has been conveyed to an Owner who intends to occupy the dwelling, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy.

SECTION 10. Effect of Nonpayment of assessments And Remedies of the Association. Any Assessment or installment thereof not paid within thirty (30) days after due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. All unpaid installment payments of Assessments shall become immediately due and payable if an Owner fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments.

SECTION 11. Lien for Assessments. The Association may file a lien against a Lot when any Assessments levied against said Lot remains unpaid for a period of 30 days or longer.

- (a) The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of the County in which the Lot is located. The Association may foreclose the claim of the lien in like manner as a mortgage on real estate under power of sale Article 2A of Chapter 45 of the General Statutes. Fees, charges, late charges, fines, interest, and other

charges imposed pursuant to Sections 47A-3-102, 47F-3-107, 47F-3-107A, and 47F-3-115 of the Act are enforceable as Assessments.

- (b) The lien under this section shall be prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of the lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot.
- (c) The lien for unpaid assessments is extinguished unless proceedings to enforce the tax lien are instituted within three years after docketing of the claim of lien in the office of the Clerk of Superior Court.
- (d) Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorney's fees for the prevailing party.
- (e) Where the holder of the first mortgage or deed of trust of record, or other purchaser of a Lot obtain title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of the title to the Lot by such purchaser. The unpaid Assessments shall be deemed to be Common Expense collectible from all of the Lot Owners including such purchaser, its heirs, successors and assigns.
- (f) A claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time claim of lien is filed, a description of the Lot, and the amount of the lien claimed, and such further information which may be required by North Carolina law to constitute a valid Claim of Lien.

## ARTICLE VII

### USE RESTRICTIONS, ARCHITECTURAL CONTROL

#### AND MAINTENANCE

SECTION 1. Approval of Plans for Building and Site Improvements. No dwelling, wall or other structure shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change in or alteration therein (including painting or repairing of exterior surfaces) be made until the plans and specifications showing the nature, kind, shape, heights, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or its designee, or, after the sale of all Lots by Declarant, by the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, or its designee, or, if applicable, the Board, or the Architectural Control Committee, fails to approve or



disapprove such design and located within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Refusal or approval of any such plans, location or specifications may be based upon any ground, including purely aesthetic and environmental considerations that in the sole and uncontrolled discretion of the Declarant, the Board, or Architectural Control Committee shall be deemed sufficient. One copy of all plans and related data shall be furnished to the Declarant, the Board, or Architectural Control Committee, as the case may be, for its records. Neither the Declarant, the Board, nor the Architectural Control Committee shall be responsible for any structural or other defects in plans and specifications submitted to it or any structure erected according to such plans and specifications.

SECTION 2. Minimum Standards for Site Improvements.

- (a) This is a planned single family residential dwelling development which will be constructed in phases. However, the Developer may alter this plan during construction of either or both phases. The planned development is served by Featherstone Lane, which shall be constructed to North Carolina Department of Transportation standards and which shall be maintained by the Declarant until such time as maintenance responsibility has been accepted by the North Carolina Department of Transportation.
- (b) All improvements shall be constructed in accordance with the plans and specifications for Perrytown Estates, as approved and required by Craven County and all other governmental agencies having jurisdiction.
- (c) Any dwelling erected upon any lot shall contain not less than One Thousand Seven Hundred (1,700) Square Feet, outside measurement, of enclosed floor heated area, exclusive of open porches and garages. In addition, at the time said dwellings are constructed the same shall contain a two (2) car garage.
- (d) The exterior of all dwellings and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder, due to strikes, fires, national emergency or natural calamities.
- (e) Walls or plant screen of a type and size shall be approved by the Declarant, the Board or the Architectural Control Committee, so as to preclude the same from causing an unsightly view from any highway, street or way within subdivision, or from any other residence within the subdivision. All mail and newspaper boxes shall be uniform in design. Design for mail and newspaper boxes shall be furnished by Declarant. Side yard or rear yard fences shall be permitted on any Lot; provided, however, that the design, placement, and materials of any fence have been approved by the Declarant, the Board, or the Architectural Control Committee, as the case may be. No fences shall be permitted in front yards. Clothes lines are not permitted on any Lot.
- (f) Off street parking for not less than two (2) passenger automobiles must be provided on each Lot prior to the occupancy of any dwelling constructed on said Lot which parking areas and the driveways thereto shall be concrete, brick,



asphalt, or turf stone, or any other material approved by Declarant, the Board or Architectural Control Committee.

- (g) All light bulbs or other lights installed in any fixture located on the exterior of any building or any Lot for the purpose of illumination shall be clear, white or non-frost lights or bulbs.

SECTION 3. Use Restrictions.

- (a) Land Use and Building Type. No Lot shall be used for any purpose except for single family residential purposes, subject, however, to the rights of Declarant contained herein. All numbered Lots are restricted for construction of one single family residential dwelling.
- (b) Driveways. Concrete driveways must connect the roadway asphalt to the house of concrete surfaces from road connection by time occupancy of each residence. Driveways must be approved by the Architectural Control Committee. Driveway culverts and headwalls shall be finished with uniform materials in a design approved by the Architectural Control Committee. Driveways shall comply with North Carolina Department of Transportation standards. Driveway pipe sizes shall be at a minimum 15" and be of reinforced concrete pipe materials. Driveway pipe inverts and grade shall be set by a Professional Land Surveyor or Professional Engineer in accordance with the ditch grade as shown on plans as prepared by Thomas Engineering, PA entitled "Site Improvements for Perrytown Estates" dated 6/13/2018, a copy of which resides with the Perrytown Estates Property Owner's Association, Inc.
- (c) Nuisances. No noxious or offensive activity shall be conducted upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Lots by the Owners thereof. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on the Owner's Lot which would tend to decrease the beauty of the neighborhood as a whole or the specific area.
- (d) Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot any time as a residence either temporarily or permanently without the written consent of the Association or its designee; provided, however, that this shall not prevent the Declarant, its designees or assigns from maintaining a construction on all Lots and Common Elements improvements are completed.
- (e) Vehicles/Boats. No boats, motor boats, personal water craft, camper, trailer, motor or mobile homes, tractor/trailer, construction equipment or similar type vehicle, shall be permitted to remain overnight on any Lot or on any street public or private, or in any parking areas at any time, without the written consent of the Association or its designees. No inoperable vehicle or vehicle without current

registration and insurance, will be permitted on any Lot, Street, or Common Elements. The Association shall have the right to have all such vehicles towed away at the owner's expense. No repairs to any vehicle may be made on streets or in driveways but only in garages or other areas not visible from the street.

- (f) **Animals.** No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that domesticated cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further that they are not allowed to run free, are at all times kept properly leashed or under the control of their owner and do not become a nuisance to the neighborhood. No animals shall be housed outside of a residence. Animals shall be kept inside the residence from between sunset and sunrise, except as needed for bodily function relief. **Snakes and venomous animals are prohibited.** The burial of deceased pets within a yard or Common Elements are prohibited. **Pit Bull, Doberman Pinscher, and Rottweiler, or any mixed breed animal containing those named breeds, are prohibited.**
- (g) **Statuary and Outside Antennas.** No yard statuary are permitted on any Lot and no outside radio or television antennas shall be erected on any Lot or dwelling unit unless permission for the same has been granted by the Board of Directors of the Association or its Architectural Control Committee. All such items must be placed so that they are not visible from any street.
- (h) **Construction in Common Elements.** No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Elements except at the direction or with the express written consent of the Association.
- (i) **Signs/Flags.** No signs or flags shall be permitted in the Common Elements without permission of the Board of Directors.
- (j) **Subdividing.** Subject to any rights reserved to the Declarant herein, no Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the period of Declarant Control of the Association and thereafter by the Board of Directors of the Association.

#### SECTION 4.

(a) Maintenance. Each Owner shall be responsible for lawn and landscaping maintenance of the area within their Lot. Each lot owner shall keep his/her lot free from weeds, underbrush or refuse piles, or unsightly growth or objects. In the event that any maintenance activities are necessitated to any Common or Limited Common Element by the willful act or active or passive negligence of any Owner, his family, guest, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors of the Association, the cost of the same shall be the obligation of the Owner and if not paid to the Association upon demand, may be added to the annual assessment levied against said Owner's Lot.



(b) Fences. All fences are subject to approval by the Architectural Control Committee and shall be six feet (6') in height. Fence posts shall not be visible from outside the fenced in area.

#### SECTION 5. Sedimentation and Erosion Control

(a) The Declarant's State Approved Erosion and Sedimentation Control Plan does not include approval of land disturbing activities associated with any lot.

(b) Lot Owners or their agents shall comply with the North Carolina Sedimentation Pollution Control Act.

(c) Lot Owners or agent of the Lot Owners shall provide and maintain buffer zones sufficient to restrain visible sedimentation, between the land disturbing activity and any adjacent property, including the street right of way and watercourse.

(d) The Lot Owners or agent of the Lot Owners prior to commencing any land disturbing activities shall install a construction exit which shall consist of 6-inch depth of 2-3 inch course aggregate base.

(e) New and affected cut and filled slopes must be at an angle that can be retained by vegetative cover AND must be provided with a ground cover sufficient to restrain erosion within twenty-one (21) days or thirty (30) calendar days of the completion of any phase (rough or final) of grading. Rye grass is not an acceptable substitute for the providing of temporary or permanent ground cover.

(f) The Lot Owners or agent of the Lot Owners within the shorter of fifteen (15) working days or ninety (90) calendar days after completion of construction must provide a permanent ground cover sufficient to restrain erosion.

(g) During construction of driveways or land-disturbing activities on building Lots or street right of ways in front of Lots, Lot Owners or agent of the Lot Owners undertaking such activities shall be responsible for damage to roadways, and for installing erosion control devices to prevent accelerated erosion and sedimentation of water sources. These devices, if required by any governmental authority or by Declarant, shall be constructed and maintained in accordance with the then current ordinances and regulations of the governmental authority having jurisdiction thereof. No construction debris shall be placed or dumped on any street right of way. Any ground cover or drainage system located within rights of way of streets which are disturbed during construction activity shall be re-established by the Lot Owners responsible for such activity.

#### ARTICLE VIII

#### LOTS SUBJECT TO DECLARATION/ENFORCEMENT



SECTION 1. Lots Subject to Declaration. The covenants and restrictions contained in this Declaration are for the purpose of protecting the value and desirability of the Planned Community and the Lots contained in it. All present and future Owners, tenants and occupants of Lots and their guest or invites, shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into a lease or the entering into occupancy of any Lot shall constitute an agreement that the provision of the Declaration are accepted and ratified by such Owner, tenant or occupant. The covenants and restrictions of this Declaration shall run with and bind the land and shall bind any person having at any time any interest or estate in any Lot, their heirs, successors and assigns, as though such provision were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless terminated by the Lot Owners in accordance with this declaration.

SECTION 2. Enforcement and Remedies. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable (by proceedings at law or in equity) by the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns. The Executive Board shall be entitled to enforce its Articles of Incorporation, Bylaws and Rules and Regulations. In addition to the remedies shall be available.

- (a) Association to Remedy Violation. In the event an Owner (or other occupant of the Lot) is in violation of or fails to perform any maintenance or other activities required by this Declaration, the Association's Bylaws, Charter or Rules and Regulations, the Executive Board or its designee, after 30-days' notice, may enter upon the Lot and remedy the violation or perform the required maintenance or other activities, all at the expense of the owner, and such entry shall not be deemed a trespass. The full amount of the cost of remedying the violation or performing such maintenance or other activities and shall be chargeable to the Lot, including collection costs and reasonable attorneys' fees. Such amounts shall be due and payable within 30 days after Owner is billed. If not paid within said 30-day period, the amount thereof may immediately be added to become a part of the Annual Assessment levied against said Owner's lot. In the event that any maintenance activities are necessitated to any Common or Limited Common Elements by the willful act or active or passive negligence of any Owner, his family, guest, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors of the Association, the cost of the same shall be the personal obligation of the Owner and if not paid to the Assessment upon demand, may immediately be added to and become a part of the Annual Assessment levied against the Owners Lot. Notwithstanding the foregoing, the Association shall not have a lien for the cost of any maintenance and repairs mentioned in this section if the Association is obligated to make such repairs or conduct such maintenance by virtue of yards or structures being Limited Common Elements.

- (b) Fines. The Association may, in accordance with the procedures set forth in the act, establish a schedule of, and collect fines for the violation of, this Declaration or of the Association's Articles of Incorporation, Bylaws or Rules and Regulations. If any Owner does not pay the fine when due, the fine shall immediately become a part of and be added to the Annual Assessment against the Owner's Lot and may be enforced by the Association as all other Assessments provided for herein.
- (c) Suspension of Services and Privileges. The Association may, in accordance with the procedures set forth in the Act, suspend all services and privileges provided by the Association to an Owner (other than rights of access to Lots) for any period during which any Assessments against the Owner's lot remain unpaid for at least 30 days, or for any period that the Owner or the Owner's Lot is otherwise in violation of this Declaration or the Association's Charter, Bylaws, or Rules and Regulations.

SECTION 3. Miscellaneous. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The remedies provided herein are cumulative and are in addition to any other remedies provided by law.

## ARTICLE IX

### STORMWATER PERMIT/FACILITIES

SECTION 1. Stormwater Permit. The Association and each of its Members agree that at any time after all work required under the Stormwater Permit has been completed (other than operation and maintenance activities), and (ii) the Developer is not prohibited under DEMLR regulations from transferring the Stormwater Permit for the Planned Community to the Association, the Association's officers without any vote or approval of Lot Owners, and within 10 days after being requested to do so, will sign all documents required by DEMLR for the Stormwater Permit to be transferred to the Association and will accept a deed conveying such facilities to the Association (if not already deeded); provided, however, that at the time the Developer requests that the Association accept transfer of the Stormwater Permit, the Developer has delivered to the Association a certificate from an engineer licensed in the State of North Carolina, dated no more than 45 days before the date of the request, that all Stormwater retention ponds, swales and related facilities are constructed with the plans and specifications thereof. If the Association fails to sign the document required by this paragraph or to accept a deed conveying such facilities, the Developer shall be entitled to specific performance in the courts of North Carolina requiring that the appropriate Association officers sign all documents necessary for the Stormwater Permit to be transferred to the Association and accept a deed conveying such facilities to the Association. Failure of the officers to sign as provided herein shall not relieve the Association of its obligations to operate and maintain the Stormwater facilities covered by the Stormwater Permit.

SECTION 2. Stormwater Facilities Operation & Maintenance. Any stormwater retention ponds and related facilities for the Planned Community which have or are to be constructed by or on behalf of Declarant constitute Common Elements and, subject



only to the provisions of Section 3 of this Article, the Association, at its sole cost and expense, is responsible for the operation and maintenance of such facilities. Such operation and maintenance shall include, but not be limited to, compliance with all of the term and obtaining any renewals of the Stormwater Permit. Except as provided in Section 3 of this Article VII, the Association shall indemnify and hold harmless the Developer from any obligations and cost under the Stormwater Permit for operation and maintenance of the Stormwater retention ponds and related facilities.

SECTION 3. Damage to the Storm Water Facilities. The Declarant shall at its sole cost and expense be responsible for repairing any damage to stormwater facilities caused by the Developer's development activities. The developer shall not be responsible for damages to stormwater retention ponds and related facilities caused by any other cause whatsoever, including but not limited to construction of residences or other activities by Owners, their agents and contractors, upon their Lots, acts of God, and the negligence of others. Lot owners shall be responsible for damages to such stormwater facilities caused by construction of buildings or other activities upon the Owner's Lot. Each Owner, shall, within 30 days after receipt of notice of damage to stormwater facilities, repair the damage at the Owner's sole cost and expense to return them to the condition required by the storm water plans and specifications for the Planned Community. If the Lot Owner fails to do so within said 30 day period, the Association shall perform the work and the cost of the work shall be added to the Annual Assessment due from the Lot Owner.

SECTION 4. Enforcement of Storm Water Runoff Regulations.

- (a) The following covenants are intended to ensure ongoing compliance with Stormwater Management Permit Number SW 7180606 issued by the State of North Carolina, Division of Energy, Mineral, and Land Resources under 15A NCAC 2H.1000.
- (b) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.
- (c) These covenants are to run with the land and be binding on all persons and parties claiming under them.
- (d) The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Energy, Mineral, and Land Resources.
- (e) Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the State of North Carolina, Division of Energy, Mineral, and Land Resources.
- (f) The maximum built-upon area per Lot (see table below). This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, brick, stone,



slate, and coquina, but does not include raised, open wood decking, or the water surface of swimming pools.

<i>LOT #</i>	<i>BUA (SF)</i>	<i>LOT #</i>	<i>BUA (SF)</i>
<i>1</i>	<i>7500</i>	<i>16</i>	<i>7500</i>
<i>2</i>	<i>7500</i>	<i>17</i>	<i>7500</i>
<i>3</i>	<i>7500</i>	<i>18</i>	<i>7500</i>
<i>4</i>	<i>7500</i>		
<i>5</i>	<i>7500</i>		
<i>6</i>	<i>7500</i>		
<i>7</i>	<i>7500</i>		
<i>8</i>	<i>7500</i>		
<i>9</i>	<i>7500</i>		
<i>10</i>	<i>7500</i>		
<i>11</i>	<i>7500</i>		
<i>12</i>	<i>7500</i>		
<i>13</i>	<i>7500</i>		
<i>14</i>	<i>7500</i>		
<i>15</i>	<i>7500</i>		

(g) This project may not be sold or subdivided, in whole or in part, without first receiving a permit modification from State of North Carolina, Division of Energy, Mineral, and Land Resources.

(h) Construction of additional impervious areas such that low-density requirements are no longer met will require a permit modification prior to construction. An engineered system will be required to collect and treat the runoff from all built-upon areas associated with the project, including that area permitted under the low-density option.

(i) Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with this development, except for average driveway crossings, is strictly prohibited by any persons.

(j) The built-upon areas shall be located a minimum of 50 feet landward of all perennial and intermittent surface waters, unless otherwise permitted.

(k) Built-upon area in excess of the permitted amount will require a permit modification. If permeable pavement credit is desired, the property owner must submit a request, with supporting documentation, to the permittee and receive approval prior to construction of the permeable pavement.

## ARTICLE X

### GENERAL PROVISIONS

SECTION 1. Rights of Institutional Note Holders. Any institutional holder of a first lien on a lot will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the Planned Community or the Property securing its loan, (e) receive written notice of any sixty-day (60) delinquency in the payment of assessments or charges owed by any Owner of any property which is security for the loan; (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (g) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, and (h) be furnished with a copy of any master insurance policy.

SECTION 2. Utility Service. Declarant reserves the right to subject the Property to contracts for the installation of utilities, cable TV and street lighting, which may require an initial payment and/or a continuing monthly payment by the owner of each Lot to Declarant or a third party. Each lot owner will be required to pay for water connections, sewer, septic or other utility service to the lots. In an alternative, the Developer may collect such connection, impact and other fees, charges directly from the Lot Owners. All Lot Owners shall be required, for household purposes, to use water supplied by the companies/governmental units servicing the Planned Community. Separate water systems for outside irrigation and other outdoor uses shall not be permitted without the written consent of the Declarant or the Association.

SECTION 3. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 4. Amendment of Declaration. Except in cases of amendments that may be executed by the Declarant under this Declaration, or by certain Lot Owners under Section 47A-2-1 18(b) of the Act, this Declaration may be amended by affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the

Association are allocated, or by the Declarant if necessary for the exercise of any Special Declarant Right.

SECTION 5. FHA/VA Approval. So long as there is Class B membership, annexation of Additional Properties, dedication of Common Elements and amendments to this Declaration must be approved by the Federal Housing Administration and/or the Department of Veterans Affairs, as the case may be, if either of those agencies has approved the making, insuring or guaranteeing of mortgage loans within the Planned Community.

SECTION 6. North Carolina Planned Community Act. It is the intent of the Declarant to comply with the requirements imposed on the Planned Community by the Act and to the extent any of the terms of this Declaration violate the Act, the terms of the Act shall control.

IN WITNESS WHEREOF, the parties hereto, have caused this Declaration to be executed in their corporate names as of the day and year first above written.

B&H Enterprise of New Bern, LLC, a North Carolina Limited Liability Company

BY: Brenda Brumage Henry  
Member/manager

STATE OF NORTH CAROLINA

COUNTY OF Craven

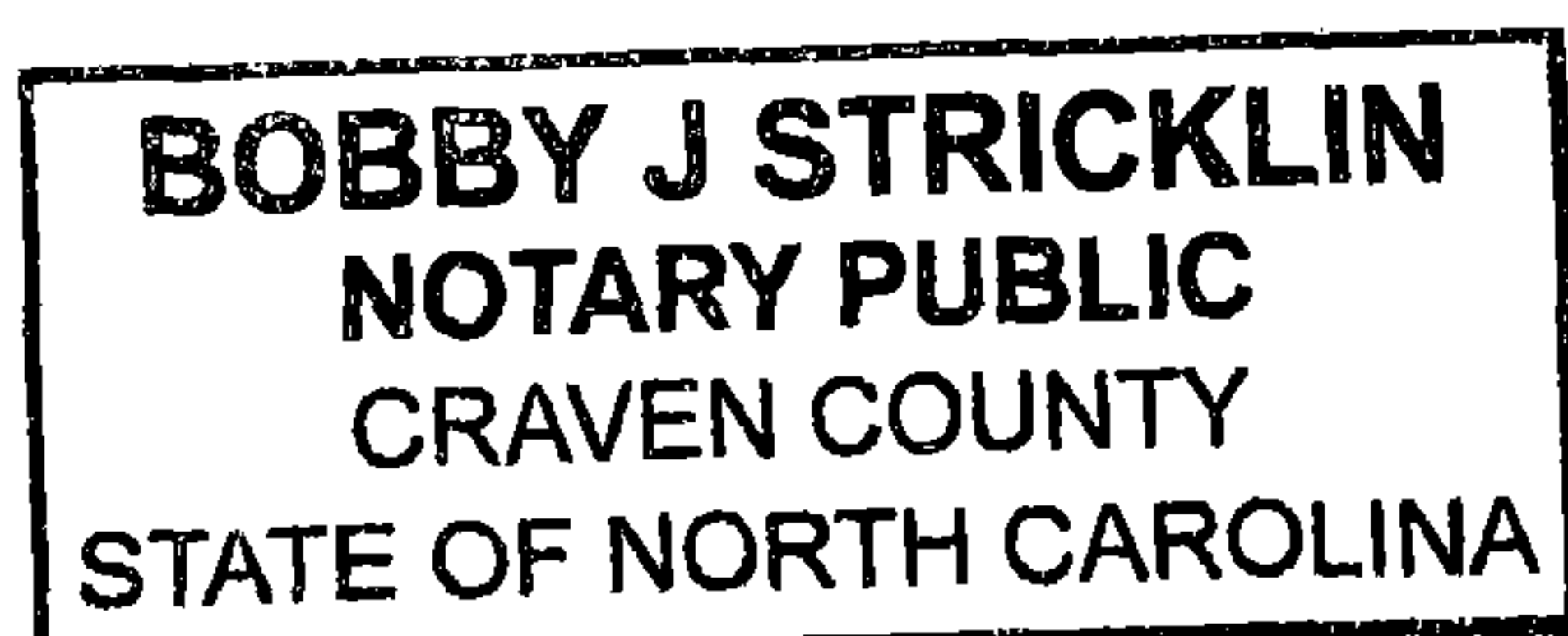
I certify that the following person(s) personally appeared before me this day, and each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Brenda Brumage Henry  
Name(s) of principal(s)

Witness my hand and official seal, this the 27 day of September, 2021.

My Commission Expires: 9-25-24

[Signature]  
Notary Public





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IN WITNESS WHEREOF, the parties hereto, have caused this Declaration to be executed in their corporate names as of the day and year first above written.

D.R. Horton, Inc.,

a Delaware corporation

BY: [Signature]

NAME: ROBERT C. STUART

ITS: ASST VP

STATE OF NORTH CAROLINA

COUNTY OF WAKE

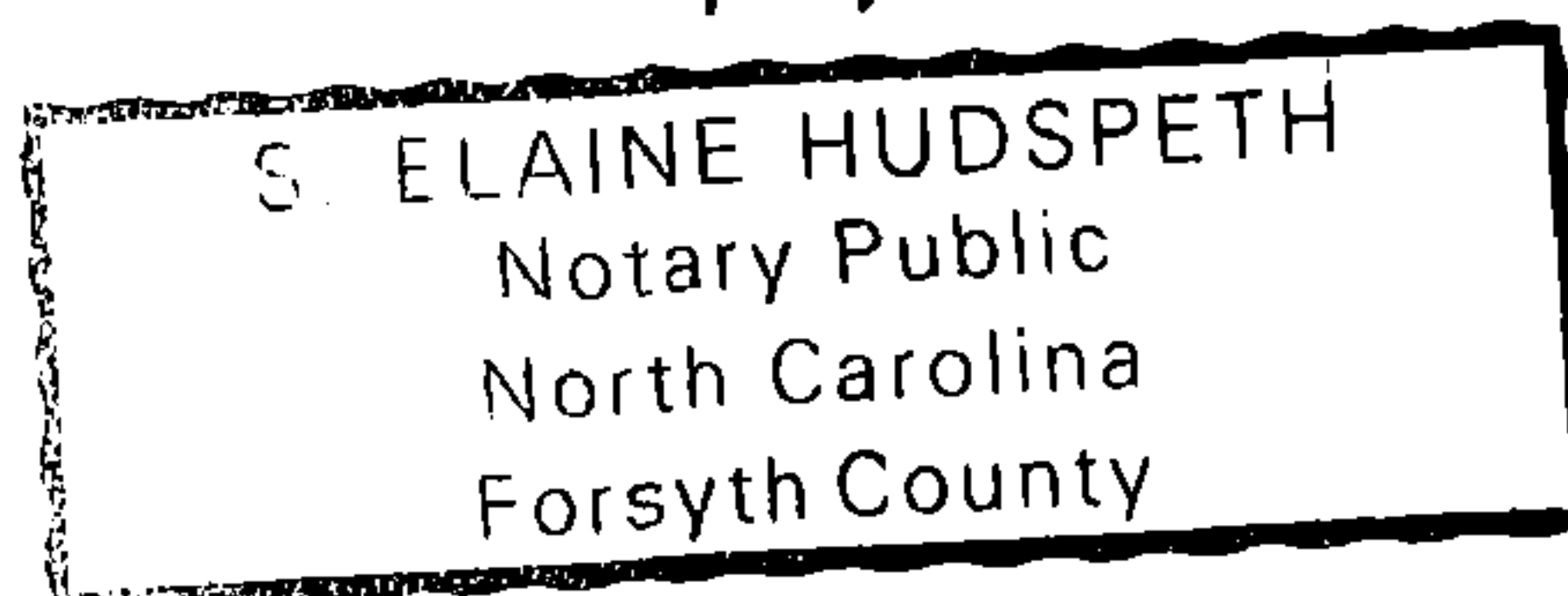
I certify that the following person(s) personally appeared before me this day, and each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

ROBERT C STUART, ASST VP

*Name(s) of principal(s)*

Witness my hand and official seal, this the 27 day of September, 2021.

My Commission Expires: 11/4/2022



[Signature]  
Notary Public S. Elaine Hudspeth

## EXHIBIT A

## Legal Description

BEING all of that real property located in Township Number Seven (7), Craven County, North Carolina, delineated as "PERRYTOWN ESTATES, PHASE ONE" and "PERRYTOWN ESTATES, PHASE THREE" which are shown on the plats of record in the office of the Register of Deeds of Craven County, North Carolina, in Plat Cabinet I at Slide 159 D&E and Plat Cabinet 1 Slide 147 H, to which reference is made for a more particular description.