WAKE COUNTY, NC 113
CHARLES P. GILLIAM
REGISTER OF DEEDS
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DECLARATION OF

PROTECTIVE COVENANTS

FOR

TYDE VILLAGE SUBDIVISION

THIS DECLARATION OF PROTECTIVE COVENANTS FOR TYDE VILLAGE SUBDIVISION (the "Declaration") is made this 13 day of Feb, 2018 by **Tyde Village, LLC (a North Carolina limited liability company)** hereinafter referred to in the neuter singular as the "Declarant");

WITNESSETH:

1) Declarant is the Owner and Developer of that certain real property located in Wake County, in the State of North Carolina, and is more particularly described as follows (the "Development"):

   BEING all of that property as more particularly described on those maps entitled "Cluster Subdivision Plat of Tyde Village" as depicted in Book of Maps 2018, Pages 288-293, Wake County Registry.

2) Declarant intends to sell and convey the Lots and parcels within the Development and, before doing so, desires to impose upon them mutual and beneficial restrictions, covenants, equitable servitudes, and charges under the general plan or scheme of improvements for the benefit of all Lots and parcels in the Development and for the benefit of the Owners and future Owners thereof.

WHEREAS, this Declaration establishes a planned community under the North Carolina Planned Community Act (N. C. Gen. Stat. Chap. 47F; as amended from time to time, the "Act"); and

WHEREAS, Declarant desires to create on the Properties (as defined herein) certain Common Properties (as defined herein) for the benefit of said community and for the benefit of all the Lots of the Development; and

WHEREAS, Declarant desires to provide for the preservation of the values, amenities, and conceptual intent of the said community as for the maintenance of the said Common Properties; and, to this end desire to subject the Properties above described to the covenants, conditions, restrictions, easements, obligations, charges, and liens, hereinafter set forth, each and all of which is and hereby is declared to be for the benefit of the Properties and each and every owner of any and all parts thereof.

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the power and authority of maintaining and administrating the Common Properties and services and administering and enforcing the covenants and restrictions governing the Properties, and collecting and distributing all assessments and charges necessary for such maintenance, administration, and enforcement, as hereinafter created; and

NOW, THEREFORE, the Declarant declares that all of the Lots and parcels in the Development are held and shall be held, conveyed, encumbered, leased, rented, used, occupied, and improved subject to the provisions of this Declaration, all of which are declared by the Declarant, and agreed by Declarant's successors in title, to be in furtherance of a plan of development established for the purpose of enhancing and protecting the value, desirability, and attractiveness thereof.

The provisions of this Declaration are intended to create mutual and equitable servitudes upon each of said Lots and parcels in favor of each and all other Lots and parcels; to create reciprocal rights between their respective Owners of all such Lots and parcels; to create privity of contract and estate between the Grantors of such Lots, their heirs, successors and assigns; and to operate as covenants running with the land for the benefit of each and all other such Lots and parcels in the Development and their respective Owners present and future.

ARTICLE I.

DEFINITIONS

The following words and terms, when used in this Declaration, or any Supplement Declaration, shall have the following meanings:

1.1 Association shall mean and refer to the Tyde Village Subdivision Homeowners Association, Inc.

1.2 Bylaws shall mean the bylaws of the Association as they now or hereafter exist and as they may be amended from time to time.

1.3 Owner shall mean and refer to the record owner, whether one or more persons, firms, associates, corporations, or other legal entities of the fee simple title to any tract situated within the Development, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgage, its successors or assigns, unless and until such mortgagee has acquired title pursuant to foreclosure or a proceeding in lieu of foreclosure, nor shall said term "Owner" mean or refer to any lessee or tenant of an owner. "Owners" shall mean and refer to more than one Owner.

1.4 Properties shall mean and refer to that certain real property hereinbefore described as are subjected to this Declaration or Supplementary Declaration.

1.5 Common Properties shall mean and refer to those areas of land with any improvements thereon which are deeded to the Association and designed in said deed as "Common Properties". The term "Common Properties" shall also include those properties labeled as Permanent Open Space and are also devoted to uses listed on any recorded plat of the Development; and, include any personal property acquired by the Association if said property is designated as "Common Property". The term "Common Properties" shall include any streets or road rights-of-way serving more than one Lot and not accepted by any governmental authority for maintenance. All "Common Properties" are to be devoted to and intended for the common use and enjoyment of the Owners, subject to the fee schedules and operating by the Declarant or the Association (upon its inception in accordance with Article VI of this Declaration).

1.6 Lot shall mean and refer to any improved or unimproved parcel of land, shown upon any recorded subdivision map of the Properties, intended for the construction of a detached single family dwelling and appurtenant structures. "Lots" shall mean and refer to more than one Lot.

1.7 Declarant shall refer to Tyde Village, LLC, or any successor or assign designated as Declarant in a document recorded with the county register of deeds executed by the immediately preceding Declarant.

1.8 Declarant Control Period shall refer the period of time during which Declarant holds a fee interest or contractual right in any portion, however small, of the Properties.

ARTICLE II.

USES OF THE PROPERTY

2.1 Impermissible Uses and Restrictions on Use.

(a) No dwelling, fence, swimming pool or any other structure shall be erected, altered, placed or permitted to remain on any Lot in the Development until the building plans, specifications (including all exterior materials and colors), and site plan showing the location of such improvements and a landscaping plan has been approved in writing as to conformity and harmony of external design with existing dwellings in the Development by the Declarant, or its assigns. Only below-ground pools shall be allowed in the Development. Above-ground pools shall not be allowed in the Development. Proof of submittal by registered mail or acknowledged receipt from the Declarant or Association (pursuant to Article VI). Submittal and approval of plans prior to any construction is required. In the event that Declarant or Association (pursuant to Article VI) fails to approve or disapprove submitted plans and location within thirty (30) days from submittal, or in any event, if no suit to enjoin in the erection of such improvements or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with.

(b) All fences must be approved in writing by the Declarant or Association once formed. All fences of any kind, however, shall not be erected on any Lot until a site plan showing the location, type of materials, and screening has been submitted to and received the written approval of the Declarant. No fence of any kind shall be permitted or placed closer to the front Lot line than the rear of the dwelling or a line projected along the rear of the dwelling to each sideline. The Declarant reserves the right to reject any proposed fence due to type of materials or proposed location. In addition to the foregoing limitations, fences shall only be constructed of either (i) white vinyl of a height of six (6) feet maximum or (ii) black metal of a height of six (6) feet maximum.

(c) All real property within the boundaries of Owner's Lot located behind or beside an approved fence shall be maintained as if the fencing did not exist. All declarations of protective covenants will be enforceable between and around any and all fenced areas.

(d) Except as otherwise provided herein, the Lots and the Common Properties shall be used for residential and related purposes only. Notwithstanding the above, home business use ancillary to the primary residential use of a Lot is permitted, subject to the rules and regulations promulgated by the Association and all applicable laws and ordinances of governmental authorities. All residents of a single Lot shall be members of a single family. For purposes of this Declaration, a single family unit is defined as a group of individuals related by blood, marriage, adoption, or guardianship, or not more than three (3) persons not so related, living together as a single housekeeping unit. The number of residents on each Lot shall also be reasonably limited by the Lot's size and facilities and by a policy against disproportionate use of the Common Properties.

(e) No mobile homes, modular units, single or doublewide units shall be erected or placed on any Lot covered by this Declaration, under any circumstances. No pre-engineered or pre-fabricated buildings may be erected on any Lot without the prior written consent of the Declarant or Association (pursuant to Article VI). Travel trailers or other recreational vehicles (including, but not limited to, motor homes, RVs and boats) must be kept only inside an enclosed garage or fenced yard, but such trailers or recreational vehicles may not be used primarily as a residence, either permanently or temporarily. Except with the prior written consent of the Declarant or Association (pursuant to Article VI), no detached garage or any detached building shall at any time be used for human habitation either temporarily or permanently. No structure or house may be moved from another location onto a Lot under any circumstance.

(f) No dwelling shall be built or modified so as to establish a separate apartment or living quarters that does not have unrestricted access to the main living area.

(g) Only dogs, cats and other household pets, that are not dangerous, shall be allowed in the Developmentand no animals of any kind shall be kept, bred or maintained for any commercial purposes.

(h) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Except with the written permission of the Declarant or Association (pursuant to Article VI), no motor vehicle licensed to carry more than ten (10) tons shall be allowed or parked on any Lot or street within the Development except those vehicles delivering building materials to develop or improve the Lots or future Lots within the Development or carry furniture for any homeowner within the Development. No motor vehicle shall remain parked on any Lot for more than thirty (30) days, which cannot move under its own power and/or components. A boat may be parked on a Lot only behind the main dwelling so that it cannot be seen from the street in front of the dwelling. Ownership of mini-bikes, go-carts, or two (2), three (3), or four (4) wheel all-terrain vehicles (not licensed for public roads) are permitted within said Development, however, vehicles of this nature shall not be operated on any streets or on any Lots and must be kept only inside an enclosed garage or fenced yard. No signs or billboards shall be erected or maintained on the premises, except that one (1) professional sign of not more than twenty-four (24) inches square and one (1) sign of not more than six (6) square feet may be used to advertise the property during construction sales period. Large signs may be used on a temporary basis, but only with the written permission of the Declarant or Association (pursuant to Article VI). Notwithstanding the above provisions regarding signage, the Declarant, D.R. Horton, Inc. and any affiliated corporations and/or companies approved by the Declarant may place any sized subdivision marketing signage at any location within the Development, in the sole discretion of the Declarant. No stripped, partially wrecked, or junked motor vehicle, or parts thereof, shall be permitted to be parked on any Lot except in an enclosed garage. All motor vehicles of any type kept on any Lot shall have current registration and inspection certificates.

(i) No dwelling shall be erected on less than one Lot and no Lot shall be subdivided; however, owners of adjoining Lots may adjust a common boundary line, provided that the adjustment conforms in all respects with all applicable governmental regulations and ordinances, and with this Declaration.

ARTICLE III

REQUIREMENTS AS TO CONSTRUCTION ON LOTS

3.1 Base. No specific foundation requirements on primary dwellings shall be required.

3.2 Area. Each single family dwelling structure shall have the minimum heated and finished livable square footage of 1,600 square feet with a 10% variance with the Declarant's approval. This livable square footage shall be in addition to any one (1) or two (2) car garage.

3.3 Garages. All garages are to be one (1) or two (2) car.

3.4 Driveway. Each dwelling shall be required to have a standard concrete paved driveway. Any other paving material or color must be approved by the Declarant or Association (pursuant to Article VI). Driveway dimensions shall be considered to be the distance from the street pavement to garage opening inclusive or to side of dwelling.

3.5 Setbacks. All setbacks are to conform to standard setback requirements as set forth by the Wake County Code.

3.6 Materials. All structures are permitted to be constructed of vinyl, stone, brick, Hardiplank or a combination of any of the aforementioned materials. Foundations of dwellings may be parged.

ARTICLE IV

LANDSCAPING REQUIREMENTS

4.1 Prior to occupancy of any dwelling the Lot will be landscaped to reasonable standards with a minimum of the following:

(a) All non-wooded areas of yard shall be smoothed with front yards requiring fescue sodding and side and rear yards being sodded, sprigged or seeded; and

Dwelling foundation front shall be landscaped with adequate shrubs or bushes to create an attractive appearance.

4.2 All yards shall be maintained to a reasonable standard at all times. During mowing season, all yards must be mowed regularly so as to create a manicured appearance. For maintenance purposes only, the front yard of each Lot is considered to extend to the pavement of any adjacent street. Yard maintenance will begin at acceptance of deed. All unused construction material or debris will be removed prior to occupancy. Once occupied by a homeowner, the homeowner of any Lot referenced by this covenant is required to maintain this area the same as his yard. If the homeowner is not in compliance with above requirements, the Declarant or Association (pursuant to Article VI) reserves the right to have said yard maintenance completed at homeowner's expense.

4.3 Each Lot Owner shall keep his Lot free of all tall grass, undergrowth, dead trees, trash, rubbish, and building materials and other unsightly materials and shall otherwise keep his Lot maintained in such a manner so as to present a pleasing appearance. This provision shall not require a Lot Owner to remove natural growth from those areas of his Lot which are left in a totally natural and undisturbed condition. Should a Lot Owner plant or re-plant grass, beyond mere over seeding for maintenance purposes, the Lot owner shall install sod. In the event an Owner does not properly maintain his Lot as above provided, in the opinion of the Declarant or Association, then Declarant or Association (pursuant to Article VI) may have the required work done to bring the Lot into compliance with this covenant and the cost thus incurred shall be paid by the Lot Owner. Each Lot Owner shall remove from his Lot all debris resulting or remaining following the destruction of any structure on the property. In the event that the structure is suitable for rebuilding, the structure will either be removed entirely or rebuilt within a period of six months from the time of damage.

ARTICLE V.

REQUIREMENTS AS TO PERSONAL PROPERTY AND FIXTURES

5.1 Recreational equipment. All playground equipment, including but not limited to swings, swing sets, merry-go-rounds, play pens, and sandboxes, toys, etc., shall be located in the rear yard of the home and not in the front yard, must be maintained only inside a fenced yard area and must be kept in neat order.

TV satellite dishes not to exceed two feet (2') in diameter are permitted and should be mounted on chimney if at all possible. All other larger satellite reception apparatus will not be permitted on any Lot.

All recreational equipment and personal property other than automobiles or bicycles must be stored in such a manner as not to be visible from any street or to the occupants or other Lots.

5.2 Other. No outdoor clotheslines shall be permitted on any Lot. No fuel tanks or similar storage receptacles may be exposed to view, and may be installed only within the main dwelling house, within any structure, or buried underground. All homeowners are to provide their own garbage receptacle which shall reasonably conform to all garbage receptacles in the Development. The homeowner is to keep said garbage receptacle out of public view, with the exception of garbage pick-up days, at which time the garbage receptacle may be placed adjacent to the street. All dwelling connections for all utilities including but not limited to water, electricity, gas, telephone and television shall be run underground from the property connecting points to the dwelling structure in such a manner as may be acceptable to the appropriate utility authority.

ARTICLE VI.

ESTABLISHMENT OF HOMEOWNERS ASSOCIATION

6.1 Membership. Every person or entity which is a record Owner of a fee simple or undivided interest in any Lot which is subject by this Declaration shall be a member of the Association; provided that any such person or entity who holds such title or interest merely as security for the performance of an obligation shall not be a member of the Association. Ownership of such interest shall be the sole qualification for membership in the Association, and membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Association shall have all powers and responsibilities and shall perform all duties and functions allotted to owner's associations by Article 3 of the Act, the terms and provisions of which are incorporated herein. The Association shall also have all rights and powers and shall perform all duties and functions that may be assigned to it by Declarant pursuant to this Declaration.

6.2 Voting Rights. On matters of Association business submitted to vote of the membership, there shall be two classes of membership:

Class A. Every person who is an Owner, with the exception of the Declarant, shall be a Class A Member. Class A Members shall be entitled to one (1) vote per Lot. No more than one vote per Lot may be cast by Class A Members, regardless of the number of Owners of a given Lot. When more than one person holds an interest in any Lot, all such persons shall be members of the Association; and the vote for such Lot shall be exercised as they among themselves determine. When one or more co-owners sign a proxy or purport to vote for his or her co-owners, such vote shall be counted unless one or more of other co-owners is present and objects to such vote, or if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before the vote is counted. If co-owners disagree as to the vote, it shall be split equally among the co-owners.

Class B. The Declarant shall be the sole Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Member shall be entitled to vote on all matters or issues before or considered by the Association. The Class B Member shall be entitled to three (3) votes for each Lot it owns, plus one (1) vote for each Lot owned by a person other than the Declarant. The Class B membership shall cease and shall be converted to Class A membership at such time as the first of the following events occur: (i) the date that all the Lots in the Development have been conveyed by the Declarant to other Owners; (ii) the surrender by the Declarant of the right to appoint or remove any officer of the Association or member of the Board of Directors of the Association by a document executed by the Declarant and recorded with the Wake County Registry; or (iii) the expiration of Declarant's rights to appoint or remove any officer of the Association or member of the Board of Directors of the Association pursuant to Article VII below.

Unless otherwise provided herein or in the Act, all voting matters shall be decided by a simple majority vote. Requirements for a quorum shall be as provided by the Bylaws. The members of the Association shall meet as provided by the Bylaws. The initial Board of Directors of the Association shall enact and adopt all and any Bylaws that they deem necessary for the operation of the Association, which Bylaws shall be binding upon all members of the Association, their mortgagees, lessees, agents and invitees.

6.3 Property Rights in the Common Properties.

(a) Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of every Lot.

(b) Delegation of Use. Any Owner may delegate in accordance with the Bylaws of the Association, his right of enjoyment to the Common Properties and facilities to the members of his family or contract purchasers who reside on the Lot owned by such Owner.

(c) Title to Common Properties. Declarant, or the owner of the property with the consent of the Declarant, may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation with the Wake County Registry of a non-warranty deed conveying any interest in real property, and the property shall thereafter be Common Properties to be used and maintained by the Association for the benefit of its Owner. So long as Declarant owns any property primarily for development and/or sale in the Developmenet, or Declarant has the right unilaterally to annex additional property to the Declaration, Declarant may, upon written notice to the Association, require the re-conveyance by the Association to Declarant of all or any portion of the Common Properties, improved or unimproved, at no charge to Declarant, without a vote of the members of the Association, if all or any portion of the Common Properties is: (i) found by Declarant to have been conveyed in error, (ii) needed by Declarant to make adjustments in property boundary lines, or (iii) reasonably determined by Declarant to be needed by Declarant due to changes in the overall scheme of development for the Development. The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept/make on behalf of the Association any such conveyance and re-conveyances and to execute on behalf of the Association any and all documents, including, without limitation, deeds, necessary or convenient to effectuate and document any such conveyances and re-conveyances, and all acts of such attorney-in-fact are hereby ratified. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether or not any such property has been made available for the use of Owners. Declarant, or the owner of the property with consent of Declarant, may reserve, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Development. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements or licenses are conveyed by the Declarant or the owner of such property to the Association or the Owners, as the case may be, by an instrument recorded in the Office of the Register of Deeds of Wake County, North Carolina.

(d) Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(1) The right of the Declarant and of the Association, in accordance with its Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties;

(2) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosures;

(3) The right of the Association, as provided in its Bylaws, to suspend the enjoyment of rights of any member for any period during which any

assessments remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the member's obligation to pay the assessment;

(4) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties and/or facilities therein; and

(5) The right of the Association to give or sell all or any part of the Common Properties, including leasehold interest, to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be agreed to by the members, provided that no such gift or sale or determinations as to the purposes or as to the conditions thereof shall be effective unless such dedications, transfer, and determination as to purpose and conditions shall be authorized by the vote of two-thirds (2/3) of the vote at a duly called meeting and unless written notice of the proposed agreement action there under is sent to every member at least twenty (20) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Properties, prior to the recording thereof. Any such dedication or transfer affecting the Common Properties shall be subject to the approval of the Wake County Government Subdivision Regulations. Such certificate shall be conclusive evidence of authorization by the membership.

6.4 Covenants for Maintenance Assessments.

(a) Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot shall, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these covenants and to pay to the Association: (1) Annual assessment or charges; (2) Special Assessments for the purposes set forth in Section d of this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided, shall be a charge and continuing lien on the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time the assessment fell due. In the case of co-ownership of a Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

(b) Purpose of Assessments. The assessments by the Association shall be used exclusively for the improvement, maintenance and operation of the Common Properties, including but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereof, and for the cost of labor, equipment, materials, management and supervision thereof. The assessments by the Association shall be also used for the maintenance of the Pond, including but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereof, and for the cost of labor, equipment, materials, management and supervision thereof, and payment of an inspection of the Pond by a certified professional engineer every 5-7 years pursuant to Wake County Ordinance. The Special Assessments shall be used for purposes set for in Section d of this Article.

(c) Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be$30.00 monthly per Lot.

(1) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(2) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of each class of members who are voting person or by proxy, at a meeting duly called for this purpose.

(3) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum, however, the Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment for any year at a lesser amount, but such action shall not constitute a waiver by the Association of its right to revert to the full assessment for the remaining year or years of the then current period fixed as provided in the preceding paragraph.

(d) Special Assessments for Improvements and Additions. In addition to the annual assessments authorized by Section c, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary Properties, provided that any such assessments shall have the assent of two-thirds (2/3) of the vote at a duly called meeting, written notice of which shall be sent twenty (20) days in advance and shall set forth the purpose of the meeting.

(e) Change in Basis and Maximum of Annual Assessments Upon Merger or Consolidation. The limitations of Section c hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under the Bylaws of the Association.

(f) Notice and Quorum for any Action Authorized. The presence at the meeting of members or of proxies entitled to cast thirty (30) percent of the total vote of the membership shall constitute a quorum. If the required quorum is not forthcoming at a meeting, another meeting may be called subject to the notice requirement set forth in Section d of this Article; but no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(g) Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement. The first annual assessments shall be made for the balance of the calendar year and shall be payable on the first day of the month fixed for commencement. The assessments for any year after the first year shall be similarly payable commencing on the first day of January of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided in Section c, hereto, as the remaining number of months in the year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section d hereof shall be fixed in the resolution authorizing such assessment.

(h) Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against all Lots for each assessment period and shall, at that time, prepare a roster of the properties and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand, at any time furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(i) Effect of Non-Payment of Assessment. The Personal Obligation of the Owner, the Lien; Remedies of Association. If the assessment or any monthly installment(s) thereof are not paid on the date when due (being the dates specified in Section g hereof); then such assessment shall become delinquent and shall, together with interest thereon at the rate of ten percent (10%) per annum from the due date and cost of collection thereof as hereinafter provided, thereupon become a charge and continuing lien on the land and all improvements thereon, against which each assessment is made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner at the time of the assessment to pay such assessment, however, shall remain his personal obligation and shall not pass as a personal obligation to his successors in title unless expressly assumed by them.

If the assessment or any monthly installment thereof is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and, in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fee, to be fixed by the court, together with the costs of the action.

(j) Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessments; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments accruing after the conveyance from mortgage Owner to subsequent Owner.

(k) Exempt Property. The following property, individuals, partnerships or corporations, subject to this Declaration, shall be exempted from the assessment, charge and lien created herein:

(1) The grantee in conveyances made for the purpose of granting utility easements;

(2) All Common Properties as defined in Article I, hereof;

(3) Any properties exempted from taxation by the laws of the State of North Carolina, shall be so upon the terms and to the extent of such legal exemptions;

(4) All properties owned by Declarant and any of its affiliates; however, Declarant agrees to subsidize at its discretion the operation of the Association, in order to show good faith and to help assure the maintenance and operation of the Common Properties up to the amount the Association would have had to pay in assessments in accordance with these covenants if it were not exempted by this provision; and

(5) All Lots owned by builders / licensed contractors who acquire such Lots for the purpose of engaging in the business of constructing residential homes for the purpose of re-sale of such Lots to homeowners, until such Lots are conveyed from such builders / licensed contractors to an unaffiliated third party.

(l) Transfer Fee. Tyde Village Subdivision Homeowners Association, Inc. shall collect a transfer fee of $50.00 each time a Lot is sold, said fee to be paid for by the buyer unless the sales contract indicates otherwise. This Transfer Fee is subject to the restrictions in Article VI (k), *supra.*

(m) Capital Contribution Fee. Upon the conveyance of any Lot to a third-party homeowner or Owner of a vacant Lot, the purchaser thereof shall make a $300.00 Capital Contribution to the Association. This conveyance Capital Contribution may be increased according to the same terms that the Annual Assessment may be increased pursuant to Article VI, Section 6.4(c)(1-3), but shall not automatically increase when the Annual Assessment increases. D.R. Horton, Inc. is exempt from paying this $300.00 Capital Contribution, as it is owed by first third-party homeowner or Owner of a vacant Lot at the time of their purchase closing.

ARTICLE VII.

RESERVATIONS OF DECLARANT

7.1 UTILITY EASEMENTS: Declarant reserves unto itself, its successors and assigns in addition to any easements of record a perpetual, un-alienable, and releasable easement and right on, over, and under the ground to erect, install, maintain, and use electric wires, cables, sewers, water mains, water drainage provisions and facilities, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, water, sewers, water drainage, and other public convenience or utilities owned, in or over ten (10) feet around the perimeter of each Lot (or additional footage if required by the applicable governmental authority). These easements and rights expressed include the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any similar actions reasonable to provide economical and safe utility installation and to maintain reasonable standards of health, safety, and appearance.

7.2 SIGN AND LANDSCAPE EASEMENTS: Declarant reserves unto itself, its successors and assigns in addition to any easements of record and any utility easements as defined hereinabove, a perpetual, un-alienable, and releasable easement and right on, over, and under the ground to erect, install, maintain, and use subdivision signage, lighting, landscaping, electric wires, cables, irrigation, water mains, water drainage provisions and facilities, and other suitable equipment to erect and maintain the same. Any area designated for a sign and landscape easement shall be shown on the applicable subdivision map(s).

7.3 ADDITIONAL DEVELOPMENT: Declarant reserves the absolute and discretionary right and privilege to subject any desired properties (contiguous or non-contiguous to the property described on page 1 of this Declaration) to all of the rules, restrictions, rights, and privileges described in this Declaration, or any modified, amended, or supplemental version of this Declaration, by recording an annexation declaration describing the property being subjected with the Wake County Registry.

7.4 REASONABLE RIGHTS TO DEVELOP: Declarant, D.R. Horton, Inc. and other builders approved by Declarant and/or their contractors or subcontrators may construct improvements to or within the Development, including to the Lots. The completion of such construction and the sale or other disposal of the Lots is essential to the establishment and welfare of the Development. Therefore, during the Declarant Control Period, nothing in this Declaration shall be construed to:

a. prevent Declarant, D.R. Horton, Inc., approved builders, or their contractors or subcontractors from doing whatever is reasonably necessary or advisable in connection with the commencement or completion of the above-described work throughout the Development;

b. prevent Declarant or its representatives from erecting, constructing, and maintaining anywhere in the Development such structures as reasonably may be necessary for the conduct of its business of completing the work, establishing Tyde Village as a residential planned community and disposing of the Lots by sale, lease, or otherwise;

c. prevent Declarant, D.R. Horton, Inc. and/or builders approved by Declarant from maintaining such signs and conducting such activities in any part of the Development owned by Declarant, D.R. Horton, Inc. and/or builders approved by Declarant as Declarant and/or builders may deem to be reasonably necessary for the sale, lease, or disposition of Lots; or

d. prevent Declarant, D.R. Horton, Inc. and/or builders approved by Declarant from placing and utilizing on Lots or other property which it owns one or more mobile trailers or temporary structures as sales offices or for construction activities.

Nothing in this Section shall give Declarant, D.R. Horton, Inc. and/or builders approved by Declarant the right to damage any Lot or other property not owned by Declarant, D.R. Horton, Inc. and/or builders approved by Declarant.

7.5 MARKETING AND SALES ACTIVITIES. During the Declarant Control Period, Declarant, D.R. Horton, Inc. and builders approved by Declarant may construct, relocate, maintain and carry on upon any Lot Declarant owns, D.R. Horton, Inc. owns, the builder owns or upon portions of the Common Properties, such facilities and activities as may be reasonably required, convenient or incidental to the construction, marketing or sale of Lots, as determined in Declarant's sole opinion. Such facilities and activities may include, without limitation, business offices, signs, model homes, and sales offices. There shall be no limit on the number or size of such facilities. Declarant, D.R. Horton, Inc. and builders approved by Declarant shall have easements for access to and use of such facilities. Declarant reserves the right to remove any personal property used in connection with its activities on the Common Properties upon termination of its rights under this Section.

7.6 CONSTRUCTION OF IMPROVEMENTS. During the Declarant Control Period, Declarant, D.R. Horton, Inc. and their respective employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Properties for the purpose of making, constructing and installing such improvements to the Common Properties as it deems appropriate in its sole discretion.

7.7 RIGHT TO APPROVE ADDITIONAL COVENANTS: During the Declarant Control Period, no person or entity shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Development without Declarant's prior written approval. Any instrument recorded without such consent shall be void and of no force and effect unless Declarant subsequently consents in a document recorded with the Wake County Registry.

7.8 RIGHT TO TRANSFER OR ASSIGN DECLARANT RIGHTS: Any or all of Declarant's rights or obligations set forth in this Declaration or the Bylaws of the Association may be transferred in whole or in part to other persons; however, the transfer shall not reduce an obligation or enlarge a right beyond that which Declarant has under this Declaration or the Bylaws of the Association. No such transfer or assignment shall be effective unless evidenced by a document recorded with the Wake County Registry. The foregoing sentence shall not preclude Declarant from permitting other persons to exercise, on a one-time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety. In such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

7.9 AMENDMENT TO DECLARATION: During the Declarant Control Period, Declarant shall have the right to amend or rescind and restate this Declaration by a document recorded with Wake County Registry, without approval or joinder of the Association or any other party.

7.10 APPOINTMENT OR REMOVAL OF MEMBERS OF THE BOARD OF DIRECTORS AND OFFICERS OF THE ASSOCIATION: During the Declarant Control Period, Declarant shall have the right to appoint or remove any member of the Board of Directors or any officer of the Association.

ARTICLE VIII.

NOTICE

8.1 Any notice required to be sent to any Owner under the provisions of this declaration shall be deemed to have been properly sent, and notice thereby give, when mailed, post-paid, to the last known address of the person who appears as Owner. Notice to one (1) of two (2) or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of all Owners to immediately notify the Declarant or Association (pursuant to Article VI) in writing of any changes in address.

ARTICLE IX.

EFFECT OF VIOLATION OF COVENANTS

9.1 Any Lot Owner or combination of Lot Owners within the Development shall be entitled to damages or any other remedies from any person, firm or corporation violating or attempting to violate these covenants which a court of law or equity will allow. If any covenant herein is declared void, then all other covenants contained herein shall remain in full force and effect.

ARTICLE X.

DURATION

10.1 These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners of the Lots has been recorded, agreeing to change said covenants in whole or in part and provided Declarant has sold all Lots.

10.2 No provision in these restrictions shall be deemed to have been waived, abandoned or abrogated by reason of failure to enforce them on the part of any person as to the same or similar future violations no matter how often the failure to enforce is repeated.

ARTICLE XI.

VARIANCES

11.1 The Declarant or Association (pursuant to Article VI), in its discretion, may allow reasonable variances and adjustments of these restrictions in order to alleviate practical difficulties and hardship in their enforcement and operation.

SIGNATURE ON NEXT PAGE

IN WITNESS WHEREOF, the DECLARANT has executed this Declaration on the day and year first above written.

DECLARANT
TYDE VILLAGE, LLC
(a North Carolina limited liability company)

_______________________(SEAL)
Freddie L. Stancil, Member-Manager

STATE OF NORTH CAROLINA
COUNTY OF Wake

I, Timothy Neal Strickland, a Notary Public, do hereby certify, **Freddie L. Stancil**, Member-Manager personally appeared before me this date and acknowledged that he is Member-Manager of Tyde Village, LLC, a North Carolina limited liability company, and that he as Member-Manager, being authorized to do so, executed the foregoing instrument on behalf of the company.

Witness my hand and official seal, this the 13 day of Feb, 2018.

____
Notary Public

My Commission Expires: 11-21-21
(NOTARY SEAL)

TIMOTHY NEAL STRICKLAND
NOTARY
PUBLIC
WAKE COUNTY, NC

BOOK:017044 PAGE:01733 - 01747

WAKE COUNTY
NORTH CAROLINA

Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Charles P. Gilliam
Register of Deeds

Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

- ☐ New Time Stamp
- ☐ $25 Non-Standard Fee
- ☐ Additional Document Fee
- ☐ Additional Reference Fee

This Customer Group

_______ # of Excessive Entities

_______ # of Time Stamps Needed

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15 # of Pages