

**THIRD AMENDED AND RESTATED
DECLARATION OF TERMS, CONDITIONS, RESTRICTIONS AND PROTECTIVE
COVENANTS FOR SOAPSTONE CREEK ESTATES**

This instrument prepared by and,
after recording, mail to:

NORTH CAROLINA

HENDERSON COUNTY

THIS THIRDA MENDED AND RESTATED DECLARATION OF TERMS, CONDITIONS, RESTRICTIONS AND PROTECTIVE COVENANTS FOR SOAPSTONE CREEK ESTATES (the "Third Amended Declaration"), made and entered into this the ____ day of _____ 2017 by and between SOAPSTONE CREEK ESTATES PROPERTY OWNERS ASSOCIATION, INC. (the "Association") and all Owners of Lots in SOAPSTONE CREEK ESTATES (herein "Subdivision") as hereinafter described, and as re-stated and amended in the future to include additional phases of lots.

WITNESSETH:

WHEREAS, on September 8, 2004, TIMOTHY PHILLIPS, MARY PIPPIN, and ELIZABETH PIPPIN ("Declarant") executed a "Declaration of Terms, Conditions, Restrictions and Protective Covenants for Soapstone Creek Estates," and, on September 9, 2004, filed such documents in Book 1198 at Page 1, Henderson County Registry, with such document being re-recorded on September 21, 2004, in Book 1199 at Page 162, said Registry (the "Original Declaration"); and

WHEREAS, Soapstone Creek Estates is a subdivision more particularly described on the following plats of record in the Henderson County Registry: (1) "Final Plat of Soapstone Creek Estates, Phase I," on Plat Slide 5180; (2) "Final Plat of Soapstone Creek Estates, Phase Two," on Plat Slide 6676; and (3) "Soapstone Creek Estates, Phase III," on Plat Slide 7666; and

WHEREAS, the Soapstone Creek Property Owners Association, Inc. was formed on September 3, 2004, and the control period reserved to Declarant has ended; and

WHEREAS, the Original Declaration has been supplemented and amended by that Amendment to Declaration of Terms, Conditions, Restrictions and Protective Covenants for Soapstone Creek Estates recorded in Book 1355 at Page 89, Henderson County Registry; and by that Amended and Restated Declaration of Terms, Conditions, Restrictions and Protective Covenants for Soapstone Creek Estates, recorded in Book 1454, Page 8, Henderson County Registry; and

WHEREAS, Soapstone Creek Estates Property Owners Association, Inc. desires to amend and restate its Original Declaration, as amended and re-stated, for the purposes of simplifying and clarifying the declaration, and further amending the declaration; and

WHEREAS, lot owners, comprising at least 67% of the votes in the Association, and of the total number of lots in the Subdivision, desire to amend and restate the Original Declaration, as amended and restated, for the purposes stated herein; and

WHEREAS, on _____, 2017, pursuant to Paragraph 3, of Article VII, of the Original Declaration, the Association received ballots, pursuant to N.C.G.S. § 55A-7-08, from lot owners comprising at least 67% of the votes in the Association, and of the total number of lots in the Subdivision, authorizing the President of the Board of Directors to sign all necessary documents to file this Third Amended Declaration in the Henderson County Registry; and

WHEREAS, the Board of Directors of the Association has approved this Third Amended Declaration and joins in its execution; and

WHEREAS, the Original Declaration stated, "Declarant is the developer and owner of certain real property (the "Property") in Henderson County, North Carolina comprising Soapstone Creek Estates and being more particularly described and shown on Exhibit "A" attached hereto and a portion also being shown on plat recorded in Plat Slide 4938 of the Henderson County, NC Register's Office (the property shown on Exhibit "A" being and comprising the "Subdivision"), and Declarant is the owner of thirty two (32) platted lots plus common areas to be shown on a Plat of Soapstone Creek Estates which will be recorded and Lot I of the subdivision is currently shown on plat 1 recorded in Plat Slide 4938;" and

WHEREAS, the Original Declaration stated they "desire for the protection and benefit of all persons who may hereafter become, owners of lots located within the Subdivision that the Property be developed with limitations, restrictions and uses. These covenants are to run with the land and be binding upon all parties purchasing Lots within the Property and all persons claiming by, through or under Declarant until September 01, 2024 at which time said covenants shall be automatically extended for successive periods of (10) years unless by vote of a majority of persons then owning lots within the Subdivision (and which are subject to the terms, conditions and provisions of this Declaration) it is agreed to change these covenants in whole or in part;" and

WHEREAS, the current Association and lot owners desire for the protection and benefit of all persons who are now, or may hereafter become, owners of lots located within the Subdivision that the Property be developed with limitations and restrictions as to uses.

These covenants are to run with the land and be binding upon all parties purchasing Lots within the Property and all persons claiming by, through or under Declarant, and current lot owners, until September 01, 2024 at which time said covenants shall be automatically extended for successive periods of 10 years unless by vote of 67% of persons then owning lots within the Subdivision (and which are subject to the terms, conditions and provisions of this Amended Declaration) it is agreed to change these covenants in whole or in part;

AGREEMENT:

NOW THEREFORE, the Association and lot owners do hereby make the following declaration as to limitations, restrictions and uses to which the above-described Property, and all additional parcels of real property hereinafter made subject to the terms, conditions and provisions of this ~~Third~~ Amended Declaration (herein "Subdivision"), shall be and are hereby subjected:

ARTICLE I Definitions

1. "Act" shall mean and refer to the North Carolina Planned Community Act as set forth and contained in Chapter 47F of the North Carolina General Statutes.
2. "Architectural Review Committee" or ARC shall mean and refer to a committee established by the developer and appointed by the Board of Directors as set forth in Article IV, subparagraph 2 of the Restrictions.
3. "Association" shall mean and refer to Soapstone Creek Estates Property Owners Association, Inc., a nonprofit corporation organized under the laws of the State of North Carolina, its successors and assigns.
4. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
5. "Bylaws" shall mean and refer to the Bylaws of the Association, which were attached to the Original Declaration as those Bylaws may have been, and may be in the future, amended from time to time.
6. "Common Elements" shall mean and refer to all real and personal property, including easements and licenses, which the Association owns, leases or holds possessory use rights in for the common use and enjoyment of the members, including but not limited to: i) private roads designated on the Plat or any other subdivision Plat recorded by Declarant, as well as any other private road constructed by the Declarant serving the Subdivision or any property adjoining the Subdivision; ii) any entrance as shown on the Plat, including, but not limited to any areas designated as Sign and Landscape Easement Common Element Areas or reserved spaces; iii) any other property designated as such by the Declarant (including, but not limited to, community recreational facilities and parks as shown on the Plat); and iv) any real property or real property interest or personal property owned by the Association, other than a Lot.

7. "Declarant" shall mean Soapstone Creek Estates, LLC, a North Carolina limited liability company, its successors and/or assigns; including any person which succeeds to any Special Declarant Rights as set forth herein and in the Act, and, as identified in the Original Declaration, shall also mean Timothy Phillips, Mary Pippin, and Elizabeth Pippin.

8. "Directors" shall mean and refer to the member of the Board of Directors of the Association.

9. "Limited Common Elements" shall mean and refer to those portions of the Subdivision designated as being either for i) the exclusive use by one or more but fewer than all of the Lot Owners, or ii) designated by Declarant in its sole and absolute discretion, as benefitting, either directly or indirectly, one or more but fewer than all of the Lot Owners.

10. "Lot" shall mean and refer to any lot defined in Exhibit "A" attached hereto, or any subsequent individual numbered and platted lot within the Subdivision, as shown on the Plat, subsequently made subject to the terms, conditions and provisions of the Original Declaration by Declarant, and shall include all lots platted on those plats recorded on Plat Slides 5180, 6676, and 7666, Henderson County Registry.

11. "Lot Owner" shall mean and refer to any person or entity owning fee simple title to any Lot; but does not include a person having an interest in a Lot solely as security for an obligation.

12. "Member" shall mean and refer to each owner or owners of a Lot who shall also then be a member of the Association for such period of ownership. If a Lot is owned by more than one person, then such persons collectively shall be the member and shall be entitled to only one vote.

13. "Owner," shall mean and refer to Soapstone Creek Estates, LLC a North Carolina limited liability company, and, as identified in the Original Declaration, shall also mean Timothy Phillips, Mary Pippin, and Elizabeth Pippin, and of their successors and/or assigns; including any person which succeeds to any Special Declarant Rights as set forth herein and in the Act.

14. "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust or other legal entity.

15. "Restrictions" shall mean and refer to the Original Declaration and any subsequent Amended and Restated Declaration of Terms, Conditions, Restrictions and Protective Covenants for Soapstone Creek Estates, as the same may be released, amended or changed; either in whole or part, as provided for herein,

16. "Special Declarant Rights" shall mean and refer to those rights defined in Chapter 47F-1-103(28) of the Act as the same are reserved herein and in the Bylaws for the benefit of Declarant.

17. "Subdivision" shall mean and refer only to that certain real property shown on the Plat, including all subdivided, platted and numbered lots and common elements shown thereon, and shall also mean that certain real property shown on the Plats recorded on Plat Slides 5180, 6676, and 7666, Henderson County Registry. T

ARTICLE II
Submission of Property to the Act and Creation of a Planned Community

1. Submission of the Property and Creation of the Subdivision: Pursuant and subject to the terms and provisions of the Act, Declarant created a planned community subdivision initially comprised of the Property. Declarant submitted all of such Property to the Act and the terms of the Original Agreement and any Amended or Restated Agreements.
2. Name: The name of the subdivision created hereunder is Soapstone Creek Estates.
3. Designation of Lots and Common Elements: The Declarant designated the Property (which is also shown on the Plat either as separate numbered lots of real property or common areas) as separate Lots or Common Elements.

ARTICLE III
Property Rights

1. Common Elements. Every Lot owner shall have a non-exclusive right and easement for use, access, and enjoyment in and to the Common Elements of the Subdivision. Any Lot Owner may extend his or her right of use and enjoyment to members of the family, lessees, and invitees, as applicable, subject to reasonable regulation by the Board. A Lot Owner who leases the Lot shall be deemed to have assigned all such rights to the Lessee of the Lot. The Lot Owner's rights to the Common Elements are subject to the following:
 - a. This Amended Declaration and all other governing documents; and
 - b. Any restriction or limitations contained in any deed conveying such property to the Association; and
 - c. The right of the Board to adopt, amend or repeal rules regulating the use and enjoyment of the Common Elements, in whole or in part, including rules limiting the number of guests who may use the Common Elements; and
 - d. The right of the Board to suspend the right of a Lot Owner to use any recreational and social facilities within the Common Elements as set forth in Paragraph 9:10 of the Bylaws; and
 - e. The right of the Board to impose reasonable requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Elements; and
 - f. The right of the Board to permit the use of any facilities situated on the Common Elements by persons other than Lot Owners, their families, lessees and guests, upon payment of reasonable fees, if any, established by the Board; and
 - g. The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

- h. The right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Elements, subject to any approval requirements set forth in the governing documents; and
- i. The rights of certain Lot Owners to the exclusive use of portions of the Common Elements designated as Limited Common Elements pursuant to Article III, Paragraph 2 of these Restrictions.

2. Limited Common Elements: Certain portions of the Common Elements may be designated as Limited Common Elements and reserved for the exclusive use or primary benefit of Lot Owners and occupants of specific Lots. By way of illustration and not limitation, Limited Common Elements may include entry features, landscaped medians and shared driveways. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Element shall be assessed as a Special Assessment against the Lot Owners to which the Limited Common Element area is assigned.

a. Limited Common Elements shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Common Elements are conveyed to the Association, the Original Declaration, a Supplemental Declaration and/or the subdivision plat relating to such Common Area. Thereafter, a portion of the Common Elements may be assigned as Exclusive Common Elements of particular Lots and Limited Common Elements may be reassigned upon approval by the Board and a favorable vote of the Association Members as set forth in the Act;

b. The Association may, upon approval by the Board and upon a favorable vote of the Membership, permit Lot Owners of other Lots to use all or a portion of such Limited Common Elements, upon payment of reasonable user fees, which fees shall be used to offset the Special Assessments attributable to such Limited Common Elements.

3. Community Recreational Facilities. Every Lot Owner shall have a non-exclusive right and easement of use, access and enjoyment in and to, over and across the community recreational parks, picnic facility and any other community recreational facility constructed upon the Common Elements as shown on the recorded plats of the subdivision, Such easements are subject to the right of the Association to adopt reasonable rules and regulations governing the use of such facilities, to impose a reasonable use fee for the facilities, and to permit the use of the facilities by persons other than Lot Owners upon payment of reasonable fees established by the Board.

4. Private Streets. Every Lot Owner shall have a non-exclusive right and easement of use, access and enjoyment in and to, over and across any private streets and roads within the Subdivision, whether or not such private streets are Common Elements, for the purpose of ingress, egress and regress to and from public rights of way. Any Lot Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable. The Lot Owner's rights to the private streets are subject to the following:

- a. This Amended Declaration, the By Laws and other governing documents; and
- b. The right of the owner of the private street to adopt, amend and repeal rules regulating the use, access and enjoyment of the private street, provided that the owner of the private street shall not by the adoption of any rule or regulation, bar access of the Lot Owners to the use of the private streets for ingress,

egress and regress; and

c. The right of the owner of the private street to permit the use of the private streets by persons other than Lot Owners, their families, lessees and guests; and

d. The right of the Association to mortgage, pledge, or hypothecate any or all of the private streets as security for money borrowed or debts incurred, provided that, the Association shall not subject the private streets to any security instrument without obtaining the agreement of the lender to subordinate its interests in the private streets to the easements for the Lot Owners contained in this paragraph.; and

e. The right of the Association acting through its Board, to dedicate, or grant easements across all or a portion of the private streets, subject to any approval requirements set forth in the Act, this Declaration, the By Laws or any other governing documents.

ARTICLE IV Terms, Conditions, Restrictions, Protective Covenants and Other Matters

1. Uses. All Lots shall be used solely for single family residential, recreational and related purposes (Only one (1) single family residential dwelling per lot is allowed) and no business or commercial activity will be permitted on OI' upon a Lot and no commercial structure or activity of any type shall be placed on any Lot or allowed within the Subdivision. This restriction shall not be construed so as to disallow home-based businesses, so long as they do not generate any pedestrian or vehicular traffic whatsoever in conjunction with such home-based business use.

This restriction shall not be construed so as to disallow the construction and/or operation of model homes, sales offices, an information center and/or a sales office for any real estate broker retained by the Association to assist in the sale of property subject to these Restrictions or offices for any property manager retained by the Association, business offices for the Association or related parking facilities consistent with this Declaration and any Supplemental Declaration.

a. Use Restrictions.

1. Lots may be used for single family residential uses and for home-based businesses so long as (i) the operation of the business is not detectable by sight, sound or smell from outside of the home; (ii) the business activity conforms to all zoning requirements for the Lot; (iii) the business activity does not involve door to door solicitation of Residents or Lot Owners; (iv) the activity does not generate any pedestrian or vehicular traffic whatsoever; (v) the activity does not include frequent deliveries within the Subdivision; and (vi) the business activity does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision, as may be determined in the sole discretion of the Board.

2. No other business or trade or similar activity may be conducted upon a Lot without the prior written consent of the Board. The terms "business" or "trade" shall have their ordinary, generally accepted meaning and shall include, without limitation, any occupation, work or activity performed on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether the activity is full or part time, (ii) such activity is intended to

or does generate a profit, or (iii) a license is or is not required.

3. The leasing of a residential home on any Lot shall not be considered a business or trade within the meaning of these Restrictions. Notwithstanding this provision, all leases must be submitted to the board of directors for approval. Short-term leasing of less than one (1) year is prohibited. All dwellings shall be rented only in their entirety; no fraction or portion may be rented including structures located outside the main dwelling, such as, for example, but not limited to a garage. No more than ten percent (10%) of any of the Lots in the subdivision shall be rented at any given time. The board of directors shall keep a record of all properties leased as well as copies of all of the leases in the corporate records.
4. No garage sale, moving sale, rummage sale, or similar activity shall be conducted upon a Lot or within the Subdivision without the prior written consent of the Board.

2. Architectural Control. Prior to commencement of construction of any improvements, all plans, including elevations, specifications and landscape plans, shall be submitted as an application to an Architectural Review Committee (ARC) for approval in writing as to quality of materials, harmony of external design with existing structures and as to location with respect to topography and finish grade elevation. Remodeling, repainting (in the same color scheme) or redecorating the interior of structures does not require prior approval. However, modifications to the interior of screened porches, patios, and similar portions of a structure visible from outside the structures shall be subject to approval. The ARC shall be appointed by the board of directors at its discretion and shall consist of no fewer than three (3) members. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board of Directors. The Committee shall at all times serve at the discretion of the Board. Should the Board of Directors choose not to appoint an ARC, the board shall conduct all architectural review either at regular board meetings or at special meetings called for that purpose. Upon review of the scope of the work, an application shall be approved by a majority vote of either the ARC or of the Board of Directors. The Board shall have the right to charge reasonable fees for receiving and reviewing each application for approval of plans and specifications. Such fees may include the reasonable costs incurred by the Association in having any application reviewed by architects, engineers or other professionals. If unpaid, those fees may be assessed against individual lots as limited special assessments. The Board, or the ARC, at their discretion, shall collect construction compliance deposits and the amount of those construction compliance fines shall be determined according to a schedule contained in the Association's Design and Review Guidelines, pursuant to Section 3, below. The Board and the ARC shall exercise reasonable judgement and discretion in determining the amount of the construction compliance deposits, and shall, as closely as is reasonable possible, adjust those deposits commensurate with the scope of work to be undertaken. Such construction compliance deposits shall be held in escrow by the board and shall be refunded upon inspection and approval of the completed construction project less any expenses incurred by the Association or fines imposed. The Board shall also collect a non-refundable road impact fee for per lot for each application that is approved, the amount of said road construction fee to be set out according to a schedule contained in the Association's Design and Review Guidelines, pursuant to the Section 3, below. Construction shall be completed in strict conformity with such approved plans and specifications and the Board shall be entitled to stop any construction which is in violation of these restrictions. Improvements shall be constructed only by a builder which has been approved by the Board of Directors.

3. Design and Development Guidelines. The Association, through its Board of Directors or its Architectural Review Committee, may, from time to time, publish and promulgate architectural, design and landscape guidelines. Such architectural, design and landscape guidelines shall be explanatory and illustrative of the general intent of the development of the Lots and are intended to guide Lot Owners and their home designers and builders and to assist the ARC in reviewing plans and specifications for Improvements. Such architectural, design and landscape guidelines shall also set out, among other things, the procedures for submission, review and approval of plans and specifications to the Board or ARC, and the fees to be imposed by the Board or ARC, as more specifically described in Section 2. The architectural, design and landscape guidelines may be modified and amended as necessary provided that the member have been given notice of any modification or amendment. Any violation of the architectural, design and landscape guidelines shall be enforced according the provisions and procedures contained in Chapter 47-F-107 of the North Carolina Planned Community Act. The architectural, design and landscape guidelines described above shall herein collectively be referred to as the "Design and Development Guidelines."

4. Prohibited Structures. No trailer, mobile home, basement, tent, shack, garage or other outbuilding on these residential Lots shall be, at any time, used as a residence, either temporarily or permanently. Any dwelling erected, placed, or permitted to remain on any Lot shall be one of the following: (1) site-built dwellings of permanent construction; (2) modular homes, meaning manufactured buildings designed to be used as single-family dwelling units which have been constructed and labeled indicating compliance with the North Carolina State Building Code, Volume VII-Residential. Any modular home must still comply with all architectural review standards contained in this Amended Declaration and any architectural review guidelines adopted by the Association or Architectural Review Committee. No mobile homes, trailers, or structures of similar construction, meaning manufactured buildings designed to be used as single-family dwelling units which have been constructed and labeled indicating compliance with the HUD administered National Manufactured Housing Construction and Safety Standards Act of 1974, shall be placed on or allowed to remain on any residential Lot. The facts that a building may be attached to a permanent foundation, that it may only be moved in the future like a site-built home, or that it may only be conveyed by a real property deed shall not change the conclusion that it is a mobile home, trailer, or structure of similar construction.

5. Dwelling Size. The livable heated floor area provided in each family unit, if one story, shall not be less than 1,500 Above Grade square feet. The livable heated floor area provided in each family unit, if one and one half stories (1 ½) or two stories (2), shall not be less than 1,750 square feet of livable heated floor area Above Grade. Basements, unfinished attic space, storage space, garages, porches, decks or any area not enclosed by the main structure shall not be counted as part of the required floor space.

For purposes of this Amended Declaration, "Above Grade" is defined as space on any level of a dwelling which has living area and no earth adjacent to any exterior wall on that level. "Below-Grade" is space on any level which has living area, is accessible by interior stairs, and has earth adjacent to any exterior wall on that level. If earth is adjacent to any portion of a wall, the entire level is considered "Below Grade" Space that is "at" or "on grade" is considered "Above Grade".

6. Accessory Buildings and Structures. Accessory buildings may be constructed on a Lot as accessory and appurtenant structures to the main residential dwelling as approved by the ARC in its review of the plans and specifications for construction on a Lot. Such accessory buildings are subject to architectural control as set forth in Paragraph 2. Such accessory buildings must be accessory to residential

uses and shall not be rented or occupied. In no event may an accessory building be constructed upon a Lot until the construction on of the main dwelling has commenced and until a separate building permit has been issued. Accessory buildings shall have the same style and color roof shingle, and the same color, style and material for exterior siding, as the main dwelling on the Lot, Patios, decks, trellises, gazebos, and other approved appurtenant improvements shall be integrally consistent with colors, materials, and architectural forms of the residence and must be approved by the ARC prior to construction. The dimensional requirements for all accessory buildings shall be as follows: Private Garages. All Lots are required to have a minimum of a two car attached or detached garage of no less than 440 square feet. Each lot may also have one additional garage detached from the main dwelling. If detached, the minimum square footage of the garage shall be 220 square feet. The detached garages shall have the same style and color roof shingle, and the same color, style and material for exterior siding, as the main dwelling on the lot. A garage, whether attached or \detached from the main dwelling, must be located on the Lot in compliance with the minimum yard setbacks set forth herein.

7. Setback Requirements. No building shall be located on any Lot nearer than: i) twenty (20) feet from the front or side street road right of way boundary lines which adjoins a Lot; ii) ten (10) feet from the side Lot line; or iii) twenty (20) feet from the rear Lot line. Any Lot located on a cul-de-sac shall be measured fifty (50) feet from the center point of the cul-de-sac. The ARC, or the Board should an ARC not be appointed, reserves the right to modify setbacks as may be necessary in the ARC or the Board's sole discretion without the joinder or approval of any other lot owner or the Association.

8. Cutting of Trees. All lots shall be kept in as natural a state as possible and no lot may be clear cut. No trees shall be cut or trimmed on a lot until a written landscape and construction plan for the lot is approved in writing by the ARC or the Board. Notwithstanding the foregoing, no living tree greater than four inches ("4") in diameter shall be cut or trimmed without the express written permission of the ARC or the Board. The ARC or the Board shall not prohibit the reasonable cutting of trees or limbs where such cutting is necessary for the safe installation and maintenance of any dwelling, driveway, or parking areas constructed upon any Lot in conformity with landscape and construction plans approved by the ARC or the Board.

9. Completion of Construction. Each Lot Owner shall work diligently to complete construction on any lot in a timely manner. Once begun, initial construction of all structures and clean-up of debris shall be completed within one (1) year from commencement of construction unless extended by the ARC or the Board, in their sole discretion. All other construction shall be completed within the time limits established by the ARC or the Board at the time of approval of the project by the ARC or the Board. For purposes of this paragraph, commencement of construction shall mean that (a) all plans for such construction have been approved by the ARC or the Board; (b) a building permit has been issued for the Lot by the appropriate governmental body; and (c) construction of a structure has physically commenced beyond site preparation. A dwelling shall not be occupied until completed. A dwelling shall be deemed completed upon final inspection and approval by the applicable government inspector. The ARC or the Board reserves the express right to modify or amend the periods for commencement and completion of construction as the ARC or the Board in its sole and absolute discretion may determine.

10. Nuisances and other Prohibition.

a. No noxious or offensive activity shall be allowed upon or carried on any Lot nor shall anything

be done thereon which may become an annoyance or nuisance to the neighborhood, No disabled, abandoned or unlicensed vehicles shall be permitted on any Lot, nor shall any vehicle be stored thereon, nor shall any repairs be permitted upon any vehicle parked upon any Lot.

- b. All fuel tanks or other similar storage receptacles, motor homes, boats or other recreational vehicles, machines, mini-satellite dishes, equipment or any and all other articles or conditions deemed unsightly by the the Board or the ARC shall be screened, in a manner approved by the Board or the ARC, from view from any and all roadways and adjoining lots. In no event shall any truck with a capacity to carry in excess of (1) one ton be kept on any Lot.
- b. No hunting or discharge of firearms of any kind shall be allowed within the Subdivision. No motorcycles, minibikes or motorized two-wheel vehicles shall be allowed, other than licensed vehicles which are used exclusively for transportation purposes, and then only if properly managed, with it being further stipulated that such motorcycles, minibikes or motorized two-wheel vehicles which are licensed and used exclusively for transportation purposes shall be allowed to operate within the Subdivision only upon the regularly platted roads thereof. All vehicles kept and operated within the Subdivision shall have properly working mufflers.
- c. No fence, wall or hedge may be erected without prior written approval from the ARC. Approved fencing/walls/hedges shall not in any way interfere with the vision of the road and driveways, or endanger the safety of pedestrians or drivers of vehicles. Small fenced areas of approved height for pet containment and garden areas, as well as buried electrical fencing for pet containment, will be considered, providing it has a minimum setback of 20' from all property lines. Privacy fencing will not be permitted unless associated with or required for ensuring the safety of unauthorized visitors to a swimming pool.
- d. No window type heating or air conditioning units shall be installed without the approval of the Board or ARC or which shall be visible from the street.
- e. No clothing lines for drying or hanging of clothes shall be erected or used on any Lot.
- f. No swimming pool may be erected without the prior approval of the Board or the ARC; or in any event, in front of a residence or closer than thirty (30) feet of any side or rear Lot line. Any swimming pool placed upon any Lot shall be properly fenced in or enclosed in such a manner as approved by the Board or the ARC so as not to be unsightly or constitute a hazard.
- g. No street parking shall be permitted within the Subdivision.
- h. All lots shall be properly maintained with grass and vegetation kept properly trimmed. Children's toys and lawn furniture shall not be left in an unsightly condition or position on the Lot.
- i. No unsightly window coverings visible from the exterior shall be allowed.
- j. No dog kennels may be constructed on any lot.

11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and such shall not be kept outside except in sanitary containers kept from view. Such sanitary containers shall be placed at the curb only on the day garbage is to be collected.

12. Storing and Parking. No trade materials or inventories may be stored upon the premises and no trucks, boats, trailers, buses, self-motorized camping vehicles, tractors or similar vehicles may be stored or regularly parked on a Lot except in a garage or well screened enclosure approved by the Board or the ARC.

13. Driveways. All driveways shall be constructed as outlined and described in the Design and Development Guidelines, pursuant to Section 2, above. When driveways extend more than forty feet out toward the street from garage entrance, driveways shall be tapered down to a maximum width of twelve feet (12') at the entrance to the driveway from the street. Circular driveways are allowed. Asphalt, Concrete, Chip and shoot, and other permeable driveway surfaces will be considered. Gravel driveways are prohibited. All driveways requiring culverts at the intersection to street as determined by the Board of Directors, the ARC or any government agency shall be installed to the specifications of the North Carolina Department of Transportation and to the grade of the drainage ditch. All permanent driveways shall be installed within 1 year after receiving the Certificate of Occupancy for the residence.

14. Signs. Only one sign of no more than two (2) square feet advertising the lot for sale during construction or any sales period shall be displayed to the public view on any Lot. The top of any such sign may not be more than three (3) feet above ground level. Such signs are permitted only until the Lot is sold. No signs shall be permitted to be placed in any other area of the development, including the area outside the development entrance.

15. Livestock, Poultry and Other Animals. No undomesticated animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot. Animals commonly known as household pets may be kept on a Lot provided that they are not kept, bred, or maintained for any purposes other than as household pets. Kennel operations shall not be permitted. A kennel is defined as structure/housing for more than two (2) animals. Pets must be kept in the house, or in an ARC or Board approved house, lot, ARC or Board pre-approved containment area, or leashed at all times. Installation of outdoor underground pet containment systems shall be permitted only upon the Board or the ARC's receipt and written approval of a written plan for installation. Dogs, cats or other animals are not permitted to run unleashed through the subdivision. A maximum of 4 pets per household will be permitted. All pet owners must ensure that pet noise is not a nuisance to neighbors.

16. Satellite Dish and Antennas. No satellite dish or antenna shall be located in the front or side yard of any Lot. Such dish or antenna may be placed only in the rear yard of the Lot in compliance with setback requirements. A satellite dish shall not exceed 18" in diameter. An antenna shall not exceed the roofline of the dwelling. Placement of such satellite dish antenna shall be governed by the setback requirements set forth herein and as specifically approved by the Board or the ARC. In any event, no erection of any satellite dish, antenna or tower shall be allowed without the prior written approval of the Board or ARC.

17. Limitation of Access. The private roadways shall not be used so as to provide access to any property except the Lots within the Subdivision, No part of a Lot shall be used for any access to any

property which lies outside of the Subdivision. No other easements, rights of ways or rights of access shall be deeded, granted, or in any way given by any Lot Owner to any other person through or over any Lot so as to permit any portion of a Lot or Subdivision property to be used for access to or from any adjoining property.

18. Property Abutting Right of Way. Lot owners shall keep the grass cut and shrubs trimmed along the area of the Lot adjacent to the roads. In the event a Lot Owner fails to keep this area maintained as required, the Association may have the required work done. The expenses incurred for such work by the Association shall be added to the annual assessment of such offending Lot Owner, as provided for herein.

19. Fences, mailboxes and other outdoor appurtenances. No fence shall be closer to the road than the front building setback line required herein. There shall be no fence, mailbox or other outdoor appurtenance erected except such fence, mailbox or other outdoor appurtenance which is approved by the Board or the ARC in accordance with the Architectural Control as set forth in Section 2 of Article III. In no event shall any fence, mailbox or other outdoor appurtenance be erected without the prior written approval of the Board or the ARC as to location, height and materials. The Board or the ARC reserve the right to set such requirements or to modify the above requirements as to location, height and materials as they deem appropriate.

20. Subdivision of Lot. No Lot shall be re-subdivided so as to create an additional building Lot.

21. Declarant Control. It is understood that as of the recording of this Third Amendment, the period of Declarant control has ended. As such, it is agreed and subsequent grantees expressly agree by acceptance of a deed conveying title to any Lot, that any portion of these Restrictions may be released, changed, modified, amended or varied by a favorable vote by at least sixty-seven percent (67%) of the then Lot Owners subject to these Restrictions, in accordance with the Act. Each Lot Owner shall have one vote for each and every Lot then owned by that Lot Owner. The written and recorded modification of these Restrictions, signed by either the required percentage of the Lot Owners subject to these Restrictions shall be sufficient to constitute an amendment to these Restrictions without further notification to any person or persons.

ARTICLE V

Easements, Rights of Ways, Utilities

1. Utilities. The Board reserves the right to subject the Property to a contract with Duke Power Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Duke Power Company by either some or all of the Lot Owners. This right shall also apply to the suppliers of other utility services including telephone and, if available, gas and cable television hook-ups. All utility services from a lot line to the residence shall be installed underground. The Board may dedicate a portion of the park as Common Element (as shown on the Plat) for the purpose of erection of a utility distribution center.

2. Road Rights of Way. The Subdivision property is serviced by those certain road rights of way shown on the Plat, which rights of way lead to the various platted lots within the Subdivision as shown on said Plat. Such rights of way as shown on the Plat have been dedicated as private roadways. Pursuant to N.C.G.S. § 136-102.6, all future Lot Owners acknowledge that the rights of way as shown on the Plat are private road

rights of way dedicated to public use and may not be developed to State of North Carolina Department of Transportation specifications. As such, all future Lot Owners, and their heirs, successors and assigns, covenant and agree that they shall be jointly responsible for the maintenance, upkeep, repair and service of such road rights of way. Each Lot Owner shall be subject to only his pro rata share of annual maintenance which shall be determined by taking the total cost of annual maintenance and dividing said figure by the number of Lots subject to these Restrictions, This covenant of maintenance shall be a covenant running with the Property and Subdivision forever and may be enforceable as a lien against a defaulting Lot Owner as if said lien were a Statutory Lien enforceable in accordance with Article 3, Section 116 of Chapter 47F of the North Carolina General Statutes. Furthermore, a Lot Owner shall be responsible for all damage and repairs to the right of way which results from construction trucks or equipment utilized for construction upon that Lot Owner's property. All lots or parcels of property which shall use such right of way because of such an extension shall be obligated to contribute a pro rata share towards the maintenance of said right of way as set forth above.

3. Private Utilities. It is anticipated that all Lots shall be serviced by private water and sewer services. Only individual water wells or sewage disposal systems shall be permitted on a Lot. No system of water or sewer service other than individual wells and sewage disposal systems as set forth may be used unless approved in writing by the Board or the ARC and unless the sewage disposal system is designed in accordance with the requirements, standards and recommendations of the Henderson County Health Department. Approval of such system as installed shall be obtained from the Board or ARC and/or such governmental authority, or its successors.

4. Utility Reservation. Unless otherwise noted on any recorded plat, easements of ten (10) feet in width are reserved on either side of all front, side and rear lot lines for installation, maintenance and repair of any utility services and drainage facilities. Easements are also reserved within the road rights of way for installation, maintenance and repair of any utility services.

5. Easement for Entry. Non-exclusive, perpetual, reciprocal easements exist such that the Association may enter upon any Lot for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, The Association Officers, ARC or any committee members, agents, employees or managers of the Association, and by all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except during emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Lot Owner. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if a Lot Owner fails or refuses to cure the condition within a reasonable time after request by the board, but shall not authorize entry into a dwelling without permission of the Lot Owner, except by emergency personnel acting in their official capacities. Entry under this section shall not constitute a trespass.

6. Easement for Park and Walking Trail Access. A perpetual, non-exclusive easement exists between the Association and all Lot owners over and across any areas designated as parks, recreation areas, walking trails or paths on any recorded plat of the subdivision. Use of such facilities shall be governed by reasonable rules and regulations promulgated by the Association.

7. Easements for Maintenance and Enforcement. Declarant reserves, creates, establishes and declares non-exclusive, perpetual, reciprocal easements for the Association to enter all portions of the

Subdivision, including each Lot, to (a) perform its maintenance obligations as set forth in this Declaration and attached By-Laws; (b) make inspections to ensure compliance with these Restrictions and all other governing documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to a Lot Owner's property, and any damage shall be repaired by the Association at *its* expense. Entry under this Paragraph shall not constitute a trespass. The Association may also enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates these Restrictions or any other governing documents. All costs incurred, including reasonable attorney's fees, may be assessed against the violator as a Special Assessment as more specifically set forth in the By Laws attached as Exhibit B to this Declaration.

8. Liability for Use of Easements. No Lot Owner shall have a claim or cause of action against the Declarant, its successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any plat of the Subdivision. Use of such facilities shall be governed by reasonable rules and regulations established by the Association.

ARTICLE VI

Soapstone Creek Estates Property Owners' Association

The Declarant does hereby establish a non-profit corporation which shall be known as the Soapstone Creek Estates Property Owners' Association (herein "Association"). The purpose of the Association shall be to provide for the orderly enforcement of these covenants, including, but not limited to, the maintenance, upkeep and repair of the joint rights of way within the Subdivision and any common elements or any other matter or area determined by the Association to be a common element or other area of common interest. The Bylaws of the Association are attached as Exhibit A and incorporated herein by this reference, The Board of Directors as established in the By Laws of the Association shall constitute the Executive Board as defined in N.C.G.S. 47F-3-103, and shall be subject to the provisions of such statute, except as set forth in this Declaration of the terms of the By Laws of the Association.

ARTICLE VII

General Matters

1. Adjoining Properties and Governmental Actions. All purchasers of Lots do hereby acknowledge that Declarant has made no representations as to uses of adjoining properties and such purchasers have been advised to investigate on their own accord any particular uses of adjoining properties and acknowledge that they have assumed such responsibility. By acceptance of a deed conveying title to any Lot, such Purchasers do hereby covenant and agree to hold Declarant harmless from any and all claims, damages and costs in any way relating to or arising out of any use of any property adjoining the Property or Subdivision. The purchaser of any Lot acknowledges that they have investigated on their own accord how such uses may affect their Lot, *the* Property and the Subdivision and are satisfied that they do not materially or substantially affect the value, use or enjoyment of any Lot. Furthermore, the public rights of way as shown on the Plat may or may not be the subject of a current or future action by the North Carolina Department of Transportation for the purposes of widening such rights of way. The purchaser of any Lot acknowledges that they have investigated on their own accord how such taking may affect the Subdivision and are satisfied that such a taking does not materially or

substantially affect the value, use or enjoyment of any Lot.

2. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages, or in addition to the lien enforcement rights set out in Article 3, Section 116 of Chapter 47F of the North Carolina General Statutes, by any appropriate proceeding at law or equity against the land to enforce any lien created by these covenants. The remedies granted and reserved herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of other property owners to exercise any or all of the other remedies or those which may be permitted by law or equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or thereto and shall not bear on or affect its enforcement. Any person entitled to file a legal action for violation of these covenants shall be entitled as part of any judgment in favor of the filing party to recover a reasonable attorney's fees as a part of such action.

3. Amendment and Modification. All covenants, restrictions and affirmative obligations set forth herein shall run with the Property and shall be binding on all parties and persons claiming under them. An amendment to these Restrictions shall be made and approved in the manner whereby at an annual meeting or specially called meeting of the members, sixty-seven per cent (67%) of the members vote in favor of such amendment and once made, shall become effective when recorded in the Buncombe County, NC Register's Office.

4. Invalidation. Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal or unenforceable, for any reason whatsoever, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, then such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

5. Conflicting Terms. In the event of a conflict or ambiguity between these Restrictions and the Act, then these restrictions shall be deemed to govern. The Act is incorporated herein by reference to the extent not inconsistent with the specific terms of these Restrictions or in the absence of a specific term or provision in these Restrictions.

6. Notice of Sale or Transfer of Title. Any Lot Owner desiring to sell or otherwise transfer title to a Lot shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title and such other information as the Board may reasonably require. The Transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which said notice is received by the Board, notwithstanding the transfer of title.

7. Use of the words "Soapstone Creek Estates". No person shall use the words "Soapstone Creek Estates" or any derivative in any printed or promotional material without the Board's prior written consent. However, Owners may use the words "Soapstone Creek Estates" in printed and promotional material where such terms are used solely to specify that particular property is located within Soapstone Creek Estates and the Association shall be entitled to use the words "Soapstone Creek Estates" in its name.

IN WITNESS WHEREOF, the Association has caused this instrument to be signed in its corporate name by its President, as of the day and year first abovewritten,

SOAPSTONE CREEK ESTATES
PROPERTY OWNERS ASSOCIATION, INC.

By: _____
Bernie Griwatz, President

NORTH CAROLINA
BUNCOMBE COUNTY

I, _____, a Notary Public for said County and State, do hereby certify that BERNIE GRIWATZ personally came before me this day and acknowledge that he/she is President of SOAPSTONE CREEK ESTATES PROPERTY OWNERS ASSOCIATION, Inc., a corporation and that he/she as President, being authorized to do so, executed the forgoing on behalf of the corporation. Witness my hand and official seal, this the _____ day of _____, 2017.

Printed Name: _____

My commission expires: _____