

**NORTH CAROLINA                      DECLARATION OF RESTRICTIVE COVENANTS**  
**JOHNSTON COUNTY**

THIS **DECLARATION AND AGREEMENT** is made and executed on this 20<sup>th</sup> day of January 2021 by Neuse Property Development, LLC, Declarant.

**WITNESSETH:**

Neuse Property Development, LLC, the owner and developer of the lands hereinafter described, and herein referred to as "Declarant", desires to declare and place the restrictions hereinafter set forth upon the lots in the real estate subdivision hereinafter described and upon the development, improvements and use thereof.

**NOW, THEREFORE**, the Declarant, for itself, and its successors and assigns, does hereby covenant and agree with all persons, firms and corporations who or which may acquire any interest in or title to any of the property hereinafter described, as an inducement to said persons, firms, and corporations to purchase a part of the said property, that the property, and each and every lot, described below, is hereby made subject to the following restrictive covenants as to the development and improvement and use thereof, which covenants shall run with the said land and with each and every lot by whomsoever owned. The real property to which these restrictive covenants shall be applicable being described as follows:

**BEING All of Lots 1, 2, 3, 4A, 4B, 5, 6, 7, 8, 9A, 9B,10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 of the HAWTHORNE EAST SUBDIVISION as shown on plat recorded in Plat Book 92, page 198-200, Johnston County Registry, to which reference is hereby made for a more particular description.**

**BEING that area reserved for future development containing approximately 4.79 acres per the Johnston County GIS and potentially designated as Lots 11, 12, 13, and 14 reserved for future development of the HAWTHORNE EAST SUBDIVISION as shown on plat recorded in Plat Book 92, pages 198-200, Johnston County Registry, to which reference is hereby made for a more particular description**

## ARTICLE I PURPOSE

The real property hereinbefore described is subjected to the protective covenants and restrictions hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes, to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on lots; to prevent haphazard and inharmonious improvement of lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures, and in general to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of lots therein. The term "single family" as used herein means persons who are related by blood, adoption or marriage or living together by not more than two unrelated adults. Nothing in this document shall be deemed to prohibit the conversion of a lot to a street.

## ARTICLE II ARCHITECTURAL COMMITTEE

**INITIAL ARCHITECTURAL COMMITTEE.** The initial Architectural Committee shall be composed of one person designated and appointed by the Declarant or such person, firm, or corporation to whom Declarant has expressly assigned this right. As long as the Developer owns any property, the Developer shall control the Architectural Committee as set forth herein.

**SUBSEQUENT ARCHITECTURAL COMMITTEE.** At such time as the Declarant no longer owns any lots/property in the subdivision, the Architectural Committee shall be composed of three (3) persons elected by the lot owners. A meeting may be called by the lot owners, and at such meeting, the each lot owner will have one vote. A quorum consisting of representations by a majority of the lot owners shall be required. At such meeting a majority (51%) vote of the lot owners represented will select all three members of the Architectural Committee. Instead of electing an Architectural Committee, the lot owners by a majority vote (51%) may delegate the responsibilities of the Architectural Committee to the Homeowner's Association.

The restrictions on any lot in the subdivision may be removed or waived only by the written consent of the Declarant or of the members of the Architectural Committee.

As long as the Declarant owns any lots in the subdivision, the Declarant shall have the absolute right, in his discretion, to remove and appoint members of the Architectural Committee. This can be accomplished simply by the execution and recordation of a document, removing a member or members of the Architectural Committee and appointing a replacement or replacements.

### ARTICLE III

SECTION 1. Land and Use and Building Type. No lot shall be used except for single-family residential purposes. No building or structure shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed three stories in height, a private garage for not more than three (3) cars, and (with the approval of the Architectural Committee) an accessory building or structure for storage or other appropriate residential uses, as set out below. Each residence must have a two car garage.

SECTION 2. Dwelling Size. No one-story dwelling shall be permitted on any building lot which dwelling has a ground heated floor area of the main structure, exclusive of basement, porches, and garages, of less than 1,400 square feet of finished living areas. A dwelling with more than one (1) story of finished living area shall have a minimum of 750 square feet finished living area on the first floor. Each residence must have a two car garage.

SECTION 3. Building Design. No building (including an accessory building or structure and a garage), shall be erected, placed or altered on any premises in said development until the building plans, specifications and plat showing the location of every such building, have been approved in writing as to conformity and harmony of external design with existing structures in the development, including without limitation, proposed exterior materials and colors, and as to location of the building with respect to topography and finished ground elevation by the Architectural Committee. In the event the Committee fails to approve or disapprove the design or location within thirty (30) days after the plans and specifications have been submitted to it, or in any event, if no suit to enjoin the erection of any such building 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. No mobile home, shell home, modular home, log home and pre-fabricated home shall be erected or permitted on any lot. Furthermore, other than this, the Architectural Committee shall have absolute discretion in making the decisions under this Section. Architectural Committee approval shall not constitute Johnston County Planning Department approval which shall also be required prior to construction.

SECTION 4. Accessory Buildings. Owners shall secure Architectural Committee approval prior to construction of any accessory building, including sheds, or permanently installed playhouses. Architectural Committee approval shall not constitute Johnston County Planning Department approval which shall also be required prior to construction. A detached garage is not considered as an accessory building, and its construction shall require

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Architectural Committee approval on a case-by-case basis. Accessory buildings shall meet the following criteria:

1. An accessory building must be of the same color, material, and architectural style as the main residence or of color, material, and style that is generally recognized as complimentary to that of the main residence. An accessory building's roofing materials shall match those of the main residence. No aluminum buildings shall be permitted.
2. Any utilities services accessory buildings shall be installed underground.
3. Accessory buildings generally shall be located in the rear yard.

SECTION 5. Garages. Garages which are constructed independent from the home require Architectural Committee approval. Such garages shall be compatible with and complimentary to the main residence in architectural style, material, color, and location. Review shall be made on a case-by-case basis. Architectural Committee approval shall not constitute Johnston County Planning Department approval which shall also be required prior to construction.

SECTION 6. Antenna and communication Dishes. One small and inconspicuous satellite dish antennae having a diameter of 18" or less, which is installed adjacent to any residence and is integrated with the residential structure and surrounding landscape, does not require approval. Such equipment shall be located only in side or rear yards. All other microwave dish antennae, satellite dish antennae, exterior radio antennae, television antennae, or other electronic signal receiving or transmitting equipment are prohibited, unless a variance is approved for such equipment by the Architectural Committee.

SECTION 7. Building Location. Building set back locations shall be the minimum setback requirements for the County of Johnston at the time of the recording of plats establishing the lots.

SECTION 8. Lot Area and Width. All lots as shown on the recorded map hereinbefore referred to are hereby approved. Adjustments may be made, however, in the line between any two lots so long as the area of any lot is not reduced by more than ten (10) per cent and so long as all other restrictions herein set forth are observed. Upon any recombination of lots, the setbacks and side clearances from new lot lines shall be applicable and set backs from former lot lines shall no longer be required. No recombination of lots may be made in a manner which results in any increase in the number of lots above those existing when these covenants became effective.

SECTION 9. Mailboxes. The subdivision will be served by a cluster mail station as required by the United States Postal Service.

SECTION 10. Trash Cans. Trash cans shall be kept in the rear of the house, except they may be pushed to the road on the evening prior to the trash pick up day. Trash cans shall

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be returned to the rear of the house by nightfall on trash pick up day.

SECTION 11. Maintenance of Septic Areas. Each lot owner shall maintain their septic areas, both on site and off-site areas.

SECTION 12. “HOA Stormwater Easements and Wetlands. There are designated HOA Stormwater Easements and wetlands on the recorded plats. The lot owners affected thereby shall comply with the Code of Federal Regulations regarding these areas.

*Those designated portions of this subdivision have been determined to meet the requirements for designation as a stream and/or wetland. Any subsequent fill or alteration of this area shall conform to the requirements of the federal rules addressing stream and/or wetland impacts noted in the Code of Federal Regulations at the time of the proposed alteration. The intent of this provision is to prevent additional stream and wetland impact, so the property owner should not assume that a future application for filling or alteration would be approved. The property owner shall report the name of the subdivision in any application pertaining to said rules. This covenant is to run with the land and shall be binding on all parties and all persons claiming under them. Any property owner shall contact the Army Corps of Engineering at (919) 554-4884 for any questions concerning these designated areas.*

#### ARTICLE IV EASEMENTS

The Declarant reserves the right to subject the property in the subdivision to a contract with Wake Electric Membership Corporation 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 continuing monthly payments to Wake Electric Membership Corporation by the owner of each building unit.

Easements for installation and maintenance of utilities and drainage facilities are reserved along each property line of each lot in the subdivision to a width of 10 feet of each line unless such shown easements are depicted in the recorded plat, in which case the plat shall control. Within these easements, no structures, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

## ARTICLE V

SECTION 1. Business, manufacturing, Commercial and Professional Uses Prohibited, Nuisances Prohibited. No part of said property shall be used for business, manufacturing, commercial or professional purposes. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereof which may be or become an annoyance or nuisance to the neighborhood. No trade materials or inventories (other than materials used for construction of dwellings or other approved structures on the lots) may be stored upon any lot and no tractors, inoperable motor vehicles, rubbish, trash, or unsightly materials of any kind may be stored, regularly placed, or allowed to remain on any lot (except that trash, leaves, tree limbs, materials for recycling pick-up and similar items may be kept or placed on a lot temporarily and only for such time as is reasonably necessary to enable the appropriate governmental or private entity to remove same from the lot, or such materials may be kept on a lot for use as a compost (provided that such materials used for this purpose are neatly kept and screened from view from any adjoining lot or street as approved by the Architectural Committee) and inoperable motor vehicles may be stored on a lot if the same are kept in an enclosed garage. Provided, however, trucks and/or other construction vehicles, materials, and equipment may be allowed to remain on the property temporarily during construction of roads, utilities, and other improvements in the project and during construction on a lot of a single-family residential dwelling and/or other improvements which have been approved for construction by Declarant or the Architectural Committee established by this Declaration (the temporary nature of the foregoing to be determined by the Declarant or by the Architectural Committee, when such right has been assigned by the Declarant to the Architectural Committee.) Notwithstanding the foregoing, no vehicle of any type or size which transports inflammatory or explosive cargo which stores or transports materials or substances defined as hazardous or toxic by any applicable environmental laws of any governmental entity having jurisdiction over the property may be kept or allowed to enter and/or remain in or on the property at any time, except as may be required to effectuate removal of such prohibited materials and substances.

SECTION 2. Signs. No signs shall be erected or maintained on the premises other than temporary "For Sale" signs which stand no more than four (4) feet high, have dimensions of no more than two feet by three feet, and which is conservative in color and style. Temporary signs may be displayed only while the lot is for sale and must be removed when the property is no longer for sale. The installation or relocation of all other signs requires Architectural Committee approval.

SECTION 3. In-House Businesses. No business activity or trade of any kind whatsoever, which shall include but not be limited to the use of any residence as a trade or professional office of any kind, a fraternity house, a rooming house, a boarding house, an antique shop, gift shop, or automobile repair shop shall be carried on upon any lot. No trade materials or inventories may be stored or regularly parked on the premises. In-house businesses may be conducted so long as (1) the business is conducted solely by the homeowners or occupants, and (2) no outside signs or other advertisement is done.

**ARTICLE VI**  
**TEMPORARY STRUCTURES**

**TEMPORARY STRUCTURES.** No trailer, tent, shack, barn, or other outbuilding, except a private garage for not more than three (3) cars and an accessory building or structure as authorized by the provisions of Article III shall be erected or placed on any lot covered by these covenants. Except with the prior consent of the Architectural, no detached garage shall at any time be used for human habitation either temporarily or permanently.

**ARTICLE VII**

**SECTION 1. Site Appearance During Construction of Dwelling.** All sites must be maintained in a clean and orderly manner at all times. The storage of materials should be in an inconspicuous location within the site and stored neatly and orderly.

**SECTION 2. Conduct During Construction of Dwelling.** The owner of any lot must ensure that all contractors and/or subcontractors control the conduct of their employees while working in HAWTHORNE EAST SUBDIVISION. Loud music, profanity, and other behavior which is unbecoming of a quality operation will not be tolerated. Employees violating this policy may be asked to leave the premises and may be denied access at the construction entrance.

**SECTION 3. General Appearance After Construction of Dwelling.** The owners of all lots shall be responsible for keeping such lot mowed, trimmed, and cleaned. Should any lot owner fail to maintain his or her property in a neat and clean and well-mowed manner, then the Architectural Committee shall have such lot cleaned up and the owner of such lot shall be responsible for the costs incurred by the Architectural Committee in doing so. All trash, garbage, or waste should be contained in a garbage can. Garbage cans shall be kept in the backyard and shall not be visible from the street. Further, garbage cans must be located or screened so as to be concealed from view of neighboring lots, streets, passing vehicles, walkers, and other residents. All clothes lines are prohibited from being placed in the front and side of the home.

**SECTION 4. Front Yard Maintenance and Mass Plantings.** Each lot owner shall be responsible for maintaining the area between his front property line and the edge of the street or pavement (including his driveway and sidewalk). If a lot owner fails to keep this area maintained, the homeowner's association may maintain after reasonable notice to the lot owner, and the lot owner shall be subject to the cost of such maintenance as provided herein. No lot owner shall plant any vegetable garden in front of his dwelling or any mass planting on his lot except with the prior written approval of the Architectural Committee.

**SECTION 4A.** From the edge of the pavement to the top of top of the ditch on the house side, the builder or homeowner shall install centipede sod or bermuda.

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SECTION 5. Grading. Owners shall not grade their property so as to interfere with the established drainage pattern over any property except as approved in writing by the Architectural committee. Owners should work with the natural contours and seek solutions that minimize the impact of grading with respect to the major alterations of existing grades, and not effect the drainage or septic system.

Owners may create berms, slopes, and swales for the purpose of defining space and screening undesirable views, noise, and high winds. Grassed slopes or berms are suggested not to exceed three (3) feet of horizontal distanced to one foot of rise or vertical height (3 to 1 slope) in order to permit greater ease of mowing and general maintenance. Any such berm, slope, or swale must be approved by the Architectural Committee; Johnston County Environmental Health and any such governmental entity which may govern such activity at that time.

SECTION 6. Retaining Walls/Fencing. All retaining walls/fencing require approval by the Architectural Committee: (I) no fence, wall, or hedge shall be erected, placed, or altered on any lot nearer to any street fronting such lot than the back building corner of the main dwelling constructed on such lot and shall not exceed six (6) feet in height; and (ii) unless written consent is given by the Architectural Committee. All fences on lots shall be maintained at all time in a structurally sound and attractive manner and in a good state of repair. All fences on lots shall be vinyl, black coated chain link, or other material approved by the Architectural Committee and no fence shall be constructed, placed, or allowed to remain on any lot until the owner thereof has obtained approval for such fence from the Architectural Committee. No wood fencing permitted. No underground fencing is allowed in the front yard.

SECTION 7. On-Street Parking. The Owner of each lot shall provide for adequate parking space on the lot for vehicles of all types and all other apparatus designed for movement over and upon streets or highways (whether self-propelled or not) and regularly used by the residents of the single-family residence on the lot. No automobiles, trucks, vans, travel trailer, other trailers or any other apparatus designed for movement over and upon streets or highways (whether self-propelled or not) shall be parked on streets within or adjoining the property and trucks with tonnage in excess of 1 (one) ton shall not be permitted to park overnight. No vehicles shall be parked on the shoulders of the subdivision road and must be parked on the asphalt. No vehicles shall be parked overnight on the streets.

SECTION 8. Playhouses/Wood Plat Stations. A playhouse or wood play station shall be considered an accessory building if it measures more than twenty-four (24) square feet, is more than six (6) feet high from peak to ground, or is constructed on a concrete slab or footing. Architectural Committee approval is required to construct on place a playhouse or wood play station on a lot.

SECTION 9. Pools. Architectural Committee approval is required for the construction or installation of pools. Pools shall be an integral part of the deck or patio area and/or the rear yard landscaping. A pool shall be located in the rear or side yard, shall be installed in such a way that



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it is not immediately visible to adjacent property owners and shall not create an unreasonable level of noise for adjacent property owners. Pools shall be fenced for safety purposes and Owners may be required to install safety features such as locks or covers for these items when they are not in use. Pools require a valid building permit and are governed under the jurisdiction of Johnston County. All pools must be code compliant. Above-ground pools are allowed if the full circumference of the pool is decked.

SECTION 10. Recreational Equipment. Installation of all basketball backboard, whether garage-mounted or freestanding pole-mounted, require Architectural Committee approval. The review of rear and side yard pole-mounted backboards shall be based upon, but not limited to, the following considerations: proximity of goal to property lines and proximity of goal to neighbor's living areas, landscaping, and vehicles.

Approval is required for the installation of play and sports equipment taller than seven (7) feet. Ten foot portable basketball goals may be permitted, provided such goals are stored out of view when not in use. Owners shall exercise consideration toward neighbors, any such equipment shall be set back a reasonable distance from adjacent property lines so as to avoid disturbance from neighbors. Treehouses are prohibited.

No portable basketball goals are allowed in the street. If they are placed in the street, they shall be removed at owner's expense.

The use of fire arms in this subdivision is strictly prohibited. This includes, but is not limited to, the use of B-B guns, pellet guns, and small firearms or hand guns.

The use of all-terrain vehicles, including but not limited to, three wheelers, four-wheelers, dirt bikes, go-carts, and golf carts on any property or on common areas is expressly prohibited hereby.

SECTION 11. Flagpoles. Are not allowed. Decorative or seasonal flags must be mounted on the main residential dwelling and shall not exceed the roof line of the main residential dwelling.

SECTION 12. Boats, Trailers, Campers, Commercial vehicles and other similar vehicles are prohibited on the streets of the development. Any boats or recreational vehicle must be parked in the back yard, no closer to the road than the front corner of the house. Vehicles other than boats or recreational vehicles shall not be parked closer to the road than the front corner of the house, and are not permitted on septic system or septic repair areas. Cars which are not in working condition, are not regularly used, or are not licensed and insured shall not be parked in the subdivision.

SECTION 14. All driveways shall be Architectural Committee approved. No driveways shall be permitted that consist of sand, gravel, or any substance other than concrete.

SECTION 15. Damaged Property. Any dwelling or out building on any lot which may be destroyed in whole or in part by fire, wind storm, or from any other cause or act of God, must be rebuilt or all debris removed. The lot must be restored to a slightly condition as above enumerated forthright or no later than within four (4) months of the destruction.

**ARTICLE VIII**  
**ANIMALS**

ANIMALS. No animals or poultry of any kind, other than household pets, shall be kept or maintained on any part of said property. No more than three (3) dogs shall be allowed inside or outside of home. All dogs kept outside of the residence must be securely fenced. No underground fencing in front yard. No dogs shall be chained in the yard. All dog houses shall be in the rear of the house and not closer than 15 feet to a side property line and not closer than twenty (20) feet to the back property line. Any dog that is outside its fence must be leashed or held by its owner. All individual pet owners are responsible for their animal's fecal droppings in any area not deemed their individual lot. Droppings are to be disposed of by their individual owner. No dumping on vacant lots will be allowed. No underground fencing is allowed in the front yard.

**ARTICLE IX**  
**IMPERVIOUS MATERIALS**

IMPERVIOUS MATERIALS. All other provisions herein contained notwithstanding any impervious material placed upon a lot shall not exceed 6534 square feet per lot of the total square footage of the lot. "Impervious Material" is defined as rooftops of homes, garages and outbuildings, paved or asphalt driveways, walkways, and patios.

**ARTICLE X**  
**TERM AND DURATION**

TERM AND DURATION. 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 on which this Declaration and Agreement is filed for registration in the Office of the Register of Deeds, after which period said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a two-thirds (2/3) percentage of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part; provided, however, that any such instrument must be recorded within a six-month period preceding the end of the twenty-five (25) years period or a ten-year extension period.

**ARTICLE XI**  
**ENFORCEMENT**

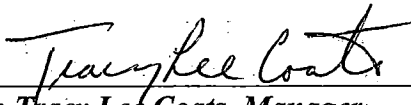
**ENFORCEMENT.** Enforcement shall be the responsibility of the homeowners of the subdivision, but the Declarant, the Architectural Committee or any lot owner shall also have the right to bring enforcement proceedings. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages, or both. The prevailing party in any enforcement proceeding shall be entitled to recover from the adverse party a reasonable sum for reimbursement for attorney's fees and court cost incurred in enforcing or defending matters related to these covenants in an amount to be determine by the court.

**ARTICLE XII**  
**SEVERABILITY**

**SEVERABILITY.** Invalidation of any one of these covenants or any part thereof by judgement or court order shall in no way affect any of the other provisions which shall remain in full force an effect, and the failure of any person or persons to take action to enforce the violation of any of these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

**IN WITNESS WHEREOF,** the Grantor has caused this instrument to be signed in its corporate name an by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

**NEUSE PROPERTY DEVELOPMENT, LLC,**  
**A North Carolina Limited Liability Company**

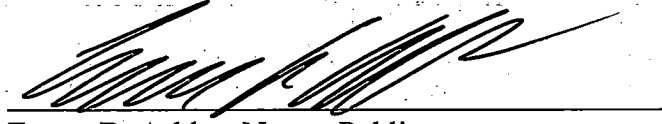
  
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By: *Tracy Lee Coats, Manager* (SEAL)

STATE OF NORTH CAROLINA

JOHNSTON COUNTY

I, EMERY D. ASHLEY, a notary public for the County of Johnston, State of North Carolina, certify that **Tracy Lee Coats** personally came before me this day and acknowledged that (s)he is Manager of **NEUSE PROPERTY DEVELOPMENT, LLC, A North Carolina Limited Liability Corporation**, and that (s)he as **Manager**, being authorized to do so, execute the foregoing on behalf of **NEUSE PROPERTY DEVELOPMENT, LLC, A North Carolina Limited Liability Corporation**.

WITNESS my hand and notarial seal/stamp, this 20<sup>th</sup> day of January 2021.



Emery D. Ashley, Notary Public

(Official Seal)

My commission expires:

**NOVEMBER 5, 2025**

