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**DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS  
FOR STONEGATE, SECTION THREE**

THIS DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS (the "Declaration") is made as of the date set forth in the below notary acknowledgment, by CRA HOME BUILDERS, INC., a North Carolina corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Cumberland County, North Carolina known as Stonegate subdivision, Section Three ("Stonegate"), a plat of which has been duly recorded in Plat Book 135, Page 190 (the "Plat") of the Cumberland County, North Carolina Registry [Note: the defined term "Stonegate" is intended to refer to all property shown on the Plat (which includes "Stonegate, Section Three") and all future annexed phases; it does not refer to any prior phases]; and

WHEREAS, Declarant desires that Stonegate be uniform in its development and the restrictions applicable thereto; and

NOW THEREFORE, Declarant declares that the real property described above shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, assessments, affirmative obligations, and liens hereinafter set forth which are for the purpose of protecting the value and desirability of, and which shall run with, the real property described above and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

(a) "Association" shall mean and refer to Stonegate of Fayetteville Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns. The articles of incorporation of the Association are attached hereto as Exhibit A, and the bylaws (the "Bylaws") of the Association are attached hereto as Exhibit B.

(b) "Common Area" shall mean and refer to all of those platted areas labelled as such on the Plat, if any, along with any improved detention pond(s) and other improvements located thereon, if any; and along with any subdivision signage improvements located in Stonegate, if any. All Common Area shall be subject to the easements and other rights described herein and/or as shown on the Plat. The term "Common Area" shall also include any personal property acquired by the Association if said property is designated as "Common Area." All Common Area, including the retention pond(s) and related improvements located thereon, are to be devoted to and intended for the common use and enjoyment of the Members and/or persons occupying dwelling places.

(c) "Common Expenses" shall mean and include:

- (1) All sums lawfully assessed by the Association against its Members;
- (2) Expenses of administration, maintenance, repair, or replacement of the Common Area, including without limitation; maintenance, upkeep and repair of the retention pond in accordance with Article VI herein and any sign, lighting, and/or landscaping located within the entrance to Stonegate;
- (3) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;
- (4) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase or as the Association may deem appropriate to purchase;
- (5) Any other expenses determined by the board of directors or approved by the Members to be common expenses of the Association.

(d) "Lot" shall mean and refer to any of the numbered plots of land shown on the Plat, as such Plat may be further amended or modified.

(e) "Member" when used in the context of discussing the Association shall mean and refer to the Declarant and its designated officers, employees or agents, and all those Owners who are Members of the Association as provided in this Declaration.

(f) "Owner" shall mean and refer to the Owner as shown by the records in the Register of Deeds of Cumberland County, North Carolina, whether it be one or more persons, firms, associations, corporations, or other legal entities, including the Declarant, of fee title to any Lot depicted on the Plat, but notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

(g) "Period of Declarant Control" means the period commencing on the date hereof and continuing until the earlier of (i) when Declarant no longer owns a Lot in Stonegate or any property within two (2) miles of any Lot which has been annexed into (or which may be annexed into) said subdivision; or (iii) when

Declarant relinquishes such control in favor of the Association via a recordable document executed by Declarant and recorded in the local Registry.

(h) "Property" shall mean and refer to Stonegate, which shall include all platted land shown on the Plat. The "Property" shall also include any future sections of Stonegate as the same may be developed from time to time, if any, except that such future sections of Stonegate shall become subject to these covenants only from and after the recording of the plat or plats for said future section(s) and the recording of a supplemental declaration which incorporates by reference this Declaration and which expressly makes the new section(s) subject to these covenants, or portions of same. The supplemental declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of Declarant, but such modification shall have no effect on the Property shown on the Plat.

## ARTICLE II SPECIAL DECLARANT RIGHTS

Declarant reserves the following special declarant rights for the entire Property, including any future sections of Stonegate during the Period of Declarant Control:

- (a) To complete any and all improvements indicated on the Plat and related engineering/architectural plans;
- (b) To exercise any development right reserved in this Declaration;
- (c) To construct and maintain any sales office, signs advertising the Property or any property which may be added thereto, management office or model on any of the Lots shown on the Plat;
- (d) To create easements through the Common Area and/ or Lots for the purpose of making drainage and utility improvements, as reasonably necessary, now or in the future;
- (e) To alter the size of any Lot, combine or merge two or more Lots, to subdivide Lots or to turn other Property into Common Area;
- (f) To annex any additional property developed in conformity with the plan of development, regardless of whether now owned or acquired in the future and whether or not presently contiguous;
- (g) To use the existing roads and utility easements in favor of all future annexations;
- (h) To extend streets and utilities through any platted Lot owned by Declarant and/ or any builder affiliate;
- (i) To unilaterally amend this Declaration as set forth in Article XII, Section 2;
- (j) To assign the Declarant's rights to a successor in interest;
- (k) To alter the size of the Common Area, and to recombine a portion of same with any Lot (to include the right, during the Period of Declarant Control, to execute a deed on behalf of the Association, to convey any portion of the Common Area to Declarant and/ or any third party, subject to any approvals as may be necessary by the City of Fayetteville Planning Department

or other municipal agency having jurisdiction over the Property).

ARTICLE III  
UTILITIES AND UTILITY AND DRAINAGE EASEMENTS

Section 1. Declarant reserves the right to subject the Property to a contract with public utility providers for the installation of overhead and/or underground electric cable or other utilities and/or for the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to such public utility provider by the owner of each improved Lot. Declarant and its successors in title may devote any Lot or portion thereof, not already sold, for any construction and uses which it, in its sole discretion, deems necessary in order to provide the subdivision with utilities.

Section 2. Easements for installation and maintenance drainage facilities are reserved as shown on the Plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may interfere with, or which may change, the direction or flow of drainage, or which may obstruct or retard the flow of water. All areas indicated as streets on the Plat are hereby dedicated to public use.

ARTICLE IV  
USE RESTRICTIONS - LOTS

Section 1. All Lots shall be used for residential purposes only and shall not be used for any business or commercial purposes; provided, however, that Declarant reserves the right to use any Lot and any improvements thereon owned by Declarant (or an approved builder) as a model home with sales office. Group homes are prohibited.

Section 2. All Lots shall be residential lots, and no structure shall be erected, altered, placed or permitted to remain on any of said Lots except one detached single family dwelling of not more than two and one-half stories in height, a private garage for not more than three cars and other out-buildings in the rear of the dwelling house which may be incidental to normal residential use in subdivisions of similar category. Any such outbuildings shall be constructed in the same manner and with the same materials as the single family dwelling located on the Lot. No mobile homes or modular/ manufactured houses may be placed on any of the Lots.

Section 3. No dwelling shall be erected or allowed to remain on any of the Lots which shall contain a ground floor heated-area living space of less than two thousand (2,000) square feet, of which at least one thousand (1,000) square feet must be on the ground floor. Heated-area living space shall mean the ordinary living space in a house which is designed and constructed so as to be capable of being heated for regular living use in cold weather. In the computation of floor space, furnace room areas, garages, carports, and porches shall not be counted. No residence or other building, and no fence, wall, utility yard, driveway, swimming pool or other structure or improvement, regardless of size or purposes, whether attached to or detached from the main residence, shall be commenced, placed, erected or allowed to remain on any building Lot, nor shall any addition to or exterior change or alteration thereto be made, unless and until building plans and specifications covering the same, showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes with paint samples, location and orientation on the building Lot and approximate square footage, construction schedule, and such other information as the Declarant shall require, including, if so required, plans for the grading and landscaping of the building Lot showing any changes proposed to be made in the elevation of surface contours of the land, have been submitted to and approved in writing by the Declarant and until a copy of all such plans and specifications, as finally approved by the Declarant have been lodged permanently with the Declarant. The Declarant shall have the absolute and exclusive right to refuse to approve any such building

plans and specifications and Lot-grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons connected with future development plans of the Declarant of said land or contiguous lands. In passing upon such building plans and specifications and Lot-grading and landscaping plans, the Declarant may take into consideration the suitability and desirability of the proposed construction and of the materials of which the same are proposed to be built to the building Lot upon which it proposes to erect the same, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties. In the event the Declarant fails to approve or disapprove such building plans and specifications within thirty (30) days after the same have been submitted to it as required above, the approval of the Declarant shall be conclusively presumed and the provisions of this paragraph shall be deemed to have been complied with. However, no residence or other building, structure or improvements which violates any of the covenants and restrictions herein contained or which is not in harmony with the surrounding neighborhood and the existing structures therein shall be erected or allowed to remain on any part of a Lot. All driveways shall be constructed of concrete.

The Declarant approval requirements of this Section 3 shall automatically expire upon the expiration or termination of the Declarant Control Period.

Section 4. All structures on any of said Lots shall comply with the setbacks as required by the City of Fayetteville and/ or applicable municipal ordinance, as the case may be.

Section 5. No wire or concrete block fences shall be permitted on any Lot. No fence shall be erected closer to any street line than the rear corner, closest to the street, of the single family residential dwelling located on the Lot. No fence shall exceed six (6) feet in height. For those Lots which are corner lots, no such fencing may be placed or erected on an improved corner Lot any closer to the street than the back rear corner of the principal dwelling structure closest to the street and, on vacant Lots, closer to any street than the setback line. Ornamental fences (e.g., split rail fences or fences through which there is at least 75% visibility) not to exceed three (3) feet in height may be erected between the house and the street rights of way lines upon prior written approval by Declarant pursuant to Section 3 hereof; however, upon the expiration or termination of the Period of Declarant Control, the Association and its Board of Directors shall become exclusively vested with such approval rights. For all wooden fences, the finished side must face the exterior of the Lot and the bracing must be face the interior of the Lot.

Section 6. Television satellite or dish antennas having a diameter in excess of twenty-two inches (22") are prohibited. All allowable satellite dishes or antennae are to be placed or installed at the rear of the house or the rear corner of the Lot, so that they are no easily visible from the street.

Section 7. No sign or signs other than a "For Sale" or "For Rent" sign shall be displayed on any Lot.

Section 8. No automobile or motor vehicle may be dismantled or stored on said property; and no mechanically defective automobile, motor vehicle, mechanical machine, or machinery, shall be placed or allowed to remain on said property for over fourteen (14) days. Notwithstanding the above, these restrictions shall not apply if such vehicle is kept in an enclosed garage and out of sight from the street. Commercial vehicles, camper trailers, recreation vehicles, trailers, and/or boats shall be stored at the rear of the residence on a concrete pad and enclosed by a privacy fence.

Section 9. No trailer, tent, shack, garage, barn or similar type outbuilding shall be placed, erected or allowed to remain on any Lot without the written consent of Declarant, its successors or assigns. Nor shall any structure of a temporary character be used as a residence temporarily, permanently or otherwise.

Section 10. Only break-away mailboxes may be constructed in the subdivision; it being the intention of the Declarant to preclude the erection of permanently constructed mailboxes in the North Carolina State Right-of-Way areas. Additionally, all mailboxes and posts must be black and must meet with Declarant's approval prior to erection.

Section 11. It is understood and agreed that these restrictions are made for the mutual benefit of the grantors and grantees and any and all subsequent grantees, and all such parties shall be deemed to have a vested interest in these restrictions and the right to enforce same.

Section 12. The invalidation of any one or more or any part of any one or more of the covenants and conditions set forth herein shall not affect or invalidate the remaining covenants or portions thereof.

Section 13. No animals, livestock or poultry of any kind, except common pets, shall be raised, bred, or kept on any part of a Lot; however, dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purpose, and provided they are not allowed to run loose in the neighborhood. There shall be a maximum of three (3) dogs and three (3) cats allowed per Lot.

Section 14. Each Lot Owner covenants and agrees that he/ she will control the noise level emanating from any activities on the Lot at a reasonable level. The Lot Owner shall not allow the noise level to become a nuisance or to otherwise interfere with adjoining Lot Owners' reasonable use of their Lots.

Section 15. Upon the written request of any Lot Owner, the Declarant shall have the authority to grant a reasonable variance from any particular use restriction set forth in this Article IV during the Period of Declarant Control. Once the Period of Declarant Control has terminated, then the Association (through its board of directors) shall have the authority to grant any such reasonable variances, upon written request. The decision to grant any variance shall be based upon the particular hardship of the Lot Owner and the variance's minimal effect on other Lot Owners and the overall aesthetic appearance of the Subdivision. Any variance shall be set forth in writing and shall be recorded in the Cumberland County Registry, indexed in the name of the Stonegate' subdivision, the Association, and in the name of the affected Lot Owner(s).

Section 16. Each Lot Owner covenants and agrees that he/ she will keep his/ her Lot in good condition and repair, with presentable landscaping and trimmed grass at all times. If any Lot Owner fails to abide by this covenant, then the Association shall be vested with a self-help right to perform such maintenance on behalf of such Lot Owner and shall charge the expense thereof to the Lot Owner, which shall become an additional assessment against any such Lot, enforceable in accordance with Article IX of this Declaration. The Association shall provide written notice to any Lot Owner who is in violation of this covenant, and the Lot Owner shall have a period fourteen (14) days to cure such violation (as of the Lot Owner's receipt of such written notice), after which the Association shall have the right to elect its self-help remedy and perform the work on the Lot Owner's behalf; and the Association shall have a license to enter upon the Owner's Lot for such limited purpose; however, notwithstanding the above, it is understood and agreed that if the Lot is in foreclosure (as evidenced by any foreclosure filing with the local Clerk of Court's office), then the requirement that the Association provide such written notice the Lot Owner along with such cure right shall be automatically waived; and the Association shall be immediately vested with the right to perform the work and assess the Lot (without such advance notice or cure right being necessary).

ARTICLE V  
USE RESTRICTIONS - COMMON AREA

Notwithstanding anything to the contrary herein, no Owner may build or erect any structure or improvement upon or within the Common Area. No basketball goals may be erected or placed in the street right of way. No Owner may alter the grade or contours of any berm located within the Common Area. No Owner may plant or modify in any fashion the land, trees, shrubberies, and other landscaping within the Common Area except as may be required to comply with stormwater management regulations set forth below. It is the intention of the Declarant that the Association shall be solely responsible for the maintenance, upkeep and repair of the retention pond(s) within the Common Area.

ARTICLE VI  
ASSOCIATION'S STORMWATER MANAGEMENT OBLIGATIONS; HOLD HARMLESS;  
RELEASE OF LIABILITY OF DECLARANT

Section 1. Once the Declarant has constructed any required structural stormwater management facilities (i.e. any detention pond(s)) on any portion of the Common Area, and conveyed such Common Area to the Association, as evidenced by a recorded warranty deed, then, for good and valuable consideration, the Association shall become fully responsible for complying with all covenantor obligations as set forth in that certain Declaration of Covenants Inspection/ Maintenance of Stormwater Management Facility, Transfer of Maintenance Responsibilities, in favor of the City of Fayetteville, as recorded in Book 9637, Page 264, Cumberland County, NC Registry (the "Stormwater Declaration"), and Declarant shall be released of all liability thereunder, except as otherwise specifically set forth in this Article VI.

Section 2. The Declarant intends to make application as soon as reasonably feasible after construction of any such detention pond(s), so as to require the City of Fayetteville to take over all functional maintenance responsibilities of such pond(s), as contemplated by Section 1 the Stormwater Declaration. Notwithstanding anything to the contrary in this Article VI, the Declarant agrees to pay the required fee (calculated as 20 percent of the total construction cost of any such detention pond(s)) into the City maintenance fund, and to comply with the other requirements to the City assuming functional maintenance responsibility, all as specifically set forth in Section 1 of the Stormwater Declaration. Upon the City accepting such functional maintenance responsibility, it is understood and agreed that the Association shall be responsible for fully complying with all non-functional maintenance responsibility (e.g. – grass cutting, trash removal, landscape maintenance), as specifically described in the Stormwater Declaration, as well as any and all other covenantor obligations as set forth therein.

Section 3. It is noted that the southwestern boundary of Stonegate, Section Three borders the northeastern boundary of property owned by the Cumberland County Board of Education (the "School Board"), which is the present site of Howard Hall Elementary School (the "School Property"). Except to the extent that the City of Fayetteville takes over all functional maintenance responsibility of the detention pond(s) (as referenced in Section 2 immediately above), it is understood and agreed that the Association shall be responsible for the maintenance and repair of all stormwater management facilities, including maintaining any general land areas and all items and components necessary within Stonegate, Section Three, to accommodate (1) stormwater flows from the School Property, as such may have been redirected through the "Storm Easement" to the west of Lot 272 (and as specifically identified on the Plat); and (2) natural stormwater flows from the School Property (it being noted that future surface water may run onto Stonegate, Section Three from the School Property that may not be captured by the storm water pipe located within the Storm Easement), and it is not intended that the School Board have any responsibility therefore. In addition, the Association shall be fully responsible for taking all necessary measures to stabilize all any and all land areas, including any steep banks, as may be located in the vicinity of the common boundary areas (of the School Property and Stonegate,

Section Three), as reasonably necessary. It is not intended that the School Board be responsible for any maintenance or repair to any lands, stormwater structures and/ or any other items within Stonegate, Section Three; and all such matters shall be the responsibility of the Association and/ or the Owners. Notwithstanding anything to the contrary herein, it is understood and agreed that if the School Board were to expand its facilities on the School Property, so as to cause additional stormwater flows from the School Property onto Stonegate, Section Three that exceed that which was contemplated by that certain prior letter agreement dated April 10, 2015 between the School Board and the Declarant, and which overburden the stormwater management facilities that were designed for Stonegate, Section III by Larry King & Associates (which were designed to allow for some School Board facility expansion), then the Association shall not be obligated to accommodate such excess stormwater flows, and may have the legal right to seek redress vis-à-vis the School Board, its successors and/ or assigns, as such facts may allow.

Section 4. For good and valuable consideration, the Association and all Owners, jointly and severally, agree to save, defend, keep harmless, and indemnify Declarant, its successors and assigns, of and from all loss, damage, costs, charge, liability or expense, including court costs, attorneys' fees, and other costs and expenses incident to any suit, investigation, claim, demand or proceeding, which are threatened against or suffered, sustained, incurred or required to be paid by Declarant as a result of the Association's failure to comply with the Stormwater Declaration. In addition, for good and valuable consideration, the Association and all Owners, jointly and severally, release Declarant, its successors and assigns, from any and all liability in any way related to the Stormwater Declaration and/ or the Common Area. The provisions set forth in this Section 3 of this Article VI may not be altered or rescinded without the express written consent of the Declarant.

ARTICLE VII  
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Every Owner shall be a Member of the Association. The Declarant acting through its designated officers, employees and agents shall be a Member of the Association. In the case of multiple ownership of any Lot, each Owner shall be a Member, subject to such limitations and fees established by the Declarant.

Section 2. The Association shall have one type of regular voting membership. Each Member shall be entitled to one (1) vote for each Lot which he/ she owns. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. If a residence is constructed on more than one Lot, the Owner shall have one vote for the residence, but shall have no additional vote for each other Lot comprising a part of the total consolidated home or building site so long as such Lot remains a part of the consolidated site.

Section 3. The Association shall be initially governed by a Board of Directors consisting of up to three (3) persons, with the number in subsequent years to be determined as provided for in the By-Laws of the Association. The Declarant shall have the right to appoint and remove all three (3) persons on the Board, or any lesser number in its discretion, and to appoint and remove all officers of the Association during the Period of Declarant Control.

Section 4. Each Member shall be entitled to as many votes as equals the number of votes he/ she is ordinarily entitled to multiplied by the number of Directors to be elected, but may not cast all of such votes for any one (1) Director and must distribute them among the number to be voted for, and all votes must be cast in whole numbers and not fractions thereof. It is the intent of this Section to prohibit cumulative voting.



ARTICLE VIII  
PROPERTY RIGHTS IN THE COMMON AREA

Subject to the provisions of this Declaration, the rules and regulations of the Association, and any fees or charges established by the Association, every Member and every tenant and guest of such Member shall have a right of easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title of every Lot. This appurtenant easement cannot be separated from or conveyed separately from fee simple title to the Lot. The privilege granted to guests and tenants of Members to use and enjoy the Common Area is subject to the following:

(a) the right of the Association, in accordance with its Bylaws or otherwise, to borrow money for the purpose of improving and/or maintaining the Common Area and providing services authorized herein and in aid thereof to mortgage said properties; and

(b) the special Declarant rights reserved herein.

ARTICLE IX  
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which are Common Expenses; (2) special assessments for extraordinary maintenance and capital improvements; and (3) to the appropriate governmental taxing authority, a pro rata share of assessments for public improvement to the Common Area if the Association shall default in payment thereof. The annual and special assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his/ her successors in title unless expressly assumed by them.

The Association shall also have the authority, through the board of directors to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this Declaration which breach shall require the expenditure of time and money or both, by the Association to repair or remedy.

Each Owner covenants, for himself, his/ her heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him/ her within ten (10) days of the due date as established by the board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. The assessments levied by the Association shall be used exclusively for the paying of Common Expenses and for the use and enjoyment of the Common Area, together with reasonable and prudent reserves, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Area, the providing for limited access to the property, the procurement and maintenance of insurance as deemed appropriate by the board or as required by statute, the employment of counsel, accountants and other professionals for the Association when necessary, any amounts required for the

Escrow Fund as required by the Maintenance Agreement (per Article VI, Section 9), and such other needs as may arise.

Section 3. The initial annual assessment for Common Expenses shall be \$250.00 annually based on the calendar year, such annual assessment for each Lot to commence upon the sale of each Lot upon which a newly constructed residence has been built. Any builder shall be exempt from the annual assessment until the first (1<sup>st</sup>) anniversary of the builder's purchase of any Lot (after which date such builder shall be responsible for payment of the annual assessment on a pro rata basis, until such time as the builder has sold the Lot to a homebuyer). In addition, all builders (and/ or any other buyer of any undeveloped Lot upon which a residence has not yet been constructed) shall be assessed a one time or initial start-up fee of \$250.00, which shall be collected upon the purchase of each undeveloped Lot. Any buyer of a Lot upon which a newly-constructed residence has already been built shall not be responsible for paying an initial start-up fee. The Association, acting by and through its board of directors, shall have the fiduciary discretion to adjust the annual assessment for Common Expenses on any annual (or more frequent) basis, as reasonably necessary; and shall have the authority to determine when such assessments shall be due and payable. The Declarant shall have no liability to the Owners or the Association if assessments are not collected during the Period of Declarant Control. Notwithstanding anything to the contrary herein, it is understood and agreed that the Declarant and/ or any building companies having common ownership with Declarant, shall be fully exempt from any and all assessment and/ or start-up fee requirements as set forth herein.

Section 4. Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date at the rate of eighteen (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his/ her Lot. The lien herein granted unto the Association shall be enforceable (and may be foreclosed) in accordance with Chapter 47F (or any other pertinent chapter) of the North Carolina General Statutes.

#### ARTICLE X INSURANCE REQUIREMENTS; COMMON AREA

The Association shall keep liability (and casualty insurance, as appropriate) on the Common Area in the Stonegate subdivision, in accordance with the minimum requirements of NCGS 47F-3-113 of the Planned Community Act, or other pertinent provision, as such may be amended. The Board of Directors of the Association shall have the right to purchase more insurance than the minimum so required, including additional coverage types or endorsements, in its fiduciary discretion.

#### ARTICLE IX PROTECTED WOODPECKER HABITAT; ADDITIONAL RESTRICTIONS

It is expressly noted that certain Common Area within the Stonegate subdivision is located within areas that have located in areas that have been defined as endangered habitat of the red-cockaded woodpecker ("Endangered Habitat"), said areas being specifically identified as "Cav. #2 (Tag 11264)", "Cav. #3 (Tag 11118)", and "Cav. #5 (Tag 11262), and "Cav. #6 (Tag 11263); as such, any land-disturbing or other activity within any such Endangered Habitat, to the extent allowed by this Declaration, shall be expressly subject to any published governmental regulation, now or in the future, that may apply to

such Endangered Habitat. It is noted that no portion of any Lot falls within such Endangered Habitat.

## ARTICLE XII GENERAL PROVISIONS

Section 1. So long as Declarant is an owner of a Lot shown on the plat, Declarant, or any Owner, or the Association (acting through its board) shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or by any Owner or by the Association (acting through its board) to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. This Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns. This Declaration may be amended by a written recorded instrument signed by Owners of Lots to which at least sixty-six percent (66%) of the votes in the Association have been allocated; however, during the Period of Declarant Control, the Owners may not amend the Declaration without the written consent of Declarant, as evidenced by the Declarant joining as a signatory to any such amendment. In addition, Declarant shall have the right to unilaterally amend this Declaration in a reasonable matter (taking into account the general the plan of development and not deviating therefrom), by a written recorded instrument during the Period of Declarant Control.

Section 3. In the event of any conflict between the provisions of this Declaration and any applicable provisions of the City of Fayetteville Ordinance, the provisions of the City of Fayetteville Ordinance shall control.

Section 4. It is understood and agreed that Declarant shall be responsible for all street maintenance and repair within the Stonegate subdivision until such time as NCDOT (or other governmental agency, as applicable) has formally agreed to accept maintenance responsibility therefore.

Section 5. Any city and/or county ad valorem taxes on the Common Area, if any, as well as city and/or county and/or PWC assessments for public and private capital improvements on the Common Area, if any, shall be the responsibility of and paid by the Association from the common expense assessment as described elsewhere herein.

Upon default by the Association in the payment of any ad valorem taxes levied against Common Area or assessments for public or private capital improvements, which continues for a period of six (6) months, then each Lot Owner shall become personally obligated to pay the tax or assessment to the assessing governmental authority, with each Owner's portion of such taxes or assessments to be determined by on a prorata basis, based on the total number of Lots, as may be equitably appropriate. If not paid by the Owner within thirty (30) days, said sum shall become a continuing lien upon any such Owner's Lot, and the taxing or assessing governmental authority may either bring an action at law against the Owner personally obligated to pay the same, or elect to foreclose the lien.

Section 7. No party wall or common wall (whereby adjacent Lot Owners would commonly own (and share) a wall along a common Lot boundary line) shall be allowed within the Stonegate subdivision.

Section 8. Subject to the terms contained in this Declaration which may lawfully deviate from the default terms contained in the North Carolina Planned Community Act (NCGS 47F et seq) (the "Act"), the Declarant hereby intends that the Stonegate subdivision be expressly subject to the terms of the Act, as such may be amended.

**[Signature Page Attached Hereto]**

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed by its authorized Manager as of the date set forth in the below notary acknowledgment.

DECLARANT:

CRA HOME BUILDERS, INC.

By: *George H. Armstrong*

Its: President

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

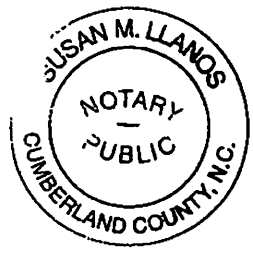
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated:  
George H. Armstrong, as President of CRA HOME BUILDERS, INC., a North Carolina corporation.

Date: June 10, 2015

Official Signature of Notary: *Susan M. Llanos*

Notary's Printed Name: Susan M. Llanos

My commission expires: August 21, 2015 [Affix Notary Seal or Stamp]



(N.P. SEAL)

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EXHIBIT A

[Attached Articles of Incorporation of Association]

[See pages that follow]