



22 August 2025

Dear Members of the Heritage Estates Property Owners Association,

This letter contains important information about proposed changes to our community's Restrictive Covenants that will require your consideration.

Please review the attached materials regarding the September 13 Annual Meeting. The minutes from last year's meeting and the 2026 proposed budget are also included. *If you cannot attend the annual meeting, the enclosed proxy forms can be used to designate a representative to deliver your votes on the budget and Board seat elections.*

Most importantly, we have included a draft of our restated and revised Restrictive Covenants. These revisions address multiple long-term legal problems with our current Covenants that could jeopardize our Association. We encourage you to review this document carefully and provide feedback at the annual meeting, or by attending remotely at an open Board meeting at 7 pm on Friday September 12<sup>th</sup>. Comments can also be submitted directly to the Board by email ([hepoa.nc@gmail.com](mailto:hepoa.nc@gmail.com)) or mail (302 River Sound, West Jefferson, NC 28694).

Background: In approximately 2019, the first of several legal consultations identified serious problems with our Covenants. Specifically, none of our past amendments to the original covenants were properly filed or approved by the members, as legally required. Furthermore, the original covenants, which remain the only valid ones, contain confusing and obsolete developer provisions that no longer apply. Other confusing clauses have caused us trouble over the years, and ambiguous language can create challenges.

We have two options: 1.) Adopt new covenants by obtaining notarized approvals from a 2/3 majority of all possible votes in the Association, or 2.) Pay legal counsel to petition a court to invalidate the improperly filed versions. Going through the courts has been estimated to cost over \$10,000 and still leave us with the outdated original covenants. Therefore, the Board recommends adopting new, professionally drafted covenants. The attached document was drafted for us by attorney Timothy Swanson of Young, Morphis, Bach & Taylor, LLP (Hickory).

Following input at the annual meeting and the Open Board meeting, we will finalize and distribute the document and begin collecting notarized approval signatures for each lot (see draft form on last page). This effort will continue until we either reach the required 2/3 majority or we have to pursue the more expensive legal option.

Your participation in this process is critical to protecting our community's future.

Sincerely,  
Duane Esarey  
HEPOA Board President, 2025