

BY-LAWS

OF

OCEAN CREST

PROPERTY

OWNERS

ASSOCIATION, INC.

INDEX
AMENDED AND RESTATED BYLAWS
OF
OCEANCREST PROPERTY OWNERS ASSOCIATION, INC.

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AMENDED AND RESTATED BYLAWS OF

OCEANCREST PROPERTY OWNERS ASSOCIATION, INC. INTRODUCTION

The Bylaws are the corporate operating charter of the Association. The fundamental assets and obligations of the Association are the Common Properties, the income from assessments, and the operating responsibilities of OCEANCREST PROPERTY OWNERS ASSOCIATION, INC. and its Members.

The Bylaws are a part of the contract entered into by the Lot Owners and other Members, with and for the benefit of all other Owners and other Members acting through the Association. This contract is automatically incorporated into the deed by the act of accepting ownership of a Lot. Therefore, the Bylaws are a part of the mandatory regime of the Association.

The Association is incorporated under the non-profit corporation law of the state of North Carolina and follows its corporation requirements. The Bylaws provide that the management of the Association is completely under the control of the Board of Directors. The Board provides or general guidance and policy and chooses the officers.

Note especially the fact that ARTICLE IX of these Bylaws provided for committees. The active participation of as many Members as possible is the best way to provide for a successful community. It also keeps costs down and the quality of amenities and programs up, by providing volunteer administrative assistance in attending to the myriad details of daily operation. Look over the list, volunteer for a committee and become a part, as well as a Member, of the OCEANCREST PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE XII covers Mortgages, and ARTICLE XIII covers Insurance. Generally, owners should obtain their own homeowner's policy covering their Lot, any improvements made by each Owner thereon and their personal contents. The Lot Owner's homeowner's policy then will dovetail into the Association's liability and casualty coverage which covers all Common Properties and any improvements constructed by the Association or the Developer (the Developer has no obligation to construct any improvement, other than paved roads or amenities).

OCEANCREST PROPERTY OWNERS ASSOCIATION, INC. will be similar to a small municipality. The assembling of people and their activities together requires a great deal of detailed organization to avoid conflicts. It is hoped that the system established by OCEANCREST PROPERTY OWNERS ASSOCIATION, INC. will minimize disruption and difficulties, to the end that OceanCrest with your disruption and difficulties, to the end that OceanCrest with your help and participation will become a fine and delightful place to live.

AMENDED AND RESTATE BYLAWS

OF
OCEANCREST PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I
NAME, SEAL AND OFFICES

SECTION 1. Name: The name of this corporation is OCEANCREST PROPERTY OWNERS ASSOCIATION, INC. ("the Association")

SECTION 2. Seal: The seal of the Association shall be circular in form and shall bear the words 'CORPORATE SEAL'. The Board of Directors may change the form of the seal or the inscription thereon at its pleasure.

SECTION 3. Offices: The principal office of the Association shall be at the Management Offices of OceanCrest Property Owners Association, INC. in Kitty Hawk, North Carolina, or at such other place as the board of directors may from time to time designate.

Article II
DEFINITIONS

SECTION 1. Plan of Ownership: The real property located in County of Dare, and State of North Carolina which is more particularly described in a certain Amended and Restated Declaration of Covenants Conditions and Restrictions, dated April 7, 1993 (the "Declaration") which will be submitted to the provisions of such Declaration by the Declarant, and which will be subdivided into Lots and Common Properties in accordance with the maps creating a system of ownership of the Lots and Dwelling Units to be located thereon by individual Owners, each Lot and Dwelling Unit having a nonexclusive easement of enjoyment over the Common Properties (except as may be limited in the Declaration or noted on any recorded plat of The Properties and, each Lot and Dwelling Unit being subject to a reciprocal obligation to, contribute assessments for the maintenance and operation of the Common Properties and certain exterior improvements on the Lots and Dwelling Units all in accord with the Declaration. The Plan of Ownership will be extended to additions to The Properties by the submission of any additional real property by supplemental Declarations of Covenants. Conditions and Restrictions in accordance with Article One of the Declaration.

SECTION 2. Applicability of Bylaws: The provisions of these Bylaws are applicable to The Properties and to the use and occupancy thereof.

SECTION 3. Personal Application: All present and future Lot Owners and Dwelling Unit Owners, Non-Owner Members, trust beneficiaries, mortgages, lessees, and occupants of the Lots or use any portion of The Properties in any manner are subject to these Bylaws, the Declaration and to the rules and regulations established by the Board of Directors as hereinafter set forth. The acceptance of a deed or conveyance, the joining of the Association as a Non-Owner Class C Member, or the entering into a lease or the act of occupancy of a Lot or Dwelling Unit shall constitute an agreement that these Bylaws, the Rules and Regulations, and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

SECTION 4. Other Definitions: The following words when used in the Declaration, any

amended or supplemental Declaration, or these Bylaws or any amendment hereto (unless the context shall require otherwise) shall have the following meaning (a) "Assessments or "assessments" or "Common Charges" shall mean and refer to the assessments and charges levied against the Owners of Lots and/or Dwelling Units in The Properties, as hereinafter defined, and as levied against Non-Owner Members, pursuant to Article Seven of the Declaration and Article X of these Bylaws; and the words assessments or Assessment shall be and mean the same thing as Common Charges, unless the context requires otherwise.

- (b) "Association" shall mean and refer to the OceanCrest Property Owners Association, Inc.; and "Bylaws" shall mean and refer to the "Bylaws" shall mean and refer to the Bylaws of the Association.
- (c) "Beach Access" shall mean that improved walkway between Lots 35 and 36 in the pedestrian easement as shown on the recorded plat of The Properties which is provided there as part of the Common Properties to provide walking access from OceanCrest Way to the ocean.
- (d) "Board" shall mean and refer to the Board of Directors of the OceanCrest of the OceanCrest Property Owners Association, Inc.
- (e) "Common Expense" shall mean and refer to:
 - i.) Expense of administration, maintenance, repair or replacement of the Common Properties.
 - ii.) Expense declared Common Expense by the provisions of the Declaration or these Bylaws.
 - iii.) Expense agreed upon as Common Expense by the Association and lawfully assessed against Members, in accordance with these Bylaws or the Declaration.
 - iv.) Any valid charge against the Association or against the Common Properties as a whole.
- (f) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties labeled as "Common Properties" or shown as Recreational Facilities, streets, roads or pedestrian walking easements (together with all improvements located thereon) and as such intended to be devoted to the common use and enjoyment of the Members, subject to special rights, if any, granted Owners of particular Lots or Dwelling Units, which are a part of The Properties.
- (g) The "Declarant" shall mean and refer collectively to Vivian Jenkins, Charles M. Jenkins, Jr. and Yolanda Jenkins, and any person or entity who is specifically assigned the rights and interests of Declarant hereunder.
- (h) The "Developer" shall mean and refer to Boddie Noell Enterprises, Inc.

(b/d/a Kitty Hawk Land Company).

- (i) “Dwelling Unit” shall mean and refer to any improved property intended for use and occupancy as one (1) single family dwelling, irrespective of the numbers of Owners thereof (or the form of ownership including any single family detached dwelling located within the Properties.
- (j) “Limited Common Properties” or “Limited Common Area” shall mean and refer to those areas of land (including without limitation any joint driveways) and improvements (including without limitation any common entrances to a Dwelling Unit) shown on or designated as Limited Common Properties or Limited Common Areas on any recorded subdivision map of The Properties or Limited Common Areas on the use of the Owners of particular Lots or Dwelling Units to the exclusion of other Owners. Any property so designated shall be for the exclusive use of the Owners of the Dwelling Units or the Lots so designated on the recorded plats.
- (k) “Limited Common Expense” shall mean and refer to the expense of administration, maintenance, repair or replacement of Limited Common Properties or Limited Common Area which shall be assessed against those Lots or Dwelling units having the exclusive or special rights in the use or enjoyment thereof.
- (l) “Living Area” shall mean and refer to those heated and/or air-conditioned areas within a Dwelling Unit which shall not include garages, carports, porches, patios, storage areas, breezeways, terraces, basements or playrooms.
- (m) “Lot” shall mean and refer to any unimproved parcel of land withing The Properties which is intended for use as a site for a single family detached dwelling shown upon any recorded subdivision map of any part of The Properties or Limited Common Properties. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved property, i.e., a Dwelling Unit.
- (n) “Member” shall mean and refer to all those Owners and Non-Owners who are Members of the Association as provided in Article Five, Section 1, of the Declaration.
- (o) “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or dwelling Unit situated upon The Properties, but not withstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has

acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

- (p) "Non-Owner" shall mean and refer to all those persons or entities who do not hold title to any of the Properties, but who are Members of the Association as provided for in Article Five, Sections 1 and 2(c) of the Declaration.
- (q) "The Properties" shall mean and refer to all the Existing Property and any additions thereto as are made subject to the Declaration by any supplemental Declaration under the provisions of Article One of the Declaration.
- (r) "Recreational Facilities" shall mean and refer to that area shown and designated as such on any recorded subdivision map of The Properties, and any improvements erected or to be erected upon such area.

ARTICLE III Membership

SECTION 1. Members. Every person who is a record Owner of a fee or undivided fee interest in any Lot or Dwelling Unit, as well as certain invited Non-Owners, shall be a Member of the Association pursuant to ARTICLE FIVE of the Declaration with the limitations and voting powers therein.

SECTION 2. Assessments. The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessments is imposed against each Member; and in the case of an Owner, such Assessments become a lien upon the property against which such assessments are made and the personal obligation of the then Member as provided by ARTICLE SEVEN of the Declaration pursuant to the terms therein.

SECTION 3. Suspension of Membership. The membership rights of any Member whose membership or interest in The Properties is subject to assessments under ARTICLE SEVEN of the Declaration, whether or not he is personally obligated to pay such assessments, may be suspended by action of the Board during the period when the assessments remain unpaid. In the case of an Owner Member, upon payment of such delinquent assessment, his rights and privileges shall be automatically restored. In the case of a Non-Owner Member, his rights may be forfeited permanently as allowed for in Article Ten, Section 2 of the Declaration. If the Directors have adopted and published rules and regulations governing the use of the common Properties as provided in Article XI, Section 3 herein, the Directors may, in their discretion, suspend the rights of any Member for violation of such rules and regulations for a period not to exceed thirty (30) days, in addition to levying the liquidated charges provided by ARTICLE XI, SECTION 4 herein.

ARTICLE IV
PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT OF COMMON
PROPERTIES

Section 1. Each Owner Member shall be entitled to the use and enjoyment of the Common Properties and facilities as may be provided by deed of submission and as set forth in ARTICLE SIX of the Declaration. Non-Owner Members shall be entitled only to the use and enjoyment of the Recreational Facilities and Beach Access.

Section 2. Any Member may share his particular rights of enjoyment in the Common Properties with the members of his family who reside his property with him, or delegate said rights to any of his tenants who reside thereon, under any leasehold interest or rental agreement. On request by the Association, such Owner shall notify the secretary of the Association in writing of the name of any such tenant together with a copy of said lease. The rights and privileges of such persons are subject to suspension under ARTICLE III, Section 3, herein, to the same extent as those of the Member.

ARTICLE V
PURPOSE AND POWERS

Association shall operate on a not-for-profit basis in accordance with its Articles of Incorporation. The Association will not provide pecuniary gain or profit, direct or indirect, to its Members. The purpose for which it is formed are:

SECTION 1. General: To promote the health, safety, and welfare of the Members of the Association and the residents within The Properties, and such additions thereto as may hereafter be brought within the jurisdiction of this Association by annexation as provided in ARTICLE ONE, Section 2, of the Declaration, and for this purpose to:

(a) Own, acquire, build, operate, and maintain any roads, utilities, Recreation Facilities, trails, parking lots, open space, pools, tennis courts, boardwalks, clubhouses, irrigation systems, landscaping, streets, footways, including building structures and personal properties incident thereto, any and all of which is hereinafter referred to as the "Common Properties; (b) provide exterior maintenance for the Lots and Dwelling Units within The Properties in order to maintain the character of The Properties for the mutual benefit of all the Members; (c) maintain unkempt land or trees; (d) supplement municipal services, (e) fix Assessment or Common Charges to be levies against the Members; (f) enforce any and all covenants, restrictions and agreements applicable to The Properties; (g) pay taxes, if any, on the Common Properties; (h) provide Recreational Facilities and services to its Members subject to the payment of fees therefore (limited to any extra burden imposed by specific requirements of individual users of the facilities) and (i) insofar as permitted by law, to do any other thing that, in the opinion of the Board of Directors, will promote the common benefit and enjoyment of the residents of The Properties and the Members.

SECTION 2. Dispose of Assets: To mortgage, pledge, hypothecate or otherwise grant any form of security interest in and to its properties or accounts, and/or to dispose of its assets, provided that upon dissolution, the assets shall be dedicated to an agency or utility to be devoted to purposes, as nearly as practicable, the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded covenants and deeds applicable to The Properties made in accordance with the provisions of such covenants and deeds.

SECTION 3. Addition to the Properties and Memberships. Additions to The Properties described in ARTICLE ONE of the Declaration may be made only in accordance with the provisions of the recorded covenants and restrictions applicable to The Properties. Such additions, when properly made in the applicable covenants, shall extend the jurisdiction, functions, duties and membership of this Association to such properties.

SECTION 4. Mergers and Consolidations: Subject to the provisions of the recorded covenants and restrictions applicable to the properties described in ARTICLE ONE of the Declaration, and to the extent permitted by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of the votes of the Members eligible to vote who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

SECTION 5. Mortgages: Other Indebtedness: The Association shall have the power to mortgage or grant deeds of trust (hereinafter referred to as "mortgages") on the Common Properties only to the extent authorized in this Section 5.

The total debts of the Association including the principal amount of such mortgages, outstanding at anytime, shall not exceed the total of two (2) years annual Assessments established at that time, provided that authority to exceed said maximum in any particular case may be given by an affirmative vote of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

SECTION 6. Dedication of Properties or Transfer of Function to Public Agency or Utility: The Association shall have power to dispose of the Common Properties only as authorized under the recorded covenants and restrictions applicable to said properties.

SECTION 7. Dissolution: The Association may be dissolved only with the assent given

in writing and signed by the Members entitled to case two-thirds (2/3) of the votes of the Members eligible to vote. Written notice of a proposal to dissolve, setting forth the reasons therefore and the disposition to be made of the assets (which shall be consonant with ARTICLE V, Section 8 hereof) shall be mailed to every Member and mortgagee at least ninety (90) days in advance of any action taken.

SECTION 8. Disposition of Assets Upon Dissolution: Upon dissolution of the Association, the assets, both real and personal of the Association, shall be dedicated to an appropriate public agency or association to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association.

ARTICLE VI MEMBERS

SECTION 1. Eligibility: Membership in the Association shall be in accordance with ARTICLE FIVE of the Declaration.

SECTION 2. Voting: Voting shall be in accordance with ARTICLE FIVE of the Declaration. A majority of the total votes cast at a meeting at which a quorum is present shall be binding upon all Members for all purposes except when a higher percentage is required by these Bylaws, the Declaration or by law.

SECTION 3. Votes in the Event of Multiple Ownership: In the event an OceanCrest Lot or Dwelling Unit, or a non-OceanCrest property to which a Class C membership is assigned, is owned by more than one person, if such persons cannot agree upon the exercise of their right to vote pursuant to these Bylaws, each person shall have a fractional vote based upon his fractional share of ownership of the property. A co-owner of a property may permit the other co-owner of the property to vote his interest by furnishing the other co-owner with a proxy. In absence of any co-owner, a vote for a whole property cast by a co-owner shall be held to be by valid proxy of the absent co-owner, unless challenged at the time the vote is cast.

SECTION 4. Annual Meetings: Annual meetings shall be held on the Saturday closest to the day on which the date Columbus Day is officially observed each year. At each annual meeting, there shall be elected by ballot of the Members, a Board of Directors in accordance with the provisions of ARTICLE VIII Section 1 herein, and Members may also transact such other business as may properly come before them.

SECTION 5. Place of Meetings: Meetings of the Members shall be held at the principal office of the Association or such other suitable place convenient to the Members as may be designated by the President of the Association.

SECTION 6. Special Meetings: It shall be the duty of the President to call a special meeting of the Members when so directed by resolution of the Board of Directors, or, upon petition signed by not less than 25% of the affrefate of Members. The notice of any

special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

SECTION 7. Notice of Meetings: It shall be the duty of the secretary to mail a notice of each annual or special meeting of the Members, at least ten (10) days but not more than fifty (50) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member as recorded on the records of the Association, at the last known address of the Member as shown in the records of the Association. The mailing of a notice of meeting in the manner provided in this section shall be considered service of notice.

SECTION 8. Waiver of Notice: Any Member may at any time waive notice of any meetings of the Members in writing, and such waiver shall be deemed equivalent to the giving of such notice. Presence by a member at the meeting will be considered a waiver of the right to such notice.

SECTION 9. Order of Business: The order of business at all meetings of the Members shall be, to the extent required, as follows:

- (a) Roll Call.
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of officers
- (e) Report of Board of Directors.
- (f) Report of Committees.
- (g) Election of members of the Board of Directors.
- (h) Unfinished business.
- (i) New Business
- (j) Adjournment

SECTION 10. Parliamentary procedure: At all meetings of the Members, or of the Board of Directors, Roberts' Rules of Order, as to such date amended, shall be followed, except in the event of conflict, these Bylaws or Declaration, as the case may be, shall prevail.

SECTION 11. Quorum: A majority of the Members present, in person or by proxy, shall constitute a quorum at any meeting of the Members.

Section 12. Proxies and Written Vote. Votes may be cast in person or by proxy. A Member may designate any person, who need not be a Member, to act as proxy. The designation of any such proxy shall be made in writing, signed by the Member, and shall be revocable at any time by written notice to the secretary by the Member designating the proxy. At any meeting the written vote (as to any particular matter to be voted on at any such meeting) of any Member shall be recognized and counted if such Member is not in attendance written vote is delivered to the secretary of the Association prior to or at such meeting.

ARTICLE VII
BOARD OF DIRECTORS

SECTION 1. Function, Number and Qualifications: The affairs of the Association shall be governed by a Board of Directors (not more than five (5) in number), who need not be Members of the Association. Unless the Members shall otherwise determine at a meeting duly noticed, the Board of Directors shall consist of three (3) directors who shall hold office until the election of their successors. Each of the initial directors shall have one (1) vote. Beginning with the first annual meeting to be held in October, year, and a director for a term of two (2) years, and a director for a term of three (3) years, and at each annual meeting thereafter, the Members shall elect one (1) director for a term of three (3) years.

SECTION 2. Powers and Duties: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things as are not by law or by the Bylaws directed to be exercised and done by the Members. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the Common Properties, and such duties with respect to the Lots or Dwelling Units as provided in the Declaration.
- (b) Determination of an annual budget and the Common Expenses required for the affairs of The Properties.
- (c) The establishment, levying, assessment and collection of the Assessments (Common Charges) from the Members.
- (d) The employment and dismissal of the personnel necessary for the maintenance, repair, replacement and operation of the Common Properties.
- (e) Opening of bank accounts in the name of the Association and designating the signatories required therefore.
- (f) Purchasing or leasing or otherwise acquiring in the name of the Association or its designee, corporate or otherwise, Lots or Dwelling Units offered for sale or lease, or surrendered by their Owners to the Board of Directors or to the Association.
- (g) Purchasing of Lots or Dwelling Units, including at foreclosure or other judicial sales in the name of the Association, or its designee, corporate or otherwise.
- (h) Selling, leasing, subleasing, encumbering, mortgaging, voting the votes

appurtenant to (other than for the election of members of the Board of Directors), or otherwise dealing with, Lots or Dwelling Units acquired by the Association or its designee, corporate or otherwise.

- (i) Organizing corporations to act as designees of the Association in acquiring title to or leasing Lots or Dwelling Units on behalf of all Members.
- (j) Granting of licenses over the Common Properties.
- (k) Obtaining and maintaining insurance on The Properties, and designating a commercial bank, insurance company or similar institution with trust powers as Trustee.
- (l) Making of repairs, additions and improvements to or alterations to and restoration of The Properties.
- (m) Leasing or otherwise acquiring the right to use, either exclusively or in common with others, recreational and other facilities for the benefit of Members.
- (n) Adopting and amending reasonable Rules and Regulations governing the conduct of all people on The Properties and the operation and use of The Properties. The Board shall have the power to levy liquidated damages against the Members for violation thereof or for violation of any provision of these Bylaws or the Declaration, for which any Member (or his guests or tenants) is responsible, provided that no such levy may be for more than \$5.00 for any one violation; but for each day violation continues after notice, it shall be considered a separate violation. Collection of damages may be enforced against the Member or Members responsible as if the damages were a Common Charge owed by the particular Member or Members.
- (o) The Board of Directors may also enforce, by any legal means, the provisions of the Declaration, the Bylaws, and the Rules and Regulations for the use of The Properties.
- (p) To appoint and remove at pleasure all members of the Architectural Control Committee (established pursuant to Section 1 of ARTICLE FOUR of the Declaration) and all officers, agents and employees of the Association, to prescribe their duties, to fix their compensation, and to require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever.

SECTION 3. Management: The Board of Directors may employ or enter into a contract or agreement with a Manager for The Properties, for a period of not more than twelve (12) months with the right of the Association to cancel such contract with thirty (30) day

notice for cause, at a compensation or consideration established by the Board to perform such duties and services as the Board shall authorize. The Board of Directors shall send all Members a copy of any such cancellation notice. The Board of Directors may authorize such Manager to perform the duties listed in subsections (a), (c), (d), (k), (l), and with respect to all but officer, (p) of Section 2 and other duties consistent therewith, but shall not delegate to the Manager the powers of the Board of Directors set forth in subsections (b), (e), (f), (g), (h), (i), (j), (m), (n), and (o) and with respect to officers, (p) of Section 2.

SECTION 4. Removal of Directors: At any time, at any regular or special meeting of the Members, any one or more of the members of the Board of Directors may be removed with cause by a majority of all of the Members following notice thereof in the call of the meeting and a successor or successors may then or thereafter be elected to fill the vacancy thus created.

SECTION 5. Vacancies: Vacancies on the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the members eligible to vote shall be filled by vote of a majority of the remaining directors at a regular or special meeting of the Board of Directors held promptly after the occurrence of any such vacancy, even though the directors present at such meeting shall constitute less than a quorum and each person so elected shall be a member of the Board of Directors for the remainder of the term of the director so replaced, and until his successor shall be duly elected.

SECTION 6. Organization Meeting: The first regular meeting of the Board of Directors following a meeting of the Members at which directors are elected, shall be held within ten (10) days thereafter at such time and place as shall be necessary to the members of the Board of Directors in order legally to constitute such a meeting, provided a quorum shall be present at such first regular meeting.

SECTION 7. Regular Meetings: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors. Notice of regular meeting of the Board of Directors shall be given by the secretary to each director personally or by mail or telecopy at least three (3) day prior to the day named for the meeting.

SECTION 8. Special Meetings: Special meetings of the Board of Directors may be called by the president of three (3) days' notice to each director, given personally or by mail or telecopy, which notice shall state the time, place and purpose of the meeting, Special meetings of the Board of Directors shall be called by the president or secretary in like manner and on like notice on the written request of at least two (2) directors.

SECTION 9. Waiver of Notice: Any director may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice, Attendance by a director at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all members of the

Board are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

SECTION 10. Quorum of Board of Directors: At all meetings of the Board of Directors, a majority of the directors being present shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present shall constitute the decision of the Board of Directors.

SECTION 11. Fidelity Bonds: The Board of Directors shall have the option, but not the obligation to obtain, to the extent reasonably available, for all officers, employees and agents of the Association handling or responsible for Association funds, a fidelity bond in the amount of 150% of anticipated fund to be held by such officers, employees and agents. The premiums on such bonds shall constitute a Common Expense.

SECTION 12. Compensation: No member of the Board of Directors shall receive any compensation from the Association for acting as a director.

SECTION 13. Liability of the Board of Directors: The directors shall not be liable to the Association or to the Members for any mistake of judgment, negligence, or except for their own individual willful misconduct or bad faith. The Association shall defend, indemnify and hold harmless, to the extent permitted by law, each of the directors against all liability arising out of their conduct on behalf of the Association, unless such conduct shall have been willful misconduct or in bad faith. It is intended that the directors shall have no personal liability with respect to any contract made by them on behalf of the Association (except as Members). It is also intended that the liability of any Member arising out of any contract made by the Association with respect to the Common Properties, or out of the aforesaid indemnity in favor of the Board of Directors, shall be limited to the Member's interest in the Common Properties.

SECTION 14. Fiscal Year: The Board of Directors shall establish a fiscal year.

SECTION 15. Fiscal Affairs: It shall be the duty of the Board of Directors:

- (a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such is requested in writing by one-fourth (1/4) of the membership.
- (b) To supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.
- (c) As more fully provided in ARTICLE SEVEN of the Declaration applicable to The Properties:
 - (1) To fix the amount of the assessment against each Member for each assessment period at least fifteen (15) days in advance of such date or period and, at the same time;

- (2) Cause to be prepared a roster of the Members and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any member or his designee, and, at the same time;
- (3) To cause to be sent written notice of each assessment to every Member subject thereto.
- (d) To issue, or to cause an appropriate officer to issue, upon demand by any qualified person a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

ARTICLE VIII

OFFICERS

SECTION 1. Designation: The principal officers of the Association shall be the president, the vice president, the secretary, and the treasurer, all of whom shall be elected by the Board of Directors. The president and the vice president shall be elected from among the members of the Board of Directors. The Board of Directors may elect a Treasurer, an Assistant Treasurer, a Secretary, an Assistant Secretary and such other officers as in its judgment may be necessary, who need not be Owners. Any person or officer or employee of a corporate, partnership or fiduciary Owner shall be eligible for such election.

SECTION 2. Election of Officers: The officers of the Association shall be elected annually by the Board of Directors and shall hold office at the pleasure of the Board.

SECTION 3. Removal of Officers: Upon the affirmative vote of a majority of Members of the Board of Directors, any officer may be removed, either with or without cause and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purposes.

SECTION 4. President: The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and of the Board of Directors. He shall have all the general powers and duties which are usually vested in the office of president of a corporation, organized under the laws of the State of North Carolina, including but not limited to the power to appoint committees from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

SECTION 5. Vice President: The vice president shall take the place of the president and perform his duties whenever the president shall be absent or unable to act. If neither the president nor the vice president is able to act, the Board of Directors shall appoint some

other member of the Board to act in the place of the president on an interim basis. The vice president shall also perform such other duties as shall, from time to time, be assigned to him by the Board of Directors or by the president.

SECTION 6. Secretary: The secretary shall keep the minutes of all meetings of the members and of the Board of Directors; he shall have charge of such books and papers as the Board of Directors and these Bylaws may direct; he shall give all notices required by the Bylaws unless otherwise provided; and he shall, in general, perform all the duties incident to the office of the secretary of a corporation organized under the laws of the State of North Carolina.

SECTION 7. Treasurer: The treasurer shall have responsibility for Association funds and securities, and shall cause the financial records and books of account in books belonging to the Association to be kept. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may from time to time be designated by the Board of Directors, and he shall, in general, perform all the duties incident to the office of treasurer of a corporation organized under the laws of the State of North Carolina.

SECTION 8. Signatories to Documents: All agreements, contracts, deeds, leases, checks and other documents of the Association shall be executed by any officer of the Association or by such other person or persons as may be designated by the Board of Directors. Vouchers for the payment of Association funds shall be approved by the treasurer before payment.

SECTION 9. Compensation of Officers: No officer shall receive any compensation from the Association for acting as such.

ARTICLE IX COMMITTEES

SECTION 1. The standing committees of the Association shall be: (i) the Nominations and Audit Committee, (ii) the Recreation and Maintenance Committee and (iii) the Architectural Control Committee.

Unless otherwise provided herein, each committee shall consist of a Chairman and two (2) or more members and shall include a member of the Board of Directors for the board contact. The committees may be appointed by the Board of Directors prior to each annual meeting to serve from the close of such meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting. The Board of Directors may appoint such other committees as it deems desirable. In the event the Committees are not so appointed, the Board of Directors shall perform the functions of the Committees.

SECTION 2. The Nominations and Audit Committee shall consist of at least three (3) persons and shall (a) make as many nominations for election to the Board of Directors as

it shall in its discretion determine, but not less than the number of vacancies that are to be filled, in advance of the time fixed for the annual meeting, and filled, in advance of the time fixed for the annual meeting, and (b) supervise the annual audit of the Association's books and approve the annual budget and balance sheet statement to be presented to the membership at its regular annual meeting as provided in ARTICLE VII, Section 15 and ARTICLE X, Section 1 herein. The treasurer shall be an ex-officio member of the Committee. The Committee shall also review the annual budget prior to submission by the Committee or the manager to the Board of Directors and recommend any changes or amendments it deems proper.

SECTION 3. The Recreation and Maintenance Committee shall advise the Board on all matters pertaining to (a) the recreational program and activities of the Association and shall perform such other functions as the Board, in its discretion, determines, and (b) the maintenance, repair or improvement of the Common Properties, and shall perform such other functions as the Board, in its discretion, determines.

SECTION 4. The Architectural Control Committee Shall advise the Board on all matters pertaining to (a) construction of improvements on any Lot constituting a portion of The Properties and (b) application and interpretation of architectural controls in accordance with ARTICLE FOUR of the Declaration.

SECTION 5. Duties: It shall be the additional duty of each committee to receive complaints from Members on any matter involving Association function, duties, and activities within its field of responsibility. It shall consider such complaints as it deems appropriate or refer them to the manager or such other committee, director or officer of the Association as is further concerned with the matter presented. Each committee shall present an annual report of its activities to the Board of Directors for inclusion in the Annual Report to be presented prior to the annual meeting.

ARTICLE X OPERATION OF THE PROPERTIES

SECTION 1. Determination of Common Expenses and Fixing of Common Charges: The Board of Directors shall, from time to time, and at least annually, prepare a budget for The Properties, determine the amount of the Common Charges payable by the Members to meet the Common Expenses and allocate and address such Common Charges among the Members according to their share as established by the Declaration. The Board of Directors shall advise all Members and to their mortgagees upon request. The Common Expenses shall include, among other things:

- (a) the cost of repairs and maintenance of the Common Properties and appurtenant interest and the cost of repairs and maintenance of other items stated to be the responsibility of the Association under the Declaration
- (b) all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of

ARTICLE VIII herein, and the fees and expenses, if any, of the Trustee, if any; provided, however, that as long as the Declarant is engaged in the construction or erection of improvement on the Common Properties, it shall pay the portion of insurance premiums allocable to builder's risk insurance (including liability coverage for construction operations and completed operations).

- (c) Such amounts as the Board of Directors may deem proper for the improvement and operation of The Properties, including for the improvement and operation of The Properties, including without limitation an amount for its working capital, a general necessary to make up any deficit the Common Expenses for any prior year;
- (d) Expenses incurred in leasing or otherwise acquiring the right to use either exclusively or in common with others, recreational or other facilities for the benefit of Members;
- (e) Such amounts as may be required for the purchase of lease by the Board of Directors, or its designee, corporate or otherwise, on behalf of all Members, of any Lot or Dwelling Unit whose Owner has elected to sell or lease such Lot or Dwelling Unit, or of any proceedings in lieu of foreclosure or which is to be sold at judicial sale;
- (f) Any other expense in connection with the Common Properties or their improvements which the Board of Directors deems to be of mutual benefit to the Owners or Members.

SECTION 2. Payment of Common Charges: All Members shall be obligated to pay the Common Charges assessed by the Board of Directors annually or at such other time or times as the Board of Directors shall determine. The Board may authorize Common Charges to be collected by a mortgagee of one or more Lots or Dwelling Units or by the Manager.

SECTION 3. No Waiver of Liability By Owners for Common Expenses: No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Lot or Dwelling Unit

SECTION 4. NON-Liability After Conveyance: No owner shall be liable for the payment of any part of the Common Charges assessed against the Lot or Dwelling Unit, but not in excess of the amount set forth in a statement provided under ARTICLE XII, Section 2 herein.

SECTION 6. Default in Payment of Common Charges: In the event of default by any Member in paying to the Association the Common Charges as determined by the Board of Directors, such Members shall be obligated to pay interest at the highest rate permitted by applicable law on such Common Charges from the due date thereof until collected,

together with all expenses, including attorneys' fees incurred by the Association in any proceeding brought to collect such unpaid charges. The Association shall attempt to recover such Common Charges, together with interest thereon and the expenses of the proceeding including such attorneys' fees, by an action to recover the same brought against such Member, or, in the event of an Owner Member, by foreclosure of the lien on the Owner Member's Lot or Dwelling Unit under powers granted by the Declaration or by law. The use of Recreational Facilities and Beach Access by any Member entitled to such use may be suspended by action of the Board of Directors during the period when Common Charges remain default.

SECTION 7. Foreclosure of Liens for Unpaid Common Charges: In any action brought by the Association to foreclose a lien on a Lot or Dwelling Unit because of any unpaid Common Charges, the Owner shall be required to pay reasonable rental for the use of his Lot or Dwelling Unit from the date of non-payment of Common Charges and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same.

The Association on behalf of all Members, shall have the power to purchase such Lot or Dwelling Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant thereto (other than for the election of members of the Board of Directors), convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosing or waiving the liens securing the same.

SECTION 8. Maintenance, Repair, and Replacement:

- (a) Common Properties: The Association shall maintain, repair and replace all improvements (including landscaping) located on the Common Properties or elsewhere as specifically required by the Declaration; and in the event that such maintenance, repair or replacement was caused by the negligence or misuse of an Member, such expense shall be charged to such Member.
- (b) Lot and Dwelling Units: Each Owner shall maintain, repair and replace, at his own expense, all portions of his Lot or Dwelling Unit, except any portions thereof to be maintained, repaired and replaced by the Association. Each Owner of a Lot or Dwelling Unit shall be responsible for damages to any other Lot or Dwelling Unit or to the Common Properties caused intentionally, negligently, or by his failure to properly maintain, repair, or make replacements to his Lot or Dwelling Unit.

SECTION 9. Additions, Alterations, or Improvements by Board of Directors: Whenever, in the judgment of the Board of Directors, the Common Properties shall require additions, alterations, or improvements costing more than seven thousand five Hundred (\$7,500.00) Dollars, which are not to be at the expense of an individual member for his own benefit, and the making of such additions, alterations, or improvements shall have been approved at an annual or special meeting of the Members

and, in the event such approval is to be binding on the holders of first mortgages against the Lots and Dwelling Units by the holders of first mortgages encumbering fifty-one percent (51%) of the Lots and Dwelling Units) subject to mortgages, the Board of Directors shall proceed with such additions, alteration or improvements costing Seven Thousand Five Hundred (\$7,500.00) Dollars or less may be made by the Board of Directors without further approval of the Members or any mortgagees of the Lots or Dwelling Units, and the costs thereof will constitute part of the Common Expenses.

SECTION 10. Additions, Alterations, or Improvements by Members: No Member, other than the Declarant, shall make any structural addition, alteration or improvement in or to any Dwelling Unit, Lot or Common Properties, nor shall he paint or otherwise decorate or change the appearance of any portion of the exterior of any Dwelling Unit, without prior written consent of the Architectural Control Committee or the Board of Directors pursuant to the Declaration, ARTICLE FOUR. Planting or landscaping of a Lot or Dwelling Unit in any individual style is exempt from such approval, provided natural, growing materials, which are not diseased, neglected, nor impinge on other Lots, Dwelling Units, or the Common Properties, are used in such landscaping. Any fabricated item extending above the surface of the earth shall be considered a structural addition. Paving materials are not. The Board of Directors or the Architectural Control Committee shall answer any written request for such approval within thirty (30) days after the receipt thereof, and failure to do so within such time shall constitute a consent by the Board of Directors and the Committee to the proposed addition, alterations, or improvement. The provisions of this Section shall not apply to any Lot or Dwelling Unit until such Lot or Dwelling Unit has been conveyed by the Declarant, and until the initial certificate of occupancy has been issued.

SECTION 11. Water and Sewer Charges: Each Owner shall be required to pay any water, gas and sewer charges pertaining to his Lot or Dwelling Unit. Such charges may be separately metered or may be determined in accordance with an engineering determination by the Board of Directors and billed in accordance therewith. The water and sewer services supplied to the Common Properties shall be billed separately and the Association shall pay such bills as a Common Expense.

SECTION 12. Electricity: Electricity shall be supplied by the public utility company servicing the area directly to each Lot or Dwelling Unit, through a separate meter, and each Owner shall be required to pay the charges for such meter, and each Owner shall be required to pay the charges for such meter. The electricity servicing the remaining Common Properties shall be metered separately, and the Association shall pay all charges for such service as a Common Expense.

SECTION 13. Right of Access: Each Owner shall grant a right of access to his Lot or Dwelling Unit to the manager, or any other person authorized by the Association or the manager, for the purpose of correcting any condition originating in his Lot or Dwelling Unit and threatening another Lot or Dwelling Unit or the Common Properties, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services on his Lot or Dwelling Unit, provided that requests for entry are made in

advance and that any such entry be at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be immediate, whether the owner is present at the time or not.

ARTICLE XI USE OF PROPERTIES

SECTION 1. Restrictions on the Use of The Properties: In order to provide for congenial occupancy of The Properties and for the protection of the values of the Lots and Dwelling Units, the use of The Properties shall be restricted to, and shall be in accordance with the following provisions:

- (a) The Dwelling Units shall be used for residential purposes only, except for home professional pursuits without employees or regular visits by the public, except as use is reserved to the Declarant for sales or administrative purposes.
- (b) Any garages shall be used for the storage of motor vehicles and other miscellaneous storage purposes. Such use shall be in a neat and clean manner consistent with their purpose as residential garages accessory to home ownership.
- (c) The common Properties shall be used only for the purposes for which they are intended.
- (d) No nuisances shall be allowed in the The Properties, nor any use of practice which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of The Properties by its residents.
- (e) No immoral, improper or offensive or unlawful use shall be made of The Properties or any part thereof, and all valid laws, zoning ordinances and regulations of all Government bodies having jurisdiction thereof shall be observed. Provisions of the law, orders, rules, regulations or requirements of any Governmental Properties shall be complied with, by and at the sole expense of the Owners or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of The Properties.
- (f) A portion less than a whole Lot or Dwelling Unit shall not be rented, and any lease must be in writing and all tenants shall be subject to all the provisions of these Bylaws, the Declaration, and any violation of any of these provisions shall constitute a default under the lease.
- (g) The Declarant may make such use of the unsold Lots or other Lots or Dwelling Units in which Declarant has an interest and Common Properties as may facilitate such completion and sale, including but not limited to maintenance of a sales office, the showing of The Properties and the display of signs.

SECTION 2. Restrictions on the Use of Common Properties: In order to provide for congenial occupancy of The Properties and for the protection of the values of the Lots and Dwelling Units, the use of the Common Properties shall be restricted to, and shall be in accordance with the following provisions:

- (a) Use of Common Properties shall be limited to that of the Members, tenants of Members and their guests, except as provided in ARTICLE TEN of Declaration.
- (b) For any period during which any assessed Common Charge remains unpaid or for any infraction of its published Rules and Regulations, the Board of Directors may suspend the Member's right to use the Recreational Facilities or the other Common Properties not necessary to give access to the highway for a period not to exceed thirty (30) days.
- (c) The Association may charge reasonable admission fees or other use charges for use of the Recreational Facilities and Beach Access or the other Common Properties which places additional burdens on the facilities or staff beyond that necessary for normal day to day activities, or which offer a unique facility limited to fewer than all members.
- (d) Individual Owners and staff of the Association may have the exclusive use of parking spaces and loading areas, as provided in the Rules and Regulations, and additionally, Class C Members are prohibited from using the beach area parking spaces near the Beach Access along Charles Jenkins Lane East near Lot 33.
- (e) The Declarant may establish, from time to time, until the last Lot is sold in The Properties, including any additions thereto, sales, construction, and marketing facilities on the Common Properties as a part of its program of development of The Properties, including any additions to The Properties. Such facilities shall be totally under the control of the Declarant.

SECTION 3. Rules and Regulations: Rules and regulations concerning the use of the Lots, the Dwelling Units and the Common Properties may be made and amended from time to time by the Board of Directors. Copies of such Rules and Regulations shall be furnished by the Board of Directors to each Member prior to the time the same shall become effective. The initial Rules and Regulations adopted or to be adopted by the Board of Directors shall be effective until amended by it.

SECTION 4. Abatement and Enjoyment of Violations by Members: The violation of any Rule or Regulation adopted by the Board of Directors, or the breach of any obligation contained in the Bylaws, or the breach of any obligation contained in the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth by these Bylaws.

- (a) To enter onto a Lot or Dwelling Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that exists therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or
- (b) To enjoin, abate or remedy the continuance of any such breach by appropriate equitable proceedings including mandatory injunction, there being no appropriate legal remedy, at the cost of the Member, including attorneys' fees.
- (c) If the Board of Directors has adopted and published Rules and Regulations, to suspend such use by any such person for violation of such Rules and Regulations, for the period during which the violation continues plus thirty (30) additional days.
- (d) To levy summary charges as liquidated damages against a Member for such violation, in addition to such damages as have actually been suffered, provided that no summary charges may be levied for more than \$5.00 for any one violation, but for each day a violation continues after notice, it shall be considered a separate violation. Collection of charges for damages or summary charges may be enforced against the Member or Members involved as if the charge were a Common Charge owed by the particular Member or Members.

ARTICLE XII MORTGAGES

SECTION 1. Notice to Association: An Owner who mortgages his Lot or Dwelling Unit of the mortgage fee shall notify the Association of the name and address of the mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Lots or Dwelling Units".

SECTION 2. Statement of Common Charges: The Association, whenever so requested in writing by a Member, a prospective Owner, a mortgagee, or by a prospective mortgagee, or by a prospective mortgagee of a Lot or Dwelling Unit, shall promptly report any then unpaid Common Charges due from, or any other default by, the then-Owner of the Lot or Dwelling Unit.

SECTION 3. Notice of Default: The Association, when giving notice to a Member of a default in paying Common Charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Lot or Dwelling Unit, if the name and address of such mortgagee has previously been furnished to the Association.

SECTION 4. Examination of Books: Each Member or mortgagee of a Lot or Dwelling

Unit shall be permitted to examine the books of account of the Association at a reasonable time on business days.

ARTICLE XIII INSURANCE

Section 1. Coverage: To the extent available, the Association shall obtain and maintain insurance coverage as set forth in SECTIONS 2, 3, and 4 hereof. All insurance affecting The Properties shall be governed by the provisions of this ARTICLE. Premiums of insurance obtained by the Association shall be a Common Expense.

SECTION 2. Physical Damage: All buildings and improvements (as defined in Subsection (d) hereof), and all of the personal property owned by the Association, shall be insured, for the benefit of the Association, the Members and Mortgagees as their interests may appear, against risk of physical damage as follows:

- (a) Amounts: As to real property, for an amount equal to not less than ONE HUNDRED (100%) percent of its replacement cost; as to personal property, for an amount equal to its actual cash value. Prior to obtaining any insurance on real property under this SECTION, and at least annually thereafter, the Board of Directors shall obtain an estimate from an insurance agent, or otherwise qualified person, for the purpose of determining the replacement cost of such real property.
- (b) Risks Insured Against: The insurance shall afford protection against loss or damage by reason of:
 - (1) Fire and other perils normally covered by extended coverage;
 - (2) Vandalism and malicious mischief;
 - (3) Such other risk of physical damage as from time to time may be customarily covered with respect to buildings and improvements similar in construction, location and use as those on the Common Properties, including, without limitation, builder's risk coverage for improvements under construction; and
 - (4) Such other risks of physical damage as from time to time deem appropriate.
- (c) Other Provisions: The insurance shall include, to the extent reasonably obtainable and without limitation, the following provisions:
 - (1) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association and the Members;

- (2) That the insurance shall not be affected or diminished by reason of any other insurance carried by any Member or Mortgagee;
 - (3) That the insurance shall not be affected or diminished by failure of any Member or any occupants or owners of any improvements to comply with any warranty or condition when such failure to comply is not within the control of this Association;
 - (4) Such deductible as to loss, but not co-insurance features, as the Board of Directors in its sole judgment deems prudent and economical;
 - (5) That the insurance may not be cancelled or substantially modified (except for the addition of property or increases in amount of coverage) without at least thirty (30) days prior written notice to the named insured;
 - (6) The standard mortgagee clause, except that any loss otherwise payable to named mortgagees shall be payable in the manner set forth in subsection (7) hereof;
 - (7) Proceeds for losses shall be payable to the Association or any Trustee designated by the Board of Directors; and
 - (8) The named insured shall be the Association for the benefit of the Members.
- (d) Definition: As used in this SECTION, the term "all buildings and improvements" shall include, without limitation, all Common Properties and personal property of the Association, and replacements thereof and may exclude building fixtures, of The Properties used and owned exclusively by an individual Owner and made or acquired at the expense of an individual Owner, after the conveyance of title by the Declarant to any such Owner, of that portion of The Properties.

SECTION 3. Liability Insurance: The Board of Directors shall obtain and maintain public liability insurance for bodily injury and property damage in such limits as the Board of Directors may from time to time determine, insuring the Association, the Board of Directors, the Manager (at the discretion of the Board of Directors), and each Member with respect to his liability arising from ownership, maintenance or repair of the Common Properties which is the responsibility of the Association including, without limitation, liability arising from construction operations. Such liability insurance shall also cover cross-liability claims among Members and the Association. The Board of Directors shall review such limits at least annually. The insurance provided under this SECTION shall include, to the extent reasonably obtainable and without limitation, the following provisions:

- (a) That the insurance shall not be affected or diminished by any act or neglect is not within the control of the Association;
- (b) That the insurance shall not be affected or diminished by failure of any Member or occupants of Owners of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Association.
- (c) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Association and the Members.

SECTION 4. Workmen's Compensation Insurance: The Board of Directors shall obtain and maintain Workmen's Compensation Insurance to meet the requirements of the laws of the State of North Carolina.

SECTION 5. Members' Hazard Insurance: Nothing herein contained shall require any Member to pay to the Association any amount for hazard insurance on any property owned by the individual Member.

Each Owner shall be responsible for his own individual hazard insurance coverage on his Lot or Dwelling Unit and all improvements and contents, except to the extent actually insured by any policies obtained by or through the Association for the benefit of individual Owners. However, each Owner shall be responsible for ascertaining whether or not the Association has obtained any such insurance for the benefit of individual Owners. The Association may require an Owner to exhibit his hazard insurance policy.

SECTION 6. Other Insurance: The Board of Directors is authorized to obtain and maintain such other insurance as it may, from time to time deem appropriate.

ARTICLE XIV DAMAGE TO OR DESTRUCTION OF PROPERTY

SECTION 1. Duty to Repair or Restore: Any portion of the Common Properties, damaged or destroyed, shall be repaired or restored promptly by the Association.

SECTION 2. Estimate of Cost: Promptly after damage to or destruction of the Common Properties, and thereafter as it deems advisable, the Board of Directors shall obtain reliable and detailed estimates of the cost of repair or restoration. If such cost in the opinion of the Board of Directors may exceed \$5,000.00, the Board of Directors may retain the services of an architect to assist in the determination of such estimates and in the supervision of repair and restoration.

SECTION 3. Collection of Construction Funds: Construction funds may consist of insurance proceeds, condemnation awards, proceeds of assessments against Owners and other funds received on account of or arising out of injury or damage to the Common

Properties.

(a) Insurance Proceeds: The Board of Directors shall adjust losses under physical damage insurance policies of the Association. Such losses shall be payable in accordance with ARTICLE XIII, SECTION 2 (c) (7) herein.

(b) Condemnation Awards: Any condemnation awards with respect to the Common Properties shall be payable to the Association.

(c) Assessments against Members: If the insurance proceeds and condemnation awards are insufficient to effect the necessary repair or restoration of the Common Properties, such deficiency shall be charged against all Members as a Common Expense, except that Class C Members will so be charged only to the extent that the deficiency shall be caused by and charged against the Recreational Facilities or Beach Access. The proceeds of assessments for such Common Expense shall be paid to the Association or any Trustee appointed by the Board of Directors.

(d) Payments by Others: Any other funds received on account of or arising out of injury or damage to the Common Properties shall be paid to the Board of Directors.

SECTION 4. Plans and Specifications: Any repair or restoration must be wither substantially in accordance with the architectural and engineering plans and specifications for the original improvements or according to plans and specifications approved by the Board of Directors.

SECTION 5. Lots and Dwelling Units: Repairs or restoration of damage or destruction to a Lot or Dwelling Unit or any other improvement on a Lot shall be at the Owner's expense, but the Association, to the extent it has actually obtained policies insuring the interest of an Owner with respect to his Dwelling Unit or any related Limited Common Properties, shall make any insurance proceeds from any such policies obtained by the Association available to the Owner for repairs or restoration.

SECTION 6. Disbursement of Construction Funds: Any Trustee appointed by the Board of Directors shall deduct from the construction funds its actual costs, expenses and a reasonable fee for the performance of its duties, and such Trustee, or the Association if no Trustee is appointed, shall disburse the balance in the following manner:

(a) Payment of Repair or Restoration: Any Trustee or the Association shall apply such balance to pay directly, and to reimburse the Association for the payment for, the costs of repair or restoration of the Common Properties including the cost of temporary repairs for the protection of the Common Properties pending the completion of permanent repairs and restoration.

(b) Surplus Funds: If, after payment of all repairs and restoration, there remains any surplus fund, such fund shall be paid to Members in proportion to the

contributions resulting from assessments levied against them pursuant to SECTION 3 (c) of this ARTICLE; provided, however, that no Member shall receive a sum greater than that actually contributed by him. Any surplus remaining after such payments shall be paid to the Association and shall become part of its replacement reserve.

- (c) Determination Not to Repair or Restore: If there is substantially total destruction, as determined by the Board of Directors, of all of the improvements on the Common Properties, and three-fourths (3/4) of the Members vote not to proceed with repair or restoration, any balance of construction funds shall be paid to the Association and placed in a reserve for capital improvements on the Common Properties. In the event of dispute as to the fact of substantially total destruction, that issue shall be submitted to Arbitration Association and in accordance with North Carolina law.

SECTION 7. Trustee: The Board of Directors may, but is not required to enter into and keep in force a trust agreement with a bank in the State of North Carolina with trust powers to receive, administer, and disburse funds pursuant to ARTICLE XIV herein. Any such trust agreement shall incorporate the Declaration and Bylaws by reference and shall provide that upon termination thereof, all monies or funds held by the Trustee shall be turned over only to a successor trustee which shall also be a bank in the State of North Carolina with trust powers. No amendment of the declaration or of these Bylaws affecting ARTICLE XIII or this ARTICLE XIV shall be binding on the Trustee until the trustee receives notice of such amendment.

ARTICLE XV RECORDS

SECTION 1. Records: The Association shall keep detailed records of the actions of the Board of Directors and the manager, minutes of the meetings of the Board of Directors, minutes of the meetings of the Owners (Members), names of the Members and Mortgagees, and financial records and books of account for The Properties, including chronological listing of receipts and expenditures, as well as a separate account for each Member, which, among other things, shall contain the amount of each assessment of Common Charges against each Member, the date when due, the amount paid thereon, and the balance remaining unpaid. Unless the Member notifies the Association of change in ownership, the Association may rely on the names of Members appearing on the municipal tax assessor's list as of the last municipal assessment date.

SECTION 2. Statement: A written report and statement summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Members at least annually.

SECTION 3. Annual Report: In addition to the annual statement referred to above, an Annual Report of the receipts and expenditures of the Association, prepared but not necessarily audited by an independent certified public accountant, shall be rendered by

the Board of Directors to all Members and to all Mortgagees of Lots and Dwelling Units whose names appear in the book entitled "Mortgagees of Lots and Dwelling Units" and who make written request to the Association, promptly after the end of each fiscal year.

SECTION 4. Examination of Records: Each Member and Mortgagee shall be permitted to examine the books of account of the Association at reasonable times on business days, but not more than once a quarter.

ARTICLE XVI PROXIES

SECTION 1. At all corporate meetings of Members, each Member may vote in person or by proxy.

SECTION 2. All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by a Member of his Lot or Dwelling Unit in The Properties, or upon sale of his non-OceanCrest property to which a Class C Membership has been assigned.

ARTICLE XVII MISCELLANEOUS

SECTION 1. Notices: All notices hereunder shall be sent by mail to the Association at its office, in Kitty Hawk, North Carolina; to Members at such address as may have been designated by such Member from time to time in writing to the Association; to Mortgagees at their addresses as designated by them from time to time in writing to the Association. All notices from or to the Association shall be deemed to have been given when mailed, except notice of changes of address which shall be deemed to have been given when received.

SECTION 2. Captions: The Captions herein are inserted as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provisions thereof.

SECTION 3. Gender: The use of the masculine or neuter gender in these Bylaws shall be deemed to include the feminine gender, the use of singular shall be deemed to include the plural, when the context so requires.

SECTION 4. Tort Liability: Each Member shall be deemed to have released and exonerated each other Member and the Association, and the Association shall be deemed to have released and exonerated each Member, from any tort liability other than that based on fraud or criminal acts to the extent which such liability is satisfied by the proceeds of liability insurance carried by a Member or by the Association.

ARTICLE XVIII
INVALIDITY, CONFLICT AND WAIVER

SECTION 1. Invalidity: The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of the Bylaws.

SECTION 2. Conflict: These Bylaws are set forth to comply with the requirements of the North Carolina Non-Profit Corporation Act (the "Act"), the Articles of Incorporation and the Declaration. In the event of any conflict between these Bylaws and the provisions of the Act, or of the Declaration, or of the Articles of Incorporation, such provisions shall control in the following order: (i) the Act, (ii) the Declaration, (iii) the Articles of Incorporation and (iv) these Bylaws.

SECTION 3. Waiver: No restriction, condition, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

ARTICLE XIX
AMENDMENTS TO BYLAWS

SECTION 1. Method of Amendment: These Bylaws may be altered, amended or added to, as allowed for in Article Nine of the Declaration, at any duly called meeting of the Members, provided:

- (a) that the notice of the meeting shall contain a substantial statement of the proposed amendment;
- (b) that the amendment, in order to be binding upon all holders of mortgages or deeds of trust against a Lot or Dwelling Unit in The Properties, be approved in writing by the holders of mortgages or deeds of trust on not less than fifty-one (51%) percent, in the aggregate, of the Lots and Dwelling Units subject to mortgages or deeds of trust;
- (c) that the amendment be approved by the Board of Directors of the Association, and
- (d) that said amendment shall be fully consistent in a duly recorded amendment to the Declaration executed by the President and Secretary of the Association; however, no amendment to the Declaration, or the recordation thereof, shall be necessary unless such amendment to these Bylaws created an inconsistency with the Declaration.

SECTION 2. Effect of Amendments upon Encumbrances: No amendment or modification of the Bylaws will affect or impair the validity or modification of the Bylaws will affect or impair the validity or priority of any mortgage or deed of trust encumbering any Lot or Dwelling Unit, nor the validity or priority of any other proper lien.

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OCEANCREST SUBDIVISION, DUCK VILLAGE
SECTIONS A, B AND C
ATLANTIC TOWNSHIP, DARE COUNTY, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF DARE

KNOW ALL MEN BY THESE PRESENTS, that this amended and restated Declaration of Covenants, Conditions and Restrictions (the "Declaration"), is made and entered into on this 7th day of April, A.D., 1993, by VIVIAN JENKINS (widow), YOLANDA JENKINS (single) and CHARLES M. JENKINS, JR. (single) acting by and through his Attorney-in-Fact (hereinafter referred to collectively as the "Declarant") and OCEANCREST PROPERTY OWNERS ASSOCIATION, INC. (the "Association").

WITNESSETH:

WHEREAS, the Declarant and the Association, pursuant to and in accordance with that certain Declaration of Covenants, Conditions and Restrictions dated July 15, 1992 and recorded in Book 820, at page 141, et seq. Of the Dare County Registry, as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions dated December 12, 1992 and recorded in Book 839, at page 355, Dare County Registry (herein referred to collectively as the "Former Declaration"), desire to and do hereby amend and restate the Former Declaration and pursuant to such amendment restate hereby declare that the real property described in Article One hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the terms and provisions of the covenants, conditions, restrictions, charges and liens of this Declaration, all as hereinafter set forth.

NOW, THEREFORE, in accordance with the provisions of Article Nine of the Former Declaration, the Association and Declarant do hereby amend and restate the Former Declaration, effective as of the date of the recording of this Declaration, as follow:

ARTICLE ONE
PROPERTY SUBJECT TO THIS DECLARATION

OCEAN CREST

PROPERTY OWNERS ASSOCIATION

1. DECLARATION OF
CONVENANTS
2. BY-LAWS
3. RULES AND
REGULATIONS

OCEAN CREST DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OCEANCREST SUBDIVISION, DUCK VILLAGE
SECTIONS A, B, AND C
ATLANTIC TOWNSHIP, DARE COUNTY, NORTH CAROLINA

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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OCEANCREST SUBDIVISION, DUCK VILLAGES
SECTIONS A, B AND C
ATLANTIC TOWNSHIP, DARE COUNTY, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF DARE

KNOW ALL MEN BY THESE PRESENTS, that this Amended and Restated Declaration of Covenants, Conditions and Restrictions (the "Declaration"), is made and entered into on this 7th day of April, A.D., 1993, by VIVIAN JENKINS (widow), YOLANDA JENKINS (single) and CHARLES M. JENKINS, JR. (single) acting by and through his Attorney-in-Fact (hereinafter referred to collectively as the "Declarant"); and OCEANCREST PROPERTY OWNERS ASSOCIATION, INC. (the "Association").

WITNESSETH:

WHEREAS, the Declarant and the Association, pursuant to and in accordance with that certain Declaration of Covenants, Conditions and Restrictions dated July 15, 1992, and recorded in Book 820, at page 141, et seq. of the Dare County Registry, as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions dated December 12, 1992 and recorded in Book 839, at page 355, Dare County Registry (herein referred to collectively as the "Former Declaration"), desire to and do hereby amend and restate the Former Declaration and pursuant to each amendment and restatement hereby declare that the real property described in Article One hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the terms and provisions of the covenants, conditions, restrictions, charges and liens of this Declaration, all as hereinafter set forth.

NOW, THEREFORE, in accordance with the provisions of Article Nine of the Former Declaration, the Association and Declarant do hereby amend and restate the Former Declaration, effective as of the date of the recording of this Declaration, as follows:

ARTICLE ONE
PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration (the "Existing Property") is located in Dare County, North Carolina, and is more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by reference.

Section 2. Additions to Existing Property. Real property in addition to the Existing Property may hereafter become subject to this Declaration in the following manner:

(a) Additions in Accordance with a Master Plan of Development. The Declarant, its successors and assigns, shall have the right but not the obligation, without the further consent of the Association, to bring within the scheme and operation of this Declaration, additional properties

The additions authorized under this and the succeeding subsection shall be made by filing of record in the Dare County Register of Deeds Office one or more supplementary Declaration of Covenants, Conditions and Restrictions with respect to each additional property or properties which shall extend the operation and effect of this Declaration to such additional property or properties.

Any Supplemental Declaration(s) may contain each complementary addition and modifications of this Declaration as may be necessary or convenient, in the judgment of the Declarant, to reflect and adapt to any difference in character of the added properties, and as are not inconsistent with the scheme of this Declaration. In no event, however, shall any such supplementary Declaration revoke, modify, or add to the covenants and restrictions established by this Declaration so as to affect the Existing Property; however, this provision shall not be interpreted to prohibit or prevent any increase in the "assessments" (as hereinafter defined) payable by a Member of the Association by reason of any such additions.

(b) Other Additions. Upon approval in writing of the Association, pursuant to authorization of two-thirds of the vote of all of all Members, voting as provided in Article Five of Section 2 hereof, the owner of any property who desires to add such property to the scheme of this Declaration and subject such property to the jurisdiction of the Association must file of record a Supplemental Declaration of Covenants, Conditions and Restrictions as described in subsection (a) above.

(c) Mergers, Combinations or Consolidations. Upon merger, combination or consolidation of the Association with another association, the properties, rights and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights, and obligations of another association may, by operation of law; be added to The Properties of the Association as a surviving corporation pursuant to a merger, combination or consolidation. The surviving or consolidated association may administer the Covenants, Conditions and Restrictions established by this Declaration within the Existing Property, together with the covenants and restrictions established upon any other

properties is one scheme. No such merger, combination or consolidation, however, shall effect any revocation or change of, or addition to, the Covenants, Conditions and Restrictions established by this Declaration within the Existing Property, except as herein provided.

ARTICLE TWO DEFINITIONS

The following words when used in this Declaration or any amended or supplemental Declaration (unless the context shall require otherwise) shall have the following meanings:

(a) "Assessments" or "assessments" or "Common Charges" shall mean and refer to the assessments and charges levied by the Association against Members who are the Owners of Lots or Dwelling Units in The Properties, as well as other Members, as hereinafter defined and pursuant to Article Seven of the Declaration and Article X of the Bylaws and the words assessments or Assessments shall have the same meaning as Common Charges, unless the context requires otherwise.

(b) "Association" shall mean and refer to the OceanCrest Property Owners Association, Inc. and "Bylaws" shall mean and refer to the Bylaws of the Association.

(c) "Beach Access" shall mean that improved walkway between Lots 35 and 36 in the pedestrian easement as shown on the recorded plat of The Properties which is provided there as part of the Common Properties for walking access to the ocean from Oceancrest Way.

(d) "Board" shall mean and refer to the Board of Directors of the Association.

(e) "Common Expenses" shall mean and refer to:

(i) Expenses of administration, maintenance, repair or Replacement of the Common Properties.

(ii) Expense declared Common Expense by the provisions of this Declaration or the Bylaws.

(iii) Expense agreed upon as Common Expense by the Association and lawfully assessed against Members who are owners of Lots or Dwelling Units, as well as other Members, in accordance with the Bylaws or this Declaration.

(iv) Any valid charge against the Association or against the Common Properties as a whole.

(f) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties (or any other real property described or referred to in any declaration of covenants, conditions and restrictions to which The Properties are submitted or subjected) labeled as "Common Properties" or shown as Recreational Facilities, streets, roads or pedestrian walking easements (together with all improvements located thereon) which are a part of The Properties, and as such intended to be devoted to the common use and enjoyment of the Members, subject to special rights and limitations, if any, granted to or imposed on Owners of particular Lots or Dwelling Units and/or Non-Owners.

(g) The "Declarant" shall mean and refer collectively to VIVIAN JENKINS, YOLANDA JENKINS and CHARLES M. JENKINS, JR. and any person or entity who is specifically assigned the rights and interests of Declarant hereunder.

(h) "Dwelling Unit" shall mean and refer to any improved property intended for use and occupancy as one (1) single family dwelling, irrespective of the numbers of Owners thereof (or the form of ownership) including any single family detached dwelling located within The Properties.

(i) "Limited Common Properties" or "Limited Common Areas" shall mean and refer to those areas of land (Including without limitation any joint driveways) and improvements (Including without limitation any common entrances to a Dwelling Unit) shown on or designated as Limited Common Properties or Limited Common Areas on any recorded subdivision map of The Properties, and intended for the use of the Owners of particular lots or Dwelling Units to the exclusion of other Owners and other Members. Any property so designated shall be for the exclusive use of the Owners of the Dwelling Units or the Lots so designated on the recorded plats.

(j). "Limited Common Expense" shall mean and refer to expense of administration, maintenance, repair or replacement of Limited Common Properties or Limited Common Area; which shall be assessed against those Lots or Dwelling Units having the exclusive or special rights in the use or enjoyment thereof.

(k) "Living Area" shall mean and refer to those heated and/or air-conditioned areas within a Dwelling Unit which shall not include garages, carports, porches, patios, storage areas, breezeways, terraces, basements or playrooms.

(l) "Lot" shall mean and refer to any unimproved parcel of land within the properties which is intended for use as a site for a single family detached dwelling, as shown upon any recorded subdivision map of any part of The Properties, with the exception of Common Properties or Limited Common Properties a parcel of land shall be deemed to be unimproved until the improvements being Constructed thereon are sufficiently complete to be subject to assessment as improved property, i.e., a Dwelling Unit.

improved property, i.e., a Dwelling Unit.

(m) "Member" shall mean and refer to all those Owners and Non-Owners who are Members of the Association as provided in Article Five, Section 1, of the Declaration .

(n) "Owner" shall mean and refer to the record owner, whether one or more person or entities , of the fee simple title to any Lot or Dwelling Unit situated upon The Properties , but not withstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(o) "Non-Owner" shall mean and refer to all those persons or entities who do not hold title to any of The Properties but who are Members of the Association, as provided for in Article Five, Sections 1 and 2 (c) of this Declaration.

(p) "The Properties " shall mean and refer to all the Existing Property and any additions thereto as are made subject to this declaration by any Supplemental Declaration under the provisions of Article One of this Declaration.

(q) "Recreational Facilities" shall mean and refer to the areas(s) if any, shown and designated as such on any recorded subdivision map of The Properties, and any improvements erected or to be erected upon any such area (s) .

ARTICLE THREE GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with the land, and shall inure to the benefit of, and be enforceable by, the Association or any Owner, its and their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by two-thirds (2/3) of the Members of the Association has been recorded, agreeing to change said covenants and restrictions in whole or in part ; provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Member at Least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any Member or Owner, under the provisions of this Declaration, shall be deemed to have been properly sent when mailed, postpaid, Certified Mail – Return Receipt Requested, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. Notice to any one of the Owners, if title to a Lot of Dwelling Unit is held by more than one, shall constitute notice to all Owners of a Lot or Dwelling Unit.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by an appropriate civil proceeding against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or both, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants and restrictions by judgment or court, order shall in no way affect any other provision which shall remain in full force and effect.

ARTICLE FOUR ARCHITECTURAL CONTROL AND RESTRICTIONS ON USE AND RIGHTS OF THE ASSOCIATION, DECLARANT AND OWNERS

Section 1. Architectural Control.

(a) Purposed. The Declarant desires to provide for the preservation of the values in The Properties with respect to any Dwelling Unit to be constructed on any Lot constituting a portion of The Properties, and to that end, desires to establish an Architectural Control Committee in order to provide and maintain certain standards as to harmony of external design and location in relation to surrounding structures and topography.

(b) Architectural Control. Unless expressly authorized in writing by the Architectural Control Committee (the "Committee") no Dwelling Unit, fence, wall, driveway or other structure nor any exterior addition or alteration to any existing Dwelling Unit, nor any clearing or site work shall be commenced, erected or maintained upon The Properties, until plans and specifications therefore showing the shape, dimensions, materials, basic exterior finishes and colors, location on site, driveway, parking, well, septic tank and drain field, floor plan and elevations therefore (all of which is hereinafter referred to as the "Plans"), shall have been submitted in duplicate to and approved in writing, as to harmony of external design and location in relation to any surrounding structure and topography, by the Committee. The Committee shall have the absolute and exclusive right to refuse to approve any such plans and specifications which are not suitable or desirable in the opinion of the Committee for any reason, including purely aesthetic reasons which in the sole and uncontrolled discretion of the Committee shall be deemed sufficient; provided that the Committee shall not refuse to approve any plans and specifications which are substantially similar to any other plans and specifications which previously have been approved for any Dwelling Unit. In no event will the committee approve any plane in which the Dwelling Unit at the highest point on the roof exceeds 35 feet in height, measured from the finished grade or original grade, whichever grade is lower. In no event shall the Committee, in the exercise of its

discretion, approve the location of a Dwelling Unit or garage within 25 feet of the front line of any Lot, within 10 feet of the aide lines of any Lot and within 20 feet of the rear line of any Lot.

(c) Architectural Control Committee.

(i) Membership. The Committee shall be composed of three (3) persons, who need not be Members of the Association, appointed by the Board. A majority of the Committee may designate a representative to act for it. In the event of death, resignation, or removal by the Board of any member of the Committee, the Board shall have full authority to designate a successor. Unless otherwise approved by the Association, neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The Association shall keep, or cause to be kept, a list of the names and addresses of the persona who form the committee and a list of the names and addresses of any designated representatives of the Committee, and such a list shall be available to any owner.

(ii) procedure. At least thirty (30) days prior to the commencement of any construction, the Plans shall be submitted to the Committee. The Committee's approval, disapproval or waiver as required in these covenants shall be in writing, and the decisions of a majority of the Committee, in case of any disagreement among the Committee members, as to the approval, disapproval or waiver by the Committee, shall be controlling. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after Plans have been received by it, whether before or after construction has commenced, approval by the Committee will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with; furthermore, in the event any construction is commenced on any Lot without submission to the Committee of the Plans with respect thereto and no action or suit is instituted against the Owner of such Lot by the Association, or any Owner of any other Lot constituting a portion of The Properties, within ninety (90) days after the foundation of any Dwelling Unit being constructed on any such Lot is completed, then and in any such event approval by the Committee will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with.

(iii) Application of this Article. This Article Four shall apply to any additions to The Existing Property subsequently made subject to this Declaration and the terms and provisions of any supplemental or amended Declaration.

Section 2. Restrictions on Use and Rights of the Association, Declarant and Owners; Prohibition Against Time Sharing or Other Devises.

(a) Permissible Uses. No Lot shall be used except for residential purposes

(with the exception of any sales center constructed by the Declarant), and no building of any type shall be erected, altered, placed, or permitted to remain on any Lot other than a Dwelling Unit, which shall comply with any applicable zoning regulations. When construction of any Dwelling Unit, structure, improvement, or addition thereto has once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof.

(b) Division of Lots. No Lot shall be further divided, except that any two Owners may divide a Lot between them if such Lot is adjacent to the Lots owned by each Owner and provided further that only one Dwelling Unit may be constructed on the Lot as subdivided and combined.

No unit of ownership or ownerships interest may be subdivided to permit "Time Sharing or other "devices" to effect interval ownership unless approved by the Association subject to conditions which may be imposed by the Association. For purposes of this section "Time Sharing" or other "devices" to effect interval ownership shall include but not be limited to ownership arrangements, including uses of corporations, trusts, partnerships or tenancies in common, in which four or more persons not members of a single household have acquired, by means other than will, descent, inheritance or operation of law, an ownership interest (directly or indirectly, equitable or legal) in the same Dwelling Unit and each owners have a formal or informal right-to-use or similar agreement.

(c) Utilities and Easements. All utility lines of every type, including but not limited to water, electricity, telephone, sewage and television cables, running from the main trunk line or service location to any Dwelling Unit must be underground. The Declarant reserves unto itself, its successors and assigns, a perpetual alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric and telephone systems, wires, cable, and conduit for the purpose of bringing public service to The Properties on, in, under and over (i) the streets or roads as shown on any recorded plat of The Properties, (ii) within twenty (20) feet of each Lot line fronting on a street and within ten (10) feet along the side lines of each lot, and (iii) within twenty (20) feet along the rear line of each Lot, and such other areas as are so identified on any recorded plate of The Properties; provided further, that the Association may cut, at its own expense, drain ways for surface water and/or install underground storm drainage, wherever and whenever much action is required by applicable health, sanitation or other state or local authorities in order to maintain reasonable standards of health, safety and appearance. In the event of any additions to The Properties, as provided in Article One, by the Declarant or others, the easements created hereby shall exist on the Lots in such additions to The Properties. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, take or add any soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation or to maintain reasonable standards of health, safety and appearance.

(d) Minimum Square Feet in Dwelling Unit. Each Dwelling Unit shall contain a minimum of 2,000 square feet of Living Area. Measurements shall be made to exterior walls.

(e) Temporary Structures. No structure of a temporary character shall be placed upon any Proper ties at any time, provided, however, that this prohibition shall not apply to shelters or huts used by contractors during the construction of a Dwelling Unit, or improvements or additions thereto, on any Lot. Temporary shelters, tents, recreational vehicles, trailers (whether attached or unattached to the realty) may not, at any time, be used as a temporary or permanent residence or permitted to remain on any portion of The Property.

(f) Committee Approval of Plans and Other Prohibitions.

(i) As provided in Section 1 of this Article Four, no Dwelling Unit, structure, building, appurtenance, attachment, improvement or addition shall be built, constructed or maintained unless the Plans therefore have been approved in writing by the Committee and such building or construction is completed in strict accordance with said Plans. In addition, any such Dwelling Unit shall comply with all applicable building, plumbing, electrical and other codes.

(ii) No vent or other pipes or appendages may extend from the front of any Dwelling Unit, unless screened from public view by a screening material or shrubbery approved by the Committee.

(iii) Any exterior air-conditioning or heating equipment must be screened from public view by a screening material or shrubbery approved by the Committee.

(iv) Down spouts and gutters must be so constructed as to not promote the erosion of the soil of any Lot.

(v) Exterior spotlighting shall be directed so as not to cast light directly on another Dwelling Unit.

(g) Garbage and Storage Receptacles. Except as required by any appropriate governmental authority, each Owner shall provide receptacles for garbage, and all garbage receptacles, tools and equipment for use on the Lot of any Owner or otherwise shall be placed in a fenced area in accordance with reasonable standards established by the Committee to shield same from general visibility from roads abutting the Lot. No fuel tanks or similar storage receptacles, other than solar panels and related storage facilities, may be exposed to view and such fuel tanks or similar storage receptacles may be installed only within the Dwelling Unit, or an accessory building, or buried underground.

(h) Debris. No leaves, trash, garbage or other similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive material shall be placed upon any portion of The Properties, except as is temporary and incidental to the bona fide improvement of any portion of The Properties.

(i) Antennae. No television antennas, satellite dish, radio, receiver or sender or other similar device shall be attached to or installed on the exterior portion of any Dwelling Unit, structure or any Lot or Common Properties within The Properties; provided, however, that the provisions of this paragraph shall not apply to the installation by the Association of equipment necessary for a CATV and mobile radio systems within The Properties.

(j) Sewage Disposal. Prior to the occupancy of any Dwelling Unit located in The Properties, proper and suitable provisions shall be made by the Owner for the disposal of sewage by means of a septic tank or tanks constructed on his Lot. No sewage disposal system shall be used unless such system is designed, located, constructed and maintained in accordance with the requirements, standards and recommendations of the appropriate public health or environmental authorities. Each septic tank and the nitrification (drain) field relating thereto shall be maintained in good condition so that its use and existence shall not constitute a nuisance to any other Owner. If at anytime a public or community sewage system is constructed so as to provide service to The Properties, each Owner shall be required to bear his pro rata share of the cost of such system and shall be required to hook up to this public or community sewage system and bear any expense incidental thereto.

(k) Trees and Foliage. Trees measuring three (3) inches or more in diameter, at a point two (2) feet above ground level, and any flowering trees or shrubs above five (5) feet in height may not be removed from The Properties without the written approval of the Committee, unless located within ten (10) feet of a Dwelling Unit, or site for such Dwelling Unit, septic tank notification field or driveways and walkways located or to be located on any Lot. Excepted here from shall be damaged trees or trees which must be removed because of an emergency.

(l) Unsightly Conditions. It is the responsibility of each Owner to prevent any unclean, unsightly, or unkept conditions of his Dwelling Unit or grounds on a Lot of any Owner which shall tend to materially decrease the beauty of The Properties specifically and as a whole.

(m) No Offensive Activity or Fires. No noxious or offensive activity or excessive noise shall be carried on upon any portion of The Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Owner, tenant or guest thereof, in any portion of The Properties.

Fires on any Lot or on any portion of the Common Properties are prohibited unless procedures adopted by the Board are strictly complied with.

(n) Animals and Pets. Except as otherwise permitted herein, or in any amended Declaration, no plants, animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of other Lots or Dwelling Units by any Owner, tenants and guests thereof, may be maintained. no animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or Dwelling Unit, except that a reasonable number of dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

(o) Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows within The Properties is prohibited unless required for public safety.

(p) Motorized Vehicles. All motorized vehicles operating within the Properties must be properly muffled so as to eliminate noise which might be offensive to others. All vehicles and bicycles (motorized or otherwise) are prohibited from being used or operated on or within the Common Properties or the frontal dune system and all vehicles and bicycle shall remain on roads within the Common Properties.

(q) Signage. No signs of any kind shall be displayed to the public view on any Lot or Dwelling Unit except one (1) sign with dimensions of not more than two feet by three feet advertising any Lot or Dwelling Unit for sale or rent. All other signs on any Lots must be approved in writing by the committee. Notwithstanding the foregoing, the Declarant shall have the right to locate signs indicating the location of sales and rental centers, any Recreational Facilities and much other information as may be required on any Lot on which the Declarant locates much ,a facility.

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(r) Pavement of Joint Walkways. Any joint walk (Limited Common Properties) shown on any recorded subdivision map of The Properties, if and when improved, shall be improved and maintained by the Owners of the Lots on which each joint walk about.

(s) Vegetation. No existing vegetation or sand dunes shall be disturbed during construction without the express written consent of the Architectural Control Committee. The Architectural Control Committee shall require written proposal for the restabilization of any such disturbed area. Any vegetation disturbed during construction shall be repaired to the satisfaction of the Architectural Control Committee prior to Owner applying for an occupancy permit from Dare County or the appropriate municipal body. This shall not prevent the Architectural Control Committee from engaging in such earthmoving, cleaning,

mowing, and pruning activities as are necessary to affect the overall plan of development.

(t) Mail and Delivery Boxes. The Architectural Control Committee shall determine the standards and issue guidelines thereof for the location, material, color and design for mail and newspaper boxes, if any, and the manner in which they shall be identified. All Owners must display the County assigned street address on their mail boxes, or other appurtenance, as per the specifications of the Dare County Street Address Ordinance.

(u) Residential Lot Coverage. In compliance with the Dare County Zoning Ordinance limitations, no more than 30 percent of any Lot shall be covered by structures and/or paved surfaces, including walkways or patios of brick, stone, slate or similar materials. (This covenant also insures continued compliance with storm water runoff rules adopted by the State of North Carolina and thus may be enforced by the State of North Carolina.)

(v) Reservation of Special Landscape Easement. Declarant reserves unto itself, it's heirs, successors and assigns, a perpetual alienable and releasable easement and right on, in, over and under certain of the Lot described below for the purpose of installing and maintaining decorative landscaping, planting, and grass (collectively "Landscaping") , as well as an underground irrigation system to service the Landscaping. These easement areas are as follows:

(i) On Lots 18, 19 and 20 within the rear yard setback areas where such Lots front State Route NC 12.

(ii) On Lot 17 within the rear yard setback area where such Lot fronts State Route NC 12 and within the aide yard setback area where such lot fronts Charles Jenkins Lane.

(iii) On Lot 54 within the side yard setback area where such Lot fronts State Route NC 12 and within the front yard setback area where such Lot fronts Charles Jenkins Lane.

Upon the installation of the Landscaping and irrigation system and commencing in January of 1993, the Association shall be obligated to and responsible for maintaining such Landscaping and irrigation system.

ARTICLE FIVE MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record Owner of a fee simple interest in any Lot or Dwelling Unit is subject by this Declaration to all assessments of the association and shall be a Member of the Association; provided, however, that any such person or entity who holds such interest merely

as a security for the performance of an obligation, shall not be a Member. There may also be as many as thirty (30) additional Non-Owner Members (Class C Members) as defined in Article Five, Section 2(c) of this Declaration and as provided for in Article Ten, Section 2 of this Declaration. Such non-owner Members will also be subject to the assessments of the Association as more particularly described in Article Seven of this Declaration.

Section 2. Voting Rights. The Association shall have three (3) classes of voting membership:

(a) Class A: Class A Members shall be all Owners of Lots and Dwelling Units, other than the Declarant. Any Class A Member shall be entitled to one and one-half (1-1/2) vote for each Dwelling Unit which he owns. An Owner of a Lot upon which a Dwelling Unit has not been constructed shall be entitled to one (1) vote for each Lot which he owns. It is the intent of this provision that so long as property qualifies as a Lot, by virtue of the fact that improvements have not been constructed thereon, the Owner thereof shall have only one (1) vote, but once the improvements are constructed (the improvements shall be deemed to be "constructed" upon obtaining a permit from Dare County or other applicable authority for the hook up of permanent power) on said Lot and it loses its character as a Lot and becomes a Dwelling Unit the Owner thereof shall have a total of one and one-half (1-1/2) votes for the ownership of such Dwelling Unit.

(b) Class B: The class B Member shall be the Declarant, which shall be entitled to three (3) votes for each Lot owned by it within The Properties (Including any additions to the Existing Property). The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs first:

(i) When the total votes outstanding in Class A Membership equal the total vote outstanding in the Class B Membership, or

(ii) December 31, 1998.

(c) Class C: Class C Members shall be those Non-Owners, not ever to exceed thirty (30) in number, who are described and allowed for in Article Ten, Section 2 of this Declaration, with each such membership to be assigned by the Declarant to some person or entity who own nearby property. Each Class C Member shall be entitled to one-half (1/2) vote per membership.

When more than one person or entity holds an interest in any Ocean Crest Lot or Dwelling Unit, all such persons shall be Members (but subject to voting limitations), and when more than one person or entity holds an interest in any non-Oceancrest property to which a Class C membership has been assigned, all such persons (but not more than four (4) families) shall be Member (but subject to voting limitations). In these cases the vote for such multi-owner properties

shall be exercised as they among themselves determine and each persons shall designate one (1) person to vote for their Lot or Dwelling Unit, or non-Ocean Crest property, but in no event shall more than one (1) vote be cast with respect to any such Ocean Crest Lot, one and one-half (1-1/2) votes with respect to any such Ocean Crest Dwelling Unit, or one-half (1/2) vote with respect to any such non-Oceancrest property.

ARTICLE SIX PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Member's Easements of Enjoyment. Subject to the provisions of Section 3 of this Article, every Owner Member shall have a right and easement of enjoyment in and to all of the Common Properties and such easement shall be appurtenant to and shall pace with the title to every Lot or Dwelling Unit; and each Non-Owner Members shall have a right and easement of enjoyment in and at the Recreational Facilities and Beach Access and such easement shall be appurtenant to and shall pass with the title to the non-Oceancrest property to which the Class C membership is assigned.

Section 2. Title to Common Properties. The Declarant may retain the legal title to any Common Properties, other than easement or roads shown on any recorded plat of The Properties, until such time as it has completed Improvements, if any, thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same but, notwithstanding any provision to the contrary herein, the Declarant hereby covenants, for itself, its successors and assigns, that it shall convey and upon such conveyance the Association shall accept any such Common Properties to the Association not later than December 31, 1996. Prior to the date of any transfer of the streets and road to the appropriate government agency or authority by the Association, said streets and roads shall be Common Properties and the expense of maintenance shall be borne by the Association.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created herein shall be subject to the following:

(a) The right of the Declarant, in its sole discretion and at no cost to any Member, to grade, pave or otherwise improve any road or street shown on any recorded plat of The Properties.

(b) The right of this Association, as provided in its Articles or By-Laws, to suspend the enjoyment rights of any Member for any period during which any assessment of that Member remains unpaid, and for any period not to exceed thirty (30) days for any infraction of any published rules and regulations adopted by the Board and

(c) The right of the Association to dedicate or transfer all or any part of the Common Properties (which includes streets and roads) to any public agency, authority or utility for such purposes and subject to each conditions as may be

agreed to by the Members; provided, however, that no such dedication, transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless fifty-one percent (51) of the votes of Members entitled to vote, at a Special Meeting of the Members called in accordance with the By-Laws (any consents in writing presented to the Secretary or other officers of the Association at or prior to such meeting shall constitute votes of Members consent to and approve of such dedication, transfer, purpose or condition. If so agreed to and approved by the Members, such dedication and transfers, specifying the purposes(s) and condition(s) thereof, shall be executed by the President and Secretary of the Association with the same formalities of a deed and recorded in the Dare County Public Registry.

(d) The rights of Members of the Association shall in no way be altered or restricted because of the location of Common Properties. In any additions to the existing property constituting a portion of The Properties in which each Member is not a resident, Common Properties belonging to the Association shall result in membership entitlement, notwithstanding that the Lot or Dwelling Unit of an Owner or of the property of a Non-Owner acquired which results in membership right as herein provided is not located within any property (phase), made subject in whole or in part to this Declaration, which contains any Common Properties.

(e) The right of the Association or its assignee to charge reasonable admission and other fees for use of any Recreational Facilities situated upon the Common Properties.

(f) The right of the Declarant to grant in perpetuity nonexclusive easements for access across the beach access walkway within the pedestrian easement between Lots 35 and 36 as shown on the recorded plat of The Properties to the owners of the other Lots or unit. (not more than 70 in the aggregate including those having such rights under Article 10) in real properties near by The Properties in exchange for such consideration as shall be acceptable to the Declarant, in its sole discretion.

Section 4 . Driveways Culverts. Each Owner, if required by the Architectural Control Committee in the approval of the Plans process, when making a driveway connection to the street or to a cul-de-sac, will provide a suitable drainage culvert so as to allow for unimpeded water movement along the existing roadway swale, and will maintain that culvert at all times in such a way that it does not become an eyesore or disturb the desired drainage patterns in the swale system.

Section 5 . Stormwater Management Improvements. The Association, after each time as the Declarant no longer owns any of the Common Properties in The Properties, will be responsible for maintenance of any storm water management swales, channels, and check dams and to see that each Owner installs and

maintains his driveway culvert as per Section 4 of this Article. Such maintenance is to include removal of sediments within the swales and channels, restabilization of the swales and channels as needed, check dam repairs, flushing of driveway culverts and upkeep of the vegetation cover on a periodical, as required basis.

ARTICLE SEVEN COVENANT FOR PAYMENT OF ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments.

Each Owner, other than the Declarant, of any Lot or Dwelling Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, as well as each Non-Owner who is a Class C Member pursuant to Article Five, Section 2(c) of this Declaration, shall be deemed to and does hereby covenant and agree to all the covenants, conditions and restrictions of this declaration and to pay, in the case of class C Members, to the Association: (1) annual assessments or charges as herein or in the By-Laws provided, (2) special assessments for capital improvements (such annual and special assessments to be fixed, established, and collected from time to time as herein or in the By-Laws provided), and (3) any liquidated damages or summary charges imposed under authority contained in the By-Laws, together with costs, fees and expenses (including reasonable attorneys' fees) incurred by the Association incidental to the enforcement of any Rules and Regulations, collection of assessments (both annual and special) or collection of damages or charges arising under the By-Laws. The annual and special assessments of an Owner and any liquidated damages or summary charges as herein or in the By-Laws provided, together with such interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the Lot or Dwelling Unit against which each assessment is made. Each such assessment, together with such interest there and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person or persons jointly and severally, who in (a r e) the Owner(s) of such Lot or Dwelling Unit at the time when the assessment fell due. The Assessments payable by Class C Members, whose only rights are In the Recreational Facilities and Beach Access, will always be one-half (1/2) of that of the Class A Members and in the event of non-payment of any Assessment, the Class C Member may face permanent forfeiture of his rights of Membership as provided for in Article Ten, Section 2 of the Declaration.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, security, safety and welfare of the residents of The Properties and in particular for:

(a) the improvement, maintenance, and replacement of the common Properties including, without limitation, the Recreational Facilities. (NOTE: The streets

in Oceancrest are private and will be maintained by the Association from these assessments. Charles Jenkins Lane West is a 30' right of way which does not meet the North Carolina Department of Transportation standards for rights of way and thus can never be accepted into the state system.)

(b) maintenance of exteriors of Dwelling Units and related Improvements on Lots (subject to reimbursement by the Owner(s) of such Lot or Dwelling Unit) pursuant to Article Eight, Sections 1 and 2 of the Declaration,

(c) establishment of capital replacement reserves, and

(d) for the acquisition of services and facilities devoted to the foregoing purpose or for the use and enjoyment of the Common properties, including but not limited to, the cost of repair, replacements, additions, the cost of labor, equipment, material, management and supervision, the payment of taxes assessed against the Common Properties, the procurement and maintenance of insurance related to the Common Properties, its facilities and use in accordance with the Bylaws, the employment of attorneys to represent the Association if necessary, and such other requirements as are necessary to perform all of the aforesaid functions and purposes'.

Section 3. Assessment of Uniform Rates Within Different Categories or Forms of Ownership. Both annual and special assessments shall be fixed at uniform rates for every Lot or Dwelling Unit within the category or form of ownership applicable to each Lot or Dwelling Unit. There will be no difference between assessments as to Lots, except to the extent Limited Common Properties are located on a Lot or Lots, or between assessments as to Dwelling Units. In addition, the Owner(s) of some Dwelling Units may be subject to an assessment for the maintenance, improvement and replacement of any Limited Common Properties located on or adjacent to the Lot on which such Dwelling Unit is located.

Section 4. Application of Minimum and Maximum Assessments. The minimum regular annual assessments, as set forth in the schedule herein below, shall be levied by the Association unless the Board of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded only by an assessment above the minimum but not more than the applicable maximum regular assessment, as set forth in the schedule below. If the Board of Directors shall levy the applicable minimum assessment for any assessment year and thereafter, during each assessment year, determine that the important and essential functions of the Association cannot be funded by the minimum, The Board, by unanimous decision, may levy a supplemental assessment, but in no event shall the sum of the minimum and supplemental regular annual assessment for the year exceed the applicable maximum regular assessment.

The regular annual assessment minimum and maximum amount shall be the sums

calculated in accordance with the following schedule as may be Increased in each instance by an inflation adjuster set forth herein below.

1. <u>Owner Members:</u>	<u>Minimum Regular</u>	<u>Maximum Regular</u>
	<u>Annual Assessments</u>	<u>Annual Assessments</u>
(a) Per Lot		
(b) Per Dwelling	\$400.00	1,000.00
	\$600.00	1,500.00
2. <u>Non-Owner Members:</u>		
(a) Per unimproved lot	\$200.00	\$500.00
(b) Per dwelling unit	\$300.00	\$750.00

Commencing with the calendar year beginning January 1, 1994, the minimum and maximum regular annual assessments shall automatically be increased each year, unless the Board of Directors, by unanimous decision, shall determine otherwise, by five percent (5%) per annum, compounded annually. In the alternative, the Board of Directors, by unanimous decision, may determine that the amount of the automatic five percent (5%) Increase is inadequate and that the amount of the annual increase should be the percentage Increase between the first month and the last month of an annual assessment period in the Consumer Price Index for All Urban Consumers, All Items ALL Cities Average (1982-84 = 100), hereinafter called the "CPI-U" published by the United States Department of Labor. In the event that the CPI-U shall be discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living. The Board of Directors may by unanimous decision, after consideration of current cost and future needs of the Association, fix the annual regular assessment for any year at an amount less than the applicable minimum regular annual assessment, but such action shall not constitute a waiver by the Association of its right to revert to the full regular minimum assessment in subsequent years.

Section 5. Special Assessment for Capital Improvements. In addition to the regular annual assessments authorized by Section 4 hereof, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of professional or consulting fees, any construction or reconstruction, unexpected repair, or replacement -of any capital improvement (including, without limiting the generality thereof, any lake, waterway, or pond) located upon the Common Properties or the Limited, Common Properties, Including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of

which shall be sent to all Members in accordance with the provisions of the By-Laws for Special Meetings. In the event of any such Special Assessment for Capital Improvements, Class C Members will be assessed only in the event that Improvements were made to the Recreational Facilities or Beach Access.

Section 6. Change in Basis and Maximum Amount of Annual Assessments. Subject to the limitations of Section 4 hereof and for the period therein Specified, the Association may change the maximum amount and basis of the regular annual assessments fixed by Section 4 hereof prospectively for any such period provided that any such change shall have the consent of two-thirds ($\frac{2}{3}$) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members in accordance with the provisions of the By-Laws for Special Meetings; provided further, that the limitations of Section 4 hereof shall not apply to any change in the maximum amount and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized by law to participate or as an incident to any (i) additions to The Properties under Article One, Section 2 or (ii) submission pursuant to Article One, Section 2 of this Declaration.

Section 7. Quorum for any Action Authorized Under Sections 5 and 6. The quorum required for any action authorized by Section 5 and 6 of this Article shall be as follows:

At the first meeting called, as provided in Sections 5 and 6 of this Article, the presence at the meeting of Members, or of proxies, entitled to cast a majority of all the votes of the membership shall constitute a quorum. If the required quorum be not forthcoming at such meeting, another meeting may be called, subject to the notice requirement set forth in Sections 5 and 6 of this Article, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding scheduled meeting.

Section 8. Date of Commencement of Annual Assessments Due Dates. The regular annual assessments provided for herein shall be paid (as determined by the Board of Directors) in quarterly, semiannual, or annual installments. The payment of the regular annual assessment by Owners shall commence to each Lot and Dwelling Units on the first day of the month following the conveyance of the Lot or Dwelling Unit, but no earlier than January 1, 1993, and the payment of the regular annual assessment by Class C Members (Non-Owners) shall commence on the first day of the month following the month that each such Class C membership is granted to a Non-Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment at least fifteen (15) day in advance of each annual assessment period. Written notice of the annual

assessment shall be sent to every Member subject thereto. The due dates shall be established by the Board of Directors. The Association, upon any qualified demand, at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessment on a specified Lot or Dwelling Unit, or for a specific Class C membership, has been paid. Such properly executed certificate of the Association as to the status of the assessment is binding upon the Association as of the date of its issuance. The first assessments levied against any additions to the Properties, not now subject to assessment, at a time other than the beginning of any assessment period, shall be an amount which bears the same relationship to the annual assessment provided for in Section 4 of this Article as the remaining number of months in that year bears to twelve.

The due date of any special assessments under (i) Section 5 hereof, or (LL) any other assessment permitted by this declaration, shall be fixed in the resolution or resolutions authorizing such assessment.

Section 9. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement, and the amount of the assessment or assessments against each Member, for each assessment period at least fifteen (15) days in advance of such date or period and shall, at that time, prepare a roster of the Member and assessments applicable thereto which shall be kept in the Office of the Association, or at any other place designated by the Board upon notice to the Members, and shall be open to inspection by any Member. Written notice of the assessment or assessments thereupon shall be sent to every Member subject thereto.

Section 10. Effect of Non-Payment of an Owner's Assessment: The Personal Obligation of the Owner; The Lien, Remedies of Association.

If the assessment of an owner are not paid on the date due (being the dates referred to in Section 8 of this Article), then such assessments shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot or Lots, or Dwelling Unit or Dwelling Units, which shall bind such Lot or Lots, or Dwelling Unit or Dwelling Units, in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then-Owner to pay such assessment shall remain his personal obligation for the statutory period and, in addition, shall pass to his successors in title (as an encumbrance or lien against the Lot or Dwelling Unit) unless expressly waived by the Board of Directors.

If the assessment or assessments is(are) not paid within thirty (30) days after the delinquency date, the assessment or assessments shall bear Interest from the date of delinquency at the rate of interest set by the Board, not to exceed the maximum rate permitted by law, and the Board acting on behalf of the

Association, may authorize its officers to bring appropriate civil action against the Owner personally obligated to pay the same or to foreclose the lien against any such Lot or Lots, or Dwelling Unit or Dwelling Units, and there shall be added to the amount of such assessment, the costs of such action and reasonable attorneys fees or other cost incurred by the officers of the Association pursuant to authority of the Board. In the event a judgment is obtained against any Owner for such assessment, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court, together with the cost of the action.

Section 11. Subordination of the Lien on an Owner's Property to Mortgages or Deeds of Trust. The lien on an Owner's property of the assessments provided for herein shall be absolutely subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon any Lot or Lot, or Dwelling Unit or Dwelling Units, subject to assessment. The subordination shall not relieve any Lot or Lots, or Dwelling Unit or Dwelling Units, from liability for any assessments now or hereafter due and payable, but the lien thereby created shall be secondary and subordinate to any first mortgage or deed of trust as if said lien were a second mortgage, irrespective of when such first mortgage or deed of trust was executed and recorded.

Section 12. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all Common Properties as defined in Article Two hereof; and (b) all properties exempted from. Taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption. Homestead exemptions shall not be considered an exemption.

Notwithstanding any provisions of this Section 12, no Lot or any Dwelling Unit shall be exempt from said assessments, charges or liens.

Section 13. Declarant's Obligations for Assessments. Prior to January 1, 1999, the Declarant's obligation for assessments on unsold Lots or Dwelling Units subject to this Declaration will be limited to the difference between the actual operating costs of the Association, excluding reserves on the Common Properties, and the assessments levied on the existing Members other than the Declarant. In no event, however, will the Declarant be required to make a deficiency contribution in any amount greater than it would otherwise be liable for if it were paying assessments on unsold Lots or Dwelling Units owned by Declarant. After December 31, 1998, Declarant shall pay assessments as would any other Owner for each Lot or Dwelling Unit owned by the Declarant.

ARTICLE EIGHT

Exterior Maintenance and Insurance

Section 1. Exterior Maintenance. In addition to maintenance on the Common

Properties and after thirty (36) days written notice to any Owner which shall specify the required maintenance, the Association shall have the right but not the obligation to provide (a) maintenance upon any Lot and (b) maintenance upon any Dwelling Unit, which is subject to assessment under Article Seven hereof. Such maintenance includes (but is not limited to) painting, repairing, replacing and care of roofs, gutters, downspouts, removal of signs in violation of this Declaration, and exterior Improvements on any Dwelling Unit. Such maintenance as to a vacant Lot may include the mowing of grass and weeds, the trimming of shrubs, or the removal of trash and litter.

Section 2. Assessment of Cost on Exterior Maintenance. The cost of any such maintenance shall be assessed against the Lot or Dwelling Unit upon which such maintenance is done and shall be added to and become part of the regular annual assessment or charge to which such Lot or Dwelling Units subject and, as part of such regular annual assessment or charge, it shall be a lien against any such Lot or Lots, or Dwelling Unit or Dwelling Units, as heretofore defined and limited, and a personal obligation of the Owner and shall become due and payable in all respects as provided herein.

Section 3. Insurance on Dwelling Units. Each Owner of any Dwelling Unit within The Properties, by acceptance of a deed therefore, whether or not it shall be expressed in said deed or by exercise of any act of ownership, is deemed to covenants

(a) To keep each dwelling Unit insured against loss by fire or other Casualty, with extended coverage insurance, in an amount equal to at least 90% of the replacement cost of such Dwelling Unit;

(b) To name the Association as an insured "as its interest may appear", so that the Association shall be entitled to receive notice of cancellation of such insurance policy

(c) To build or restore such Dwelling Unit in the event of damage thereof and to apply the full amount, to the extent necessary, of any insurance proceeds to the restoration or repair of such Dwelling Unit; and

(d) To keep the Dwelling Unit in good repair as required by this Declaration or by the Bylaws.

In the event of non-payment of any premium for insurance required under this Article Eight, the Association is authorized, but not obligated or required, to pay such premium and the sum so paid shall become a lien upon the Dwelling Unit enforceable in the same manner and to the same extent as provided for enforcement of liens for assessments hereunder.

ARTICLE NINE
AMENDMENT TO DECLARATION

An amendment to this Declaration may be proposed by the Board of Directors acting upon a vote of a majority of the Directors, or by a majority of the Members of the Association, whether meeting as Members or by instrument in writing signed by them. Upon any Amendment to this Declaration being proposed by the Board of Directors or Members, such proposed Amendment shall be transmitted in writing to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than ten (10) days nor later than fifty (50) days from receipt by him of the proposed Amendment. It shall be the duty of the Secretary to give to each Member written notice of such special Meeting, stating the time and place, and reciting the proposed Amendment in reasonably detailed form, which notice, if mailed, shall be mailed not less than ten (10) days nor more than fifty (50) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail, Certified with Return Receipt Requested, addressed to the Member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such Member. At the meeting, the Amendment proposed must be approved by an affirmative vote of sixty-six percent (66%) of the votes of Members (including the Declarant) entitled to vote in order for such Amendment to become effective. At any meeting held to consider such Amendment, the written vote of any Member of the Association shall be recognized and counted if such Member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to or at such meeting. In order for such Amendment to be binding upon all the holders of mortgages or deeds of trust against any Lot or Dwelling Unit In The Properties, written consent must be obtained from the then existing (as of the date of the meeting of Members which approved such Amendment) holders of First Lien Mortgage or Deeds of Trust encumbering fifty-one percent (51%) of the Lots and Dwelling Units in The Properties encumbered by First Lien Mortgages or Deeds of Trust. If such consent is to be obtained, the Amendment shall be binding on all the holders of mortgages or deeds of trust encumbering Lots and Dwelling Units in The Properties. If so approved, such Amendment of this Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and approved by the requisite percentages of Member and lenders. The original or an executed copy of such Amendment so certified and executed by said officers with the same formalities as a deed, shall be recorded in the Dare County Public Registry, and no such Amendment to this Declaration shall be effective until so recorded. If any Amendment to the Declaration creates an inconsistency in the Bylaws, to the extent such inconsistency exists,

the Declaration shall control.

ARTICLE TEN

Recreational Facilities and Beach Access

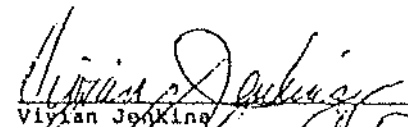
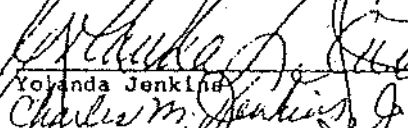
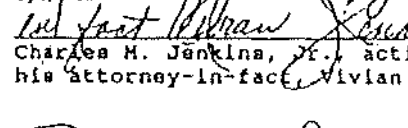
Section 1. The Declarant intends to locate one (1) swimming pool and one (1) tennis court (collectively the "Recreational Facilities") within the "Recreational Area" and one (1) beach access walkway in the pedestrian easement between Lots 35 and 36 (the "Beach Access"), as shown on the recorded plat of The Properties. These Recreational Facilities and Beach Access will be provided for the benefit of all Members, their tenants and guests, and shall be maintained, as part of the Common Properties, out of assessments imposed on all Members in accordance with the provisions of Article Seven. Nevertheless, the Board of Directors of the Association shall have the right to form an affiliated association (the "Operator"), which maybe a separate corporation or a division of the Association and assign to it the maintenance and operation of the Recreational facilities and Beach Access, on a non-profit basis and upon such terms and conditions, not inconsistent herewith, as the Board of Directors may deem reasonably necessary . The Operator shall maintain and operate the Recreational Facilities and Beach Access for the benefit of every Member in good standing with the Association. The Association (by action of its Board of Directors) or the Operator, as the case may be, may charge dues and membership Fees sufficient to defray operating costs and require that current payments be made in order for any Member to enjoy the use of the Recreational Facilities and Beach Access. The Operator or the Board of Directors may impose reasonable regulations regarding the use of the Recreational Facilities and Beach Access to insure accessibility, safety, harmony and preservation of the Recreational Facilities and Beach Access. The Association reserves the right to revoke any assignment made by it to an Operator and to assume the operation of the Recreational Facilities and Beach Access, on a membership basis, and to impose Special fees, charges or assessments against the Members with respect thereto.

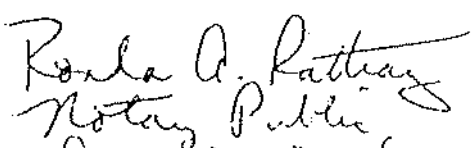
Section 2. The Declarant retains and reserve the right to offer memberships in the Association or rights-of-use in or to the Recreational Facilities and Beach Access to owners of Lot in the Subdivision known as "Corrected Jay Crest, Sections 1 and 2, a map of which is recorded in Plat Book 5 at Page 37 of the Dare County Registry, as well as to any other selected owners of nearby properties, including their immediate families, but no more than a total of 30 additional memberships in the Association (collectively the "Non-Owners"). The Non-Owners will become Class C Members of the Association as provided for in Article Five, Section 2(c) of this Declaration. Non-Owners will be required to make a one-time payment as an Initiation fee (which shall be determined, and may from time to time be changed, by the Declarant) to the Declarant to offset a portion of the costs of constructing the Recreational Facilities and Beach Access, and, having made such payment, will retain usage rights in and to the Recreational Facilities and Beach Access identical to those

enjoyed by the Owners of OceanCrest Lots or Dwelling Units subject to this Declaration, subject only to the payment to the Association of assessments or fees as provided for in Article Seven of this Declaration. These usage rights are assignable to, and transferable by will or Intestacy, to any person or entity who subsequently holds fee title to a Non-Owner's property. Failure by a Non-Owner after thirty (30) days written notice to the last known address of the Non-Owner from the Association to pay any delinquent assessments or fees shall cause, at the option of the Board set forth in such notice, a forfeiture of all of any such non-owners membership in the Association and rights of use with respect to the Recreational Facilities and Beach Access, with no refund of any monies previously paid by any such Non-owner.

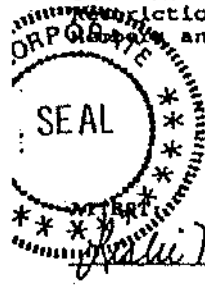
ARTICLE ELEVEN
CAPTIONS, INTRODUCTIONS AND GENDER

The caption and introductory material herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter gender, and the use of the singular shall be deemed to refer to the plural, and the use of the plural shall be deemed to include the singular, whenever the context so requires.


Vivian Jenkins (SEAL)

Yolanda Jenkins (SEAL)

Charles M. Jenkins, Jr., to his atty
in fact William Jenkins (SEAL)
Charles M. Jenkins, Jr., acting by
his Attorney-in-fact, Vivian Jenkins


Paula A. Rattray
Notary Public
Commission Expires 12/21/93

The officers of OceanCrest Property Owners Association, Inc. hereby certify that this Amended and Restated Declaration of Covenants, Conditions and Restrictions was duly adopted and approved by the requisite percentages of owners and lenders.



OceanCrest Property Owners Association, Inc.

By: Clark H. Hays

President

Paul M. Whitley
Secretary

[CORPORATE SEAL]

Boddie Noell Enterprises, Inc. (formerly BNE Land and Development Co.), d/b/a Kitty Hawk Land Company (the "Kitty Hawk Land Company"), a North Carolina corporation, joins in this Amended and Restated Declaration of Covenants, Conditions and Restrictions (the "Amended Declaration") for the purpose of consenting to (and it does hereby consent to) this Amended Declaration and the rights and obligations created thereby; and Kitty Hawk Land Company does hereby subject its rights, title and interests created by or arising from an agreement between Kitty Hawk Land Company and Vivian Jenkins, Charles M. Jenkins, Jr. and Yolanda Jenkins dated the 31st day of January, 1992, a memorandum of which is recorded in Book 790, page 428, Dare County Registry, to the terms and conditions of the Amended Declaration.

Boddie Noell Enterprises, Inc. (formerly BNE Land and Development Co.), d/b/a Kitty Hawk Land Company

By: Clark H. Hays

President



ATTEST:

Paul M. Whitley
Asst. Secretary

[CORPORATE SEAL]

STATE OF CALIFORNIA)

COUNTY OF ALAMEDA)

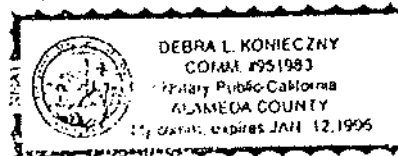
I, Debra L. Konieczny, a Notary Public of said County and State, do hereby certify that Vivian Jenkins (widow) personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal or stamp, this the 23rd day of April, 1993.

Debra L. Konieczny
Notary Public

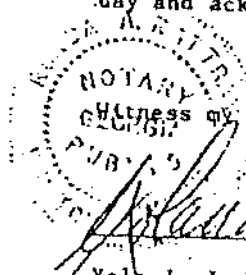
My Commission Expires:

January 12 1996



STATE OF GEORGIA
COUNTY OF FULTON

I, Ronda Rattray, a Notary Public of Fulton County, Georgia, do hereby certify that Yolanda Jenkins (single) personally appeared before me this day and acknowledged the due execution of the attached instrument.



Witness my hand and notarial seal or stamp, this 26th day of April, 1993.

Yolanda Jenkins

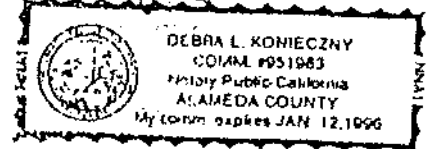
Ronda A. Rattray

I, the undersigned, a Notary Public of the County and State aforesaid, do hereby certify that Vivian Jenkins, attorney-in-fact for Charles M. Jenkins, Jr. personally appeared before me this day, and being by me duly sworn, says that she executed the foregoing and annexed instrument for and in behalf of Charles M. Jenkins, Jr., and that his/her authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Dare County, North Carolina, Registry on January 17, 1992, in Book 783, at page 0166, and that this instrument was executed under and by virtue of the authority given by said instrument granting his/her power of attorney; that the said Vivian Jenkins acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Charles M. Jenkins, Jr.

Witness my hand and official seal, this the 23rd day of April, 1993.

Debra L. Konieczny
Notary Public

My commission expires: January 12, 1996



STATE OF NORTH CAROLINA

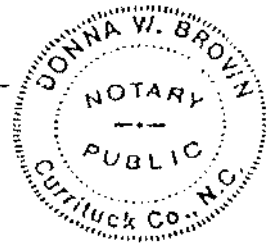
COUNTY OF Dare, ss:

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Leslie M. Whitley personally came before me this day and acknowledged that she is Secretary of OceanCrest Property Owners Association, Inc., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by himself as its Secretary.

Witness my hand and official seal, this the 30th day of April, 1993.

Donna W. Brown
Notary Public

My commission expires: 10/8/95



STATE OF North Carolina

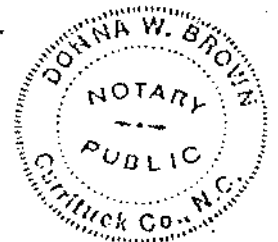
COUNTY OF Dare, ss:

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Leslie M. Whitley personally came before me this day and acknowledged that she is Asst. Secretary of Boddie Noell Enterprises, Inc. (formerly BNE Land and Development Co.), d/b/a Kitty Hawk Land Company, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by herself as its Asst. Secretary.

Witness my hand and official seal, this the 30th day of April, 1993.

Donna W. Brown
Notary Public

My commission expires: 10/8/95



NORTH CAROLINA

DARE COUNTY

North Carolina
County of Dare

The foregoing certificate of Ronda A. Pattray of Fulton Co., GA of Debra L. Konieczny of Alameda Co., CA and Donna W. Brown of Currituck Co., NC are certified to be correct. This instrument and this certificate are duly registered at the date and time in the Book and Page shown on the first page hereof.

Tract One

Being all of the property now or formerly owned by Vivian Jenkins, Yolanda Jenkins, and Charles M. Jenkins, Jr. (hereinafter referred to as the "Jenkins Family") and formerly known as "Hasgraves Beach" (shown on that certain map recorded in Plat Book 2, at page 3, of the Dare County Public Registry) lying east of the east right-of-way line of North Carolina State Highway 12 and bounded (1) on the north by the property known (now or formerly) as the J.H. Bias heirs property; (2) on the east by the western edge of the Atlantic Ocean; and (3) on the south by the town of Southern Shores. For further reference see (i) the "First Tract" in that certain Deed to Dr. Charles M. Jenkins recorded in Book 81, at page 361, of the Dare County Registry.

Tract Two

All of that portion of the property now or formerly owned by the Jenkins Family and being bounded: (1) on the north by the property of the J.H. Bias heirs (now or formerly); (2) on the east by the west right-of-way line of North Carolina State Highway 12; (3) on the south by the north right-of-way line of Angelina Street (as such street is shown on the map of Hargraves Beach recorded in Plat Book 2, at page 3, of the Dare County Registry); and (4) on the west by the eastern edge of Currituck Sound.

Together with all right, title and interest in and to the property lying within the rights-of-way of (i) Angelina Street (lying west of said North Carolina State Highway 12), (ii) Santruce Avenue, as such streets are shown on said map of Hargraves Beach.

For further reference see that certain Plat of OceanCrest recorded in Plat Cabinet C, at pages 164A, 164B, and 164c, of the Dare County Public Registry, reference to which is hereby made.