

FILE # 1394437

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at
the date and time and in the Book and Page shown
on the first page hereof.

Joy Lawrence, Register of Deeds
By [Signature]
Asst. Deputy, Registrar of Deeds

FOR REGISTRATION REGISTER OF DEEDS
Joy Lawrence
Carteret County, NC
December 19, 2011 04:27:31 PM
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FILE # 1394437

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

R Stanley

WITHDRAWAL OF EMERALD CAY CONDOMINIUM FROM

THE PROVISIONS OF CHAPTER 47C AND SUBMISSION OF A DECLARATION OF

TOWNHOME COVENANTS FOR EMERALD CAY TOWNHOMES

(Paragraph 31 has restrictions upon sale of a lot)

This Withdrawal of Unit Ownership and Submission of Property to Covenants for EMERALD CAY Townhomes executed this 15th day of November 2011, by Paul C. Wygal and wife, Grace M. Wgal, 10700 Annie Marie Drive, Glen Allen, VA 23060, and Fred K. Studer and wife, Nancy Studer, 30 Rutledge Road, Valhalla, NY 10595, herein Declarant, and as used herein Declarant shall mean both singular and plural as the context may require;

WITNESSETH:

WHEREAS, a two-unit building known as EMERALD CAY Condominium has been located on Lot 27, Phase One of Spinnaker's Reach Block 47 South (Section 370) as shown on a plat recorded in Map Book 28, page 759 Carteret County Registry, through the recordation of a Declaration of Unit Ownership pursuant to the provisions of Chapter 47C of the North Carolina General Statutes in Book 871, page 395, accompanied by the recordation of plats and drawings recorded in Map Book 10R, Pages 772-776, Carteret County Registry;

WHEREAS, through deeds recorded in Book 1377, page 280 and Book 9067, page 242, the east and west units of EMERALD CAY Condominium are now vested in Declarants so that both units and the undivided interest in the common areas are now owned by Declarants, subject to the lien set out on the exhibit hereto, with the lienholder having consented to the

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Withdrawal of the Property from Unit Ownership and the Submission of the Property to Townhome Covenants as indicated by their consent attached hereto;

WHEREAS, pursuant to NCGS 47C and Article 7 of said Declaration, Declarant with the consent of the lienholder now desires to terminate said condominium and to remove said real property from the provisions of NCGS 47C; and

WHEREAS, simultaneously with such Withdrawal, Declarant with the consent of the lienholder having a deed of trust on the Property desires to submit the Property to uniform townhome covenants designed to protect the Property, to enhance the value and attractiveness of the townhomes, and to promote the use and value of the Property, and has set forth herein the Covenants, Terms and Conditions for EMERALD CAY Townhomes;

NOW, THEREFORE, Paul Wygal and wife, Grace Wygal, and Fred K. Studer and wife, Nancy Studer, do hereby terminate EMERALD CAY Condominium and do hereby withdraw said Property from the provisions of Chapter 47C of the North Carolina General Statutes so that hereafter said real property described as Lot 27, Spinnaker's Reach, Phase One, Map Book 28, page 759, Carteret County Registry, as located in the Town of Emerald Isle, Carteret County, North Carolina, may be owned, mortgaged, leased, sold, transferred and conveyed without regard to the former condominium method of ownership.

FURTHER, the Declarants hereby submit the real property described in Paragraph 1 hereof to this Declaration of Protective Covenants and declares that the real property described in Article I shall be hereafter held, transferred, sold and conveyed subject to these Protective Covenants as follows:

ARTICLE I - COVENANTS AND RESTRICTIONS

1. Description of Real Property: The real property which is and shall be held, transferred, sold and conveyed subject to these Protective Covenants is located in the Town of Emerald Isle, White Oak Township, Carteret County, North Carolina, and is described as Lot 27, Phase One of Spinnaker's Reach Block 47 South (Section 370) which map is recorded in Map Book 28, page 759, Carteret County Registry.

2. General Description of Townhouse Development. Declarants are the owners of the property described in Article 1 above and are submitting this property to these Covenants. No additional lands may be submitted to these covenants. EMERALD CAY Townhomes consist of two lots or the footprints of the former east and west units of Emerald Cay Condominiums labeled East(2) and West(1) as shown on a plat recorded in Map Book 10R, pages 771-776, CarteretCounty Registry. Henceforth, the term "Unit" or footprints of units east (2) and west (1) as shown on the recorded plat in Map Book 10R, page 771-776, shall mean "Lot". Each lot or footprint as shown on the recorded plat shall also encompass the areas covered by the first and second story decks, porches and areas occupied by the exterior stairs on the north, side and east and west sides of the t units, so that the dimensions of each lot are 32.0 feet wide, including the area occupied by the side access decks, and stairs, and 37 feet deep, including the areas on the north and south sides occupied by steps and decks on the first and second floors. The common concrete pad and drive and lot 27 areas outside the two lots as shown on the recorded plat are part of the common areas of the townhomes and the same will not be included in the boundaries of each townhome lot.

There is located on each lot a three story townhome structure elevated on pilings with parking, storage, main foyer, stairs and half bathroom being located on the ground level beneath the first floor of the structure, Each structure contains approximately 1537.50 sq. ft. Each structure has three bedrooms and two bathrooms on the first floor (second level) and a combination living room and dining room, kitchen and half bath on the second floor (third level). The two structures share a common party wall and the exterior walls are horizontal wood siding and batten with a fiberglass shingled roof.

3. Survey. A survey of Emerald Cay Townhomes showing the two lots west and east is recorded in Map Book 10R, page 771.

4. Definitions:

(a) Except for the specific terms and definitions set forth hereafter, the definitions of allocated interest, common elements, common expenses, common expense liability, person, purchaser, real estate, reasonable attorney's fees, and specific declarant rights shall have those meanings set forth in N.C.G.S. 47F-1-103.

(b) The following terms are used or defined in general terms and shall have the following specific meanings:

(1) "Association" or "Owner's Association" means the Emerald Cay Owners' Association, Inc., a non-profit incorporated association established pursuant to Chapter 55A and Chapter 47F of the North Carolina General Statutes, for the management, administration and operations of the Emerald Cay Townhomes' common elements pursuant to its Articles of Incorporation.

(2) "Common Elements" means all portions of real property which are part of the Townhome Development other than the two individual lots (east and west), and would include real property owned by or leased to the Association for the common use and enjoyment of lot owners.

(3) Declarant means Paul Wygal and wife, Grace Wygal, and Fred K. Studer and wife, Nancy Studer, current owners of the Property, as well as any person or group of persons acting in concert with them who (I) as part of a common promotional plan offers to dispose of his or its interest in a lot not previously disposed of or (ii) reserves or succeeds to any special Declarant rights held by them.

(4) Declaration means this Declaration of Protective Covenants which creates and provides for the Emerald Cay Townhome project, as well as any amendments thereto.

(5) "Lot" shall mean and refer to a physical portion of the Property designed for separate ownership or occupancy by a lot owner as shown on a recorded plat or as provided herein, and would include any structure or improvements thereon. Any common areas shown as part of any lot would be excluded.

(6) "Limited Common Element" means a portion of the common elements allocated by this Declaration or by operation of law for the exclusive use of one or more lot owners but fewer than all of the lot and lot owners. The HVAC units located outside the lot or footprint of each lot are limited common elements serving only the lot and structure to which the same are attached.

(7) "Lot Owner" means the Declarant and/or all other persons who own a lot, as well as a lessee of a lot, but does not include a person having any interest in a lot solely for security for an obligation or promissory note.

(8) "Purchaser" means any person, other than the Declarant or a person in the business of selling real property for the Purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in any lot, other than (I) a leasehold interest (including renewal options) of less than twenty years, or (ii) as security for an obligation.

(9) "Real Estate" means lot 27, Spinnaker's Reach, Phase One, Map Book 28, page 759, as shown on the recorded plat.

(10) "Residential Purposes" means use for dwelling purposes primarily with recreational purposes as accessory uses to the primary residential dwelling use.

(11) "Alteration" means the combination or separation of residential structures permitted by this Declaration which entails one or more of: (I) the construction of all or a portion of one or more intervening partitions, walls, floors or ceilings within or as part of or adjoining any residential structure; (ii) the removal or alteration of all or a portion of one or more partitions, walls, floors or ceilings within residential structures; or (iii) the creation, alteration or removal of one or more apertures in one or more intervening partitions, walls, floors or ceilings either part of, between structures, or adjoining or connected to existing structures.

(12) "Building or Structure" means each three level townhouse structure erected on each lot and intended for single family residential use and occupancy.

(13) "Building Limited Common Elements" means common elements contained within or part of each building or structure the use of which is limited to that particular building or structure even though the same may be part of the common elements of the property. The decks on each structure, if any portion are so located outside the footprint of each lot, are limited common elements for the exclusive use of the owner to which the same is attached.

(14) "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a first mortgage on a lot who has requested notice of one or more matters in accordance with this Declaration.

(15) "Eligible Mortgagee" means a lender who holds a mortgage on a lot and who has requested notice of one or more certain matters in accordance with this Declaration.

(16) "Insurance Trust Agreement" means that certain Agreement between the Association and the insurance trustee providing for the management and disbursement of insurance proceeds in accordance with this Declaration.

(17) "Insurance Trustee" refers to the Association Executive Board which shall have the responsibility, if allowed by mortgagees holding liens on units, for the management and administration of insurance proceeds pursuant to the Insurance Trust Agreement.

All such funds prior to disbursement shall be held pursuant to the Insurance Trust Agreement in deposit accounts which are fully insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation or another federally constituted body serving in an equivalent function.

(18) "Common Party Wall means the common wall located between the boundaries of the two adjoining residential townhouses. The common wall shall be construed and interpreted as the wall located on the common boundary between Lots east and west running north south for a distance of approximately 37 feet as shown on the recorded plat.

5. Reservations. Declarants reserve the right absolutely to change, alter or redesignate the allocated, planned, platted or recorded use, area or designation of any of the lots shown on the map of the Townhouse development recorded aforesaid so long as the Declarants retain title to the lots and property involved, so long as any changes or alterations are in conformance with the Town of Emerald Isle Subdivision and Zoning Ordinances, including, but not limited to the right to change, alter or redesignate utility and drainage facilities, and to change, alter or redesignate such other present or proposed lot lines and facilities as may, in the sole judgment of the Declarants, be necessary or desirable.

6. Owner's Easements of Enjoyment:

Section 1. Every owner shall have a right and easement of enjoyment in and to the common elements which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) The right of the Association to charge and assess dues, assessments and fees for the use and upkeep of common elements situated upon the common elements;
- (b) The right of the Association to limit the number of guests of members to occupancy of the dwelling based upon the building and fire codes;

(c)The right of the Association to suspend the voting rights and the right to use the common areas for any owner for any period of time during which an assessment against his lot remains unpaid and for a period not to exceed sixty days for any infraction of its published rules and regulations;

(d)The right of the Association to dedicate or transfer all or a part of the common elements and areas to any public agency, authority, or utility for such purposes subject to such conditions as may be agreed to by the Association;

(c)The rights of the Association to adopt, impose, and enforce regulations for the use and enjoyment of the common elements and improvements thereon, which regulations may further restrict the use of the common elements;

(e)The right of individual owners to the exclusive use of parking spaces which may be set aside by the Association for each lot owner or residential structure.

(f)Notwithstanding anything contained herein to the contrary, the Association shall not alienate or transfer in any way all or any part of the common elements without the prior approval of all holders of outstanding first priority mortgages against any of the properties that are subject to this Declaration; Provided, however, this restriction shall not be applicable to grants of easements for utilities, storm sewers, sanitary sewers and other conveyances for dedication to the public or for the use and benefit of the Association.

Section 2. Any Owner may delegate, in accordance with the Association Declaration, By-Laws, and Articles of Incorporation, his right of enjoyment in and to the common elements and facilities to the members of immediate family, renters, contract purchasers and persons who

reside on the property.

7. Association Management, Membership and Voting Rights.

Section 1. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to this Declaration.

Section 2. Each member of the Association shall have one vote for each lot owned.

When more than one person or entity holds an interest in a lot as an Owner, a lot is owned by a corporation, partnership or other form of joint venture, a Certificate of Voting in a form established by the Association shall be filed by such Owner or Owners, as the case may be, designating the person who shall be entitled to cast a vote with respect to such lot; Provided, however, no Certificate of Voting shall be required when a Lot is owned solely by a husband and wife as tenants by the entirety and a vote cast by either the husband or wife in person or by proxy shall be binding upon the other unless a contrary vote is timely received by the Association, in which event, neither vote shall be counted. A certificate of voting shall be valid until such time as the Association receives a subsequent Certificate of Voting. If no Certificate of Voting is properly filed with the Association with respect to a lot which requires such a certificate, no vote shall be allowed with respect to said lot until such time as a certificate of voting is properly filed with the Association. In no event shall any fractional vote be counted or more than one vote be cast with respect to any one lot.

Section 3. Management of the affairs of the Association shall be carried out in

Accordance with the terms and conditions of this Declaration, the terms and conditions of the Articles of Incorporation, and the By-Laws of the Association as adopted.

8. Residential Use.

A. Single Family Residential Use Only. All designated lots shall be used for single Family residential purposes only. No structures shall be constructed, altered, placed or permitted to remain on any lot in the Development unless the same is a single family residence. A residence may not be divided nor may any portion less than the entire residence be rented out. No residence may be altered in such a manner as to create or provide for more than one living unit per lot for one single family.

B. Permitted Rentals. Every owner shall be permitted to rent his or her home for periods of not less than a 2 day weekend or one week intervals. All rentals as well as tenants, guests and invitees, shall be subject to rules and regulations which may be established from time to time by the Executive Board of the Association, and any lease of a residential dwelling on any lot shall be deemed subject to such rules and regulations, and the Association shall have the right to enforce violations of the rules and regulations against both the owner and the owner's tenants, guests and invitees.

9. Mobile Home Prohibition. Mobile homes, trailers, manufactured homes, modular homes, tents and all other structures of a temporary character are expressly prohibited from being placed, put or maintained on any lot at any time. Provided, this prohibition shall not apply to shelters used by a Contractor or Builder during the reconstruction of a single family dwelling so long as said temporary shelter is not used

at any time as a residence and said temporary shelter is immediately removed following completion of the dwelling. As used herein, the term "mobile home" and "manufactured home" shall have those definitions and meanings set forth in G.S. 41-2.5, G. S. 143-143.9(6), and G.S. 143-145(7). Provided, that the width and length of a manufactured home, or mobile home shall be irrelevant and inapplicable as it is the intent of these Covenants to prohibit manufactured homes, modular homes and mobile homes of all sizes regardless of length or width.

10. Stick Built Construction Required. Only stick built single family Townhome structures first submitted to and approved by the Declarant or their successors in interest or assigns as the Architectural Control Committee shall be permitted on any of the lots. A "modular" home which is defined herein as a prefabricated structure having floors, walls, ceilings, or roof composed of sections or panels of varying size which have been fabricated prior to erection on a building foundation, shall be prohibited. No buildings or structures of any kind shall be permitted on any lot within the development unless first submitted to and approved in advance by the Architectural Control Committee and Declarant in accordance with the paragraphs hereafter.

11. Screening of Tanks and Storage Receptacles. All propane tanks or similar Storage receptacles are prohibited from being exposed to view. Any such receptacles may be installed only within a screened area, under steps or stairways, within a building, or buried underground, if permitted by the building code . However, the Declarant shall be permitted to erect, place or permit the placement of tanks,

equipment or other apparatus for uses related to the provision of sewage, water and other utilities to the Property.

12. Minimum Building Requirements.

A. No residential structure shall be hereafter erected, placed, altered or permitted to remain on any lot other than a single family townhouse dwelling not to exceed three stories in height. Outbuildings are prohibited unless both Owners reach a written agreement as to the location, style and placement of the outbuildings and the same shall be designed, located and used in accordance with the Town of Emerald Isle's ordinances and in such a manner as not to interfere with views or enjoyment of the water views of either owner.

B. Each townhouse dwelling shall contain not less than 1500 square feet of enclosed total heated area with regard to the three story structure on each lot. As used herein the term enclosed heated area shall mean the total enclosed heated area within a dwelling, excluding parking areas, terraces, decks unenclosed porches and similar areas.

C. All buildings or structures shall be erected or placed on any lot in accordance with the applicable covenant or building code provision, whichever is more restrictive. Nothing herein shall require or impose any setback requirement with regard to the common party walls between adjoining townhome dwellings as it is within the contemplation of the Declarant that Emerald Cay Townhomes will have two lots with adjoining townhome dwellings thereon with a zero lot line along the common wall between the two structures.

13. Conveyance of Single Family Townhouse Dwelling. Regardless of any provision in these Restrictive Covenants to the contrary, nothing herein shall prohibit or prevent the conveyance of a part or portion of any lot in order to convey one separate living quarters townhouse residence located thereon.

14. Party Walls.

Section 1. General rules of law shall apply with regard to party walls. Each wall which is built as a part of the original construction of the townhomes upon the phases and lots and placed between the separate living quarters of single family townhomes shall constitute a party wall, and, to the extent not inconsistent with the provisions of this paragraph, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repairs and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by each owner who makes use of the common wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this paragraph, any owner who by his negligent or willful act causes the party wall to be exposed to

the elements shall bear the whole cost of furnishing the necessary against such elements.

Section 5. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this paragraph shall be appurtenant to the lot and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this paragraph, each lot owner shall choose one arbitrator, and the two arbitrators so chosen shall select the third, and the majority decision of the arbitrators shall be binding on the owners thereto. In the event the lot owners fail to arbitrate any matter in dispute, then the Executive Board is authorized to arbitrate the matter and to render a decision binding upon the lot owners.

15. Exterior Appearance.

Section 1. In the event of fire, hurricane, acts of God or other substantial damage that requires the reconstruction or repair of either or both structures, the exterior of the townhomes or other structures hereafter erected must be completed within 12 months after construction is commenced, except under certain circumstances where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities.

Section 2. Each lot owner shall provide receptacles for garbage and trash in a screened area not generally visible from the road giving access to each lot, or shall retain the same in the enclosed garage or to rear of the owner's townhome not generally visible by the other owner and his family and guests. All gas tanks shall be

enclosed within a fence, wall or plant screen or shall be placed under the steps or stairway not visible from any street or adjoining townhome lot.

Section 3. The Townhomes have a concrete pad and common driveway area for the parking of automobiles for each side in addition to the area located under each structure for parking. Each lot owner shall attempt at all times to park both personal vehicles as well as require the parking of vehicles of tenants and guests on his respective side of the common wall between the two structures, unless prior permission is gained from the owner of the other lot. The Association shall have the right to adopt rules and regulations to enforce this provision. automobiles. The owner of the west lot and his guests and invitees shall refrain from parking on the driveway or parking area east of the common wall, and the Owner of the east lot likewise shall refrain from parking west of the common party wall so as to not interfere with the access by the Owner of the west lot and his guests and invitees to his structure or parking areas. Other than in these locations specifically set aside for parking on each lot, no other vehicles shall be parked or placed in any other location except as permitted by the Rules of the Association so that the driveways serving the two townhomes will remain open and not be blocked for use by the owners, guests or families of either or both townhome lots. The Association shall have the authority to adopt and enforce rules regarding the parking of vehicles on each lot or within the common areas for automobiles and to insure that the driveways will not be blocked.

Section 4. The maximum building height of any residential dwelling and accessory Building shall not exceed the maximum building height permitted by the Town of

Emerald Isle Building Ordinances. In the event either or both structures are hereafter rebuilt or reconstructed, the height, elevation, style, design and layout shall be generally carried out and completed in conformity with the existing structures except as may be required by the Town's flood and building regulations.

Section 5. Clothes lines and television satellites discs exceeding 24 inches in diameter are expressly prohibited. Any television satellite disc meeting the requirements of not exceeding 24 inches in diameter shall additionally be installed either at a location on the roof or to the rear of the main townhouse dwelling and/or screened appropriately with fencing or vegetation so that the same is not easily seen or observed from adjoining lots or the street on which the lot fronts. The placement of garbage, trash and refuse and containers therefore shall be in accordance with such rules and regulations as may be established from time to time by the Town of Emerald Isle and the Emerald Cay Owner's Association, Inc.

Section 6. The driveways leading from the single family townhomes to the street shall be paved with stone, concrete, paving brick or other materials which will allow the drainage of storm water into the soils and sands or into any French drains or pits below portions of the driveways. The specific type of materials used is subject to approval of the Architectural Control Committee.

Section 7. The Association shall have the right to require that campers, boats, trailers, recreational vehicles or trucks exceeding ½ tons be parked and located either on the ground level of each structure or at a location on the lot so as not to interfere with the view of the water by either structure, or at a location off site.

Section 8. No lot owner shall be permitted to fill in or alter any drainage system or area without the written approval of the Association.

Section 9. No metal or wire fencing shall be permitted on any lot or portion thereof. All other fencing materials and the location of the same shall be required to be approved in advance by the Architectural Control Committee before being used or installed. The maximum height for fencing if so approved shall be four feet for any fence installed within the common areas.

Section 10. Window Appearance. All draperies or other window dressings in each single family townhouse dwelling visible from the street shall be white or soft pastel colors or in lieu thereof shall have a white or off white lining.

16. Architectural Control Committee.

Section 1. There is hereby established an Architectural Control Committee (herein "Committee") which shall be composed of the Declarants or their assignee as long as the Declarants own or have an ownership interest in a lot, and at such time as the Declarants no longer have an interest in a lot, then the Committee shall be appointees of the Declarants not exceeding 3 persons or upon failure of appointees, then the Association Executive Board shall serve as the Committee.

Section 2. No building, dwelling or structure of any type shall be hereafter erected, constructed, placed or altered on any lot until the construction plans and specifications showing the location and footprint of the structure, dwelling, buildings, driveway and utility systems, and detailing the type and quality of workmanship or exterior design, materials, location, finish grade elevation, vegetation removal and

similar features of the structure, dwelling and building have been approved by a majority vote of the Architectural Control Committee. The Architectural Control Committee shall have the authority to review and approve the quality of workmanship, use and design of materials, harmony of exterior design with the existing structures, location vegetation removal, topography and finish grade elevation of any structure, building or dwelling, location and similar building and architectural features. Approval shall also be required by the Architectural Control Committee as to all outbuildings, fences, lot structures, clearing and landscaping. The Architectural Control Committee may also grant variances as to setback requirements if necessary or desirable because of topography, vegetation, irregular lot shape and similar factors. However, any such variance shall be conditioned upon approval of a similar variance by the Town of Emerald Isle if so required by the Town's applicable ordinances and regulations.

Section 3. All plans and drawings shall be submitted to the Architectural Control Committee and thereafter reviewed by the Architectural Control Committee within thirty days. Approval or disapproval by the Committee shall be in writing, and reasons for denial of approval shall be specified therein. Denial may be based upon design, appearance and/or aesthetics or the lack thereof in the absolute discretion of the Architectural Control Committee. In the event the Committee fails to approval or disapprove an application within thirty days after plans and specifications have been submitted, then these covenants shall be deemed to have be complied within. If the new structure, renovations or new construction is being carried out as a result of

fire or storm damage, then the same shall be required to closely match or mirror as possible the design, size, shape, layout, appearance and materials of the original structures and the adjoining townhome structure still existing.

17. Nuisances, Pets, Inoperable Vehicles, Etc.

A. No unserviceable motor vehicles, appliances or other assorted junk and useless Materials may be kept on any lot. All lots shall be maintained free and clear of rubbish and debris.

B. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood. No horses, fowl, livestock or other animals shall be allowed on any of the lots, except that lot Owners actually residing upon their lots may keep pets which are customarily domesticated, tame and considered house pets such as dogs, cats and birds, so long as the number does not exceed two per lot.

Additionally the pet(s) shall be maintained inside the residence, and the pets shall be restrained from constant barking or shall be removed from the site if such barking and noise continues. Additionally, any household pet must be removed upon notice by the Owners Association if the Owners' Association determines that there is excessive noise or excessive smell from the habits and living conditions of the pet, or that the pet displays dangerous propensities, following written warning to the owner thereof and failure of the owner following reasonable notice to remedy the situation.

Such determination shall be exclusively the authority and providence of the Owners' Association and any lot owner purchasing a lot shall be bound by this covenant and is

charged with notice that any animal or pet located on a lot owner's property which causes excessive barking or noise, offers or shows dangerous propensities, or offending smells or habits, may be summarily removed by the Homeowners' Association following one warning.

18. Exterior Maintenance. All residential townhome dwellings shall be maintained in their original architectural design as closely as possible and no changes shall be made to the exterior which would alter or change the exterior appearance without the prior approval of the Declarant, Architectural Control Committee or Executive Board at such time as the development has been completely built out. The Association is authorized to maintain the exterior of each single family townhouse residence, yard and accessory building in a good state of repair and appearance, including but not limited to maintenance of yard, shrubs, landscaping, fencing, roof, siding, windows, doors, painting, trim and other exterior features, so as to maintain property values and to make the structures on the lot aesthetically pleasing and as close to the original design, paint colors and similar features as possible. Adjoining townhouse structures shall be painted and maintained with the same colors, trim and exterior features as originally completed, reasonable wear and tear excepted.

19. Insurance, Reconstruction and Resale.

Section 1. In the event of damage to any townhouse residence or other structure by fire or other casualty, the exterior of the building or structure shall be repaired within six (6) months or the building structures shall be demolished and the premises cleared of debris. Within six (6) months of the date the damage occurred, reconstruction shall

have commenced as to the residence following approval by the Architectural Control Committee and the Declarant in accordance with Paragraphs 17 and 18 above. The lot owner shall use the insurance proceeds to rebuild if the consent of any lienholder on the lot may be so obtained, or if consent to rebuild can not be obtained, the Association and/or other lot owner may require that the lot owner sell said lot first to the Association or then to the other lot owner. Association shall notify Owner in writing that it is exercising its rights hereunder to require that the lot owner resell to the Association and/or Declarant as a result of the lot owner failing to reconstruct or rebuild. The sales price shall be the lot's appraised fair market value which shall be determined by a certified real estate appraiser. The Association as part of its written notice to the Owner shall specify three certified appraisers therein and in the event Owner fails to select one of the three within seven (7) days thereafter, then Association shall have the right to select one of the three on the list. "Certified appraiser" shall be defined as a person, firm or corporation having the requisite training and education for the appraisal of residential lots in Carteret County, North Carolina, and is on an approved list for such by two or more banks or mortgage lenders in Carteret County, North Carolina. Once the appraised fair market value has been determined, Owner shall be notified as to the appraisal, and Association may require that the Owner convey said lot to the Association at its appraised value within ten (10) days thereafter, and if the Association foregoes purchase of said lot, the other lot owner for a period of ten (10) days thereafter may exercise the Association's right to repurchase at the same appraised value. Nothing herein shall

require the repurchase of said lot by the Association or other owner but the association may require Owner to either rebuild or demolish and remove all debris from the lot through an appropriate court action.

20. Required Insurance. In order to insure that adequate insurance is on hand for an Owner to rebuild in the event of a fire or other casualty, the Association shall require and each owner shall pay for and keep in full force and effect one or more policies of insurance covering fire, wind and hail, and flood if so located in a flood zone, and similar perils on their residential townhouse. Said insurance coverage shall be for replacement costs and upon completion of each dwelling and lot improvements, there shall be filed with the Association and other owner evidence of insurance coverage through a certificate of insurance. Additionally, each Owner shall be required to annually provide written evidence of insurance to the other owner and the Association. Every Owner prior to reconstruction of a dwelling shall also be required to obtain builder's risk coverage during reconstruction of the dwelling.

The Association may specify the particulars of insurance coverage on each dwelling including the company, coverage, deductible provisions, agent and the like. In the event any Owner should fail to comply with the insurance requirements of this section, the Association is authorized to procure insurance coverage and to assess the Owner the premiums therefore. Failure to pay the premiums shall constitute default and shall entitle the Association to collect the premium together with interest at eighteen percent (18%) per annum from the date of payment, attorney's fees and other incidental expenses. All costs associated therewith shall likewise constitute a lien and

be enforceable in the same manner as for annual assessments.

The Association Board of Directors upon failure of a lot owner to rebuild using the Insurance proceeds may intervene and recover the proceeds and use the same to rebuild, or may require the lot owner to sell the lot and payoff any liens using the insurance proceeds. The Declarant and the Association Board of Directors shall have the right to establish maximum deductible sums for each policy procured, to require that all such policies be written by a company approved to do business in the State of North Carolina, and to fix such other procedural details and requirements for insurance coverage as deemed necessary or appropriate by the Association.

Section 21. Signs. Without the prior written permission of the Architectural Control no signs of any character shall be displayed on any lot except for a property identification sign not exceeding two square feet, and "for sale" or "for rent" signs not exceeding six square feet in size each.

22. Subdividing. No lot shall be further subdivided, or its boundary lines changed, except with the prior written consent of the Declarants. Likewise, no lot shall be used as a street, road, lane, way or easement over which access may be obtained from the real property or lot to any adjacent properties without the prior specific written consent of the Declarant.

23. Non-Business Use. Each lot and the residential townhouse dwelling thereon shall be restricted to residential use only and may not be used for any other purposes by a lot owner or his tenants, guests or invitees. No lot owner may permit his lot and residential dwelling to be used or occupied for any prohibited purposes.

24. Easements.

A. Utility Easements. The Declarants reserves unto themselves a perpetual, alienable and releasable easement and right-of-way on, over, under, through and upon the ground with men and equipment to erect, maintain, and inspect, repair and use electric and telephone poles, wires, cables, conduits, sewers, nitrification lines, water mains and pipes and other suitable equipment for the conveyance and use of electricity, telephone equipment, cable television, gas, sewage, water and community utilities or conveniences in and over the front and rear 10 feet of each lot and five feet along each side line, as well as other common areas that maybe shown on the recorded map of the development, together with the right to cut drain ways for surface water whenever action may appear to the Declarant to be necessary in or to maintain reasonable standards of health, safety and appearance. These easements and rights-of-way expressly include the right to cut trees, bushes or shrubbery, grading of the soil, or to take similar actions reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to assign said easements to the Association or one or more public or private water and/or sewer utility companies for service to each lot in the future.

B. Association Easements. There is hereby granted to the Declarant and Association as well as the appropriate utility companies easements for electrical, gas, elevator, telephone, water, cable television, and sewer facilities as may be desirable or necessary to adequately serve the lots and all appurtenances thereto, including but

not limited to the right to install, lay, maintain, repair, relocate and replace water mains and pipes, gas mains and pipes, sewer and drain lines, telephone and communication wires, cables and equipment, electrical wires and conduits, elevator shaft, wires and cables, and associated equipment, over, under, through, in, along and on each lot and the common elements. Additionally, easements are reserved by the Declarant and hereby granted to the Association for such utility lines and equipment in and to each residential townhouse dwelling for the installation, maintenance, repair, relocation and repair of utility lines and equipment for such services.

C. Common Element Easements. The common elements as well as limited common Elements are hereby made subject to an easement in favor of the Declarant, the Association and the agent and employees of the Declarant and Association, as well as utility companies serving the same, for the installation, construction, maintenance, repair, relocation and replacement of all utility services and equipment to serve both the common elements as well as individual residential townhouses on lots.

D. Access Easements. The common elements shall be and are hereby made subject to an easement in favor of all lot owners, the Association, the members of the Association, and their invitees, employees, tenants, guests and servants, for purposes of access, egress and ingress, over, through and across each portion of the common elements, for repairs, reconstruction, maintenance and upkeep of all lots and the structures thereon, access to and from each residential structure, and for such purposes as deemed necessary or desirable by the Executive Board, and such right of use and access shall be subject to the authority of the Executive Board to adopt from

time to time such rules and regulations regarding the same. The access areas shall not be blocked and vehicles and other equipment or property of any kind shall not be placed or allowed to remain in the access areas.

E. Tri-Party Agreement with the Carteret County Health Department for Septic Tank

System Maintenance. Declarant has heretofore entered into an agreement with the EMERALD CAY Owners' Association, Inc. and the Carteret County Health Department for the future maintenance of the sewer/septic tank system, lines and equipment installed within the common elements of each phase and serving each lot which Tri-Party Agreement obligates the Association to provide all future assessments, costs, and funds necessary in order to perpetually maintain the sewer/septic tank systems, lines and equipment, serving the lots thereon until such time as a community sewer system is otherwise available to serve the development. The Association and each lot owner is hereby granted a perpetual easement and right of way on, over, under, through and upon each lot and the common areas in order to locate, construct, connect to, maintain and reconstruct the sewer/ septic tank system, nitrification lines, and equipment serving each lot thereon. The Association shall have the continuing obligation to maintain the sewer/septic tank system serving the lots and system. The Association shall further have the right to adopt and enforce rules and regulations concerning the proper maintenance, use and care of the system, as well the tie-in connections to and discharges into the system.

F. Common Areas. The Association shall have the right to adopt rules and regulations concerning use of the common areas and any recreational amenities located or to be

hereafter located within the common areas, including any swimming pool, walkways or similar common amenities which may be hereafter placed or installed, and shall have the continuing obligation through dues and assessments charged each lot owner to provide for the upkeep, maintenance, repair and reconstruction of such amenities as part of the Association's budget.

G. Granting of Easements. The Association is authorized to grant permits, licenses and easements over the lots and common elements for maintenance, repair and reconstruction of structures, yard upkeep, and utilities or such other purposes reasonably necessary or useful for the maintenance or operations of the development.

25. Rights of Mortgagees. Each holder or insurer of a mortgage, upon written request to the Association, such request to state the name and address of such holder or insurer, the lot owner/mortgagor, and the description of the secured property, will be entitled to timely written notice of:

- (1) Any condemnation or casualty loss that affects either a material portion of the project or the lot securing the mortgage.
- (2) Any 60 day delinquency in the payment of assessments or charges owed by the owner of any lot upon which it holds a mortgage.
- (3) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association.
- (4) Any proposed amendment to this Declaration or the plats recorded in connection therewith which effects a change in the boundaries of any lot, ownership of common elements, if any, the number of votes in the

Association pertaining to said lot, or any proposed material changes in this

Declaration which would substantially affect the rights of the mortgage holder.

26. Covenants Run With the Land. These Covenants and Restrictions shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these Covenants are recorded, after which time such Covenants shall be automatically extended for successive periods of ten (10) years each. These Covenants and Restrictions may be amended by an instrument executed by lot owners under the provisions of these covenants. Any such amendment shall be effective upon recordation.

27. Violations. In the event of a violation or breach of any of these Covenants by any lot Owner or other person, the Declarant, Owners' Association or anyone or more Owners of lots in the Development, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions set forth herein and to prevent the violation or breach of these Covenants, and to recover damages as compensation for a breach or violation of these Covenants. Any failure to enforce any right, reservation, or conditions contained in these Covenants, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach, or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. The Town of Emerald Isle is further given the right to enforce these covenants with regard to failure to perform any act required by Town or State Ordinances, rules and regulations.

28. Invalidation. The invalidation by a Court or other public agency of any of the

provisions of these Covenants shall not in any way affect any of the remaining provisions, and the same shall remain in full force and effect.

30. Arbitration. In the event any dispute, impasse or disagreement should occur between the owners of the lots or between officers or directors of the Association which can not be resolved, then the matter shall be required to be submitted to binding arbitration upon written request by any owner, member or director. Each party or side shall designate their arbitrator in writing to the other, and the two arbitrators so selected shall then appoint a third who shall have no financial interest or other conflict of interest with the two owners. Arbitration shall then proceed in accordance with North Carolina law as to the hearing, notices and matters presented, and the decision of the majority shall be binding upon the parties to the dispute.

31. First Right of Refusal Upon Sale and Transfer of Lot.

In the event either lot owner desires to sell his or lot and shall have received a bonafide offer from a prospective purchaser, the other lot owner shall be given written notice thereof by certified mail, together with an executed copy of such offer and the terms therein. The lot owner shall have the right to purchase the lot upon the same terms and conditions as set forth in the offer so long as the lot owner desiring to purchase gives written notice of such election to the selling owner accompanied by a matching down payment or deposit during a period of fourteen days following delivery of the copy of the bonafide offer to the other lot owner. Any sale shall be wholly void and shall confer no title upon the intended purchaser unless the other lot owner has been afforded the first right

of refusal in accordance with these restrictions.

These restrictions upon transfer shall not be applicable to the transfer of title of a deceased owner or an interest in the lot either by Will or Intestate Succession. Likewise, nothing herein shall interfere with the right of a lot owner to subject his lot to a deed of trust or mortgage or security instrument. Likewise, any lender or mortgagee holding a lien on a lot upon which default has occurred, shall be free and clear of the provisions of this paragraph with regard to the foreclosure and sale of the lot by either the trustee at foreclosure, or the sale of the lot to the lender or its assignee following foreclosure to a third party. Provided, the purchaser from the lender or trustee following the foreclosure sale shall be subject to the terms and conditions of this paragraph.

If the other lot owner elects not to purchase within 14 days following delivery of the offer, then the selling owner shall be released from the restrictions contained herein. Upon written request from any prospective purchaser, the lot owner electing not to purchase shall be required to execute in recordable form a written certificate evidencing compliance by the selling lot owner with this paragraph, and upon failure to do so, the selling owner is authorized to record in affidavit form a certificate evidencing compliance herewith and the failure of the other lot owner to exercise his or her first right of refusal.

This restriction upon transfer shall be binding on the lot owners for a period of 20 years from the date of recordation of this Declaration and shall only be extended upon the execution and recordation of an amendment signed by both

lot owners setting forth the terms of any extension.

ARTICLE II - EMERALD CAY OWNERS' ASSOCIATION, INC.,

ASSESSMENTS, EASEMENTS AND MAINTENANCE OF COMMON AREAS AND LOTS

1. Creation of Emerald Cay Owners Association, Inc.

Declarant has heretofore incorporated a non-profit corporation entitled "Emerald Cay Owners Association, Inc. (Herein "Owners' Association") by the filing of articles in the Office of the North Carolina Secretary of State. Said Association has been created for the benefit of all lot Owners within the Townhome Development, and so as to provide for the maintenance, upkeep and repair of yards, lots, structures, common elements, open space areas, easements and recreational areas, as well as the management and administration of Association properties within the Development.

2. Association Membership. There shall only be one type of membership in the Association, a regular membership, which shall be limited to Owners of lots within the townhome project. Every owner of a lot in the Townhome Development shall become a regular member of the Association upon the date of recordation of a deed conveying the lot to the purchaser. Every owner as a member of the Association shall be bound by the terms and conditions set forth in these covenants, and his successors in interest and assigns, shall be obligated to comply with the duties and obligations set forth herein. Regular ownership shall be appurtenant to the lot owned by each lot owner and may not be severed, separately transferred or conveyed.

3. Association Properties and Authority to Assess and Rebuild Structures.

A. Driveway, Sewer System and Parking Areas.

The Association properties shall initially consist of all areas of the Townhome Project outside the lot lines as shown on a recorded plat and as described in paragraph 2 above.

The common driveways are part of the common areas and are being provided to each lot owner for ingress, ingress and egress to and from each lot to Shipwreck Lane, and no vehicle or other impediment to vehicular use of the same shall be placed or allowed to be parked or to remain within the access drive so as to block circular traffic. The parking areas under the structures are limited common areas for the parking of vehicles for both lots so long as such parking uses do not block the use of the common drive for either lot owner or their guests and invitees.

The septic tank systems are also part of the common areas subject to the authority of the Association to regulate use of the same, to provide through dues and assessments upkeep, maintenance and replacement, and to insure against claims for personal injuries or death.

B. Use of Specified Limited Common Elements and Front, Side and Rear lot areas.

The limited common elements defined above and the side and rear yards of each lot as shown on the recorded plat are limited common elements for the use and enjoyment of each lot owner. However, the Association shall be entitled to use the front, rear and side yards and limited common elements for access to and from the street for the upkeep, maintenance, reconstruction and replacement of the structures, utility placement, construction and repair, and for the sewer/septic sewer system for each lot.

C. Sewer/septic System Maintenance.

It shall be the responsibility of the Owners' Association to permanently maintain the sewer/septic system within the common areas serving each lot in accordance with the State of North Carolina and Carteret County Health Department rules and regulations.

D. Repairs to Exterior of Residential Structures.

The Association shall further have the duty to budget for and carry out all required maintenance and repairs to the common areas, to the exterior of each residential structure including the decks and stairways attached to the exterior of each structure even though limited common elements, and to the septic sewer system in accordance with this Declaration and State and County rules and regulations, and the Association shall have a perpetual easement over, through and on the front side and rear yards of each lot and common areas as well as to the interior of the townhouse structures as necessary for such purposes. The Association shall also have the power to assess a lot owner whose structure has been damaged or destroyed for all costs and expenses to rebuild, replace or reconstruct all or any portion of the residential structure, sewage/ septic tank system and other portions of improvements which are the responsibility of the Association and are not covered by insurance, and the Association may require that the lot owner cause the insurance proceeds to be paid over to the Association for the purpose of rebuilding, repairing or replacing the structure.

4. Easements of Enjoyment. Every member of the Association shall have a right and easement of enjoyment in and to the Association properties. Each regular member

may delegate, in accordance with the By-laws, his right of enjoyment to the Common Areas and facilities to the members of his family, tenants, or contract purchasers who reside on the property. Such rights of use and enjoyment shall be subject to the following provisions:

(a) The Association shall have the right to charge dues and assessments for the upkeep and maintenance of Association properties, recreational areas, septic system easements, lots, structures, and other amenities which are the responsibility of the Association herein. Likewise, the Association shall have the right to charge dues and assessments for the construction and maintenance of any improvements on lots, recreational Areas and other common elements, and to provide for all types of insurance for the Association and its properties, as well as the upkeep and maintenance of easements, sewer systems, and other common areas and facilities.

(b) The Association shall have the right to suspend the right to the use of any Association Properties by any Member for any period during which any dues or assessments against such Member are overdue and unpaid, and for a period not exceeding sixty (60) days for any infraction of rules and regulations established by the Association for the regulation and control of Association Properties. Likewise, the Association shall have the right to fine any Member an amount not exceeding \$50.00 for each violation of rules and regulations established by the Association. The Association shall further have the right to require the parking and storage of boats, recreation vehicles, campers, trailers and similar vehicles, at specified off site

locations.

(C) The Association by rules and regulations established from time to time shall have the right to provide for the use and enjoyment of Recreational Areas and Association Properties. This right to the use of Association Properties shall extend to regular members of the Association and relatives of members who reside with and in the house of members, the member's tenants, and contract purchasers of lots in the development who reside on the lot.

5. Voting Rights. Each lot owner shall have one vote for each lot he or she may own in the property. Lots which are owned by multiple Owners, whether tenants in common, tenants by the entirety, or some other entity, shall have one vote per lot and the Owners thereof shall designate in writing the person who shall be entitled to cast a vote for the group. If any Owner shall own more than one lot, said Owner shall have one vote for each lot owned. Provided, the exercise of voting rights is subject to being suspended or terminated in accordance with Paragraph 12 hereafter for nonpayment of dues or violation of rules and regulations. Persons or entities holding a lot merely as security for the performance of a loan or other obligation shall not be members.

6. Membership Dues and Assessments.

A. Every Owner of a lot in the Development by the acceptance of a deed to the same, which shall be conclusively evidenced by the recordation of a deed in the Office of the Carteret County Register of Deeds, hereby covenants and agrees to pay to the Association such monthly, quarterly or annual dues and assessments as may be established by the Association for the maintenance and upkeep of lots, yard, structures

and Association properties, capital improvements and the construction of improvements and facilities on or to Association properties, maintenance and landscaping on lots, and the administration of properties and facilities assigned to the Association for operation and management. Such dues and assessments together with interest at the legal rate of interest, costs and reasonable attorney's fees if the dues and assessments remain unpaid, shall be a continuing lien on each lot against which said assessment is made until paid in full. Said dues and assessments shall also be the personal obligation of the Owner of each lot at the time the dues and assessments become due, and the personal obligation shall not pass to a successor in title unless expressly assumed by the successor. However, said dues and assessments shall be a lien on said lot and a sale or transfer of any lot shall not affect the lien for unpaid dues or special assessments against said lot.

B. The dues and assessments shall be used exclusively for the purpose of maintaining and improving septic and sewer easements and systems, drainage facilities, open spaces, upkeep, maintenance and reconstruction of structures, the upkeep and maintenance of yards, and the maintenance and upkeep of Association properties, the construction of improvements and facilities thereon, the upkeep, maintenance, operation, and management of the recreational facilities, the acquisition and payment of all types of property, casualty and liability insurance for structures and the Association, the upkeep, maintenance, and replacement of equipment, improvements, and facilities thereon, the costs of repairs and the hiring of contractors, professionals, and other firms, and generally the promotion of the recreational, health,

safety, and welfare of the membership. Generally, the dues and assessments may be used to fund any of the activities, powers and authority of the Association as set forth in the Association's Articles of Incorporation and By-Laws and as the Association may be authorized to carry out as a nonprofit owners' association.

C. The dues and assessments shall be used exclusively for the purpose of maintaining and improving landscaping, the maintenance and upkeep of townhouse structures, Association properties, landscaping and yard maintenance of the individual lots and the common areas, the construction of improvements and facilities thereon, the upkeep, maintenance, operation and management of structures, lots, properties or facilities leased to or assigned to the Association in accordance with these Covenants, as well as the upkeep, maintenance and replacement of equipment, improvements and facilities thereon, and generally for the promotion of the recreational, health, safety and welfare of the membership. Additionally, the dues and assessments may be used for acquiring all types of property, casualty and liability insurance, and the dues and assessments may be used to fund any of the activities, powers and authority of the Association as the Association is authorized to do as a non-profit Owners' Association.

D. The obligation to pay dues shall commence as to all members purchasing lots on the date the deed to the lot from the Declarant shall be recorded as to each lot.

7. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall be \$ 3300.00 per lot, payable monthly or quarterly as determined by the Association.

A. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased each year not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the regular membership.

B. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased above ten (10%) percent by a majority vote of the regular members of the association who are voting either in person or by proxy, at a meeting duly called for said purpose.

C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

8. Special Assessments for Capital Improvements. In addition to the annual assessments authorized in Paragraph 7 above, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any lot(s) and the common elements, or property or facilities assigned to the Association for operation and administration, including equipment, fixtures and personal property related thereto, provided that any such assessment shall have the assent of fifty one (51%) percent of the regular members of the Association who are voting in person or by proxy at a meeting duly called for this purpose.

9. Notice and Quorum for Actions under Paragraphs 7 and 8. Written notice of any Meeting called for the purpose of taking any action authorized under Sections 7 or 8

above shall be sent to all Regular Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) percent of all the votes of the membership of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meetings shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

10. Non-Payment of Assessments. Any Member failing to pay the annual assessments and dues or any fees or charges authorized by the Association within a period of thirty (30) days after the billing thereof, shall be deemed to be in default. The Board of Directors shall cause to be filed in the Office of the Clerk of Superior Court or in the Office of the Register of Deeds of Carteret County an instrument suitable for recordation which shall set forth the name of the Owners, the lot description, the amount of the assessment, the date the assessment was due, and the fact that the Board of Directors has given the Owner notice of said assessment and said Owner has failed to pay said assessment. In addition to the assessment so stated, all amounts necessary for the collection of said assessment, including, but not limited to mailing cost, recording cost, and a reasonable attorney's fee incurred for the collection thereof, together with interest at the legal rate of interest, shall constitute a lien against said lot and shall be due and payable from the delinquent Owner.

Following the recordation of said lien, the Board of Directors are authorized to

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institute an appropriate action in a Court having jurisdiction over the subject matter and the parties in order to collect the assessments, interest, cost and attorney's fees from the Owners and in order to effect a sale of the property to satisfy the lien for the delinquent assessments and expenses.

11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to the sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. Likewise, the sale or transfer shall not relieve the lot Owner from personal liability therefrom.

12. Suspension or Termination of Voting Rights. In addition to any other rights the Association may have with regard to non-payment of assessments and dues, the payment of any assessments levied by the Association shall be a prerequisite to the exercise of any voting rights earlier provided for herein and for serving on the Board of Directors of the Association. Any member failing to pay the assessments or dues on his lot so that the same thereafter become delinquent, shall be deemed ineligible to vote at any annual or special meeting of the membership and shall be deemed ineligible to serve on the Board of Directors or as an officer of the Association so long as said delinquency continues.

13. By-laws and Rules and Regulations. The initial By-laws adopted by the Board of

Directors of said Association are set forth on Exhibit B attached hereto and incorporated by reference. All Owners of lots together with their guests, families and invitees shall be bound by and fully comply with the By-laws of said Association as well as the Articles of Incorporation filed with the Secretary of State. The Association shall have the authority to adopt amendments to the By-laws governing the business and affairs of the Association from time to time in the manner and procedures prescribed by the By-laws and Articles of Incorporation attached as Exhibits hereto. The By-laws set forth the organization of the Board of Directors and Officers, the time and manner of meetings of the Association, quorum and voting procedures, and other rights, powers, responsibilities, duties and obligations of the officers, directors and members of the Association.

The Association shall further have the authority to adopt from time to time rules and regulations regarding the duties and responsibilities of the Association and its individual members with regard to the use, enjoyment, maintenance, ownership, upkeep and maintenance of Association Properties and the purposes of the Association.

14. Lenders' Rights; Consent to Withdrawal and to Submission of Declaration.

Whenever any lender holding any mortgage or lien upon any lot or lots shall notify the Association in writing identifying the lot or lots upon which the mortgage or lien is held, further identifying the owner or owners of said lots as well as the name and address of said lender to which notices are to be mailed, and each lender shall have the right to be given notice of each membership meeting and to designate a

representative at said meeting, to be given written notice of default as to any lot owner(s) or lot(s) encumbered by the lender's lien, to be given notice of any damage or loss to the common areas of the Townhome lots exceeding \$5,000.00, to receive notice of any governmental condemnation or eminent domain proceeding, to receive written notice of the delinquency and the payment of assessments and dues by a lot owner(s) covered by lender's lien or mortgage, to receive notice of the cancellation or substantial modification of any insurance policies or fidelity bonds of the Association, and to receive notice of any proposed action which would require the consent of the lien holder.

IN WITNESS WHEREOF, the Declarants have executed this instrument on the day and year first above written.


Paul Wygal


Grace Wygal

STATE OF VIRGINIA

COUNTY OF Henrico

Before the undersigned notary public personally appeared Paul Wygal and wife, Grace Wygal who acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this 12th day of July 2011.

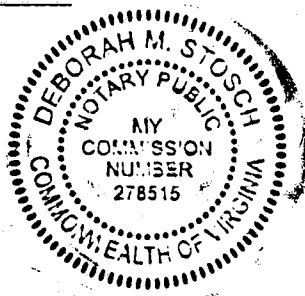
My commission expires: 11/30/2011

Printed Name:

Deborah M. Stosch

Deborah M. Stosch

Notary Public
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Fred K. Studer (Seal)

Fred K. Studer

Nancy Studer (Seal)

Nancy Studer

STATE OF NEW YORK
COUNTY OF _____

I, , a Notary Public for the County and State aforesaid, certify that Fred K. Studer and wife, Nancy Studer, personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal, this the 16 day of JULY, 2011.

Mara Lynn Albanu
Notary Public

Printed Name: MARA LYNN ALBANU

My Commission expires:
MARA LYNN ALBANU
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01-AL6067091
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES 12-03-2013

Prepared by Richard L. Stanley, Attorney at Law, P. O. Box 150, Beaufort, NC 28516

CONSENT BY LIEN HOLDER

Wells Fargo Bank Bank, N.A., Beneficiary in that certain deed of trust on the east unit of Emerald Cay executed by Paul Wygal and wife, Grace Wygal, dated June 3, 2011, recorded June 3, 2011, in the sum of \$268,000, does hereby consent to the Withdrawal of the Declaration of Unit Ownership for EMERALD CAY Condominium, Emerald Isle, NC, and the submission of the Property described as lot 27, Spinnaker's Reach Subdivision, Phase One, to the Declaration of Covenants for Emerald Cay Townhomes which has as its primary purpose alteration of the form of ownership from condominium units to individual lots or townhome use so that the townhome lots may hereafter be held, owned, mortgaged, leased and used as townhome lots each having 3 storied residential structures thereon, and the same may be individually insured as townhome lots.

Wells Fargo Bank, N.A.

By: Lorna K. Slaughter
Name of Officer: Lorna K. Slaughter

Title of Officer: Vice President

STATE OF Maryland

COUNTY OF Frederick

I, Nicole P. Owens a Notary Public for the County and State aforesaid, certify that Lorna K. Slaughter personally came before me this day and acknowledged that ~~he~~(she) is the Vice President of Wells Fargo Bank, N.A., and in such capacity ~~he~~ or she being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the day of November 3 2011.

My commission expires: May 15, 2013

Nicole P. Owens

Notary Public

Printed Name: Nicole P. Owens



My Comm. Exp. 05/15/2013

BY-LAWS
OF
EMERALD CAY OWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

Section 1. The Name: The name of the corporation is Emerald Cay Owners' Association, Inc.

Section 2. The Principal Office: The principal office of the Association shall be located at 101 Shipwreck Lane, Emerald Isle, Carteret County, North Carolina 28594, pending further notice, but the meetings of the members and Directors may be held at such places within the State of North Carolina and/or County of Carteret as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Emerald Cay Owners' Association, Inc., its successors and assigns.

Section 2. The term "Subdivision", "Development" or "Property" as used herein shall mean and refer to the two lots within Emerald Cay Townhomes Development as shown on plats recorded in the Office of the Carteret County Registry, owned by Paul Wygal and wife, Grace Wygal, and Fred K. Studer and wife, Nancy Studer, herein "Declarant" or "Developer" of Emerald Cay Townhomes.

Section 3. Other Definitions: The terms "Developer", "Association", "Owner", "Lot", and "Common Area", shall have those terms and definitions as defined in the Protective Covenants and Restrictions for Emerald Cay Townhomes, to which these by-laws are attached.

ARTICLE III

EMERALD CAY OWNERS' ASSOCIATION, INC.

Section 1. General: Every owner of a lot in Emerald Cay Townhomes shall be a regular member of the Association upon the terms and conditions hereinafter set forth and as defined in the Declaration of Covenants. Regular memberships in the Association shall be limited to owners of townhome lots.

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Section 2. Administration of the Association: The operating entity of the Association shall be Emerald Cay Owners' Association, Inc.

a. Powers: The Association shall have all of the powers and duties set forth in Chapter 55A of the North Carolina General Statutes for non-profit corporation, as well as all of the powers and duties granted to or imposed upon the Association by the Declaration of Covenants and Restrictions for the Townhomes and the Articles of Incorporation of the Association, and all of the powers and duties necessary in the ownership, administration and management of the Association properties.

All affairs of the Association shall be conducted by the Board of Directors who shall be designated in the manner provided for in these By-Laws and Articles of Incorporation of the Association.

In the administration of the operation and management of the Association, the Board of Directors is hereby granted the authority and power to enforce the provisions of these By-Laws and Articles of Incorporation, and rules and regulations governing the use of lots and common areas as the Board of Directors of the Association may deem to be in the best interest of the Association.

b. Purposes: The Association does not contemplate pecuniary gain or profit to the members thereof and no part of the Association's net income shall inure to the benefit of its officers, directors or members or any other private individual. The purposes and objectives of the Association shall be to administer and manage the Association properties and the acts and duties incident to the administration of the Association properties in accordance with the terms, provisions or conditions of the Declaration of Covenants for Emerald Cay Townhomes, and the Articles of Incorporation; and to own, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of said Townhomes.

In carrying out the foregoing purposes the Association shall have all of the powers reasonably necessary to implement and effectuate the purposes of the Association, including, but not limited to the power to make and establish reasonable rules and regulations governing the use of Townhome lots and Townhome properties, to levy and collect assessments from lot owners in accordance with the Declaration of Protective Covenants and Restrictions for Emerald Cay Townhomes and these By-Laws, to maintain, repair, replace and manage the Association properties, to acquire or lease real and personal property for the benefit of lot owners, and generally to possess all powers necessary in order to carry out the foregoing purposes.

Section 3. Easements of Enjoyment: Every member of the Association shall have a right and easement of enjoyment in and to the Association properties. Each regular Owner may delegate, in accordance with the By-laws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

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Said rights of use and enjoyment shall be subject to the following provisions:

(a) The Association shall have the right to charge dues and assessments for the upkeep and maintenance of Association properties, parking areas, utility and drainage easements, and other amenities which are the responsibility of the Association herein. Likewise, the Association shall have the right to charge dues and assessments for the construction and maintenance of any improvements on said common areas, and to provide for all types of insurance for the Association and its properties, and the upkeep and maintenance of Townhome amenities.

(b) The Association shall have the right to suspend the right to the use of any Association Properties by any Member for any period during which any dues or assessments against such Member are overdue and unpaid, and for a period not exceeding sixty (60) days for any infraction of rules and regulations established by the Association for the regulation and control of Association Properties. Likewise, the Association shall have the right to fine any Member an amount not exceeding \$100.00 for each violation of rules and regulations established by the Association.

(c) The Association by rules and regulations established from time to time shall have the right to provide for the use and enjoyment of common areas and Association Properties. This right to the use of Association Properties shall extend to regular members of the Association and relatives of members who reside with and in the house of members, tenants of each member's lots in the Townhomes so long as the tenancy exist, and contract purchasers of lots in the Townhomes who reside on the lot.

Section 4. Membership and Voting Rights: There shall only be a regular membership in the Association. Regular membership shall be limited to owners of lots in the Townhomes.

Every owner of a lot in Emerald Cay Townhomes shall become a regular member of the Association upon the date of recordation of the deed conveying the lot to the purchaser. Every owner as a member of the Association shall be bound by the terms and conditions set forth in these By-Laws and the Covenants and Restrictions for the Townhomes, and the lot owner and his heirs, successors and assigns, shall be obligated to comply with the duties and obligations set forth herein. Regular membership shall be appurtenant to the lot and may not be severed, separately transferred or conveyed. Persons or entities who hold an interest in the lot merely as security for the performance of an obligation shall not be members.

Every Regular Members shall have one (1) vote at all meetings of the membership. When more than one person or entity holds an interest in any lot, the purchasers of said lot shall designate one of them as the voting member, if the lot is owned by a corporation or other business entity, an officer or employee shall be designated a voting member. Regular Members may vote either in person or by proxy, but if by proxy, the same must be in writing and delivered to the Secretary of the Association prior to, or at the start of, the meeting at which the proxy is to be exercised. Every proxy shall be revocable and shall automatically cease upon the conveyance of the lot by the Regular Member.

The Secretary of the Association shall keep a list of any and all lot owners for purposes of determining what owners shall be entitled to vote. The membership list shall be arranged numerically by Townhome lots and shall be accessible to all members of the Association.

Section 5. Meeting of Regular Membership: There shall be an annual meeting of the membership held each year between April 1 and June 1 until otherwise changed by vote of either the Executive Board or Membership, with the specific date, time, and place to be determined by the President of the Association unless the Board of Directors or a meeting of the membership has already specified the exact date, time and place. The presence at the meeting of a member or members entitled to cast, either in person or by proxy, 60% of all eligible votes of persons entitled to vote for election of the Board of Directors shall constitute a quorum for the transaction of all business except such as may otherwise expressly be provided for in this instrument. If a quorum is not met through 60%, then at a subsequent called meeting to be held within 60 days thereafter, the requirements for a quorum shall be reduced to 50%. Special meetings of the membership may be called at anytime either by the President, the Board of directors, or one-half of the members. Such request for a special meeting shall state the purpose or purposes of the proposed meeting. At the annual meeting, the members shall elect the new members of the Board of Directors, and transact such other business as may properly come before the meeting. Written notice of the annual and special meetings of the membership shall be given to each member entitled to vote at least 10 days prior to said meetings as specified in Section 4 above. The Secretary shall maintain a list of all members entitled to vote at annual and special meetings with said list containing a mailing address of each member. All members shall be responsible for notifying the said Secretary of any change in their address between annual meetings, and all written notice of annual and special meetings sent to the addresses of the members as shown on the membership list shall be effective as notice by the Association.

Section 6. Special Meetings: Special meetings of the regular members for any purpose or purposes unless otherwise prescribed by statute or by these By-Laws, may be called by the President, the Board of directors or members holding one-half of the total eligible votes. Such request shall be in writing and shall state the purpose or purposes of the proposed special meeting. Written notice of the special meeting of members stating the time, place and purpose thereof, shall be served upon or mailed to each member entitled to vote thereat, at such address as appears on the list of the Secretary of the Association, at least 10 days before such meeting. Business transacted at all special meetings shall be confined to the objects and purposes stated in the notice thereof, unless 100% of the members present at such meeting in person or by proxy consent to the transaction of business not stated in the notice.

Section 7. Quorum: 60% of the total number of eligible votes of the Association, present in person or represented by written proxy, shall be requisite to and shall constitute a quorum at all meetings of the members of the Association for the transaction of business, except as otherwise provided by Statute, by the Townhome Covenants, or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the members, the members entitled to vote thereat, present in person or represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum thereafter reduced to 50% of the membership, shall be present or represented. At such adjourned meeting at which a quorum of 50% shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 8. Order of Business: The order of business at the annual Association meetings and as far as practical at other meetings of the membership, will be as follows:

1. Roll call and certifying of proxies;
2. Proof of notice of meeting without waiver of notice;
3. Reading of minutes of prior meeting;
4. Officers' reports;
5. Committee reports;
6. Approval of budget;
7. Election of directors;
8. Unfinished business;
9. New business;
10. Adjournment.

Section 9. Officers: The Association shall have not less than two (2) officers, a President, Secretary and Treasurer, which shall be elected by the Board of Directors for a term of one year or until their successors have been elected. The Board may provide for one or more Vice-Presidents or Assistant Secretary or Assistant Treasurer. The President shall act for the Association, but shall not have the authority to obligate the credit of the Association, nor the members thereof, without authorization of either the Board of Directors or the membership. All checks written on any bank account of the Association shall be signed by any two or more of the authorized officers as indicated on the Association's bank signature cards and resolution adopted pursuant thereto. The Association may authorize the Treasurer or Assistant Treasurer to sign all checks for the Association, and the Assistant Treasurer need not be a member of the Association. The duties of the officers shall be as follows:

a. President: The President shall preside at all meetings of the members and Directors; he shall have general and active management of the business of the Association; he shall see that all orders and resolutions of the Board of Directors are carried into effect; he shall have equal superintendence and direction of all the other officers of the Association, and shall see that their duties are performed properly. He shall report on the operations of the Association for the fiscal year to the directors when ever called for by them, and to the members at the annual meeting, and from time to time shall report to the Board of Directors all matters within his knowledge which the interest of the Association may require to be brought forward. He shall be an ex-officio member of all committees, and shall have the general powers and duties of supervision and management usually vested in the office of the President of an Association.

b. Vice-President: If a Vice-President is hereafter elected, the Vice-President shall be vested with all of the powers and required to perform all the duties of the President in his absence, and such other duties as may be prescribed by the Board of Directors.

c. Secretary: The Secretary shall keep the minutes of the meetings of the members and the Board of Directors; he shall see that all notices are fully given in accordance with the provisions of these By-Laws or as required by law. He shall keep a register of the post-office address of each member, which shall be furnished to the Secretary by all members.

d. Treasurer: The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may be

designated by the Board of Directors. He shall disburse the funds of the Association as ordered by the Board, taking proper vouchers for such disbursements and shall render to the President and Directors at the regular meetings of the board or whenever they may require it an account of all his transactions as Treasurer and of the financial condition of the Association. Such records shall be open to inspection by members at a reasonable time. In addition he may be required to give the Association at the Association's costs a bond in the sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and the restoration to the Association, in case of his death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Association. He shall maintain a register for the names of any mortgage holders or lien holders on lots who have requested in writing that they be registered to whom the Association will give notice of default in case of non-payment of assessments. No responsibility by the Association or its members is assumed with respect to said register except that it will give notice of default to any registered mortgagee or lienor therein, if so requested by said mortgagee or lienor. In general he shall perform all duties as may from time to time be assigned to him by the President or by the Board of Directors.

Section 10. Executive Board:

a. Number and Term. The initial Board of Directors shall consists of three (3) Directors. The number of Directors shall remain three until these By-Laws have been amended by the Directors in accordance with Article VI hereafter. Two of the three Directors shall be required to be members of the Association.

b. Subject to the provisions of subparagraph (d) hereafter, if the office of any Director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the Executive Board shall appoint at a properly called meeting thereafter a replacement to fill the unexpired term in respect to which said vacancy occurs.

c. Lot Owners by at least 100% of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board of Directors with or without cause, in accordance with G.S. 47F.

d. Powers. The property and business of the Association shall be managed by the Board of Directors, which may exercise any and all authority over the management of the Association and the common areas not specifically prohibited by Statutes, these By-Laws, or the Declaration of Covenants and Restrictions for Emerald Cay Townhomes. The powers of the Board shall specifically include all powers set forth in the Declaration of Protective Covenants and Restrictions and the Articles of Incorporation, which powers are incorporated herein by reference as if fully set out, and shall include but not to be limited to the following:

1. To make and collect regular and special assessments and establish the time within which payment of the same are due.

2. To use and expend the assessments collected to maintain, care for and preserve the Townhome properties.

3. To purchase the necessary equipment and tools required in the maintenance, care and preservation referred to above.

4. To enter into and upon Association properties and lots when necessary and with as little inconvenience to the lot owner as possible in connection with such maintenance, care and preservation.

5. To insure and keep insured Association properties in the manner set forth in the Declaration of Covenants against loss from fire and/or other casualty, and the lot owners and Association against public liability, and to purchase such other insurance as the Board may deem advisable.

6. To collect delinquent assessments by suit or otherwise, abate nuisances and enjoin or seek damages from purchasers for violations of these By-Laws and the terms and conditions of the Declaration of Protective Covenants.

7. To employ and compensate such personnel as may be required for the maintenance and preservation of the property.

8. To make appropriate changes in the Rules and Regulations for the use and occupancy of Association properties as may be deemed necessary.

9. To acquire and/or rent and/or lease personal and real properties in the name of the Association or a designee.

10. To contract for management of the Association properties and to delegate to such other party all powers and duties of the Association except those specifically required by the Declaration of Protective Covenants to have specific approval of the Board or membership.

11. To carry out the obligations of the Association under any restrictions and/or covenants running with any land submitted to the Declaration of Protective Covenants for the Townhomes.

12. To designate, as the board deems appropriate, assigned parking spaces for each lot, visitors, service vehicles, boats, and other vehicles.

13. To adopt Rules and Regulations pursuant to Article IV of these By-Laws pertaining to "Default".

14. To impose a special assessment against any purchaser, not to exceed \$100.00 for each occurrence, for the violation by the purchaser or his guests of any rule or regulation adopted by the Board or the breach of any By-Laws contained herein, or the breach of any provision of the Declaration.

15. To enforce the provisions and requirements of the Covenants including the obligation that each owner secure and keep in effect insurance, and to purchase insurance for any lot or improvements thereon which fails to provide evidence of insurance or defaults with respect to payment or procurement of the same.

Section 11. Meetings of the Board of Directors:

a. The first meeting of each Board newly elected by the members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board shall be held at the same place as the general membership meeting.

b. Special meetings shall be held whenever called by the Director or the President or a majority of the Board. The Secretary shall give notice of each special meeting either personally or by mail, or telegram, at least three (3) days before the date of such meeting, but the directors may, in writing, waive notice of the calling of the meeting, before or after such meeting.

c. A quorum shall be deemed present throughout any meeting of the Board of Directors of persons entitled to cast 51% of the votes on that Board, if present at the beginning of the meeting. The act of a majority present at such meeting and which there is a quorum shall be the act of the Board. If the quorum shall not be present at the meeting, the Directors then present may adjourn the meeting without notice other than announcement at the meeting until a quorum shall be present.

d. Order of Business: The order of business at all meetings of the Executive Board shall be as follows:

- i. Roll call;
- ii. Proof of notice of meeting or waiver of notice;
- iii. Reading of minutes of last meeting;
- iv. Consideration of communications;
- v. Reports of officers
- vi. Report of committees;
- vii. Unfinished business;
- viii. Election of officers at annual meeting;
- ix. New Business;
- x. Adjournment.

e. Annual Statement: The Board shall present, no less often than at the annual meeting, a full and clear statement of the business and condition of the Association, including a report of the operating expenses of the Association and the assessments paid by each member.

Section 12. Liability: The officers, and directors shall not be liable to the owner for any mistake in judgment, negligence, or otherwise except for their own individual willful misconduct, bad faith, or gross negligence.

Section 13. Compensation: Neither Directors nor officers shall receive compensation for their services as such.

Section 14. Removal of Officers and Directors: Any one or more of the officers and Directors may be removed at any time, with or without cause, by a vote of lot owners representing at least 67% of all persons present and entitled to vote at any meeting of the owners at which a quorum is present. Upon the removal of any officer or Director, the membership shall elect a replacement to fill the unexpired term subject to the Declarant's rights set forth in Section 10(d) above.

ARTICLE IV

FINANCES

Section 1. Fiscal Year: The fiscal year shall be the calendar year.

Section 2. Checks: All checks or demands for money and notes of the Association shall be signed by the following officers: President or Vice-President and Treasurer, or by such officer or officers or such other persons as the Executive Board may from time to time designate.

Section 3. Determination of Assessments:

a. The Board shall determine from time to time the sum or sums necessary and adequate for the common expenses of the Association. The Board shall adopt a proposed budget for the Association, and within 30 days after adoption of the proposed budget, the Board of Directors shall provide a summary of the budget to all regular members, and shall set a date for a meeting of the regular members to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the owners reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the owners ratify a subsequent budget proposed by the Board of Directors.

The budget shall constitute the basis for all dues and assessments for common expenses against owners, which assessments shall be due and payable periodically as determined by the Board of Directors. Common Expenses shall include expenses for the operation, maintenance, repair or replacement of Association properties, cost of carrying out the powers and duties of the Association, all insurance premiums and expenses relating thereto, and any other expenses designated as common expenses from time to time by the Board of Directors.

b. The Board is specifically empowered on behalf of the Association to make and collect assessments and to maintain, repair and replace the common areas and facilities. The dues and assessment shall be uniformed for all lot owners and shall be payable periodically as determined by the Board.

c. Special assessments for common expenses and repairs or replacement of capital not adequately funded through the regular assessments may be required by the Board and shall be levied and paid in the same manner as hereinbefore provided for regular assessments. Notwithstanding anything in these By-Laws or the Declaration of Protective Covenants which authorize assessments and expenditures, no special assessment exceeding \$1500 per lot per annum or expenditure for the improvement of the Association properties exceeding \$15,000 per annum for the townhomes shall be made without the approval of sixty-seven percent (67%) of the regular membership. Nothing herein shall restrict or limit the number of special assessments which may be made annually if deemed necessary for common expenses and repairs or the replacement of capital not adequately funded through the regular assessments.

d. When the Board has determined the amount of any assessment, the Treasurer of the Association shall mail or present a statement of the assessment to each of the assessed owners. All assessments shall be payable to the Association, and upon request, the Treasurer shall give a receipt for each payment made.

e. The Board may enter into a management contract with third parties to whom the Board of Directors may delegate the power to levy and collect assessments approved by the Board or required by the Declaration of Protective Covenants.

f. All assessments not paid when due shall bear interest at the highest legal rate of interest.

ARTICLE V

DEFAULT

Section 1. Dues and Assessments: Each purchaser of a lot in Emerald Cay Townhomes by the acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association such monthly, quarterly or periodic dues and special assessments as shall be established from time to time by the Board of Directors or membership of the Association. Such monthly or periodic dues and special assessments, together with interest, cost, and reasonable attorney's fees, shall be a charge on the lot and shall be a continuing lien on the land against which each assessment is made, until paid. In addition such monthly dues and special assessments shall also be the personal obligation of the purchaser of the lot at the time the dues or assessments become due. This personal obligation shall not pass to a successor in title to the purchaser unless expressly assumed by such successor. The dues and any assessments shall be used exclusively to promote the recreation, health, safety and welfare of the members of the Association and for improvements, maintenance of the common areas and

properties, buildings or improvements within said townhome development. The lien of the monthly dues and special assessments provided for herein shall be subordinate to the lien of any first mortgage. No sale or transfer of any lot shall affect the lien for unpaid dues or special assessments. The monthly dues shall be payable monthly in advance, unless otherwise directed by the Board of Directors. The pro rata portion of the dues levied for the month purchased shall be collected by the Declarant from the purchaser of each lot at the time the sale is closed. This money shall be paid by the Declarant to the Association. The amount of the monthly dues for each year shall be fixed at the annual meeting of the membership for the following fiscal year of the Association. The monthly dues shall commence as to all lots on the date a deed to the lot from the Declarant is recorded. In addition to the monthly dues the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvements upon the Association properties, or for acquiring additional land for Association properties, or for the any other related purpose, and the Association shall give notice of meeting clearly stating that a vote is to be held on whether to levy such special assessment.

Section 2. Enforcement of Lien for Assessments: In the event a lot owner does not pay any sums, charges, or assessments required to be paid to the Association by the due date, the Association, acting on its behalf or through its Board of Directors, may enforce its lien for assessments and to take such other action to recover the sums, charges or assessments to which it is entitled, in accordance with Chapter 44 and 44A of the North Carolina General Statutes. Provided, no foreclosure of a lien incurred exclusively for non-payment of penalties, fines and attorney=s fees is authorized herewith. However, if dues or special assessments and interests and attorneys fees thereon for non-payment are also part of the lien, then foreclosure is permitted and authorized even though part of the sums owed may be penalties or fines.

Section 3. Legal Costs: In the event such legal action is brought against any lot owner and results in a judgment for the Association; the lot owner shall pay the Association's reasonable attorney's fees, costs of collection, and court costs.

Section 4. Foreclosure: If the Association becomes the purchaser of a lot by reason of foreclosure, it shall offer said lot for sale and at such time as a sale is consummated, it shall deduct from the proceeds of said sale all sums or money due it for assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the lot, which shall include but not be limited to advertising expenses, real estate brokerage fees and other incidental expenses.

Section 5. Other Remedies: In the event of violation of the provisions of the Protective Covenants or rules and regulations adopted by the Board of Directors for thirty (30) days after notice from the Association to the lot owner and failure to correct the same, the Association, on its own behalf or through its Board of Directors, may bring appropriate action to enjoin such violation or may enforce the provisions of the Protective Covenants or these By-Laws, or may sue for damages, or take other courses of action, or pursue other legal remedies as it may deem appropriate.

Section 6. Intent: Every lot owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to collection of dues and assessments, default and abatement of nuisances, regardless of the harshness of the remedy available to the Association and regardless of the availability of the other equally adequate legal procedures. It is the intent of all purchasers of lots to give the Association a method of procedure which will enable the Association at all times to operate on a business-like basis, to collect the monies due and owing it from the purchasers of lots, and to preserve each lot purchaser's right to enjoy his lot, free from unreasonable restraint and nuisance.

ARTICLE VI

AMENDMENTS

The By-Laws may only be altered, amended or added to at any duly called meeting of the members; provided (1) that the notice of the meeting shall contain a full statement of the proposed amendment; and (2) that the quorum requirements for such purposes shall be a 60 percent of the eligible votes in person or by proxy. In addition, it shall be necessary that there be an affirmative vote of the Board of Directors, in order to amend the By-Laws. No amendment to these By-Laws shall be passed which would operate to impair or prejudice the rights and/or liabilities of any mortgagee.

ARTICLE VII
CONSTRUCTION

Whenever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Should any of the covenants herein imposed be void or be or become unenforceable at law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect.

IN WITNESS WHEREOF, Declarants have executed these By-Laws on this the ^{18th} day of November, 2011.

Paul Wygal

Graee Wygal

Fred K. Studer
Fred K. Studer

Nancy Studer
Nancy Studer

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Section 6. Intent: Every lot owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to collection of dues and assessments, default and abatement of nuisances, regardless of the harshness of the remedy available to the Association and regardless of the availability of the other equally adequate legal procedures. It is the intent of all purchasers of lots to give the Association a method of procedure which will enable the Association at all times to operate on a business-like basis, to collect the monies due and owing it from the purchasers of lots, and to preserve each lot purchaser's right to enjoy his lot, free from unreasonable restraint and nuisance.

ARTICLE VI

AMENDMENTS

The By-Laws may only be altered, amended or added to at any duly called meeting of the members; provided (1) that the notice of the meeting shall contain a full statement of the proposed amendment; and (2) that the quorum requirements for such purposes shall be a 60 percent of the eligible votes in person or by proxy. In addition, it shall be necessary that there be an affirmative vote of the Board of Directors, in order to amend the By-Laws. No amendment to these By-Laws shall be passed which would operate to impair or prejudice the rights and/or liabilities of any mortgagee.

ARTICLE VII CONSTRUCTION

Whenever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, wherever the context so requires.

Should any of the covenants herein imposed be void or be or become unenforceable at law or in equity, the remaining provisions of this instrument shall nevertheless be and remain in full force and effect.

IN WITNESS WHEREOF, Declarants have executed these By-Laws on this the ^{1st} day of November, 2011.

Paul C. Wygal
Paul Wygal

Grace M. Wygal
Grace Wygal

Fred K. Studer
Fred K. Studer

Nancy Studer
Nancy Studer

State of Virginia

County of _____

I, a Notary Public, in and for said County and State, do hereby certify that Paul Wygal and wife, Grace Wygal, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes expressed therein. Witness my hand and official seal or stamp this the ___ day of _____, 2011.

Notary Public

My Commission expires:

Printed Name: _____

STATE OF NEW YORK

COUNTY OF WESTCHESTER

I, a Notary Public, in and for said County and State, do hereby certify that Fred K. Studer and wife, Nancy Studer, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes expressed therein. Witness my hand and official seal or stamp this the 16 day of JULY, 2011.

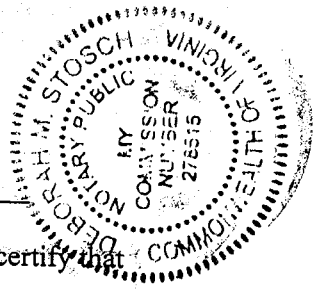
Mara Lynn Albano
Notary Public
Printed Name: MARA LYNN ALBANO
My Commission expires: 12/3/2013

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State of Virginia

County of Henrico



I, a Notary Public, in and for said County and State, do hereby certify that Paul Wygal and wife, Grace Wygal, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes expressed therein. Witness my hand and official seal or stamp this the 12th day of July, 2011.

Deborah M. Stosch

Notary Public

My Commission expires: 11/30/2011

Printed Name: Deborah M. Stosch

STATE OF NEW YORK

COUNTY OF _____

I, a Notary Public, in and for said County and State, do hereby certify that Fred K. Studer and wife, Nancy Studer, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes expressed therein. Witness my hand and official seal or stamp this the ___ day of _____, 2011.

Deborah M. Stosch

Notary Public

Printed Name: _____

My Commission expires: _____