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RECORDED AND VERIFIED
REBECCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER CO. NC

BOOK PAGE

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STATE OF NORTH CAROLINA : DECLARATION OF RESTRICTIONS
COUNTY OF NEW HANOVER : BEAU RIVAGE PLANTATION

THIS DECLARATION OF RESTRICTIONS is made and entered into by BEAU RIVAGE PLANTATION CORPORATION, a North Carolina corporation, hereinafter referred to as "Developer".

WITNESSETH:

WHEREAS, the Developer is the owner of all right, title and interest in and to that certain tract of land lying and being in Federal Point Township, New Hanover County, North Carolina, and known as Beau Rivage Plantation; and,

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WHEREAS, the Developer desires to insure the use of said property for a tract of residential purposes only; to maintain and desired tone of the community; and to thereby secure to each lot owner the full benefit and enjoyment of the property with no greater restriction upon the free and undisturbed use of the lot and is necessary to insure the same advantages to other lot owners; and,

WHEREAS, for the purposes aforesaid, the Developer does desire to establish certain restrictions for the preservation of the property and, in furtherance of said desire, does hereby covenant, agree and declare that all lots within Beau Rivage Plantation, Section A, Phase 1, as the same is shown on maps thereof recorded in Map Book 26, at Pages 80 through 83, of the New Hanover County Registry shall be and are hereby made subject to the following restrictions:

1. All lots in Beau Rivage Plantation, Section A, Phase 1, shall be used for residential purposes only.

2. No residence shall be constructed upon any lot located in this section containing less than 1800 square feet to heated living area. The first floor of all such structures shall not be less than 1000 square feet of heated living area. The Developer specifically reserves the right to establish different minimum square footage limitations for additional sections of Beau Rivage Plantation.

3. No structure shall be erected, altered, placed or permitted to remain on any lot which exceed two and one half stories in height above finished grade or the top of the piling level without the prior written approval of the Developer or its designee.

4. Accessory buildings, including detached garages, but excluding apartments or garage apartments, are permitted, provided such buildings are not used for any business activities and further provided that such accessory buildings shall be similar in design and construction to the residence located upon said lot.

5. No such accessory buildings may be constructed prior to the construction of the primary residence on any lot. All accessory buildings must be approved by the Architectural Control Committee hereinafter described.

6. All mail boxes and newspaper boxes shall be approved by the Architectural Control Committee prior to the erection thereof and all such boxes shall be in harmony with the general design of the dwellings in the neighborhood.

7. No yard sales or garage sales shall be allowed on any lot in said subdivision.

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RETURNED TO
David E. H. [Signature]

8. The Developer shall create and establish an Architectural Control Committee for the purpose of reviewing and approving any and all proposed buildings and improvements to ensure conformity and harmony of external design and consistency with the plans of existing residences or other buildings and site locations.

9. In addition to approving the design of all proposed residences and accessory buildings, the Architectural Control Committee shall monitor the plans and construction to see that they are in compliance with all covenants, conditions and restrictions, including, but not limited to, prohibited uses, building set back lines, minimum square footage requirement and other pertinent concerns.

10. The Architectural Control Committee shall be composed of no less than three (3) members, said members to be appointed by the Developer. At least one member shall be an owner of a lot in Beau Rivage Plantation.

11. The Architectural Control Committee is authorized to adopt such administrative procedures as will insure the effective administration of their review and approval duties.

12. No building, fence, wall or other structure shall be erected, placed or modified on any lot until the proposed building plans, specifications, exterior finishes, site plans and construction schedule shall be approved in writing by the Architectural Control Committee. The Architectural Control Committee may reject any plans, specifications or construction schedules if it, in its sole discretion, deems said plans, specifications and schedules are not in the best interest of the Development as a whole and would not serve to promote property values and the well being of the Development. Failure of the Architectural Control Committee to issue written approval or denial for plans submitted in accordance with the Committee's administrative procedures within thirty (30) days after submission shall be construed as approval of said plans.

13. All residences shall be constructed of natural materials such as cedar, cypress, redwood, red range brick, gray range stone, glass and other similar materials. Final determination as to the appropriateness of any particular material or color scheme shall be left with the Architectural Control Committee.

14. No residence shall be constructed with a garage door (either single or double) facing the front of a lot without special review and approval of the Architectural Control Committee.

15. Since the establishment of inflexible building set back lines for location of dwellings on lots tends to force construction of residences directly beside other residences would have detrimental effects on the overall well being of the property owners and the Development in general, no specific set back lines are established and authority is given to the Architectural Control Committee to approve the site, plan and location of any residence or other structure upon any lot; provided, however, all minimum set back and side lines limitations established by governmental entities having jurisdiction over the property shall be followed.

16. No house trailer, mobile home, tent, shack or temporary structure of any nature shall be located on any lot or used at any time as a residence or storage facility, provided, however, upon approval of the Architectural Control Committee, temporary storage facilities may be used for the storing of equipment and materials solely during the construction of any residence but the same shall be removed promptly upon completion of construction.

17. No signs or billboards shall be erected on any lot or displayed to the public on any lot except that one sign of not more than five square feet in area may be used to advertise a completed residence for sale. No "For Sale" signs shall be allowed on any vacant property except that the Developer may use such signs to identify lots and to advertise the Development as a whole. In addition, any contractor performing work on a residence may place a sign, approved as to size, form and content, by the Architectural Control Committee, on the premises identifying his connection with the construction.

18. Component and manufactured homes may be erected on any lot upon review and approval by the Architectural Control Committee as set forth herein.

19. No fence, wall or hedge in excess of five (5) feet in height shall be erected or permitted on any lot. In addition, no fence, wall or hedge or any portion thereof shall be erected closer to the front lot line than the rear corner of any dwelling erected upon the lot. All fences shall be of wood construction and no wire or chain link fences shall be permitted. All fences shall be approved by the Architectural Control Committee. It is specifically provided that this limitation shall not apply to any fences erected by the Developer on the perimeter boundary of the project or in such other areas as the Developer may determine necessary or convenient to protect common areas, facilities or amenities related to Beau Rivage Plantation.

20. No animals shall be kept or maintained within the development other than normal household pets. All such pets shall be kept within the premises, within a fenced in area or upon a leash at all times.

21. No fuel tanks or similar storage recepticals may be exposed to view. Any such recepticals may be installed only within the main dwelling house, within an accessory building, within a screened area, or buried under ground. All installations are subject to the approval of the Architectural Control Committee.

22. No buildings or grounds shall be kept or allowed to become unclean, unsightly or unkept and no activity or condition shall be allowed which tends to substantially decrease the attractiveness of the development or any portion thereof.

23. No noxious or offensive activity shall be carried on or allowed upon any lot nor shall anything be done thereon to cause embarrassment, discomfort or annoyance to the surrounding land owners or in such a manner as to constitute a nuisance to said surrounding land owners.

24. No lots shall be subdivided or its boundary lines changed in any manner except by the prior written consent of the Developer provided, however, the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat or recombine any two or more lots in order to modify or create additional building lots. The Developer further reserves the right to relocate easements, walkways and other rights-of-ways so long as such relocation does not prohibit access to any lot previously sold by the Developer nor does said relocation extend to property previously conveyed by the Developer.

25. Each lot owner must provide suitable recepticals for disposal of garbage and other refuse and all such recepticals must be kept in a screened area, accessory building or other storage facility and shall not be visible from any street or right-of-way except on collection days.

26. Construction activity on a lot within the development shall be confined to the boundaries of said lot. Each lot owner shall have the obligation to collect and dispose of rubbish and trash resulting from the

construction on the lot at such time and upon such schedule as is required by the Architectural Control Committee or the Developer. All requests for approval of plans and construction of any residence on any lot shall be accompanied by a \$200.00 deposit to be used for the collection disposal of said rubbish and trash in the event of the owner or builders failure to do so. Upon completion of construction and the collection and disposal as called for herein, the \$200.00 deposit shall be returned to the depositer thereof.

27. The exterior of any structure under construction must be completed within six (6) months after the institution of such construction unless written approval is obtained from the Developer or its designee.

28. All lots must be furnished with in-ground (sub-surface) lawn irrigation systems at the time of completion of construction and prior to occupancy. All such systems shall be furnished at the owner's expense. Plans and specifications for such systems shall be submitted to the Architectural Control Committee for approval prior to installation by an approved contractor.

29. The Developer does hereby reserve an easement for installation and maintenance of utilities and drainage facility over the rear ten feet of all lots and additional easements for drainage and utilities shall be reserved as required by the Developer and any governing body having jurisdiction over the Development as designated on a final plat of said development recorded in the Office of the Register of Deeds of New Hanover County. The Developer shall have no responsibility for maintaining streets and drainage easements in connection with any lot sold. All such maintenance shall be the responsibility of the Homeowner's Association, its successors and assigns. No structure, plan or other material shall be placed or permitted to remain on any lot which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements. The easement area of each lot and all encroachments within it shall be maintained continuously by the Homeowner's Association, except for those improvements or maintenance delegated or assumed by a public authority or utility company.

30. The Developer hereby reserves unto itself, the Homeowner's Association and their respective agents, employees, successors and assigns, the perpetual nonexclusive right and easement over and across each lot and adjacent to the fairways and greens of the golf course for the maintenance and landscaping of areas including, but not limited to, the planting of grass, irrigation, fertilizing, mowing and other maintenance directly related to the golf course facility provided, however, neither the Developer nor the Association shall have any obligation to provide such maintenance upon the individual lots. Such activities shall extend only along a strip of land 30 feet in width and running adjacent to the fairways and greens of the golf course; provided further, however, that all lots and unimproved portions thereof shall be subject to such easement until such time as the landscaping plan for such lot or dwelling area has been approved and implemented by the Architectural Control Committee.

31. Each lot adjacent to a golf course fairway or green shall be subject to the right and easement for registered golf course players and their caddys to enter upon the unimproved portions of any lot to remove a ball or play a ball, subject to the official rules of the golf course, and such entry shall not be deemed a trespass onto said lot.

32. Notwithstanding the foregoing provision, golf course players and their caddys shall not be entitled to enter upon any such lot with a golf cart or other vehicle, nor to spend an unreasonable amount of time on any such lot or dwelling, or in any way damage said lot or create a nuisance while on any such lot.

33. Until such time as municipal sewage disposal is available all sewage disposal shall be by community water and septic disposal system. All residences must connect to the community systems and no wells or septic tanks will be permitted to be used except for shallow wells for lawn irrigation without prior written approval of the Developer or its designee.

34. The Developer has formed or will form a Homeowner's Association known as BEAU RIVAGE HOMEOWNER'S ASSOCIATION for the purpose of maintaining the common areas, streets and entrances to and in Beau Rivage Plantation. Every owner shall automatically become a member of the Association upon the acceptance and the recording of a deed to any lot within the development.

a. Membership and Voting Rights: The qualification for membership in the Association and all related matters shall be set forth in the Articles of Incorporation of the Association and the By-Laws thereto which shall be recorded in the Office of the Register of Deeds of New Hanover County and shall be available at the office of the Developer upon request.

b. Assessments: The Association is given the authority to administer the operation and management of the common areas of the property, it being recognized that the delegation of such duties to one entity is in the best interest of all property owners in the Development. It is further acknowledged that the Association will incur, for the mutual benefit of all owners within the Development, cost and expenses hereinafter referred to as "common expenses". To provide the funds necessary for such proper operation, management and capital improvements, the Association is granted the right to make, levy and collect assessments against the members of the Association and is granted the authority to make, levy and collect assessments to pay the costs and expenses of the management, operation and capital improvements to the common areas, which, for the purpose of these restrictions shall be deemed to include, but not be limited to, the private streets and roads of Beau Rivage Plantation.

c. Each owner for any lot or unit so owned, by the acceptance of a deed therefore, whether or not the same is expressly stated, is deemed to covenant and agree to pay unto the Association:

- (1) annual assessments or charges of \$100.00 per lot;
- (2) special assessments for capital improvements or special assessments as established by the Board of Directors of the Association, such assessments to be established and collected as hereinafter provided;
- (3) special assessments for security gate houses, equipment and personnel which will be constructed, equipped and staffed at the appropriate time as required by the Developer of the project of \$200.00 per lot per year.

All assessments set forth herein, together with interest, cost and reasonable attorney's fees, if any, shall be a charge on the lots and units and shall be a continual lien upon each lot and unit in which said assessments are levied. Each such assessment, together with interest, cost and reasonable attorney's fees shall also be the personal obligation of the person or entity who is the owner of such property at the time when the assessment falls due. The personal obligations for delinquent assessments shall not pass to any successor in title unless expressly assumed by such successor.

d. The assessments levied by the Association shall be used exclusively to promote the well being of the development in general and in particular for the maintenance, repair and replacement of any and all improvements made to the private roads and streets and the drainage improvement on the property as well as any entry ways and entrance areas to the property. In addition, the assessments may be used for the acquisition and maintenance of other common areas and may include the costs and repair, repaving, replacements and additions, labor, equipment, materials, management and supervision as well as for the payment of taxes assessed against any of the common areas, utility services and the procurement and maintenance of insurance as may be deemed necessary by the Board of Directors.

e. The maximum annual assessment for each calendar's year shall be established by the Board of Directors and may be increased by the Board in any calendar year without approval by the membership by an amount not to exceed 10% of the maximum annual assessment of the previous year. The maximum annual assessment for any calendar year may be increased WITHOUT LIMIT by vote of two-thirds of the members who are voting in person or by proxy at a meeting called for such purpose.

f. Special assessments for capital improvements, in addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement or repaving of the capital improvements to the private roads and streets of the property, the common areas or any other common areas of the property, including the fixtures and personal property related thereto, provided, however, that any such assessment shall be approved by a vote of two-thirds of the members, voting in person or by proxy, at a meeting duly called for said purpose. All special assessments shall be at a uniform rate for all lots and units and may be collected on a monthly, quarterly or annual basis as determined by the Board of Directors.

g. Written notice of any meeting called for the purpose of taking any action authorized under paragraphs (3) or (4) above shall be sent to all members not less than ten days nor more than 60 days in advance of such meeting. At the first such meeting called, the presence of members, or the presence of members represented by properly executed proxies entitled to cast 60% of all votes of the membership, shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be 30% of all votes of the membership entitled to cast votes. No such subsequent meeting shall be held more than 60 days following the initial meeting.

h. Annual and special assessments must be fixed at uniform rate for all lots and shall be collected on a monthly, quarterly or annual basis as directed by the Board of Directors. The books and records of the Association will be kept in such a manner so as to make it possible to determine and ascertain such sums as are expended by the Association for the development, improvement, upkeep and maintenance of all common areas and facilities of the Association.

i. The annual assessments provided for herein shall commence as to all lots on the 1st day of January, 1987, and thereafter as to owners other than the Developer on the 1st day of the month following the conveyance of a lot or unit to any such owners. The Board of Directors shall at least thirty (30) days prior to the beginning of each calendar year, fix the amount of the annual assessment and shall notify every owner obligated to pay said assessment of the amount of such assessment for the following year. The Association shall, upon request, and upon payment of such reasonable costs and expenses as are incurred, furnish a certificate signed by an officer of the Association setting forth the amount of the assessment and any delinquencies therein.

j. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12% per cent per annum. The Association may bring an action at law against the owner personally obligated to pay the same. In addition, the assessment shall constitute a lien against any lot and may be foreclosed as provided by law for foreclosure of lien. All interests, costs and reasonable attorney's fees shall be added to the final determination of the lien amount. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of any of the common areas or abandonment of the lot or unit.

k. The lien established herein shall be enforceable from and after the time of the recording of a claim of lien in the Office of the Clerk of Court of New Hanover County, North Carolina, which lien shall state the description of the unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claim of lien shall include only assessments which are due payable when the claim of lien is recorded, plus interest, cost, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon. Such claim of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied on the record. The lien provided for herein shall be subordinate to the lien of any first mortgage lien or deed of trust and any person, firm or corporation acquiring title to any unit and its pertinent undivided interest of the common areas and facilities by virtue of any foreclosure, deed in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments which shall accrue and become due and payable for said lot subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the parties so acquiring title shall not be liable, shall be absorbed and paid by all owners of all units as a part of the common expenses, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or for the enforcement of collection of such payment by means other than foreclosure.

l. Due to Developer's initial expense incurred in the construction and initial maintenance of the Development and for the purposes of these Restrictions only, the Developer shall not be deemed an owner and shall have no obligation to pay any assessments until January 1, 1990.

m. Upon the sale of 70% of the lots in Beau Rivage Plantation, including all present and prior sections and phases, the Developer will relinquish control over the Homeowner's Association Board of Directors to be elected by the membership in accordance with the By-Laws of the Association. Until such time, however, the Developer shall elect the Board of Directors of the Association.

35. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other covenants contained herein which shall remain in full force and effect.

36. If the parties hereto or any of them, their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons, owning any real property situated in Beau Rivage Plantation to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent such persons from so doing or to recover damages for such violation.

37. At any time prior to December 31, 1989, these restrictions may be amended by the Developer at its sole discretion. Thereafter, these restrictions may be amended by a vote of the owners of two-thirds of all lots located within Beau Rivage Plantation.

38. All covenants, restrictions and obligations set forth herein shall run with the land and shall be binding on all parties or persons claiming hereunder for a period of ten years from the date hereof after which time all said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by the owners of a majority of the lots (not including mortgagees or trustees under deeds of trust) of Beau Rivage Plantation has been recorded setting forth the modifications of said covenants.

IN WITNESS WHEREOF, the Developer has hereunto caused this instrument to be signed by its president, attested by its secretary, and its corporate seal affixed hereto the 29th day of August, 1986.

BEAU RIVAGE PLANTATION, INC.

By Eddie J. [Signature]
President



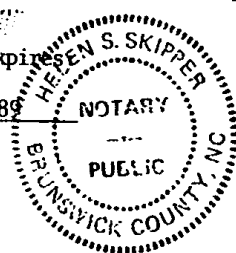
(CORPORATE SEAL)

STATE OF North Carolina :
COUNTY OF New Hanover :
I, Helen S. Skipper, a Notary Public in and for the State of North Carolina, County of Brunswick, hereby certify that JOHNTIE DAVIS, personally appeared before me this day and acknowledged that he/she is the Secretary of BEAU RIVAGE PLANTATION, INC., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested to by himself/herself as its Secretary.

Witness my hand and notarial seal, this 29th day of August, 1986.

Helen S. Skipper
NOTARY PUBLIC

My Commission expires Oct. 28, 1989



STATE OF NORTH CAROLINA
New Hanover County
The Foregoing Certificate of
Helen S. Skipper, a Notary Public
is certified to be correct.
This the 11th day of Sept. 1986

Rebecca P. Tucker, Register of Deeds
By Donald E. Smith, Jr.
Deputy

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RECORDED AND VERIFIED
REBECCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER COUNTY, NC

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STATE OF NORTH CAROLINA : DECLARATION OF RESTRICTIONS FOR
 : BEAU RIVAGE PLANTATION
 COUNTY OF NEW HANOVER : SECTION B, PHASE I

THIS DECLARATION OF RESTRICTIONS is made and entered into by BEAU RIVAGE PLANTATION, INC., a North Carolina corporation, hereinafter referred to as "Developer;"

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W I T N E S S E T H:

WHEREAS, the Developer is the owner of all right, title and interest in and to that certain tract of land lying and being in Federal Point Township, New Hanover County, North Carolina, and known as Section B, Phase I, Beau Rivage Plantation, as the same is shown on a map thereof recorded in Map Book 28, at Pages 146 through 148 of the New Hanover County Registry, and;

WHEREAS, the Developer desires to insure the use of said property for a tract of residential purposes only; to maintain a desired tone of the community; and to thereby secure to each lot owner the full benefit and enjoyment of the property with no greater restriction upon the free and undisturbed use of the lot and is necessary to insure the same advantages to other lot owners; and,

WHEREAS, for the purposes aforesaid, the Developer does desire to establish certain restrictions for the preservation of the property and, in furtherance of said desire, does hereby covenant, agree and declare that all lots within Beau Rivage Plantation, Section B, Phase I, as the same is shown on maps thereof recorded in Map Book 28, at Pages 146 through 148, of the New Hanover County Registry shall be and are hereby made subject to the following restrictions:

1. All lots in Beau Rivage Plantation, Section B, Phase I, shall be used for residential purposes only.

2. No residence shall be constructed upon any lot located in this section containing less than 1,800 square feet to heated living area. The first floor of all such structures shall not be less than 1,000 square feet of heated living area. The Developer specifically reserves the right to estab-

lish different minimum square footage limitations for additional sections of Beau Rivage Plantation.

3. No structure shall be erected, altered, placed or permitted to remain on any lot which exceeds two and one-half stories in height above finished grade or the top of the piling level without the prior written approval of the Developer or its designee.

4. There shall be no detached buildings constructed upon any lot.

5. The Developer shall create and establish an Architectural Control Committee for the purpose of reviewing and approving any and all proposed buildings and improvements including landscaping to ensure conformity and harmony of external design and consistency with the plans of existing residences or other buildings and site locations. The Architectural Control Committee shall be composed of no less than three (3) members, said members to be appointed by the Developer. At least one member shall be an owner of a lot in Beau Rivage Plantation. In addition to approving the design of all proposed residences, the Architectural Control Committee shall monitor the plans and construction of any improvements to see that they are in compliance with all covenants, conditions and restrictions, including, but not limited to, prohibited uses, building set back lines, minimum square footage requirements and other pertinent concerns. The Architectural Control Committee is authorized to adopt such administrative procedures as will insure the effective administration of their review and approval duties.

6. No building, fence, wall or other structure shall be erected, placed or modified on any lot until the proposed building plans, specifications, exterior finishes, site plans, construction schedule and landscaping plans shall be approved in writing by the Architectural Control Committee. The Architectural Control Committee may reject any plans, specifications, construction schedules or landscape plans if it, in its sole discretion, deems said plans, specifications and schedules are not in the best interest of the Development as a whole and if it determines that said plans, specifications and schedules would not serve to promote property values and the wellbeing of the Development. Failure of the Architectural Control Committee to issue

written approval or denial for plans submitted in accordance with the Committee's administrative procedures within thirty (30) days after submission shall be construed as approval of said plans.

7. All mail boxes and newspaper boxes shall be approved by the Architectural Control Committee prior to the erection thereof.

8. All residences shall be constructed of natural materials such as cedar, cypress, redwood, red range brick, gray range stone, glass and other similar materials. Final determination as to the appropriateness of any particular material or color scheme shall be left with the Architectural Control Committee.

9. All residences shall have a two-car garage and no garage door may face the front of the lot.

10. Since the establishment of inflexible building set back lines for location of dwellings on lots tends to force construction of residences directly beside other residences it would have a detrimental effect on the overall well being of the property owners and the Development in general, no specific setback lines are established and authority is given to the Architectural Control Committee to approve the site, plan and location of any residence or other structure upon any lot; provided, however, all minimum set back and sideline limitations established by governmental entities having jurisdiction over the property shall be followed.

11. No house, trailer, mobile home, tent, shack or temporary structure of any nature shall be located on any lot or used at any time as a residence or storage facility, provided, however, upon approval of the Architectural Control Committee, temporary storage facilities may be used for the storing of equipment and materials solely during the construction of any residence but the same shall be removed promptly upon completion of construction.

12. No signs or billboards shall be erected on any lot or displayed to the public on any lot except that one sign of not more than five square feet in an area may be used to advertise a completed residence for sale. No "For Sale" signs shall be allowed on any vacant property except that the Developer may use such signs to identify lots and to advertise the Development as a

whole. In addition, any contractor performing work on a residence may place a sign, approved as to size, form and content, by the Architectural Control Committee, on the premises identifying his connection with the construction.

13. No component and manufactured homes may be erected on any lot.

14. No fence, wall or hedge in excess of five (5) feet in height shall be erected or permitted on any lot. In addition, no fence, wall or hedge or any portion thereof shall be erected closer to the front lot line than the rear corner of any dwelling erected upon the lot. All fences shall be of wood construction and no wire or chain link fences shall be permitted. All fences shall be approved by the Architectural Control Committee. It is specifically provided that this limitation shall not apply to the project or in such other areas as the Developer may determine necessary or convenient to protect common areas, facilities or amenities related to Beau Rivage Plantation.

15. No animals shall be kept or maintained within the development other than normal household pets. All such pets shall be kept within the premises, within a fenced area or upon a leash at all times.

16. No fuel tanks or similar storage recepticals may be exposed to view. Any such recepticals may be installed only within the main dwelling house within a screened area or buried under ground. All installations are subject to the approval of the Architectural Control Committee.

17. No buildings or grounds shall be kept or allowed to become unclean, unsightly or unkept and no activity or condition shall be allowed which tends to substantially decrease the attractiveness of the development or any portion thereof.

18. No yard sales or garage sales shall be allowed on any lot in the subdivision.

19. No noxious or offensive activity shall be carried on or allowed upon any lot nor shall anything be done thereon to cause embarrassment, discomfort or annoyance to the surrounding land owners or in such a manner as to constitute a nuisance to said surrounding land owners.

20. No lots shall be subdivided or its boundary lines changed in any manner except by the prior written consent of the Developer provided, however,

the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat or recombine any two or more lots in order to modify or create additional building lots. The Developer further reserves the rights to relocate easements, walkways and other rights-of-way so long as such relocation does not prohibit access to any lot previously sold by the Developer nor does said relocation extend through property previously conveyed by the Developer.

21. Each lot owner must provide suitable recepticals for disposal of garbage and other refuse and all such recepticals must be kept in a screened area, accessory building or other storage facility and shall not be visible from any street or right-of-way except on collection days.

22. Construction activity on a lot within the development shall be confined to the boundaries of said lot. Each lot owner shall have the obligation to collect and dispose of rubbish and trash resulting from the construction on the lot at such time and upon such schedule as is required by the Architectural Control Committee or the Developer. All requests for approval of plans and construction of any residence on any lot shall be accompanied by a \$200.00 deposit to be used for the collection disposal of said rubbish and trash in the event of the owner or builders failure to do so. Upon completion of construction and the collection and disposal as called for herein, the \$200.00 deposit shall be returned to the depositor thereof.

23. The exterior of any structure under construction must be completed within six (6) months after the institution of such construction unless written approval is obtained from the Developer or its designee.

24. All lots must be furnished with in-ground (sub-surface) lawn irrigation systems at the time of completion of construction and prior to occupancy. All such systems shall be furnished at the owner's expense. Plans and specifications for such systems shall be submitted to the Architectural Control Committee for approval prior to installation by an approved contractor.

25. Landscaping plans must be approved by the Architectural Control Committee prior to the improvement of any lot. All landscaping approved must be completed within 30 days of the issuance of a certificate of occupancy for

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the improvements. In the event grass is used in the landscaping plan, sod must be used and no seeding shall be allowed.

26. The Developer does hereby reserve an easement for installation and maintenance of utilities and drainage facility over the rear ten feet of all lots and additional easements for drainage and utilities shall be reserved as required by the Developer and any governing body having jurisdiction over the Development as designated on a final plat of said development recorded in the Office of the Register of Deeds of New Hanover County. The Developer shall have no responsibility for maintaining streets and drainage easements in connection with any lot sold. All such maintenance shall be the responsibility of the Homeowner's Association, its successors and assigns. No structure, plan or other material shall be placed or permitted to remain on any lot which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements. The easement area of each lot and all encroachments within it shall be maintained continuously by the Homeowner's Association, except for those improvements or maintenance delegated or assumed by a public authority or utility company.

27. The Developer hereby reserves unto itself, the Homeowner's Association and their respective agents, employees, successors and assigns, the perpetual nonexclusive right and easement over and across each lot and adjacent to the fairways and greens of the golf course for the maintenance and landscaping of areas including, but not limited to, the planting of grass, irrigation, fertilizing, mowing and other maintenance directly related to the golf course facility provided, however, neither the Developer nor the Association shall have any obligation to provide such maintenance upon the individual lots. Such activities shall extend only along a strip of land 30 feet in width and running adjacent to the fairways and greens of the golf course; provided further, however, that all lots and unimproved portions thereof shall be subject to such easement until such time as the landscaping plan for such lot or dwelling area has been approved and implemented by the Architectural Control Committee.

28. Each lot adjacent to a golf course fairway or green shall be subject to the right and easement for registered golf course players and their caddies to enter upon the unimproved portions of any lot to remove a ball or play a ball, subject to the official rules of the golf course, and such entry shall not be deemed a trespass onto said lot.

29. Notwithstanding the foregoing provision, golf course players and their caddies shall not be entitled to enter upon any such lot with a golf cart or other vehicle, nor to spend an unreasonable amount of time on any such lot or dwelling, or in any way damage said lot or create a nuisance while on any such lot.

30. Until such time as municipal sewage disposal is available all sewage disposal shall be by community water and septic disposal system. All residences must connect to the community systems and no wells or septic tanks will be permitted to be used except for shallow wells for lawn irrigation without prior written approval of the Developer or its designee.

31. The Developer has formed or will form a Homeowner's Association known as BEAU RIVAGE HOMEOWNER'S ASSOCIATION for the purpose of maintaining the common areas, streets and entrances to and in Beau Rivage Plantation. Every owner shall automatically become a member of the Association upon the acceptance and the recording of a deed to any lot within the development.

a. Membership and Voting Rights: The qualification for membership in the Association and all related matters shall be set forth in the Articles of Incorporation of the Association and the By-Laws thereto which shall be recorded in the Office of the Register of Deeds of New Hanover County and shall be available at the office of the Developer upon request.

b. Assessments: The Association is given the authority to administer the operation and management of the common areas of the property, it being recognized that the delegation of such duties to one entity is in the best interest of all property owners in the Development. It is further acknowledged that the Association will incur, for the mutual benefit of all owners within the Development, cost and expenses hereinafter referred to as "common expenses." To provide the funds necessary for such property operation,

management and capital improvements, the Association is granted the right to make, levy and collect assessments against the members of the Association and is granted the authority to make, levy and collect assessments to pay the costs and expenses of the management, operation and capital improvements to the common areas, which, for the purpose of these restrictions shall be deemed to include, but not be limited to, the private streets and roads of Beau Rivage Plantation.

c. Each owner for any lot or unit so owned, by the acceptance of a deed therefore, whether or not the same is expressly stated, is deemed to covenant and agree to pay unto the Association:

- (1) annual assessments or charges of \$100.00 per lot;
- (2) special assessments for capital improvements or special assessments as established by the Board of Directors of the Association, such assessments to be established and collected as hereinafter provided;
- (3) special assessments for security gate houses, equipment and personnel which will be constructed, equipped and staffed at the appropriate time as required by the Developer of the project of \$200.00 per lot per year.

All assessments set forth herein, together with interest, cost and reasonable attorney's fees, if any, shall be a charge on the lots and units and shall be a continual lien upon each lot and unit in which said assessments are levied. Each such assessment, together with interest, cost and reasonable attorney's fees shall also be the personal obligation of the person or entity who is the owner of such property at the time when the assessment falls due. The personal obligations for delinquent assessments shall not pass to any successor in title unless expressly assumed by such successor.

d. The assessments levied by the Association shall be used exclusively to promote the well being of the development in general and in particular for the maintenance, repair and replacement of any and all improvements made to the private roads and streets and the drainage improvement on the property as well as any entry ways and entrance areas to the property. In addition, the assessments may be used for the acquisition and maintenance of other common areas and may include the costs and repair, repaving, replacements and addi-

tions, labor, equipment, materials, management and supervision as well as for the payment of taxes assessed against any of the common areas, utility services and the procurement and maintenance of insurance as may be deemed necessary by the Board of Directors.

e. The maximum annual assessment for each calendar's year shall be established by the Board of Directors and may be increased by the Board in any calendar year without approval by the membership by an amount not to exceed 10% of the maximum annual assessment of the previous year. The maximum annual assessment for any calendar year may be increased WITHOUT LIMIT by vote of two-thirds of the members who are voting in person or by proxy at a meeting called for such purpose.

f. Special assessments for capital improvements, in addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement or repaving of the capital improvements to the private roads and streets of the property, the common areas or any other common areas of the property, including the fixtures and personal property related thereto, provided, however, that any such assessment shall be approved by a vote of two-thirds of the members, voting in person or by proxy, at a meeting duly called for said purpose. All special assessments shall be at a uniform rate for all lots and units and may be collected on a monthly, quarterly or annual basis as determined by the Board of Directors.

g. Written notice of any meeting called for the purpose of taking any action authorized under paragraphs (3) or (4) above shall be sent to all members not less than 10 days nor more than 60 days in advance of such meeting. At the first such meeting called, the presence of members, or the presence of members represented by property executed proxies entitle to cast 60% of all votes of the membership, shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be 30% of all votes of the membership entitled to cast votes. No such

subsequent meeting shall be held more than 60 days following the initial meeting.

h. Annual and special assessments must be fixed at uniform rate for all lots and shall be collected on a monthly, quarterly or annual basis as directed by the Board of Directors. The books and records of the Association will be kept in such a manner so as to make it possible to determine and ascertain such sums as are expended by the Association for the development, improvement, upkeep and maintenance of all common areas and facilities of the Association.

i. The annual assessments provided for herein shall commence as to all lots on the 1st day of September, 1988, and thereafter as to owners other than the Developer on the 1st day of the month following the conveyance of a lot or unit to any such owner. The Board of Directors shall at least thirty (30) days prior to the beginning of each calendar year, fix the amount of the annual assessment and shall notify every owner obligated to pay said assessment of the amount of such assessment for the following year. The Association shall, upon request, and upon payment of such reasonable costs and expenses as are incurred, furnish a certificate signed by an officer of the Association setting forth the amount of the assessment and any delinquencies therein.

j. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12% per cent per annum. The Association may bring an action at law against the owner personally obligated to pay the same. In addition, the assessment shall constitute a lien against any lot and may be foreclosed as provided by law for foreclosure of lien. All interests, costs and reasonable attorney's fees shall be added to the final determination of the lien amount. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of any of the common areas or abandonment of the lot or unit.

k. The lien established herein shall be enforceable from and after the time of the recording of a claim of lien in the Office of the Clerk of Court of New Hanover County, North Carolina, which lien shall state the description of the unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after

default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been full paid. Such claim of lien shall include only assessments which are due payable when the claim of lien is recorded, plus interest, cost, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon. Such claim of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied on the record. The lien provided for herein shall be subordinate to the lien of any first mortgage lien or deed of trust and any person, firm or corporation acquiring title to any unit and its pertinent undivided interest of the common areas and facilities by virtue of any foreclosure, deed in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments which shall accrue and become due and payable for said lot subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the parties so acquiring title shall not be liable, shall be absorbed and paid by all owners of all units as a part of the common expenses, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or for the enforcement of collection of such payment by means other than foreclosure.

1. Due to Developer's initial expense incurred in the construction and initial maintenance of the Development and for the purposes of these Restrictions only, the Developer shall not be deemed an owner and shall have no obligation to pay any assessments until January 1, 1995.

m. Upon the sale of 70% of the lots in Beau Rivage Plantation, including all present and prior sections and phases, the Developer will relinquish control over the Homeowner's Association Board of Directors to be elected by the membership in accordance with the By-Laws of the Association. Until such time, however, the Developer shall elect the Board of Directors of the Association.

32. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other covenants contained herein which shall remain in full force and effect.

33. If the parties hereto or any of them, their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons, owning any real property situated in Beau Rivage Plantation, to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent such persons from so doing or to recover damages for such violation.

34. At any time prior to December 31, 1991, these restrictions may be amended by the Developer at its sole discretion. Thereafter, these restrictions may be amended by a vote of the owners of two-thirds of all lots located within Beau Rivage Plantation.

35. All covenants, restrictions and obligations set forth herein shall run with the land and shall be binding on all parties or persons claiming hereunder for a period of ten years from the date hereof after which time all said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by the owners of a majority of the lots (not including mortgagees or trustees under deeds of trust) of Beau Rivage Plantation, has been recorded setting forth the modifications of said covenants.

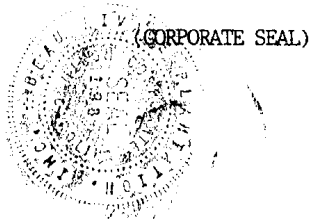
IN WITNESS WHEREOF, the Developer has hereunto caused this instrument to be signed by its president, attested by its secretary, and its corporate seal affixed hereto the 8th day of August, 1988.

BEAU RIVAGE PLANTATION

BY: Eddie L.
PRESIDENT

ATTEST:

Priscy L. Lewis
SECRETARY

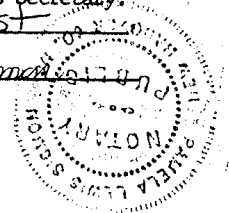


1426 0539

STATE OF North Carolina
COUNTY OF New Hanover

I, Pamela Lewis Sigmon, a Notary Public in and for the State of North Carolina, County of New Hanover, hereby certify that Reggie L. Lewis, personally appeared before me this day and acknowledged that he/she is the Secretary of BEAU RIVAGE PLANTATION, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested to by himself/herself as its Secretary. Witness my hand and notarial seal, this 8th day of August 1988.

Pamela Lewis Sigmon
NOTARY PUBLIC



My commission expires:
My Commission Expires July 14, 1990

STATE OF NORTH CAROLINA
New Hanover County
The Foregoing Certificate of _____
Pamela Lewis Sigmon,
Notary Public
is certified to be correct.
This the 10 day of August 1988.

Rebecca P. Tucker, Register of Deeds
By Rebecca P. Tucker, Register

21/74



2004001835

FOR REGISTRATION REGISTER OF DEEDS
REBECCA T CHRISTIAN
NEW HANOVER COUNTY, NC
2004 JAN 14 09 54 02 AM
BK 4158 PG 887-908 FEE \$74 00

INSTRUMENT # 2004001835

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS OF
BEAU RIVAGE PLANTATION
PHASE 2, SECTION 1 AND SECTION 2
"CANE BAY AT BEAU RIVAGE" –
Lots 9R, 10R, 11R, 12R, 13R, 14R, 15R, 16R, 17R

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF BEAU RIVAGE PLANTATION, PHASE 2, SECTION 1 AND SECTION 2 – "CANE BAY AT BEAU RIVAGE" – Lots 9R, 10R, 11R, 12R, 13R, 14R, 15R, 16R, 17R, made this the 13th day of January, 2004 by DOMINION LAND CORPORATION, hereinafter referred to as "Owner", "Declarant" or "Developer",

WITNESSETH:

That Whereas, Owner is the owner of certain property located in the Federal Point Township, New Hanover County, North Carolina as is hereinafter described, and

Whereas, the Owner desires to insure the use of the hereinafter described property for attractive residential purposes only, to prevent the impairment of the attractiveness of the property, to maintain the desired tone of the community, and thereby to secure to each lot owner the full benefit and enjoyment of his or her home with no greater restriction upon the free and undisturbed use of his or her lot than is necessary to ensure the same advantage to the other lot owners,

NOW THEREFORE, the undersigned Owner does hereby covenant, agree, and declare to and with all persons, firms, or corporations owning or hereafter acquiring any lots made subject to this Declaration that all of the properties described herein shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the real property, and be binding on all parties having any right, title, or interest in the said properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each land owner thereof, to-wit

RETURNED TO *Candice Alexander* 791-1196

1 **SCOPE OF DECLARATION** This Declaration of Restrictions shall apply to **Lots 9R, 10R, 11R, 12R, 13R, 14R, 15R, 16R, and 17R** in **BEAU RIVAGE PLANTATION, PHASE 2, SECTION 1 AND SECTION 2 – “CANE BAY AT BEAU RIVAGE”**, as shown upon a map recorded in Map Book 45 at Pages 74 and 75 of the New Hanover County Registry

2 **LOT USE** No lot located within the subdivision shall ever be used for business, manufacturing, commercial, or professional purposes, it is being intended that all lots shall be used for residential purposes only. No mobile homes, modular homes, or other manufactured housing shall be allowed to be placed, located, or constructed on any of the lots in the subdivision. Houses shall contain a minimum of 1800 heated square feet, must be built on a crawl space, and must be constructed of brick. The front elevation must have some decorative features such as quoin corners, a soldier course, jack arches, or some other similar features

3. **SETBACK REQUIREMENTS** Since the establishment of standard inflexible building setback lines for the location of units on lots tends to force construction of units directly to the side of other units with detrimental effects on privacy, views, preservation of important trees and other vegetation, ecological, and related consideration, no specific setback lines are established by these restrictions. In order to assure, however, that the foregoing considerations are given maximum effect, the Owner or its duly appointed agent or agents reserve the right to control and approve absolutely the site and location of any structure upon any lot. Houses constructed on lot 17R shall be located as far to the left of the lot as practical and any house constructed on lot 9R shall be located as far to the right as practical. All houses must also comply with C.O.D. setback requirements as depicted on the recorded plat of the subdivision.

4 **TEMPORARY STRUCTURES AND OTHER STRUCTURES** Unless specifically approved in writing by the Owner or the designated agent of the Owner as hereinafter provided, no structure of a temporary character, trailer, basement, tent, shack, garage apartment, barn, or other outbuilding shall be erected on any lot or used as a residence thereon. This restriction shall not be applicable to a temporary construction trailer used by a builder while a residence is being built on the lot, so long as such trailer is not used as a residence or living quarters.

In the event that the Owner or its designated agent shall approve such placement of a structure as herein provided, the structure shall be constructed of the same materials and be of the same design as the residence located on that lot. Should such structures encroach upon any of the common areas or limited common areas, there shall be an easement reserved upon such common areas or limited common areas for the location of such structure as hereinafter provided.

5. **BUILDING DESIGN** The design of all buildings erected or moved onto any lot shall be subject to the approval of an Architectural Control Committee selected by the Owner, or of some person or persons designated by the Architectural Control Committee to pass upon said designs. The initial committee shall consist of Nathan S. Sanders and Candice O. Alexander. These persons shall be the only members of the committee, and they shall not be replaced until all of the houses to be built on the 8 lots subject to these restrictions and on the remaining 9 lots shown on that map recorded in Map Book 45 at Pages 74 and 75 have been approved. Upon written request of a lot owner for approval of plans, the Architectural Control Committee or its duly authorized agent, or such other person or persons who shall have been selected by the Committee, shall have ten days within which to approve or disapprove such plans. In the event of failure to approve or disapprove such plans within ten days, such approval will not be required; but the design of the proposed building must be in harmony with the existing structures in this subdivision. BEAU RIVAGE PLANTATION HOMEOWNERS ASSOCIATION shall not be responsible for approvals required under this section and, more specifically, shall have no control or authority over building design on any of the lots subject hereto.

6. **BUILDING CONSTRUCTION** The construction materials used for any residence or other structure upon any of the lots must be approved in writing by the Architectural Control Committee or by such person or entity as the Architectural Control Committee may direct. No exterior colors may be changed without the written permission of the Architectural Control Committee, or of such person or entity as shall be authorized by the Architectural Control Committee to approve a change of the exterior colors. It is the express intention of the Owner to maintain a uniform plan of development with respect to design, size, type, cost, and general appearance of all structures upon the lots in the subdivision.

Construction activity on a lot within the subdivision shall be confined to the boundaries of the lot. Each lot owner shall have the obligation to collect and dispose of rubbish and trash resulting from the construction on the lot at such time and upon such schedule as is required by the Architectural Control Committee and to make any repairs to the roads in the subdivision damaged by construction vehicles. All requests for approval of plans and construction of any residence on any lot shall be accompanied by a \$1000.00 deposit to be used for the collection and disposal of said rubbish and trash in the event that the owner or builder should fail to do so, and to repair any road damage caused by the owner or builder should such repairs not be made by the owner or builder. Upon completion of construction and the collection and disposal of trash and rubbish as provided herein, and/or the repair of any road damage as described herein, the \$1000.00 deposit shall be returned to the owner or builder making such deposit.

7. **A. MAINTENANCE OF LOT, NUISANCES** It shall be the duty of each homeowner, lot owner, or occupant to keep his or her property (or that of the occupant's landlord) in a neat and tidy condition, mowed, well maintained, and with no unsightly debris or litter or the like in view. No homeowner or occupant shall place on his lot, or cause or allow to be placed on his lot, any kind of statue, sculpture, "objet d'art", yard decoration, artificial wildlife, or any other similar type of object. No noxious or offensive trade or activity shall be carried on or maintained on any lot, nor shall any activity be conducted which constitutes an annoyance or nuisance to the neighborhood. Any oil stains or similar spills on driveways or other roadways shall be immediately cleaned up or removed by the lot owner responsible for such stain or spill. If such stain or spill is not immediately cleaned up or removed, the Homeowners Association as hereinafter established shall clean up or remove the stain or spill and the cost of such cleanup shall be assessed against and collected from such responsible lot owner in the same manner as assessments are assessed and collected as herein provided.

B. PARKING All vehicles must be parked in driveways and no vehicles may be parked at any time on lawns, roadways, or common areas. No vehicle shall be allowed to block any street, roadway, or other access area. There may not be more than three (3) vehicles parked at any residence except with specific written approval of the Owner or the Association.

C. JUNK VEHICLES AND TRACTOR TRAILERS No inoperable vehicle or vehicle without current registration, current state inspection sticker, current license plate, and current insurance will be permitted on the premises, and no tractor-trailers or tractors for semi-rigs will be permitted on the premises. The Association shall have the right to have all such vehicles towed away at the owner's expense.

D. TRASH RECEPTACLES, LAWN FURNITURE, TOYS, PERSONAL PROPERTY All trash receptacles, lawn furniture, toys, lawnmowers, bicycles, grills, stored materials, and other such similar personal property must be kept and stored out of sight from the street.

E. LIGHTING All light bulbs or other lights installed in any fixture located on the exterior of any building or any lot shall be clear, white, or non-frost lights or bulbs. No colored bulbs or lights will be allowed except during generally recognized holiday periods. The Association may limit the amount of holiday lighting or the hours that such holiday lighting is lit in its sole discretion.

F. VEHICLE REPAIRS No repairs to any vehicle may be made in driveways unless such repairs may be completed in one day. During the course of repair work, no vehicle shall be permitted to remain in any driveway on any type of jacks or stands more than one day.

G. RECREATIONAL VEHICLES/BOATS Boats, motor boats, personal water craft, campers, recreational vehicles, trailers, recreational trailers, motor homes, or similar type vehicles shall only be permitted to remain on a lot if such vehicles/boats/trailers are parked in a garage with the garage door closed.

H. GARAGE SALES/YARD SALES/RUMMAGE SALES No "garage sales", "yard sales", or rummage sales shall be allowed on any lot in the subdivision.

8. **ANIMALS** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot in the subdivision, except that dogs, cats, or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred, or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of any lot so that no person shall quarter on said lots cows, horses, bees, hogs, sheep, goats, guinea fowls, chicks, geese, rabbits, chickens, turkeys, skunks, snakes, or any other animal that may interfere with the quietude, health, or safety of the community. No more than four (4) household pets will be permitted on any lot. Pets must be restrained or confined inside a fenced area or within the house. It is the pet owner's responsibility to keep their lot clean and free of pet debris. All animals must be properly tagged for identification, and further, must be kept on a leash unless such animal is confined within a fenced area. When such animals are not confined within a fenced area of the owner's yard, it is the pet owner's responsibility to remove any pet debris left by their pet upon any of the lots or common areas within the subdivision. Any costs incurred by the other lot owners or the Association as hereinafter set out, for the removal of pet debris left by the pet of a lot owner or occupant upon any lot or upon any part of the common areas shall be a charge against the pet owner's lot and shall be assessed against that individual lot owner as a special assessment and subject to the regulations regarding liens and assessments as hereinafter set forth.

9. **FENCED AREAS** The Owner or the authorized agent of the Owner may construct a fenced area adjacent to the houses or units for the use of the owner of that house or unit. Maintenance of the fence and the fenced areas within the fences shall be the responsibility of the owner of the house. All fences must be approved by the architectural control committee or its assigns. In no case shall any fence be higher than four feet above the ground and no chain link fence shall be permitted.

It is specifically provided that the fence limitations provided by this section shall not apply to any fences erected by the Developer or its authorized agent on the perimeter boundary of the project or in such other areas as the Developer may determine necessary or convenient to protect common areas, facilities, or amenities related to Cane Bay at Beau Rivage.

10. **UTILITY EASEMENTS** The Owner reserves for itself, its successors, and assigns, an easement in and right at any time in the future to grant a right of way under, over, and along the side, rear, and front property lines of each and every lot in the Subdivision, for the installation and maintenance of poles, lines, conduits, pipes, and other equipment necessary to or useful for furnishing electric, power, gas, telephone service, cable television, or other utilities including water and sewer service. Also, easements for drainage and utilities are reserved as shown on the recorded plat of the Subdivision. Owner reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements.

11. **LOT GRADING** The general grading, slope, and drainage plan of a lot may not be altered without the express written approval of the New Hanover County authorities and Owner, and other appropriate agencies having authority to grant such approval.

12. **EXTERIOR MAINTENANCE** Each lot owner shall maintain the exterior of all buildings, walls, and other improvements on his lot in good condition and repair, and shall replace worn and rotten parts and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, down spouts, exterior walls, windows, doors, or other exterior portions of the improvements to deteriorate in an unattractive manner. The maintenance referenced herein shall be supervised and regulated by the CANE BAY AT BEAU RIVAGE HOMEOWNERS ASSOCIATION, INC., as hereinafter provided and hereinafter referenced as "the Association". In the event that the lot owner shall fail to comply with these maintenance requirements, the Association is hereby expressly authorized, and the lot owner hereby expressly agrees, that said maintenance and/or repair may be effected by the said Association with the expenses incurred for the same to be assessed against the individual lot owner as a special assessment and subject to the regulations regarding liens and assessments as herein set forth.

13. **LANDSCAPING MAINTENANCE AND IRRIGATION**

(a) To provide for a uniform scheme of landscaping within the Subdivision, all front, side, and backyard areas not otherwise fenced in shall be maintained by the CANE BAY AT BEAU RIVAGE HOMEOWNERS ASSOCIATION. Except for that landscaping provided by the individual owners inside fenced areas, which shall be maintained by the individual lot owners, no landscaping other than that provided by the Developer or its authorized agent, and/or the Association shall be allowed.

(b) It is the intent of the Owner/Developer to create a "Village" effect in the landscaping scheme for the subdivision with a continuity of landscaping where individual lot lines are not emphasized. To create this effect, Developer or its authorized

agent shall install irrigation systems for the purpose of maintaining the landscaping and lawn areas outside of the fenced areas of each lot, which systems shall be connected to, and charged against, the water meter of each individual lot owner. However, in order to provide for a total irrigation scheme of all of the landscaped areas outside of the fences, thereby benefitting all of the lot owners, such irrigation systems shall be installed by Developer or its authorized agent as necessary to provide complete irrigation coverage without regard to specific lot lines. Because of such installation, some of the water sprayed onto a lot by one system may reach another lot, or flow from one lot to an adjacent lot. Therefore, an easement is hereby reserved over, across, and onto each lot for any over spray or flow of water from any irrigation system that shall reach on, upon, or over any lot in the subdivision. An easement is also reserved over, across, and upon every lot in the subdivision for the installation, maintenance, inspection, and operation of sprinkler heads, manifolds, pipes, conduits, pumps, cables, wiring, and any other equipment necessary for the installation, maintenance, inspection, and operation of irrigation systems within the subdivision, and such easement shall include the right of access over, across, and upon any lot for any agent or employee of the Developer, the Association, and any company that may be employed to install, operate, inspect, and maintain such systems in the event that the owner of the lot should fail to maintain and/or repair such system. The owner of each system shall be primarily responsible for the maintenance, repair, and replacement of the system or its components as necessary for proper irrigation of the landscaping.

(c) Until control of the Association is turned over to the lot owners by the Developer pursuant to this Declaration, the Developer or its authorized agent shall determine the schedule for operation of the irrigation systems, and such operation of the irrigation systems as scheduled shall be mandatory upon each of the lot owners. After control of the Association is turned over to the lot owners pursuant to this Declaration, the Directors of the Association shall determine the said schedule for operation of the irrigation systems, such operation being mandatory upon each lot owner, and the said directors shall provide for penalties for failure to obey such watering schedule, or for failure to maintain and repair their system as herein required.

14. **A. DIRECTIONAL SIGNS** The Owner reserves for itself, its successors and assigns, a temporary easement to place directional signs upon any of the lots in said Subdivision and upon the street rights of way, in order to assist prospective purchasers in locating other lots or houses which are for sale in the Subdivision, or in other future subdivisions coming out of adjoining lands. The right to place and maintain such signs shall terminate when the last lot owned by the Owner is sold.

B. **"FOR SALE" and "FOR RENT" SIGNS** Except for signs placed by the Owner, or the Owner's authorized agent or agents, or with the express written permission of the Owner, no "For Sale" or "For Rent" signs shall be allowed on any lots, in or on any houses, or on any of the rights of ways of any street within the subdivision until the last lot owned by the Owner is sold.

15. **STREET LIGHTING** The Owner reserves the right to subject the real property in this Subdivision to a contract with Carolina Power & Light Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power & Light Company by the owner of each lot.

16. **MAILBOXES AND NEWSPAPER BOXES** Each lot in the Subdivision shall have one mailbox and this box shall be provided by the Builder. The maintenance of such boxes shall be the responsibility of the homeowner.

17. **WINDOW COVERINGS** To insure consistency and attractiveness within the Subdivision, white window treatments must be installed in all of the windows of all homes within ten (10) days of occupancy, such that the total view of all windows from the outside of the house is white window coverings. Window treatments inside of the house and not visible from the outside of the house or unit are in the discretion of the homeowner. Bed sheets, towels, blankets, etc. are not considered acceptable window treatments.

18. **EXTERIOR ANTENNAE** Exterior television or radio antennae, or television or radio satellite dishes are permitted within the Subdivision, as long as they are not visible from the street.

19. **CLOTHESLINES** The outdoor drying or airing of clothes and the erection of outdoor clotheslines or similar devices on any lot in the Subdivision shall be subject to the approval of the Architectural Review Committee, and then only when thoroughly concealed or screened from public view within a fenced yard area.

20. **FUEL TANKS AND STORAGE RECEPTACLES** No fuel tanks or similar storage receptacles located on any lot may be exposed to public view. Any such receptacles must be installed only within a fenced area adjacent to the house or buried.

21. **WATER AND SEWAGE**

(a) All water to be used in the Subdivision for domestic purposes shall be obtained from ABC Utilities, Inc., unless other sources are approved by the City/County Board of Health and the owner of the community water system, or their successors. An eight (8) foot radius from each water meter shall be an easement for maintenance and repair of such meter. Additionally, the front ten (10) feet of each lot is hereby reserved for utility easements.

The Developer hereby grants an easement to the community water company along all streets and roads in the Subdivision for the purpose of installing, maintaining, repairing, and replacing water lines.

(b) Sewage disposal systems shall be only into the ABC Utilities sewage collection system or such into such community system as shall be serving the subdivision.

(c) Should the Owner or its authorized agent install a master lawn irrigation system for the common areas of the Subdivision, or for any areas not reached by the individual systems as herein provided, the maintenance, inspection, and operation of such system shall be the responsibility of the Owners' Association as hereinafter provided.

22. ACCESS, MAINTENANCE, CONSTRUCTION AND GOLF COURSE EASEMENTS

(a) The Association, acting through its officers, agents, servants, and/or employees shall have the right of unobstructed access at all reasonable times to all properties as may be reasonably necessary to perform the exterior maintenance provided for by this Declaration.

(b) Easements are reserved over those portions of any lot that may be necessary or required to accommodate overhanging eaves or other cantilevered construction which may encroach upon such lot or lots, or the air and light space above such lot or lots.

(c) Each lot is hereby subjected to an easement for the repair, maintenance, expansion, reduction, inspection, removal, relocation, or other service of or to all gas, electricity, television, telephone, water, plumbing, sewer, utility, and drainage lines or conveyances, whether or not the cause of any or all of those activities originates on the lot or unit in which the work must be performed.

(d) Each lot shall be subject to an easement for encroachments created by construction, settling, and overhangs for all buildings, structures, and other improvements constructed by Owner, including but not limited to, sidewalks, walks, paths, patios, decks, fences, parking areas and parking pads, driveways, stoops, porches, roofs, outbuildings, and other similar appurtenances. A valid easement for such encroachments and for the maintenance of same, so long as such encroachments stand, shall and does exist.

(e) In the event that ingress or egress to any lot or unit is through or across any other lot, such lot is hereby subjected to an access easement for such owners' ingress, egress, and regress to and from such lot.

(f) Each lot adjacent to a golf course fairway or green shall be subject to the right and easement for registered golf course players and their caddies to enter upon the unimproved portions of any lot to remove a ball or play a ball, subject to the official rules of the golf course, and such entry shall not be deemed a trespass onto said lot.

Notwithstanding the foregoing provision, golf course players and their caddies shall not be entitled to enter upon any such lot with a golf cart or other vehicle, nor to spend an unreasonable amount of time on any such lot or at any such dwelling, or in any way damage said lot or create a nuisance while on any such lot.

(g) All easements and rights described herein are easements appurtenant, running with the land, and shall be binding on the Owner, its successors and assigns, and any owner, purchaser, mortgagee, and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

23. GOLF COURSE The owner of each lot acknowledges that owning property adjacent to or in close proximity to a golf course involves certain risks which may have an affect on the utilization or enjoyment of such lot. The Owner acknowledges that such risks may include, as examples and not as a limitation on the generality of such risks, golf balls being hit into or onto the Lot, with the potential of causing bodily injury or death, or physical damage to property, and further including golfers coming onto the Lot to look for errant golf balls. Owner hereby expressly assumes such risks and agrees that neither Declarant nor any other entity owning or managing the golf course shall be liable to any owner of any lot or anyone claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise relating to the proximity of any Lot to the golf course, including, without limitation, any claim arising in whole or in part from the negligence of Declarant or any other entity owning or managing the golf course against any and all claims by the owner of any Lot and his guests, invitees or licensees with respect to the above. Nothing in this paragraph shall restrict or limit any power of any entity owning or managing the golf course to change the design of the golf course, and such changes, if any, shall not nullify, restrict or impair the covenants and duties of the owner of any Lot contained herein.

Every Lot in the subdivision is burdened with an easement permitting golf balls unintentionally to come upon the Lot and for golfers or their caddies at reasonable times and in a reasonable

manner to come upon the exterior portions of the Lot to retrieve errant golf balls; provided, however, if any lot is fenced or walled as approved in accordance with this Declaration by the Architectural Review Committee, the golfer or caddie shall seek the owners or occupants permission before entry. Declarant shall use his best efforts to have the entity managing or operating the golf course conspicuously denote all property on any lot as out of bounds. Every owner of every Lot, by acceptance of delivery of a deed to a Lot, assumes all risks associated with errant golf balls, and each such owner agrees and covenants not to make any claim or institute any action whatsoever against the Declarant, the golf course designer, owner, and operator, or any other party relating to the design and utilization of the golf course relating to any errant golf ball, any damages caused thereby, or for negligent design of the golf course or siting of the Lot.

24. OWNERS ASSOCIATIONS

(a) To provide for the maintenance, repair, upkeep and replacement of the subdivision sign, irrigation systems, street signs, and, except as herein provided, the landscaped areas of the lots in the Subdivision, the Developer has formed or will form the CANE BAY AT BEAU RIVAGE HOMEOWNERS ASSOCIATION, INC., a non-profit corporation organized or to be organized pursuant to Chapter 55A of the General Statutes of North Carolina. The Association shall also be responsible for providing any necessary liability insurance.

(b) Every owner of a fee simple title to any lot subject to these restrictions and every owner of a fee simple title to the remaining lots shown on that plat recorded in Map Book 45 at Pages 74 and 75 of the New Hanover County Registry shall be deemed to own, possess and have accepted:

(1) A Class "A" membership in the CANE BAY AT BEAU RIVAGE HOMEOWNERS ASSOCIATION, INC., (Association), appurtenant to his lot(s);

(2) An undivided equal interest with all other owners, for each membership in the Association owned, in the Association and all of its assets;

(3) The duty of complying with and abiding by all of the provisions of these Articles, the By-Laws of the Association and the Rules and Regulations of the Association, including the payment of dues, assessments, and penalties as provided elsewhere herein.

(c) The Association shall have two classes of voting membership:

(1) Class "A". Class A members shall be all lot and unit owners with the exception of the Owner and shall be entitled to one vote for each lot or unit owned. When more than one person

holds an interest in any lot or unit, all such persons shall be members. The vote for such lot or unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot or unit.

(2) Class "B". The Class B member shall be the Owner, and Owner shall be entitled to three (3) votes for each lot or unit owned that is shown on that plat recorded in Map Book 45 at Pages 74 and 75 of the New Hanover County Registry. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

A. When 75% of the lots shown on the aforesaid plat are deeded to homeowners, or

B. On December 31, 2010.

25. LIENS AND ASSESSMENTS CANE BAY AT BEAU RIVAGE HOMEOWNERS ASSOCIATION, INC., has been or will be given the authority to administer the operation and management of the property and to enforce these covenants, it being recognized that the delegation of such duties to one entity is in the best interests of the owners of all lots subject hereto to properly administer the operation and management of the subdivision. The Association will incur, for the mutual benefit of all the owners of such lots, costs and expenses sometimes herein referred to as "common expenses". To provide the funds necessary for such proper operation and management of the subdivision, and for the proper enforcement of these covenants, the Association has been or will be granted the right to make, levy and collect assessments against the members of the Association and their lots. In furtherance of this grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation of and the management of the association and for the enforcement of these covenants, following shall be operative and binding upon the owners of all lots:

(a) The owner of any lot subject hereto, with the exception of the Owner, by acceptance of a Deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) annual assessments or charges;
- (2) special assessments for capital improvements or special assessments as established by the Board of Directors of the Association, such assessments to be established and collected as hereinafter provided;

- (3) a nonrefundable working capital assessment in the amount of three months of the annual assessment, payable at the time of the purchase of the property.

(b) The annual and special assessments, together with the interest, costs, and reasonable attorney's fees, if any, shall be a charge on the lots and shall be a continual lien upon each lot against which they are levied. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person or entity who is the owner of such lot at the time when the assessment falls due. The personal obligation for delinquent assessments shall not pass to any successor in title unless expressly assumed by him.

(c) The Owner shall not be required to pay regular annual assessments on any lot owned by it prior to its sale.

(d) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvement, maintenance, and repair of all easements, utilities, irrigation systems, subdivision signs, and yard areas as herein provided. The funds arising from said assessments or charges, may be used for any or all of the following purposes: Maintenance, repair, and improvement of the irrigation systems, drainage and utility easements, and rights of ways; maintenance of the yard areas as herein provided, enforcing these restrictions, and, in addition, doing any other things necessary, proper, or desirable in the opinion of the Association to keep the property in neat and good order and to provide for the health, welfare and safety of the owners and residents of the subdivision.

(e) The annual assessments for each calendar year shall be established by the Board of Directors, and may be increased by the Board of Directors for any calendar year without approval by the membership by an amount not to exceed ten percent (10%) of the maximum annual assessment of the previous year. The maximum annual assessment for any calendar year may be increased without limit by a vote of two-thirds (2/3) of the Class A members who are voting in person or by proxy at a meeting called for this purpose.

(f) In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for purpose of defraying in whole or in part, any major expense of the Association, provided that any such assessment shall have the assent of two-thirds (2/3) of the vote of the Class A members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed to the uniform rate for all lots and may be collected on a monthly basis.

(g) Written notice of any meeting called for the purpose of taking any action authorized under Paragraph 25(e) or Paragraph 25(f) set forth above shall be sent to all members not less than ten (10) days nor more than (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of the membership 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 meeting shall be one-half (½) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

(h) The annual assessments provided for herein shall be collected on a quarterly basis and shall commence as to all lots in the subdivision on the first day of the month following recordation of the Declaration of Restrictions for the subdivision. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. Upon the closing of a lot subject hereto, there shall be an assessment due for the remainder of the quarter in which the closing occurs, plus the amount of the assessment due for the following quarter.

(i) Any assessment not paid within thirty (30) days after the due date shall bear interest at the highest rate allowed by law from the date due until paid. The Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the lot and interest, costs, and reasonable attorney's fee of such action or foreclosure shall be added to the amount of such assessment.

(j) The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the public records of New Hanover County, North Carolina, which claim shall state the description of the lot encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, and attorney's fees thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien provided for herein shall be subordinated to the lien of any first mortgage or Deed of Trust and any person, firm, corporation or other entity acquiring title to any lot by virtue of any foreclosure, deed in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable subsequent to the date of acquisition of such title, and it shall not be liable for the payment of any assessments which were in

default and delinquent at the time it acquired such title. In the event of the acquisition of title to a lot by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all owners of all lots as part of the common expenses, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

(k) 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 or unit shall not affect the assessment lien. However, the sale or transfer of any unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot or unit from liability for any assessments thereafter becoming due or from the lien thereof.

(l) Mortgagees are not required to collect assessments, and the failure of the owner to pay assessments shall not constitute a default under a mortgage.

(m) Upon the sale of seventy-five percent (75%) of all of lots subject to these covenants, the owner will turn over control of the Association to the Board of Directors to be elected by the membership in accordance with the By-Laws of the Association. Until such time, however, the owner shall elect the Board of Directors of the Association.

(n) In order to enforce the terms of this Declaration, the Association shall provide penalties for failure to obey the duties required by this Declaration, and such penalties shall be assessed against each lot, be payable by the lot owners, and be collected by the Association in the same manner as any other lot assessment provided for by the terms of this Declaration.

26. **BEAU RIVAGE HOMEOWNERS ASSOCIATION** In addition to the **CANE BAY AT BEAU RIVAGE HOMEOWNERS ASSOCIATION**, every owner of a lot in **Beau Rivage Plantation, Phase 2, Section 1 and Section 2** **CANE BAY AT BEAU RIVAGE** which lots are specifically subjected to these restrictive covenants and the remaining lots shown on that plat recorded in Map Book 45 at Pages 74 and 75 shall also be specifically made members of **BEAU RIVAGE HOMEOWNER'S ASSOCIATION** and shall be deemed to own, possess, and have accepted:

(1) A membership(s) in the **Beau Rivage Homeowners Association**, which membership shall be appurtenant to his or her lot and may not be separated therefrom;

(2) An undivided equal interest with all other members, for each membership in the Association owned, in the Association and all of its assets;

(3) A right and easement of enjoyment, equal to that of all other members, in and to the common areas, facilities, and amenities, which shall be appurtenant to the title of each lot made subject hereto, subject to the right of the Association to dedicate or transfer all or any part of the common areas, facilities, and amenities, for such purposes and subject to such conditions as the Association may determine, acting by and pursuant to the provisions of its duly enacted By-Laws;

(4) The duty of complying with and abiding by all of the provisions of the Articles of Incorporation, the By-Laws of the Association, and the rules and regulations of the Association, including the payment of dues and assessments as provided in those documents.

(5) Notwithstanding any of the foregoing provisions, membership by the owners of the lots in Cane Bay at Beau Rivage in the Beau Rivage Homeowners Association shall not subject the lots, or the owners of any lots, in Cane Bay at Beau Rivage to any restrictive covenants of any section or phase of Beau Rivage Plantation, and shall not subject the lots or the owners of lots in Cane Bay at Beau Rivage to any architectural review provisions, regulations, rights, duties or obligations held by, required by, or administered by, the Beau Rivage Homeowners Association.

27. RIGHTS OF ELIGIBLE MORTGAGE HOLDERS To the extent permitted by law, an Eligible Mortgage Holder, that is, a holder of a first mortgage or lien on a lot or unit who has requested notice of certain matters from the Association, upon written request to the Association, identifying the name and address of the owner and holder, will be entitled to timely written notice of:

(a) Any condemnation, loss, or casualty loss which affects a material portion of the project or any units on which there is a mortgage held by such Eligible Mortgage Holder.

(b) Any delinquency in payment of assessments or charges owed by an owner of the unit subject to a first mortgage held by such Eligible Mortgage Holder which remains uncured for a period of sixty days.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders.

28. **INSURANCE** It shall be the individual responsibility of each lot owner to maintain casualty and liability insurance on his lot or unit, including the exterior. It shall be the duty of the Association to maintain in effect casualty and liability insurance as follows:

(a) Amount and Scope of Insurance: All insurance policies shall be secured by the Board of Directors or its designee on behalf of the Association with full authority, which shall obtain such insurance against (1) loss or damage by fire or other hazards normally insured against, and (2) public liability insurance. Such liability coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries, and deaths of persons in connection with the operation of the Association and its fulfillment of the duties and responsibilities set forth herein, and legal liability arising out of lawsuits relating to employment contracts of the Association.

(b) Insurance Provisions. The Board of Directors shall make diligent effort to ensure that said insurance policies provide for the following:

- (1) A waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent, or employee of the Association, the lot owners, and their employees, agents, tenants, and invitees.
- (2) A waiver by the insurer of its right to repair and reconstruct instead of paying cash.
- (3) Coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days prior written notice to the named insured.
- (4) Coverage will not be prejudiced by act or neglect of the lot owners when said act or neglect is not within the control of the Association.
- (5) The policy on the common areas cannot be canceled, invalidated, or suspended on account of the conduct of any one or more individual lot owners.
- (6) The policy on the common areas cannot be canceled, invalidated, or suspended on account of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time

thereafter within which the defect may be cured by the Association.

(c) Premiums. All insurance premiums for insurance for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense and the Association shall levy against the owners equally, as an additional annual assessment, herein called "Insurance Assessment" which shall be in addition to the amounts provided for herein, an amount sufficient to pay the annual cost of all such insurance premiums.

(d) Proceeds. All insurance policies purchased pursuant to these provisions shall provide that all proceeds shall be payable to the Board as insurance trustee or to such attorney at law or institution with trust powers as may be approved by the Board of Directors.

(e) Policies. All insurance policies purchased by the Board of Directors shall be with a company or companies permitted to do business in the State of North Carolina and holding a rating of "A" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Board of Directors and the lot owners and their mortgagees as their respective interests may appear, and shall provide that all proceeds thereof shall be payable to the Board of Directors and duplicates of said policies and endorsements and all renewals thereof, or certificates thereof, together with proof of payment of premiums, shall be delivered to the owners at least ten (10) days prior to the expiration date with respect to the then current policies.

(f) Distribution of Insurance Proceeds. Proceeds of insurance policies shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (1) Expenses of Trust. All reasonable expenses of the insurance trustee shall be first paid or provisions made therefor.
- (2) Reconstruction or Repair. The remaining proceeds shall be used to defray the cost of repairs for the damage or reconstruction for which the proceeds are paid. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or retained by the Association for such common expenses or purposes as the Board shall determine.

29. FIDELITY BONDS

(a) The Association shall maintain blanket fidelity bonds for all those officers, directors, employees, and all other persons handling or responsible for funds of the Association. If the Association shall delegate some or all of the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees, and agents handling or responsible for funds of or administered on behalf of the Association.

(b) Amount of Coverage. The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all units plus reserve funds.

(c) Other Requirements. Fidelity bonds required herein must meet the following requirements:

- (1) Fidelity bonds shall name the Association as an obligee.
- (2) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definitions of "Employees", or similar terms or expressions.
- (3) The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees, and agents) shall be paid by the Association as a common expense.
- (4) The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association, to any insurance trustee, and each Eligible Mortgage Holder.

30. **VA/HUD APPROVAL** So long as there is a Class B Membership, the amendment of this Declaration of Covenants, Conditions, and Restrictions, shall require the approval of the Veterans Administration or the Department of Housing and Urban Development.

31. **AMENDMENT** Except as otherwise provided herein, these restrictions may be altered, modified, canceled, or changed at any time as to said subdivision as a whole or as to any subdivided lot or part thereof by a written document, recorded in the New Hanover County Registry, executed by the owners (not including mortgagees, trustees, or other lienholders) of not less than two-thirds (2/3) of the 17 subdivided lots shown on that plat recorded in Map Book 45 at Pages 74 and 75 of the New Hanover County Registry. Developer's power to amend this Declaration as provided herein shall not require the consent of the Class A members and shall be valid when signed by the Owner and recorded in the New Hanover County Register of Deeds as long as Owner owns one or more of the 17 lots shown on the aforesaid plat recorded in Map Book 45 at Pages 74 and 75 of the New Hanover County Registry

32. **VIOLATIONS** If the parties hereto, or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for the Association or any other person or persons owning any real property situated in said subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate such covenants and either prevent him or them from so doing or recover damages or other dues for such violations.

33. **INVALIDATION** Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other covenants herein, which shall remain in full force and effect.

34. **TERM** All covenants, restrictions, and affirmative obligations set forth in these Restrictions shall run with the land and shall be binding on all parties claiming under them to specifically include, but not be limited to the successors and assigns, if any, of Owner, for a period of twenty (20) years from the date hereof after which time all said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of two-thirds (2/3) of the lots (not including mortgagees or trustees under deeds of trust) has been recorded, agreeing to change said covenants in whole or in part.

35. **LOTS AND UNITS SUBJECT TO DECLARATION** All present and future owners, tenants, and occupants of lots subject to these restrictions and their guests and invitees shall be subject to and shall comply with the provisions of this Declaration, as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering of a lease or the entering into occupancy of any lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such owner, tenant, or occupant. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, or the owner of any lot or unit, their respective legal representative, heirs, successors, and assigns, and shall run

with and bind the land and shall bind any person having at any time any interest or estate in any lot as though such provisions were made a part of each and every deed of conveyance or lease.

36. **APPLICABILITY TO OTHER PROPERTIES** These restrictions shall apply only to the lots specifically subjected to these restrictions by the Declarant and shall not be applicable to any other properties owned by the Declarant unless specifically made subject to these restrictions or to similar restrictions. Declarant specifically reserves the right to develop adjacent or nearby properties in any manner whatsoever without regard to the development scheme contemplated herein, including the right to construct apartments, condominiums, townhouses, duplexes, triplexes, or any other form of multifamily housing or other form of housing allowed by the applicable zoning ordinances and regulations.

IN TESTIMONY WHEREOF, the Owner, Developer and Declarant has caused this instrument to be executed in its corporate name by its duly authorized President, and its corporate seal to be hereunto affixed, all by order of its Board of Directors first duly given, the day and year first above written.

DOMINION LAND CORPORATION

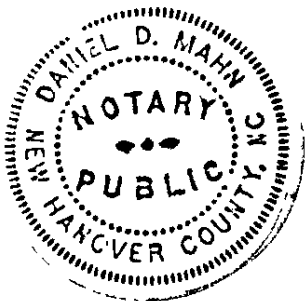
By: Nathan S. Sanders
Nathan S. Sanders, President

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, a Notary Public of the County and State aforesaid, certify that Nathan S, Sanders personally appeared before me this day and acknowledged that he is President of DOMINION LAND CORPORATION, a North Carolina Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by him as its President. Witness my hand and notarial stamp or seal, this 18th day of December, 2003.

My Commission Expires:
10/16/05

DMM
Notary Public





REBECCA T. CHRISTIAN
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration 01/14/2004 09:54:02 AM
Book: RE 4158 Page: 887-908
Document No.: 2004001835
DECL 22 PGS \$74.00

Recorder KIMBERLY K CARDER

State of North Carolina, County of New Hanover

The foregoing certificate of DANIEL D MAHN Notary is certified to be correct This 14TH of January 2004

REBECCA T CHRISTIAN , REGISTER OF DEEDS

By: Kimberly K Carder
Deputy Assistant Register of Deeds

YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.

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