

Prepared by and Returned to:
STEVENS, MCGHEE, MORGAN, ^{BOOK}LENNON & O'QUINN
STATE OF NORTH CAROLINA 2017 0216
COUNTY OF NEW HANOVER

RECORDED AND VERIFIED
MARY SUE ROTS
REGISTER OF DEEDS ✓
NEW HANOVER CO. NC
'96 APR 17 PM 3 59

CAPE COTTAGES CONDOMINIUMS

PHASE I

**FIRST AMENDMENT TO
DECLARATION OF CAPE COTTAGES CONDOMINIUMS**

000149

WHEREAS, **BILTWELL, INC.** (hereinafter referred to as "Declarant") has heretofore executed and caused to be recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, in Book 2007 at Page 844 et. seq. a Declaration of Condominium for Cape Cottages Condominiums, Phase I (hereinafter the "Declaration"); and,

WHEREAS, **CAPE COTTAGES HOMEOWNERS' ASSOCIATION, INC.**, (hereinafter referred to as "Homeowners' Association") pursuant to Article XXVII A of the Declaration, may amend the Declaration of Condominium upon an affirmative vote of ninety percent (90%) of the Unit Owners.

WHEREAS, there have been no conveyances of any interest by Declarant in the Condominium Units and the associated undivided interest described in the above-referenced declaration as of the date of the recording of this Amendment to Declaration.

WHEREAS, Declarant is therefore the only member of the Association as of the date of this Amendment, and has requested that the Homeowners' Association amend the Declaration in order to add additional language to Article XXI concerning the distribution of proceeds in the event of condemnation.

WHEREAS, at a meeting of the Board of Directors of the Homeowners' Association pursuant to Article XXVII of the Declaration, the Homeowners' Association proposed an amendment to the Declaration in order to add additional language to Article XXI concerning the distribution of proceeds in the event of condemnation and said amendment was approved by an affirmative vote of Unit Owners owning 90% of the Unit Owners.

NOW, THEREFORE, for and in consideration of the premises and other valuable consideration, the Declarant and the Homeowners' Association, in accordance with the provisions of the Declaration and the North Carolina Condominium Act, do hereby agree and consent to amend the Declaration as follows:

1. Delete the existing Article XXI, Paragraph D. concerning Condemnation and insert in lieu thereof, the following Article XXI Paragraph D.

ARTICLE XXI.

**INSURANCE COVERAGE TO BE MAINTAINED: USE AND
DISTRIBUTION OF INSURANCE AND CONDEMNATION PROCEEDS**

D. Condemnation. In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the same shall be repaired or restored, and the awards paid on account thereof shall be used and applied, as follows:

(1) All condemnation awards attributable to the Common Property shall be for the benefit of the Association and the Condominium Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of condemnation shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of Association, the Condominium Unit Owners and their respective mortgagees in the following shares:

(a) Proceeds on account of condemnation of Common Property: in undivided shares for each condominium Unit Owner and his mortgagee, if any, which shares as to each Condominium Unit are shown on Exhibit "C" attached hereto.

(2) Proceeds on account of condemnation to Condominium Units shall be held in the following undivided shares:

(a) Partial condemnation when the Condominium is to be restored: for the Owners of damaged Condominium Unit Owners, the share of each being set forth in Exhibit "C".

(b) Total condemnation when the Condominium is not to be restored: for the Owners of all Condominium Units, the share of each being set forth in Exhibit "C". In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear.

WHEREAS, the President and Secretary of the Homeowners' Association do hereby certify, by their signatures herein, that the amendment as set forth hereinabove has been duly adopted.

EXCEPT AS SPECIFICALLY amended by this First Amendment, the aforesaid Declaration shall be and remain in full force and effect and shall apply to Units, Common Areas, and Limited Common Areas created by the Declaration.

IN WITNESS WHEREOF, BILTWELL, INC. has caused these presents to be executed in its name by its Vice- President, attested by its Asst. Secretary, and its corporate seal to be hereunto affixed, this 15th day of April, 1996.

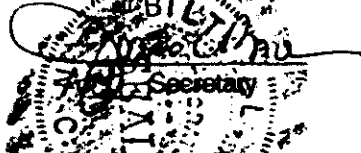
AND IN WITNESS WHEREOF, CAPE COTTAGES HOMEOWNERS' ASSOCIATION, INC. has caused these presents to be executed in its name by its Chairman attested by its Secretary, and its corporate seal to be hereunto affixed, this 15th day of April, 1996.

BILTWELL, INC.

By: George A. Smith
Vice- President

ATTEST:

(Corporate Seal)



BOOK PAGE
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CAPE COTTAGES HOMEOWNERS' ASSOCIATION

By: [Signature]
Chairman

ATTEST
(Corporate Seal)
[Signature]
Secretary
NORTH CAROLINA

CUMBERLAND COUNTY

I, Carol A. Parker, a Notary Public in and for said County and State, do hereby certify that Joan C. Brown personally appeared before me this day and acknowledged that she is the Secretary of BILTWELL, INC., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice-President, sealed with its corporate seal and attested by as its Secretary.

WITNESS my hand and official stamp or seal, this the 15th day of April, 1996.

[Signature]
NOTARY PUBLIC
My Commission Expires:

My Commission Expires
August 9, 1999

NORTH CAROLINA

New Hanover COUNTY

I, Denise L. Baker, a Notary Public in and for said County and State, do hereby certify that J. Layne McNeill personally appeared before me this day and acknowledged that she is the Secretary of CAPE COTTAGES HOMEOWNERS' ASSOCIATION, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chairman sealed with its corporate seal and attested by as its Secretary.

WITNESS my hand and official stamp or seal, this the 15th day of April, 1996.

Denise L. Baker
NOTARY PUBLIC
My commission expires: July 8, 1998



STATE OF NORTH CAROLINA
New Hanover County
The Foregoing / Annexed Certificate(s) of
Carol A. Parker &
Denise L. Baker