

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

Melanie Arthur, Register of Deeds
By Holly A. Niemic
Deputy, Register of Deeds

✓ Prepared by Stone & Lumsden, a Professional Corporation
Return after recording to Stone & Lumsden, 8752 Reed Drive, Suite 3, Emerald Isle, NC 28594

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

DECLARATION AND COVENANTS FOR 2 SEAS THE DAY TOWNHOMES
THIS DECLARATION AND COVENANTS FOR 2 SEAS THE DAY TOWNHOMES, made this 29th day of May, 2007 by **Daniel L. Dunn and wife, Natalie W. Dunn and Douglas T. Niemic and wife, Holly A. Niemic** ("Declarant")

WITNESSETH:

WHEREAS, **Daniel L. Dunn and wife, Natalie W. Dunn and Douglas T. Niemic and wife, Holly A. Niemic** own in fee simple certain real estate located in Carteret County, North Carolina, said real estate being more particularly described as follows:

Being all of Lot 5 in Block 8 as the same is shown and designated on a map entitled "Revised Map of Emerald Isle by the Sea, block8" prepared by C.C. King, R.S. as recorded in Map Book 7 at Page 96 in the Office of the Register of Deeds of Carteret County, North Carolina.

This conveyance is made subject to the restrictive and protective covenants recorded in Book 315 at Page 242 in the Office of the Register of Deeds in Carteret County, North Carolina.

Being all that property conveyed in Book 568, Page 443 which incorrected showed the page number of the map of the property as being recorded in Map Book 7, Page 98, instead of Map Book 7, Page 96.

WHEREAS, there has been constructed two (2) dwellings in a single building on said property; and

WHEREAS, it is the desire of the Owners to subject this property to certain covenants and restrictions set out in this Declaration; and

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NOW, THEREFORE, the Owners do hereby declare that the property above-described shall be held, conveyed, encumbered, used, occupied, improved, sold, mortgaged, and otherwise conveyed subject to the rules, regulations, restrictions, covenants, conditions, uses and obligations set forth in this Declaration. All such rules, regulations, restrictions, covenants, conditions, uses and obligations are declared and agreed to be in furtherance of a plan for the improvement of the Townhome and the division thereof into Townhome Units and shall be deemed to run with the land and be a burden on, and a benefit to, the Owners, their successors and assigns, and on and to any person acquiring or owning any interest in the real property in the Townhome and any improvements thereto, such parties' grantees, successors, heirs, assigns, executors, administrators and devisees, Individual Unit Owners, their employees, guests, tenants and all persons using or possessing the property within the Townhome are subject to the provisions of this Declaration.

I
ESTABLISHMENT OF TOWNHOME

The Declarant is the owner of the property described above and is submitting only this property to these Covenants. No additional lands may be submitted to these covenants. 2 Seas the Day Townhomes consist of two lots labeled East and West as shown on a plat recorded in Map Book 31, Page 183, Carteret County Registry. There is located on the lot a two story Townhome structure with approximately 2334 square feet and 4 bedrooms and 3.5 baths.

II
SURVEY AND DESCRIPTION OF IMPROVEMENTS

The survey of the land and the improvements constituting the Townhome, identifying the Townhome Units and Common Areas as said terms are hereinafter defined, and their respective locations and approximate dimensions are recorded in the Office of the Register of Deeds, Carteret County in Map Book 31, Page 183. No Townhome Unit bears the same designation as any other Townhome Unit.

III
DEFINITIONS

The Townhome consists of Townhome Units and Common Areas as said terms are hereinafter defined.

- A. The terms "Association", "Owners Association", "Common Expenses", "Declarant", "Declaration", "Lot", "Lot Owner", "Purchaser", "Real Estate" and "Reasonable Attorney Fees" shall have the meaning as set out in the North Carolina Planned Community Act § 47F-1-103,
- B. **Townhome** means that structure located on the property depicted on the recorded map.

C.. **Townhome Units**, as the term is used herein, shall mean and comprise the separate identified Dwelling Units which are designated on the recorded maps Excluded, however, are all spaces and improvements lying:

1. Beyond the center of the interior common wall. The individual Townhome Units shall include the interior walls and all perimeter walls forming the exterior of the Unit including to the center of the common wall, the roof above the Unit and the shutters, awnings, window boxes, doorsteps, stoops, exterior windows, doors and decks or balconies serving only one Unit.
2. All pipes, ducts, wires, conduits and other facilities for the furnishing of utilities and other services to Townhome Units and Common Areas up to and including the point of entry of such pipes, ducts, wires and conduits through the exterior surfacing material for walls and ceilings and subflooring surfacing material for floors. Subject to the provisions of subparagraph C hereof, all pipes, ducts, wires, conduits and other such facilities shall become a part of the respective Townhome Units at such points of entry. All exterior doors, air-conditioning units, heating units, window frames, panes, screens, septic tanks, and any other appliance or machine serving only one unit shall be part of the respective Townhome Units.

D. **Common Areas**, sometimes also referred to herein as "Common Property," shall mean and comprise all of the real property, improvements and facilities of the Townhome other than the Townhome Units as hereinabove defined and all personal property held and maintained for the use and enjoyment of all the Owners of Townhome Units and shall specifically include all pipes, ducts, wires and conduits located within one Unit and serving or being designed to serve another Unit or Units. Additionally, all exterior entry stairways, decks, and walkways shall be Common Areas, except those exclusively serving one unit which shall be limited common elements. Limited Common Areas shall also include the parking area.

IV
OWNERSHIP OF TOWNHOME UNITS
AND APPURTENANT INTEREST IN COMMON AREAS

Each Townhome Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Owner of each Unit shall also own, as an appurtenance to the ownership of each said Townhome Unit, an undivided interest in the Common Areas. The undivided interest appurtenant to each Townhome Unit shall be as set out in Exhibit "A" attached hereto and made a part hereof. The proportional interest in the Common Areas that is appurtenant to each Townhome Unit has been determined by a ratio formulated upon the approximate relation that the fair market value of each Unit at the date of the Declaration bears to the then aggregate fair market value of all of the Units having an interest in the Common Areas.

V
RESTRICTION AGAINST SUBDIVIDING OF
TOWNHOME UNITS; SEPARATE CONVEYANCE
OF APPURTENANT COMMON PROPERTIES PROHIBITED

No Townhome Unit may be divided into a smaller Unit or Units nor shall any Townhome Unit or portion thereof be added to or incorporated into any other Townhome Unit. The undivided interest in the Common Property declared to be an appurtenance to each Townhome Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Townhome Unit. The undivided interest in Common Areas appurtenant to each Townhome Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Townhome Unit even though such undivided interest may not be expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Townhome Unit. Nothing herein contained shall be construed as limiting or preventing ownership of any Townhome Unit and its appurtenant undivided interest in the Common Areas by more than one person or entity as tenants in common, joint tenants or as tenants by the entirety.

VI
THE TOWNHOME SHALL BE SUBJECT TO RESTRICTIONS

The Townhome Units and Common Areas shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed and established herein governing the use of said Townhome Units and Common Areas and setting forth the obligations and responsibilities incident to ownership of each Townhome Unit and its appurtenant undivided interest in the Common Areas, and said Townhome Units and Common Areas are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Townhome.

VII
PERPETUAL EASEMENT IN COMMON PROPERTY

The Common Property shall be, and the same is hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the Unit Owners in the Townhome for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said of Owners of Townhome Units. Notwithstanding anything above-provided in this Article, **2 Seas the Day Owner's Association** shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Townhome Unit, his family, guests and invitees, may be entitled to use the Common Property, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof and to establish rules and regulations concerning the use. No such rule or regulation by the Association shall affect the right of a Unit Owner to locate such Unit on the area depicted as a Unit on the recorded maps.

VIII
EASEMENT FOR UNINTENTIONAL AND
NON-NEGLIGENT ENCROACHMENTS

In the event that any Townhome Unit shall encroach upon any Common Property or any other Townhome Unit for any reason not caused by the purposeful or negligent act of the Townhome Unit Owner, or agents of such Owner, then an easement appurtenant to such Townhome Unit shall exist for the continuance of such encroachment upon the Common Property or upon a Townhome Unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Property shall encroach upon any Townhome Unit, then an easement shall exist for any continuance of such encroachment of the Common Property upon any Townhome Unit for so long as such encroachment shall naturally exist. If any Townhome Unit or Common Property shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such Unit and/or Common Property in accordance with Article XXI hereof, There exist encroachments on portions of the Common Property upon any Townhome Unit, or of any Townhome Unit upon any portion of the Common Property, then such encroachments will be permitted and a valid easement for the maintenance thereof will exist so long as such encroachments will naturally remain. Reconstruction of a Unit upon that portion of the Common Property depicted as a Unit on the recorded maps will not constitute an encroachment.

IX
RESTRAINT UPON SEPARATION AND PARTITION
OF COMMON PROPERTY

Recognizing that the proper uses of a Townhome Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Property in common with the Owners of all Townhome Units, and that it is in the interest of all Owners that the ownerships of the Common Property are retained in common by the Owners, it is hereby declared that the proportional undivided interest in the Common Property appurtenant to each Townhome Unit shall remain undivided and no Unit Owner shall bring, or have any right to bring, any action for partition or division.

X
ADMINISTRATION OF THE TOWNHOME
BY 2 SEAS THE DAY OWNER'S ASSOCIATION,
AN UNINCORPORATED ASSOCIATION

To efficiently and effectively provide for the administration of the Townhome by the Owners of the Townhome Units, an association known and designated as **2 Seas the Day Owner's Association** has been organized, and the same Association shall administer the operation and management of the Townhome and undertake and perform all acts and duties incident thereto in accordance with the terms of its By-Laws. A true copy of the By-Laws is attached hereto and expressly made a part hereof as Exhibit "B."

The Owner of each Townhome Unit shall automatically become a member of said

Association upon acquisition of an ownership interest to any Townhome Unit and its appurtenant undivided interest in Common Property, and the membership of such Owner shall terminate automatically upon such Owner being divested of such ownership interest to such Townhome Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Townhome Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said Association or to any of the rights or privileges of such membership.

In the administration of the operation and management of the Townhome, the Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration of Townhome, to levy and to collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Townhome Units and Common Property as the Board of Directors of said Association may deem to be in the best interest of the Association.

XI

RESIDENTIAL USE RESTRICTIONS APPLICABLE TO TOWNHOME UNITS

Each Townhome Unit is hereby restricted to residential use by the Owner thereof, his immediate family, guests, invitees and lessees.

XII

USE OF COMMON PROPERTY SUBJECT TO RULES OF ASSOCIATION

The use of Common Property by the Owners of the Townhome Units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established by the Association.

A. No Unit Owner may obstruct Common Areas in any way. No Unit Owner may store anything in or on the Common Areas without the prior consent of the Board of Directors.

B. The Common Areas shall be used only for the benefit of the Unit Owners and the occupants of all the units. No Unit Owner may carry on any practice or permit any practice to be carried on which unreasonably interferes with the quiet enjoyment of the property.

C. The property shall be maintained in a clean and sanitary condition, and no Unit Owner may place any garbage, trash or rubbish anywhere in the property other than in his own Unit and in such parts of the Common Area as may be designated for such purposes.

D. The Unit Owners shall be allowed to own and have on the premises domesticated pets, but the Association shall have the right to prohibit, restrain or control the type or number of pets through rules established by the Association in the event the size, habits, number, ferociousness, barking, loudness or similar pet traits interfere with the health, well-being or comfort of the other Unit Owner or guest and invitees therein. Tenants shall be prohibited from

having any pets or other animals within a unit or on the common elements unless first approved by the Association

E. Unit Owners may not install window air conditioners, exhaust fans or any other item which protrudes through any window serving the Unit without the approval of the Board.

F. Each Unit Owner, as well as the tenants, guests and invitees of the Unit Owner, shall be restricted to parking motor vehicles in those areas designated by the Board of Directors for that Unit. Unless expressly permitted by the Association, each Unit Owner, as well as tenants, guests and invitees, shall not park beyond the dividing line between the Unit Owner's unit and the other Owner's unit.

XIII
THE TOWNHOME TO BE USED FOR LAWFUL PURPOSES:
RESTRICTION AGAINST NUISANCES

No immoral, improper, offensive or unlawful use shall be made of any Townhome Unit or of the Common Property, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Townhome shall be observed. No Owner of any Townhome Unit shall permit or suffer anything to be done or kept in his Townhome Unit, or on the Common Property, which will increase the rate of insurance on the Townhome, or which will obstruct or interfere with the rights of other occupants of the Townhome or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner of a Townhome Unit, or which interferes with the peaceful possession and proper use of any other Townhome Unit or the Common Property.

XIV
RIGHT OF ENTRY INTO TOWNHOME

Whenever it may be necessary to enter any Townhome Unit for the purpose of performing any maintenance, alteration or repair to any portion of the Common Property or adjacent Townhome Units, the Owner of each Townhome Unit shall permit the other Owner, or the representatives thereof, or the duly constituted and authorized agents of the Association, to enter such Townhome Unit for such purpose, provided that the entry shall be made only at reasonable times and with reasonable advance notice. In emergencies, entry may be made without advance notice.

XV
LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY TOWNHOME
UNITS; NO RIGHT TO ALTER COMMON PROPERTY

No Owner of a Townhome Unit shall permit any structural modification or alteration to be made to such Townhome Unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in their sole discretion, that such structural modifications or

alterations would adversely affect or in any manner endanger the Townhome in part or in its entirety. No Owner shall cause any improvements or changes to be made on the exterior of the Townhome (including painting, roofing materials or other decoration, or the installation of electrical wiring, television or radio antennae or any other objects, machines or air-conditioning units which may protrude through the walls or roof of the Townhome) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No Unit Owner shall cause any object to be affixed to the Common Property or in any manner change the appearance of the Common Property without the written consent of the Association being first obtained.

XVI
RIGHT OF ASSOCIATION TO ALTER AND
IMPROVE COMMON PROPERTY AND ASSESSMENT THEREFOR

The Association shall have the right to make or cause to be made such alterations or improvements to the Common Property which do not prejudice the rights of the Owner of any Townhome Unit in the use and enjoyment of his Townhome Unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association and the cost of such alterations or improvements shall be common expenses to be assessed and collected from all of the Owners of Townhome Units. However, where any alterations and improvements are exclusively or substantially for the benefit of the Owner or Owners of certain Townhome Unit or Units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the Owner or Owners of the Townhome Unit or Units exclusively or substantially benefitted, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Association.

XVII
MAINTENANCE AND REPAIR BY OWNERS OF TOWNHOME UNITS

Every Owner shall perform promptly all maintenance and repair work required for the Townhome Unit which, if omitted, would affect the Townhome, either in its entirety or in a part belonging to other Owners, every Owner being expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Townhome Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans or other appliances or equipment, including any fixtures and/or the connections required to provide water, light, power, telephone, sewage and sanitary service to his Townhome Unit. Such Owner shall be responsible and liable for the maintenance, repair and replacement, if necessary, of all walls, ceilings and floors of his Unit including painting, decorating and furnishings, all pilings under his Unit, and all other accessories which such Owner may desire to place or maintain in his Townhome Unit.

The Owner shall further be responsible for the maintenance, repair and replacement of the exterior surfaces, roof above their unit and supporting structure, exclusive of foundation, below their unit. Such maintenance, repair and replacement shall use colors and materials approved by the Association to maintain a uniform appearance of the Townhome and be performed in such a

manor so as to preserve the structural integrity of all the units.

Whenever the maintenance, repair and replacement of any item for which the Owner of a Townhome is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement.

XVIII
MAINTENANCE AND REPAIR OF COMMON PROPERTY
BY THE ASSOCIATION

The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Common Property and all conduits, ducts, plumbing, wiring and other facilities located in the Common Property or in a Townhome Unit, for the furnishing of utility and other services to the Common Property or other Townhome Units and, should any incidental damage be caused to any Townhome Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Property, the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Townhome Unit Owner, or owner's family, guests or invitees, and such loss or damage is covered by any insurance maintained in force by the Association, the proceeds of the insurance received by Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay his portion of the cost of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

XIX
INSURANCE, AUTHORITY TO PURCHASE

Insurance policies (other than title insurance) upon the common areas (other than the personal property of the Unit Owners) shall be purchased by the Association in the name of the Association or its Managing Agent or the Board of Directors of the Association, as Trustees for the Association and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the Townhome Units. or any of them. If the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against Townhome Unit Owners, the Association and their respective servants, agents and guests.

Each Townhome Unit Owner shall obtain insurance, at his own expense, affording coverage for his Townhome Unit, his personal property and for his personal liability in the

amounts shown below and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

The Owner of each Townhome Unit shall be responsible for all taxes levied against such Townhome Unit by any governmental authority. The Association shall not be responsible for the payment of taxes.

XX
INSURANCE COVERAGE TO BE MAINTAINED;
USE AND DISTRIBUTION OF INSURANCE PROCEEDS

A. The following insurance coverage shall be maintained in full force and effect by the Unit Owners covering the Townhome Units, to wit:

Casualty insurance covering the individual Townhome Units, including all improvements upon the land supporting the Units, shall be procured in an amount equal to the maximum insurable replacement value thereof as determined annually by the insurance company affording such coverage; and provided that such policies may be written on a coinsurance basis of not less than ninety percent (90%). Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief.

Flood insurance shall likewise be obtained by the individual Unit Owners if the Townhome should be found to be located in a special flood hazard area or if required by lending or governmental agencies. However, the Unit Owners may elect to maintain the flood insurance through the Association, in which event the premium will be paid by the Association.

B. Premiums upon insurance policies purchased by the Unit Owners shall be paid by the respective owners. The owners shall provide to the other owners upon request evidence of said insurance. Should an owner fail to obtain insurance then the other owner may obtain such insurance in the name of the other owner and association. The premium for this coverage shall become an assessment payable to the Association from the uninsured Owner.

C. The Association shall obtain casualty insurance for the common area improvements in the Townhome. The Association shall obtain insurance for the benefit of the Unit Owners and their respective lenders or mortgagees upon the improvements that constitute the common areas of the Townhome in such amounts as the Association shall determine. The Association shall also obtain a liability policy covering the Association for the common areas in an amount of not less than one million dollars (\$1,000,000.00.)

D. All insurance policies purchased by the Association shall be for the benefit of the Association and the Townhome Unit Owners and their mortgagees, as their respective interests

may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of the Association, the Townhome Unit Owners and their respective mortgagees. Proceeds on account of damage to Common Property shall be held in undivided shares for each Townhome Unit Owner and his mortgagee, if any, which shares as to each Townhome Unit are shown on Exhibit "A" attached hereto, as same shall be amended from time to time as is provided herein.

E. Proceeds on account of damages to Townhome Units shall be owned by the Unit owners and mortgagees as their interest may appear.

F. In the event a mortgagee endorsement has been issued as to a Townhome Unit, the share of the Townhome Unit Owner shall be held for the mortgagee and the Townhome Unit Owners as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.

G. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial Townhome Unit Owners in the following manner:

(1) If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Townhome Unit Owners, all remittances to Townhome Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Townhome Unit and may be enforced by mortgagee.

(2) If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Townhome Unit Owners, remittances to Townhome Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Townhome Unit and may be enforced by mortgagee.

XXI
RECONSTRUCTION OR REPAIR
OF CASUALTY DAMAGE

A. If any part of the Townhome shall be damaged by casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:

(1) In the event of destruction, the Townhome shall be reconstructed or repaired unless this Declaration is terminated by the unanimous vote of all of the Townhome Unit Owners at a meeting of the members of the Association called and held prior to commencement of such reconstruction or repair.

(2) Any such reconstruction or repair shall be substantially in accordance with the plans and specifications contained herein and on file with and approved by the local building

inspector.

B. If the damage is only to those parts of one or more Townhome Units for which the responsibility for maintenance and repair is that of the Townhome Unit Owner, then the Townhome Unit Owner shall be responsible for reconstruction and repair after casualty. The Unit owner shall proceed with the repair as soon as possible after the loss occurs so as not to interfere with the interests of the other Unit Owner or Owners.

C. Each Townhome Unit Owner shall be deemed to have delegated to the Board of Directors of the Association his right to settle or resolve claims with the insurance company for all losses under any policy purchased by the Association.

XXII
ASSOCIATION TO MAINTAIN
REGISTER OF OWNERS

The Association shall at all times maintain a Register setting forth the names of the Owners of all of the Townhome Units.

XXIII
ASSESSMENTS: LIABILITY, LIEN
AND ENFORCEMENT

The Association is given the authority to administer the operation and management of the Townhome, it being recognized that the delegation of such duties to one entity is in the best interests of the Owners of all Townhome Units. To properly administer the operation and management of the Townhome, the Association will incur for the mutual benefit of all of the Owners of Townhome Units, costs and expenses which are sometimes herein referred to as "Common Expense." To provide the funds necessary for such proper operation, management and capital improvements, the Association has heretofore been granted the right to make, levy and collect assessments against the Unit Owners and their Townhome Units. 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, management of and capital improvements to the Townhome, the following provisions shall be operative and binding upon the Owners of all Townhome Units.

A. Except as provided in Article XVI, all assessments levied against the Unit Owners and their Townhome Units shall be uniform and, unless specifically otherwise provided for in this Declaration of Townhome, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Townhome Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Townhome Units as the undivided interest in Common Property appurtenant to each Townhome Unit bears to the total undivided interest in Common Property appurtenant to all Townhome Units.

B. Assessments provided for herein shall be payable in quarterly or semiannual installments, or as may be determined by the Board of Directors of the Association. Such assessments shall commence for each Unit on the first day of the first month following the

recordation of this Declaration in the Carteret County Register of Deeds.

C. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year. Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Townhome, including a reasonable allowance for contingencies and reserves. Such budget shall take into account anticipated income which is to be applied to reduce the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph "D" hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors of the Association, copies of said Budget shall be delivered to each Owner of a Townhome Unit and the assessment for said year shall be established based upon such Budget, although the delivery of a copy of said Budget to each Owner shall not affect the liability of any Owner for such assessment. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the Townhome, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary. Until the next annual meeting of the Association, assessments shall be in the amount of **Two Hundred Fifty and 00/100 Dollars (\$250.00)** annually, with each owner liable for his pro rata portion of same as computed from Exhibit B.

D. The Board of Directors of the Association, in establishing the Annual Budget for operation, management and maintenance of the Townhome, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Property, which Capital Improvement and Replacement Fund (Capital Improvement Fund) shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property, as well as the replacement of personal property which may constitute a portion of the Common Property held for the joint use and benefit of the Owners of Townhome Units. The amount to be allocated to the Capital Improvement Fund may be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Property. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his proportionate interest in the Common Property as shown on Exhibit "A" as the same may be amended from time to time, and the Association shall annually notify each Unit Owner of the amount of his balance in the Capital Improvement Fund. However, such balance shall not be subject to withdrawal by a Unit Owner.

E. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Townhome or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration of Townhome and the By-Laws of the Association. As monies for any assessment are paid unto the Association by any Owner of a

Townhome Unit, the same may be commingled with monies paid to the Association by the other Owner. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Property, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Townhome Unit. When the Owner of a Townhome Unit shall cease to be a member of the Association by reason of his divestment of ownership of such Townhome Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Townhome.

F. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to the Association. All monies owing to the Association shall be due and payable at the office of the Association.

G. The Owner of each Townhome Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Townhome Unit while such party or parties constitute the ownership of a Townhome Unit. In the event that any Owner is in default in payment of any assessment or installment thereof owed to the Association, such Owner shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including reasonable attorneys' fees, whether suit be brought or not.

H. No Owner of a Townhome Unit will be exempt from liability for any assessment by waiver of the use of enjoyment of any of the Common Property, or by abandonment of the Townhome Unit or in any other way.

I. Recognizing that proper operation and management of the Townhome requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all Owners, and that the payment of such common expense represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Townhome Unit and its appurtenant undivided interest in Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Owner of each Townhome Unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including reasonable attorneys' fees, which may be incurred by the Association in enforcing this lien upon said Townhome Unit and its appurtenant undivided interest in Common Property. The lien granted to the Association may be foreclosed in

the same manner as foreclosure of statutory liens created pursuant to Chapter 44A of the General Statutes of North Carolina (as same may be amended from time to time). In the event the law allowing foreclosure of statutory liens is rescinded, then foreclosure of the liens created by this subparagraph shall be performed in the same manner as the foreclosure of Chapter 44A statutory liens on the day prior to such rescission. In any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Owner of any Townhome Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a Receiver for said Townhome Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the highest rate allowed by law on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Townhome Unit, or who may be given or may acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interests in any Townhome Unit expressly subject to such lien rights.

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 Carteret County, North Carolina, which claim shall state the description of the Townhome 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 claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be assigned 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 mortgage or deed of trust and any person, firm or corporation acquiring title to any Townhome Unit and its appurtenant undivided interest in Common Property 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 for said Townhome Unit and its appurtenant undivided interest in Common Property 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 Townhome Unit 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 Townhome Units as a part of the common expense, 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. Whenever any Townhome Unit is or is to be leased, sold or mortgaged by the Owner thereof, at the Owner's request, the Association shall furnish to the proposed lessees, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such a lessee or purchaser, or by the Owner in

case of a mortgage. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Townhome Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the Owner of said Townhome Unit and such Townhome Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the rent, proceeds of such purchase or mortgage proceeds, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase or mortgage proceeds to the Owner of the Townhome Unit who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Townhome Unit, the Purchaser thereof shall be jointly and severally liable with the Seller for all unpaid assessments against the Seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the Purchaser to recover from the Seller the amounts paid by the Purchaser therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution or a suit at law to collect any sum then remaining owing to the Association.

XXIV COMMON SURPLUS

"Common Surplus," meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits, and revenues from whatever source over and above the amount of the common expense, shall be owned by the Owners of all Townhome Units in the same proportion that the undivided interest in Common Property appurtenant to each Owner's Townhome Unit bears to the total of all undivided interest in Common Property appurtenant to all Townhome Units; provided, however, that said common surplus shall be held by the Association in the manner, and subject to the terms, provisions and conditions of this Declaration, imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance indemnity herein provided, or upon termination of the Townhome, any attribution or distribution of common surplus which may be made from time to time shall be made to the then Owners of Townhome Units in accordance with their percentage interest in common surplus as declared herein.

XXV
ARBITRATION

In the event that the Owner of any Unit in the Townhome shall disagree with any other Owner of a Unit in the Townhome as to any matter affecting the governance of the Association or the maintenance or insurance of Common Areas of the Townhome, the Owners shall submit the matter to arbitration within fifteen (15) days of said disagreement. The initial arbitrator is TREVE B. LUMSDEN, 8752 REED DRIVE, SUITE 3, EMERALD ISLE, NORTH CAROLINA 28594, but the Owners may designate any other arbitrator they wish. In the event that this arbitrator cannot serve when called upon, then each Owner shall choose an arbitrator and the arbitrators so chosen shall choose a third party to serve as arbitrator. The decision of the within named arbitrator or appointed arbitrator shall be binding upon all Owners. In the event that it is impossible to appoint an arbitrator, any Owner may petition the Superior Court of Carteret County, North Carolina, to appoint an arbitrator or to hear said Owner's cause in law or in equity.

XXVI
RIGHT OF FIRST REFUSAL UPON SALE

The Owners of each of the Units in the Townhome hereby grant to the other Unit Owners a right of first refusal for the purchase of their Unit in the event that they elect to sell the same. When a party wishes to sell they shall upon receiving a bona fide offer to purchase their property notify the other party, providing the other Unit Owner with a copy of the offer to purchase. The non-selling Owner will then have 5 days to elect whether or not to exercise this right of first refusal. If the Owner elects to purchase, the purchase shall be upon the terms set forth in the offer (except non-owner financing). However, the purchase may be delayed to a date no later than 45 days from the date of the notice to the purchasing owner. If the non-selling Owner does not wish to exercise this right, the non-selling Owner will provide the seller with a written statement, in recordable form, waiving this right.

XXVII
TERMINATION

A. The Townhome shall be terminated, if at all, in the following manner:

(1) The termination of the Townhome may be effected only by the unanimous agreement of all Townhome Unit Owners expressed in an instrument to that effect duly recorded; and provided that the holders of all liens affecting any of the Townhome Units consent thereunto, or agree, in either case by instrument duly recorded, that their liens, be transferred to the percentage of the undivided interest of the Townhome Unit Owner in the property as provided in Exhibit "A" hereof as same may be amended from time to time. The termination shall become effective, when such agreement has been recorded in the office of the Register of Deeds of Carteret County, North Carolina.

(2) If it is determined in the manner elsewhere provided that the Townhome shall not be reconstructed after casualty, the Townhome Plan of Ownership shall be terminated and the

Declaration of Townhome revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of the Association certifying as to the facts effecting the termination, which Certificate shall become effective upon being recorded in the office of the Register of Deeds of Carteret County, North Carolina.

B. After termination of the Townhome, the Townhome Unit Owners shall own the property as tenants in common in undivided shares and the holders of mortgages and liens against the Townhome Unit or Units formerly owned by such Townhome Unit Owners shall have mortgages and liens upon the respective undivided shares of the Townhome Unit Owners. The undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the Common Area previously owned by each Unit Owner. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the Unit Owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a Common Expense.

C. Following termination, the property may be partitioned and sold upon the application of any Townhome Unit Owner. Following a termination, if the Board of Directors determines by a majority vote to accept an offer for the same of the property, each Townhome Unit Owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and in such form as the Board of Directors directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such sale; and upon the consummation thereof shall be discontinued by all parties thereto.

D. The members of the Board of Directors, acting collectively as agent for all Townhome Unit Owners, shall continue to have such powers as in this Article are granted, notwithstanding the fact that the Association itself may be dissolved upon a determination.

XXVIII
AMENDMENT OF DECLARATION
OF 2 SEAS THE DAY TOWNHOME

This Declaration of Townhome may be amended, as follows:

- A. All amendments to this Declaration shall be approved by each Unit Owner.
- B. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of first mortgagees shall be made without prior written consent of the first mortgagees being first had and obtained.

XXIX
REMEDIES IN EVENT OF DEFAULT

The Owner of each Townhome Unit shall be governed by and shall comply with the provisions of this Declaration of Townhome, and the By-Laws of the Association, as any of the same are now constituted or as they may be amended from time to time. A default by the Owner of any Townhome Unit shall entitle the Association or the Owner of the other Townhome

Unit to the following relief:

A. Failure to comply with any of the terms of this Declaration of Townhome or other restrictions and regulations contained in the By-Laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved Unit Owner.

B. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Townhome Unit or its appurtenants. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court, but in no event shall any Unit Owner be entitled to such attorneys' fees.

D. The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration of Townhome or the other above-mentioned documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.

E. All rights, remedies and privileges granted to the Association or the Owner of a Townhome Unit pursuant to any terms, provisions, covenants or conditions of the Declaration of Townhome or other above-mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

F. The failure of a first mortgagee to enforce any right, provision, privilege, covenant or condition which may be granted by this Declaration of Townhome or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

XXX
RIGHTS RESERVED UNTO
INSTITUTIONAL LENDERS

"Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, savings banks, insurance companies or other reputable lenders. As used in this Declaration, mortgage shall include Deed of Trust and mortgagee shall include Deed of Trust Holder. So long as any Institutional Lender or Institutional

Lenders shall hold any mortgage upon any Townhome Unit or Units, or shall be the owner of any Townhome Unit or Units, such Institutional Lender or Institutional Lenders have the following rights:

A. To examine, at reasonable times and upon reasonable notice, the books and records of the Association.

B. To be given notice of default by any Owner owning a Townhome Unit encumbered by a mortgage held by the first mortgagee, such notice to be given in writing and to be sent to the principal office of such first mortgagee, or to the place which it or they may designate in writing. Whenever any first mortgagee desires the provisions of this Article to be applicable to it, it shall serve, or cause to be served, written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its agent for service of process, identifying the Townhome Unit or Units upon which any such first mortgagee holds any mortgage or mortgages, together with sufficient pertinent facts to identify any first mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such first mortgagee.

XXXI SEVERABILITY

In the event that any of the terms, provisions or covenants of this Declaration of Townhome are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

XXXII LIBERAL CONSTRUCTION

The provisions of this Declaration of Townhome shall be liberally construed to effectuate its purpose of creating a uniform plan of Townhome ownership. Throughout this Declaration wherever appropriate the singular shall include the plural and the masculine gender, the feminine or neuter. The article headings are for convenience of reference only and shall not be considered terms of this Declaration.

XXXIII DECLARATION OF 2 SEAS THE DAY TOWNHOME BINDING ON ASSIGNS AND SUBSEQUENT OWNERS

The restrictions and burdens imposed by the covenants of this Declaration of Townhome are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Townhome Unit and its appurtenant undivided interest in Common Property. This Declaration of Townhome shall be binding upon the Unit Owners, their successors and assigns, and upon all parties who may subsequently become Owners of Townhome Units in the Townhome, and their respective heirs, legal representatives, successors

and assigns.

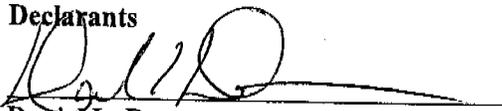
XXIV
AGENT FOR SERVICE OF PROCESS

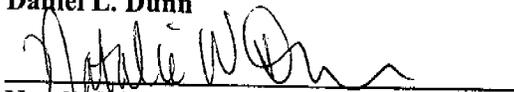
The following named individual is designated as the person to receive service of process for the Association:

Daniel Dunn
2924 Hartwell Pond Drive
Hillsborough, NC 27278

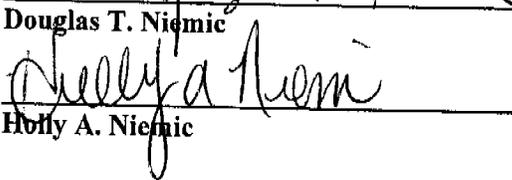
IN WITNESS WHEREOF, Owners and Association have caused this Amendment and Restatement of Declaration of Unit Ownership to be executed this the day and year first appearing above.

Declarants


Daniel L. Dunn


Natalie W. Dunn


Douglas T. Niemiec


Holly A. Niemiec

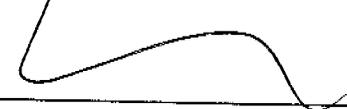
State of North Carolina
County of WAKE

I, the undersigned Notary Public of the County and State aforesaid, certify that **Daniel L. Dunn and wife, Natalie W. Dunn**, personally appeared before me this day and acknowledged to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

This 31st day of MAY, 2007.

(SEAL)

CHRISTOPHER FLOYD
NOTARY PUBLIC
DURHAM COUNTY, N.C.



signature
CHRISTOPHER FLOYD *print name*

My commission expires: 12-9-09

State of North Carolina
County of WAKE

I, the undersigned Notary Public of the County and State aforesaid, certify that **Douglas T. Niemic and wife, Holly A. Niemic**, personally appeared before me this day and acknowledged to me that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

This 31st day of MAY, 2007.

(SEAL)
CHRISTOPHER FLOYD
NOTARY PUBLIC
DURHAM COUNTY, N.C.



signature
CHRISTOPHER FLOYD *print name*

My commission expires: 12-9-09

EXHIBIT A

The undivided interest appurtenant to the respective units are:
East - fifty percent (50%) undivided interest;
West - fifty percent (50%) undivided interest.

EXHIBIT B

AMENDED BY-LAWS OF 2 SEAS THE DAY OWNER'S ASSOCIATION, INC.

ARTICLE I

The project located at **1509 Ocean Drive**, Emerald Isle, North Carolina and more particularly described as follows,

Being all of Lot 5 in Block 8 as the same is shown and designated on a map entitled "Revised Map of Emerald Isle by the Sea, block8" prepared by C.C. King, R.S. as recorded in Map Book 7 at Page 96 in the Office of the Register of Deeds of Carteret County, North Carolina.

This conveyance is made subject to the restrictive and protective covenants recorded in Book 315 at Page 242 in the Office of the Register of Deeds in Carteret County, North Carolina.

Being all that property conveyed in Book 568, Page 443 which incorrected showed the page number of the map of the property as being recorded in Map Book 7, Page 98, instead of Map Book 7, Page 96.

is and has been submitted to the provisions of Chapter 47F of the General Statutes of North Carolina entitled "North Carolina Planned Community Act."

The provisions of these By-Laws applicable to the project and the word "project" shall include all lands subject to Declaration of Unit Ownership and all improvements thereon.

Section 1. All present or future Owners, tenants or future tenants, and any other person who might use the facilities of the project in any manner shall be subject to the regulations set forth in these By-Laws and to the Declaration of Unit Owners to which these By-Laws are attached and subject to any rule or regulation adopted by the Board of Directors thereafter.

The mere acquisition or rental of any of the units of the project or the mere act of occupancy of any of the units will signify that these By-Laws and the provision of the Declaration of Unit Ownership are accepted, ratified and will be complied with.

ARTICLE II

Section 1. An owner of a unit, on becoming the owner of such unit, shall automatically be a member of this Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in this Association shall automatically terminate.

In case of multiple ownership of a single unit, a tenant by the entirety shall be deemed to be a tenant in common and while among themselves each tenant in common may have a fractional vote in proportion to his interest in such unit if such multiple owners so agree. Each unit shall be entitled to one vote in Association matters and that vote will be cast as such and not

otherwise.

Section 2. As used in these By-Laws, the terms "majority of Owners" shall mean the holders of more than 50% of the votes.

Section 3. Except as otherwise provided in these By-Laws or in the Declaration of Unit Ownership, presence in person or by proxy of the holders of more than 50% of the votes shall constitute a quorum.

Section 4. Votes may be cast in person or by proxy.

Section 5. In the event of a tie vote, dispute or disagreement, the issue shall be resolved by arbitration as provided in the Declaration.

ARTICLE III

Section 1. The Owners of East and West units described in the Declaration of Unit Ownership shall constitute the members of the Association who will have the responsibility of administering the project, approving the annual budget, establishing and collecting assessments and voting for the directors of the Association for the management of the project. Except as otherwise provided, decisions and resolutions of the Association shall require a majority approval of the Owners.

Section 2. Meetings of the Association shall be held at the project or such other suitable place convenient to the Owners as may be designated by the Board of Directors.

Section 3. The annual meetings of the Association shall be held on the first Friday of the month of May of each year. At such meeting, there shall be elected by ballot a Board of Directors in accordance with the requirements of Article IV of these By-Laws and the Owners may also transact such other business of the Association as may properly come before them.

Section 4. Any action which may be taken at a meeting of the members may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the members who would be entitled to vote upon such action at a meeting, and filed with the Secretary of the Association to be kept as part of the records of the Association.

Section 5. It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board of Directors on petition signed by the Owners of the two units, except that no business shall be transacted at a special meeting except as stated in the notice unless by consent of all of the Owners present, either in person or by proxy.

Section 6. Any owner may mail a notice of each annual or special meeting stating the purpose thereof, as well as the time and place of the meeting to each other owner of record at least ten (10) but not more than twenty (20) days prior to such meeting and the mailing of a notice in the manner provided for in this section shall be considered service of notice. Shorter notice may be waived by all of the Owners.

ARTICLE IV

Section 1. The Association's affairs shall be governed by a Board of Directors composed of two (2) persons, each of whom must be the sole owner, or either a person who is a tenant in common in the ownership of a unit, or the representative of the "Owner" (as defined in the Declaration) shall have the right to designate the one person to be a Director in the Association. By way of illustration, each unit shall have one Director on the Board, and the multiple or corporate ownership of a unit must designate their representative on the Board.

Section 2. The Board of Directors shall have all the powers and duties necessary for the administration of the Association's affairs and may do all such acts and things as are not by law or by these By-Laws directed to be exercised and done by the Owners. In addition to those duties imposed by these By-Laws or by resolution for the care, upkeep and surveillance of the project and the common areas and facilities and the collection of assessments from the Owners.

Section 3. The Board of Directors may employ for the Association a managing agent on such terms and conditions as they deem advisable and appropriate under the circumstances and/or the Board of Directors may appoint an Executive Committee composed of one or more persons who are Directors or Owners.

Section 4. At the first annual meeting of the Association the Directors shall be elected for a term of one year or for an unlimited term ending when their successors are duly elected. Vacancies on the Board of Directors caused by any reason shall be filled by the Owners of the unit for which the vacant directorship was elected. Any such person so elected shall be a Director until a successor is elected at the Association's next annual meeting.

Section 5. Regular, special and organizational meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors but at least one meeting shall be held each year upon adequate notice to each Director at least ten (10) days prior to the day named for such meeting. However, with respect to special meetings, notice shall be given of the purpose of the meeting. All notices may be waived in writing.

If the owners of either unit fail to attend, vote, and otherwise participate in the business of the Association, or to fill their vacant seat on the Board, the remaining Board member may appoint any person as a temporary successor director in order to have a quorum and to vote on issues related to the duties of the Board.

Section 6. In addition to the foregoing, whereas the holder of more than 50% of the votes shall constitute a quorum, in the event of an emergency hazardous to the Townhome, any one Director may act for the Board.

ARTICLE V

Section 1. The principal officers of this Association shall be a President and a Secretary-Treasurer, one or both of whom shall be members of the Board of Directors.

Section 2. The officers of the Association shall be elected annually by the Board of Directors, and on an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board of Directors or any special meeting of the Board called for such purpose.

Section 3. The President shall be the Chief Executive Officer of the Association and he shall preside at all meetings of the Association and of the Board of Directors and he shall have all of the general powers and duties that are usually vested in the office of the President of any Association, including but not limited to the power to appoint committees from among the Owners from time to time.

Section 4. The Secretary-Treasurer shall keep the minutes of all meetings of the Board of Directors and the minutes of all of the meetings of the Association. The Secretary-Treasurer shall keep the Minute Book and such other books and papers as the Board of Directors may direct.

Section 5. The Secretary-Treasurer shall have the responsibility for the Association's funds and also shall be responsible for keeping a full and accurate account of all assessments, receipts and disbursements and financial records belonging to the Association and for the deposit of all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be from time to time designated by the Board.

ARTICLE VI

Section 1. All the Owners are obligated to pay assessments imposed by the Association to meet all project expenses which include premiums for such insurance policies as the Directors may deem necessary or requisite to have. Assessments shall be made equally on all of the Owners of East and West units, each unit having an equal value. Assessments may also include an amount to fund a general revenue fund and a reserve fund for replacement or repair.

Section 2. Whenever an Owner (as defined in the Declaration) has been in default for more than thirty (30) days in the payment of any sum due and payable to the Association, the other Owner will have an irrevocable proxy to vote the delinquent Owner's unit vote to carry on the business of the Association including the substitution of a temporary successor director in order to enforce the rights of the Association in the collection of such sums in default.

ARTICLE VII

These By-Laws may be amended by the Association in a duly constituted meeting for such purpose and no amendment shall take effect unless approved by Owners representing both units.

ARTICLE VIII

The books, records and papers of the Association shall be subject to reasonable inspection at all times by any members of the Association and the location of the books, records and papers of the Association shall be made to any member upon request.

ARTICLE IX

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year except that the first fiscal year shall begin on the date on which the Declaration and these By-Laws are filed for record in the office of the Register of Deeds of Carteret County, North Carolina.

IN WITNESS WHEREOF, the undersigned being the Owners of all the property constituting the Townhome project, set forth in the Declaration and Covenants for 2 Seas the Day Townhomes, do hereby adopt the foregoing as the By-Laws of 2 Seas the Day Townhomes and have caused this instrument to be signed, sealed, and delivered this 31 day of May, 2007.

[Signature] 5-31-07
Daniel L. Dunn

[Signature] 5-31-07
Natalie W. Dunn

[Signature]
Douglas T. Niemic

[Signature]
Holly A. Niemic