

BYLAWS
OF
AVENEL HOMEOWNERS ASSOCIATION, INC.
A NONPROFIT CORPORATION

BYLAWS OF
AVENEL HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

Section 1. Name. The name of the corporation is AVENEL HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association."

Section 2. Location. The principal office of the Association shall be located in New Hanover County, North Carolina. The registered office of the Association may be, but need not be, identical with the principal office.

Section 3. Purpose. The purpose for which the Association is organized is to further social activities of Owners of Lots in the Avenel Subdivision located in New Hanover County, and in connection therewith to provide services to such Owners, manage and maintain the Common Areas and administer and enforce all covenants and restrictions dealing with the Property located in Avenel, and any other purposes allowed by law.

ARTICLE II
DEFINITIONS

All capitalized terms when used in these Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Declaration of Covenants, Conditions and Restrictions for Avenel Homeowners Association, Inc., executed by Portland Partners Limited Partnership, a North Carolina limited partnership, as Declarant, and duly recorded in the Office of the Register of Deeds for New Hanover County, North Carolina, as the same may be supplemented and amended from time to time (hereinafter referred to as the "Declaration").

ARTICLE III
MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association, at the time and place designated by Declarant, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock, p.m., or at such day and time as designated by resolution of the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President of the Association or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes appurtenant to the Lots.

Section 3. Place of Meetings. All meetings of the Members shall be held at such place, within New Hanover County, North Carolina, as shall be determined by the Board of Directors of the Association.

Section 4. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5. Classes of Lots and Voting Rights. The voting rights of the Members shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights.

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote for each Class A Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot owned.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. Declarant shall be entitled to one (1) vote for each Class B Lot owned by it.

Section 6. Relinquishment of Control. 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 the number of votes in the Class A membership held by Owners occupying full-time homes in the Subdivision equals the total number of votes outstanding in the Class B membership, and the Declarant surrenders its right to annex any Additional Property to the Property pursuant to these Bylaws and the Declaration; or

(b) upon the expiration of twenty (20) full years after the registration of this Declaration; or

(c) Declarant, in its sole discretion, elects to convert the Class B Lots to Class A Lots. Any such election, to be effective, must be in writing and recorded in the Office of the Register of Deeds for Hanover County, North Carolina.

Section 7. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-half (½) of the votes appurtenant to the Lots shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 9. Action by Members. Except as provided otherwise in the Articles of Incorporation, the Declaration or these Bylaws, any act or decision approved by a majority of all votes present at a duly held meeting of the Members at which a quorum is present shall be regarded as the act of the Members.

Section 10. Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 11. Informal Action by Members. 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 persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

ARTICLE IV BOARD OF DIRECTORS

Section 1. Number. The business and affairs of the Association shall be managed by a board of three Directors, who need not be Members of the Association.

Section 2. Initial Directors. The initial Directors shall be selected by the Declarant. Such initial Directors shall serve at the election of the Declarant from the date upon which the

Declaration is recorded in the Office of the Register of Deeds of New Hanover County until such time as their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board of Directors from the date upon which the Declaration is recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, until such time as their successors are duly elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
Katherine L. Bick	1432 Avenel Drive, New Hanover County Wilmington, North Carolina 28405
Samuel M. Purvis	7901 Banyan Trail, New Hanover County Wilmington, North Carolina 28405
Hadley M. Hines	6412 Green Arbor Lane, New Hanover County Wilmington, North Carolina 28409

Section 3. Nomination. Nomination for election to the Board of Directors shall be made from the floor at the first meeting of the Members. After the first election of Directors, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4. Election. Except as provided in Section 6 of this Article IV, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Term of Office. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At the first annual meeting of the Members following the relinquishment of the Class B Member's control, as set forth in Article III, Section 6 of the Bylaws, the Members shall elect one (1) Member of the Board of Directors for a term of three (3) years, who shall be the person receiving the largest number of votes, one (1) Member of the Board of

Directors for a term of two (2) years, who shall be the person receiving the second largest number of votes, and one (1) Member of the Board of Directors for a term of one (1) year, who shall be the person receiving the third largest number of votes. At all annual elections thereafter, a director shall be elected by the Members to succeed that director whose term then expires. Nothing herein contained shall be construed to prevent the election of a director to succeed himself.

Section 6. Removal. Any director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining Members of the Board of Directors and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the Directors.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE V MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Meetings of the Board of Directors shall be held on a regular basis as often as the Board of Directors sees fit, but no less often than annually, on such days and at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 4. Informal Action by Directors. Action taken by a majority of the Directors without a meeting is nevertheless Board of Directors action if written consent to the action in question is signed by all of the Directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the Directors and shall preside over all Board of Directors meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is

a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 6. Liability of the Board of Directors. The Members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the Members of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the Members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

ARTICLE VI
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt, publish and enforce rules and regulations governing the promotion of health, safety and welfare of the residents of the Property and to provide for the use, maintenance, repair replacement and appearance of the Common Areas and facilities, including but not limited to, the Boat Facility Access Area, the Private Streets, and any real property and property rights owned by the Association and/or designated as "Common Area" on the Map of the Property (and all improvements thereon, with the exception of the Boat Facility which will be governed by the Avenel Boat Facility Association, Inc.) and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) adopt, publish and enforce rules and regulations regarding architectural review by the Declarant, the Association, or the Architectural Review Board as described in the Declaration;

(c) suspend the voting rights and right to use of the Common Areas of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice of hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(d) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(e) declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

- (f) employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties;
- (g) employ attorneys to represent the Association when deemed necessary;
- (h) grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across the Common Areas without the assent of the Members when such easements are requisite for the convenient use and enjoyment of the Property;
- (i) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient;
- (j) do anything necessary or desirable, including, but not limited to, establishing any rules or regulations which the Association deems necessary to carry out the purposes of the Association as set forth herein or as permitted by law;
- (k) enforce the provisions of the Declaration and all related amendments or supplementary Declarations and any rules or regulations made hereunder or thereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessments against any Owner for violation of such provisions, rules or regulations pursuant to the provisions of the Declaration; and
- (l) to levy assessments as more particularly set forth in the Declaration.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least one-half (1/2) of the votes appurtenant to the Lots;
- (b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
 - (i) fix the amount of the annual or special assessments, as described in the Declaration, against each Lot at least thirty (30) days before January 1 of each fiscal year;
 - (ii) send written notice of each assessment to every Owner subject thereto as provided in the Declaration; and

(iii) foreclose the lien against any Lot for which annual or special assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same, as provided in the Declaration.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. (A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment);

(e) procure and maintain adequate liability insurance covering the Association and the Directors and Officers thereof and adequate hazard insurance on the property owned by the Association, and to divide appropriate portions of such related costs between the applicable assessments described in the Declaration;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Areas to be operated, maintained, and if damaged, to be replaced or repaired (including any applicable improvements located thereon as described in the Declaration) as they set fit.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be Members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board of Directors may elect from time to time or by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. Each officer of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Directors may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect

on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article VII.

Section 8. Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 9. Duties. The duties of the officers are as follows:

President

(a) The President shall be the principal executive officer of the Association, and subject to the control of the Board of Directors, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board of Directors and of the Members, shall keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE VIII COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE IX BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE X ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual assessments and any special assessments, if any, which are secured by a continuing lien, as described in the Declaration. Any assessments which are not paid when due shall be delinquent. If an assessment is not paid by its due date, as set forth in the Declaration, the assessment shall bear interest from such due date at the highest rate then permitted by law, plus such late charge as may be established by the Board of Directors, and the Association may bring an action at law against the Member personally obligated to pay the same or foreclose the lien against the Owner's Lot. The late charges, costs of collection and reasonable attorneys' fees related to any such action shall be added to the amount of such assessment, all in accordance with the provisions of the Declaration. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Property.

ARTICLE XI
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: AVENEL HOMEOWNERS ASSOCIATION, INC. - 1997 - NORTH CAROLINA

ARTICLE XII
AMENDMENTS

These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of at least two thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy.

Notwithstanding anything in this Article XII, to the contrary, the Declarant may, at its option, supplement these Bylaws without obtaining the consent or approval of any other person or entity for the purpose of consolidating Additional Property as provided in Article I, Section 2 of the Declaration. Declarant may further cause these Bylaws to be amended without obtaining such consent or approval if such amendment is necessary to cause these Bylaws to comply with the requirements of the FHA, VA, Federal National Mortgage Association or similar agency.

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIII
MISCELLANEOUS

The fiscal year of the Association shall be the calendar year and shall begin on the first (1st) day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XIV
INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS

The Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of Members or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained (if applicable) on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article XIV, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable State or Federal law.

END

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

**THIRD AMENDMENT
OF BYLAWS OF AVENEL
HOMEOWNERS
ASSOCIATION, INC.**

This amendment to the Bylaws, made and entered into this 29 day of November, 2004 by Avenel Homeowners Association, Inc., a North Carolina non-profit corporation, herein referred to as the Association.

WHEREAS, the total number of lots in Avenel Homeowners Association is sixty-eight (68) and;

WHEREAS, under Article XII of the Bylaws of the Association, it is provided that the Bylaws may be amended, at a regular or special meeting of the members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy.

NOW, THEREFORE, be it known by all persons that the undersigned, being the duly elected president and secretary of the Association do hereby certify:

1. That, at a regular called and held meeting of the Board of Directors, the amendment to the Bylaws set out hereinafter was duly adopted by an affirmative vote of a majority of the Board of Directors of the Association.

2. That, at the December 10, 2003 duly called and held annual membership meeting of the Association, the amendment to the Bylaws set out hereinafter was duly adopted by an affirmative vote of two-thirds (2/3) of members present in person or by proxy.

3. That the following Article and Section of the Bylaws of the Association has been duly amended to read as follows:

Third Amendment

Article IV, Board OF Directors, Section 5, Term of Office: Amend by adding the following language:

In the event of a tie vote between any one or more of the candidates receiving one of the highest number of votes and any one or more candidates who did not receive one of the highest number of votes, the director position(s) involved in the tie vote shall remain open pending a second vote of the members, which shall be conducted immediately thereafter during the same annual meeting, with the tied candidates from the previous election being the only candidates in the second vote. The open director position(s) shall be filled by the candidate(s) receiving the highest number of votes in the second vote. If the tie vote involves director positions with different terms of office, the candidate receiving the highest number of votes in the second vote shall fill the director position

with the longest term of office, the candidate receiving the second highest number of votes in the second vote shall fill the director position with the second longest term of office, and so forth. Any subsequent ties following the second vote or any vote thereafter shall be separated by the same procedure until the directors are elected.

In the event of a tie vote on a ballot between or among any two or more of the candidates receiving the highest number of votes, the then serving President of the Association shall determine the procedure for establishing the term of each director elected by the membership, which determination shall be made immediately during the annual meeting at which the election is held.

EXCEPT AS SPECIFICALLLY AMENDED by this amendment of Bylaws of Avenel Homeowners Association, Inc., all other terms and provisions of the Bylaws of the Association shall be and remain in full force and effect.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, this the 29th day of November, 2004.

Avenel Homeowners Association, Inc.

By 
President

ATTEST:


Secretary

~~STATE OF NORTH CAROLINA~~

~~COUNTY OF NEW HANOVER~~

FIRST AMENDMENTS
OF BYLAWS OF
AVENEL HOMEOWNERS
ASSOCIATION, INC.

This amendment to the Bylaws, made and entered into this 12th day of Feb., 1998 by Avenel Homeowners Association, Inc., a North Carolina non-profit corporation, herein referred to as the Association.

~~WHEREAS, the total number of lots in Avenel Homeowners Association is sixty six (66) and;~~

~~WHEREAS, under Article XII of the Bylaws of the Association, it is provided that the Bylaws may be amended, at a regular or special meeting of the members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy.~~

~~NOW, THEREFORE, be it known by all persons that the undersigned, being the duly elected president and secretary of the Association do hereby certify:~~

~~1: That, at a regular called and held meeting of the Board of Directors, the amendment to the Bylaws set out hereinafter was duly adopted by an affirmative vote of a majority of the Board of Directors of the Association.~~

~~2: That, at the December 3, 1997 duly called and held annual membership meeting of the Association, the amendment to the Bylaws set out hereinafter was duly adopted by an affirmative vote of two-thirds (2/3) of members present in person or by proxy.~~

~~3: That the following Articles and Sections of the Bylaws of the Association has been duly amended to read as follows:~~

First Amendment

~~Article IV (Board of Directors), Section I - Number: Delete in its entirety and replace with: The business and affairs of the association shall be managed by a board of five directors who shall be members of the association.~~

Second Amendment

~~Article IV (Board of Directors), Section 5, Term of Office: Delete in its entirety and replace with: The first board of directors elected by the membership shall be elected to serve staggered terms. The terms will be determined by the two candidates receiving the largest number of votes serving for three years; the candidates receiving the next two largest number of votes serving for two years; and the candidate receiving the third largest number of votes serving for one year. They shall serve until their successors shall be elected and qualify. Thereafter, each director shall be elected for a term of two years. Nothing herein shall be construed to prevent the election of a director to succeed himself or herself.~~

~~EXCEPT AS SPECIFICALLY AMENDED~~ by this amendment of Bylaws of Avenel Homeowners Association, Inc., all other terms and provisions of the Bylaws of the Association shall be and remain in full force and effect.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, this the 17th day of February, 1998.

Avenel Homeowners Association, Inc.

By: Katherine L. Boick
President

ATTEST:

Edward A. Stewart
Secretary

AMENDMENT TO BYLAWS OF
AVENEL HOMEOWNERS ASSOCIATION, INC.

THIS AMENDMENT TO BYLAWS OF AVENEL HOMEOWNERS ASSOCIATION, INC. ("Amendment") is made as of this 26th day of September, 2016 by Avenel Homeowners Association, Inc., a North Carolina nonprofit corporation ("Association").

RECITALS:

A. The Association, pursuant to Article XII of the Bylaws, may amend the Bylaws upon the affirmative vote of at least two thirds (2/3) of all votes present at a duly held meeting of the Members.

B. The Board of Directors has approved the amendment proposed herein and the Association has obtained the affirmative vote of least two thirds (2/3) of all votes present.

NOW THEREFORE, the Association, pursuant to Article XII of the Bylaws, does hereby amend the Bylaws as follows:

1. Article IV, Section 1 is deleted in its entirety and restated as follows:

Section 1. Number. The number of directors of the Association shall be not less than three (3) and not more than five (5), as from time to time may be fixed or changed within said minimum and maximum by the Members or the Board of Directors. All members of the Board must be members of the Association who are current with respect to assessments and any other amounts owing to the Association.

2. Except as expressly provided in the paragraphs above, the terms and provisions of the aforesaid Bylaws shall continue in full force and effect as the same are modified hereby.

IN TESTIMONY WHEREOF, the Association, acting pursuant to the authority above recited, has caused this Amendment to be executed under seal and in such form as to be legally binding, effective the day and year first above written.

AVENEL HOMEOWNERS ASSOCIATION,
INC. (SEAL)

By: 
Craig A. Ihrke, President

BUU- DRAWN BY AND MAIL TO: Maynard C. Tipps
Kennedy Covington Lobdell & Hickman
3300 NCMB Plaza
Charlotte, NC 28280

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DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR AVENEL

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

APR 24 10 40 AM '90

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENEL (the "Declaration") made as of this 24th day of April, 1990, by PORTLAND PARTNERS LIMITED PARTNERSHIP, a North Carolina limited partnership (hereafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property comprising that residential subdivision known as or to be known as AVENEL, and as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and;

WHEREAS, Declarant desires to insure the attractiveness of the Property and to preserve the values and amenities thereof; to establish a general plan of development as herein set out; to restrict the use and occupancy of the Property; and to provide for a method for the maintenance, repair, replacement and operation of the Common Area (as defined below);

NOW THEREFORE, Declarant hereby declares that the Lots (as defined below) and other property comprising the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and easements set forth in this Declaration which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property and be binding on all parties owning any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

PROPERTY SUBJECT TO THIS DECLARATION
· ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in New Hanover County, North Carolina, and is more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Existing Property").

Section 2. Additions to Existing Property. Additional property adjacent to or adjoining the Existing Property may be brought within the scheme of this Declaration and the jurisdiction of the Association (as defined below) by Declarant without the consent of the Association or its Members (as hereinafter defined); provided, however, that said annexations, if any, must occur with fifteen

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(15) years after the date of filing of this Declaration. Declarant shall not be obligated to subject any additional property to this Declaration. Such additions shall be made by filing a Supplementary Declaration of Covenants, Conditions and Restrictions with respect to the additional property in the New Hanover County, North Carolina, Public Registry, which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein.

ARTICLE II

DEFINITIONS

Section 1. "Association" means Avenel Homeowners Association, Inc., its successors and assigns.

Section 2. "Boat Facility" means the Pier, the Boat Slips, all improvements and facilities appurtenant to the Pier and Boat Slips, and the area immediately surrounding the Pier and the Boat Slips.

Section 3. "Boat Facility Access Area" means those portions (if any) of those Lots having frontage on Little Creek and/or the Intracoastal Waterway which are hereafter subjected by Declarant to an easement in favor of the Boat Slip Owners, the Boat Facility Association, and the Association.

Section 4. "Boat Facility Association" means all of the Boat Slip Owners acting as a group, whether organized as a profit or non-profit corporation, or as an unincorporated association.

Section 5. "Boat Slip" means a space adjacent to the Pier designed to be utilized for the mooring of a single pleasure craft.

Section 6. "Boat Slip Owner" means an Owner who has purchased a license to utilize a Boat Slip.

Section 7. "Common Area" means any real property and property rights owned by the Association for the common use and enjoyment of the Owners and/or designated as "Common Area" on the Map of the Property, together with all improvements and facilities installed upon or used in connection with such real property and property rights. The Common Areas shall include, without limitation, the Association's rights (if any) in and to the Boat Facility Access Area, and the Private Streets.

Section 8. "Declarant" means PORTLAND PARTNERS LIMITED PARTNERSHIP, and any successor thereof so designated as a Declarant hereunder, which successor has purchased all remaining Lots not theretofore sold by Portland Partners Limited Partnership (or any successor Declarant) to third party purchasers. At any time, there shall be only one Declarant hereunder. At any time, and from time

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to time, Declarant may relinquish any one or more of the rights granted to or reserved in favor of Declarant in this Declaration by written instrument recorded in the New Hanover County Public Registry, and from and after the recording of any such instrument, the Association shall thereafter have the power to exercise such right and shall thereafter be responsible for all obligations and liabilities with respect to such right. At such time as Declarant becomes a "Class A Member" of the Association as provided for in the Bylaws of the Association, or ceases to be a Member of the Association, whichever shall earlier occur, all rights granted to or reserved in favor of Declarant shall be deemed transferred to and exercisable by the Association, and the Association shall from and after such time be liable for all actions taken in the exercise of such rights, with the exception of the right of architectural control provided for in Article III of this Declaration, which shall be relinquished by Declarant only in the manner and at the time set forth in such Article.

Section 9. "Lot" means any plot of land, with delineated boundary lines, shown upon the Map and any other subdivision map of the Property recorded after the Map is recorded. In the event any Lot is increased or decreased in size by resubdivisions or through recordation of new subdivision plats, any such newly plotted lot shall thereafter constitute a Lot for the purpose of this Declaration.

Section 10. "Map" means that certain map of the Existing Property as recorded in Map Book 31 at Page 36 in the New Hanover County, North Carolina, Public Registry, and the map(s) of any additions to the Existing Property which may be recorded by Declarant in the New Hanover County, North Carolina, Public Registry.

Section 11. "Member" means every person or entity who holds membership in the Association.

Section 12. "Mortgage" means any mortgage or deed of trust constituting a recorded first lien on a Lot.

Section 13. "Mortgagee" means the owner and holder of a Mortgage at the time such term is being applied.

Section 14. "Owner" means the record owner, whether one or more person or entity, of fee simple title to any Lot which is a part of the Property, including contract sellers and owners of any equity of redemption, but excluding those having such interest in a Lot solely as security for the performance of an obligation.

Section 15. "Pier" means the improvements, if any, including any fixed piers, docks, floating ramps, and similar facilities, constructed by Declarant as part of the Boat Facility, adjacent to the Boat Facility Access Area.

Section 16. "Private Streets" means Avenel Drive, Portsmouth Place, Banyan Trail, Avocet Court (and any extension thereof up to the Avenel westerly boundary), Halcyon Lane, Meridian Terrace, and any other streets designated by Declarant as Private Streets and/or marked as such on any Map of the Property; and shall further include the road leading from Edgewater Club Road to the southerly terminus of Avenel Drive as shown on the Map. The Private Streets shall include all paved portions of such streets, adjoining curbs and gutters, irrigation systems, all storm drains, sanitary sewer lines, and other utility facilities installed therein or thereunder, all landscaped medians therein, and adjoining landscaped areas within the full width of the rights-of-way of the Private Streets as shown on any Map or as designated in writing by Declarant.

Section 17. "Property" means the "Existing Property" described in Article I, Section 1 hereof, and any additions thereto, as are or shall become subject to this Declaration and any Supplementary Declaration under the provisions of Article I, Section 2 hereof.

ARTICLE III

ARCHITECTURAL CONTROL

Section 1. Duration of Control. Because Declarant may develop areas adjoining the subdivision and bring same within the scheme of this Declaration, Declarant shall retain the right of architectural control as provided for in this Article III for fifteen (15) years from the date of filing of this Declaration even though the Declarant at the time of any exercise of such control may own no Lot. However, the Declarant may, at its sole option, surrender such right of architectural control at any time by a duly recorded written instrument, and, at such time, the Association shall have the power through an additional duly recorded written instrument to appoint an architectural review board (the "Architectural Review Board"), which Architectural Review Board, if so appointed, shall have the right of architectural control as described in this Article, and shall retain such right until said Architectural Review Board is terminated by a duly recorded written instrument executed by the Association.

Section 2. Extent of Control. No building, garage, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, site preparation, swimming pool, tree house, children's play house, sign, exterior illumination, monument or marker, driveway, septic system or other utility facility, mailbox, well, tennis court, patio, deck, shrubbery, landscaping, or any other structure or improvement ("Improvements") shall be commenced, erected or maintained upon any Lot nor shall any exterior addition, change or alteration therein (including change of color) be made without the prior written approval of Declarant in its sole discretion. The

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areas over which Declarant shall have control shall include, but shall not be limited to, the size and plan of the principal residential structure, the location of the principal residential structure on the Lot, the size and plan of any attached or unattached garage or other building, the location and manner of construction of any driveway, swimming pool, septic system or other utility facility, patio, mailbox, driveway and landscaping monuments and markers or any other exterior improvements, the composition and color of all material used on the exterior of any structure and the location and type of any shrubbery. Declarant shall also have control over the removal of any tree or other vegetation from any Lot and no party shall grade, excavate upon or otherwise alter the topography of any Lot or remove any tree or other vegetation therefrom without obtaining the prior written approval of Declarant in accordance with its general plan of development. The Declarant reserves the right to control absolutely and solely and decide the precise site and location of any house or dwelling or other structure upon all Lots, provided however, that such locations shall be determined only after reasonable opportunity is afforded the Lot Owner to recommend a specific site.

Section 3. Procedure. Any party requiring approval of any proposed Improvements to any Lot shall submit to Declarant plans and specifications showing in such detail and manner as Declarant shall require the nature, shape, height, color, material and location of any such Improvements. Declarant, in its sole and absolute discretion, may require in particular instances that such plans and specifications be accompanied by a plat prepared by a registered surveyor showing the location of the proposed Improvements on the Lot. All decisions by Declarant shall be based on Declarant's discretionary determination as to whether any particular Improvement is suitable and harmonious with the development of the Property. Declarant's approval or disapproval of any proposed Improvement shall be in writing. In the event that Declarant fails to approve or disapprove any such proposed Improvement within thirty (30) days after plans and specifications in such detail as Declarant may require have been received by it, such plans and specifications shall be deemed approved. Subsequent to the approval of any plans and specifications, the Owner shall have the responsibility for making such Improvements in accordance with the plans and specifications as approved. Approval by Declarant of any proposed Improvements shall not constitute or be construed as approval of the structural stability, design, or quality of any Improvement or the compliance of any such Improvement with applicable laws and codes. Refusal or approval of plans, specifications or location may be based upon any grounds, including purely aesthetic considerations, which in the opinion of and the sole and uncontrolled discretion of Declarant shall be deemed sufficient.

The exterior of all houses and other structures, and site work and landscaping, must be completed within one (1) year after the

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construction of said Improvements shall have commenced except where completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergencies or natural calamities. In the event no construction of Improvements has commenced within one (1) year following the date of closing on the Lot, then the Owner of the Lot, other than Declarant, shall clear and thereafter maintain its Lot by keeping it free of rubbish and debris; by keeping all vegetation neatly trimmed; by removing dead or dying trees, shrubs, and other plantings; and by taking such other actions as are necessary to keep such Lot's appearance consistent with a first class residential development.

In the event any Owner violates the terms of this Section, Declarant or its duly appointed agent shall, after thirty (30) days written notice to Owner to cure such violation and failure of Owner to so cure, be entitled to enter upon the Lot(s) of Owner and cure such defect including the removal of any Improvements built in violation hereof, all at the cost and expense of Owner. Any costs and expenses incurred by Declarant or such duly appointed agent in connection with the cure of any such violation shall be a lien upon such Lot(s), and upon the failure of such Owner to reimburse Declarant or such agent for such costs and expenses upon demand, Declarant or such agent may enforce such lien against such Lot(s) in the same manner as is provided for enforcement of the Association's lien for non-payment of assessments as provided for in Article VII, Section 8, hereinbelow. This right of the Declarant or its agent shall be in addition to all other general enforcement rights which the Declarant may have for a breach or violation of the terms of this Declaration and shall not be deemed a trespass by Declarant or its agent. Declarant reserves the right for reasonable needs, but shall not be obligated, to waive in writing any violation of this provision.

ARTICLE IV

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

Section 1. Subdivision of Lots. No Lot shall be subdivided by sale or otherwise so as to reduce the total Lot area shown on the Map, except by and with the written consent of the Declarant and provided same is also permitted under applicable governmental regulations and private restrictions affecting said Lot.

Section 2. Right of First Refusal Respecting Unimproved Lots. Before any unimproved Lot may be sold or resold to any person, firm or corporation by any Owner thereof except Declarant or its successors, the Owner of such Lot first shall offer in writing to sell the Lot to Declarant, or its successors, at a price and on terms designated by said Owner. If Declarant, or its successors, does not accept or reject in writing said offer of sale within seven (7) days of its receipt of the same, then the Owner of such Lot shall have the right to sell the Lot to any third party;

provided, however, the sale of said Lot to such third party shall be at a price and on the terms and conditions not less favorable to said Owner than the offer made to Declarant, and the closing of the sale of such Lot must occur within six months after the offer by Owner to sell the Lot to Declarant. Any sale of a Lot at a price or on terms and conditions less favorable to said Owner than the offer made to Declarant, or which closes more than six months after the offer made by such Owner to Declarant, will require separate compliance with the foregoing provisions of this Article IV, Section 2.

Section 3. Transfer to Declarant. In the event that Declarant exercises its right of first refusal pursuant to Section 2 hereof, the closing of the conveyance of such Lot shall occur within sixty (60) days after receipt by the Owner of written notice from Declarant that it elects to exercise its right of first refusal with respect to such Lot. At the closing, Declarant shall make such payments in cash, by a promissory note, or otherwise to the Owner as described in the offer to sell submitted by Owner to Declarant. Owner shall deliver to Declarant a general warranty deed conveying the Lot free and clear of all exceptions except as may be set forth in the written offer and subject to this Declaration. In the event the closing occurs after the death of an Owner, Declarant may, in its discretion, require the personal representative of the Owner to post such bonds or other assurances as the Declarant may deem reasonable in order to protect Declarant from any loss which might be caused by the failure to pay any federal or state inheritance tax or the failure to pay the claims of any creditors who may have a lien on the Lot superior to Declarant's rights as a purchaser of said Lot.

Section 4. Reserved Easements. The Declarant reserves for itself, and its successors and assigns, a permanent easement in and the right at any time in the future to grant a permanent right of way over, under, and along an area uniformly ten (10) feet in width along the rear and five (5) feet in width along the front and side lines of each Lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary or useful for furnishing electrical power, gas, water, sewer, telephone service and other utilities, as well as within those areas shown as easements on the Map. Within such areas no structures, plantings, fences or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage channels in such areas. The area of each Lot containing the easement and all improvements thereon shall be maintained continuously by the Owner of the Lot except for those improvements for which a public authority or utility company is responsible. In the event that any Lot is subdivided pursuant to Section 1 hereof, an easement uniformly ten (10) feet in width shall exist both along the rear and five (5) feet in width along the front and side lines of the Lot both as shown on the Map and

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along the rear, front and side lines as exist upon the Lot as so subdivided; provided, however, that upon request by the Owner of the subdivided Lot the Declarant may release the easement reserved along the rear, front or side line of the Lot if doing so would not interfere with the installation or maintenance of any utilities or the drainage within the Property. In the event two or more Lots are combined into one Lot with the residence to be constructed over the common interior Lot lines, the side line easements reserved along the common interior Lot lines shall be released provided that the easements have not previously been used for the installation of utilities and their release shall not interfere with the drainage within the Property. If required by any governmental entity or otherwise, for the benefit of all or any portion of the Property, or any adjoining property, Declarant shall have the right to reserve easements over a street or streets or unsold Lots for future use as a public street or roadway. Further, the Declarant reserves the right, at its option, to subject the Property, or any portion thereof, to a contract with Carolina Power and Light Company for the installation of street lighting, which requires a continuing monthly payment to Carolina Power and Light Company by the Association. The easements reserved in this Section are for the sole and exclusive use of Declarant, or its assigns. Such easements shall be paramount to any Owners' easements in Article VI or otherwise and no third party(ies) shall have any vested interest whatsoever therein.

Section 5. Easements Reserved for the Association. The Association is hereby granted an easement for the installation and maintenance of all of the Common Areas, as shown on the Map.

Section 6. Minimum Size of Dwelling. Single family dwellings shall contain not less than a minimum of two thousand two hundred (2200) square feet of finished ground floor area for single level dwellings, and not less than two thousand five hundred (2500) square feet of finished floor area, with a minimum of one thousand two hundred (1200) square feet of finished ground floor area, exclusive of garage, carport, unheated storage areas and non-living space, for multi-level dwellings. The minimum finished ground floor area herein referred to shall not include basements, attached or detached garages, unheated areas, carports or open porches of any type. Each single family dwelling must include a two-car attached or detached garage.

Section 7. Building Restrictions. No building on a Lot shall be located nearer to either side line of such Lot or nearer to the rear line thereof or nearer to the front thereof than the building setback lines approved by Declarant in accordance with Article III hereinabove. For the purposes of this covenant, eaves and stoops shall not be considered as a part of a building; provided, however, this shall not be construed to be deemed to permit encroachment of any improvement onto another Lot. No fence located on any Lot shall exceed six (6) feet in height other than a fence enclosing

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a tennis court, which fence shall not exceed ten (10) feet in height. No tennis court built on a Lot shall be lighted so as to permit night play. No swimming pool on any lot shall be located nearer than twenty (20) feet from the side or rear lot lines. No above ground swimming pool shall be allowed.

Section 8. Building Line Requirements. The minimum setback lines described hereinabove are not intended to create uniformity of setback. They are meant to create a sense of spaciousness and to avoid monotony. For such purposes it is the Declarant's intent that setback lines may be staggered where appropriate. The Declarant reserves the right to select the precise site location of each house or other structure on each Lot and to arrange the same in such manner and for such reasons as the Declarant deems sufficient, provided, however, the Declarant shall make such determination so as to insure that the development of the Lots subject to this Declaration is consistent with the provisions set forth herein.

Section 9. Outbuilding and Similar Structures. No trailer, camper or other structure of a temporary nature shall be erected or allowed to remain upon any Lot and no trailer, camper, shack, tent, garage, barn, or other structure of a similar nature shall be used as a residence either temporarily or permanently upon any Lot; provided, however, that this Section not shall be construed to prevent the Declarant from permitting any party building a structure upon any Lot to erect temporary structures during construction.

Section 10. Nuisances and Unsightly Materials. No noxious, offensive, or illegal activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance to the neighborhood. No rubbish, trash, leaves, tree branches or other debris shall be burned on a Lot at any time. No person may keep any animal upon any part of the Lot except that any Owner then occupying a residence upon a Lot may keep customary household pets upon such Lot provided that such pets are not kept, bred or maintained for any commercial purposes or in such a manner as to become a nuisance to the other Owners or residents of the subdivision. No hunting for any bird or animal shall be permitted on any part of the Property.

Section 11. Maintenance of Lots. Each Owner shall keep his Lot in an orderly condition and shall keep the Improvements thereon in a first class and suitable state of repair promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever or for the storage of any property or thing that will cause any noise that will disturb the peace and quiet of the occupants of surrounding Lots, and no trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to

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remain on any Lot outside an enclosed structure; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish or other debris for collection by governmental or other similar garbage and trash removal units. Each Owner shall provide suitable receptacles for trash, rubbish, garbage or ashes, and such receptacles shall be located in a screened area not generally visible from the road, the adjoining Lots or from Common Areas. In the event that any Owner fails or refuses to comply with any of the foregoing, the Declarant may demand that the Owner promptly comply with the same by mailing a notice thereof to the Owner at his address specified in his contract to purchase such Lot and by posting such notice on the Lot. If the Owner has not complied therewith within five (5) days thereafter, the Declarant may enter and correct the same at Owner's expense. Each Owner, by acquiring a Lot(s) subject to these restrictions, agrees to pay such cost promptly upon demand by Declarant. Such cost shall be a lien upon such Owner's Lot(s), and upon the failure of such Owner to pay such cost to Declarant upon demand, Declarant may enforce such lien against such Lot(s) in the same manner as is provided for enforcement of the Association's lien for non-payment of assessments as provided for in Article VII, Section 8, hereinbelow. No such entry as provided herein shall be deemed a trespass.

Section 12. Signboards. No signboard, billboard, or advertising sign of any description shall be displayed upon or above any Lot by Owner, any building contractor or other party with the exception of the following signs, none of which may be fixed to a tree:

- a. Signs stating "For Rent" or "For Sale" which signs shall not exceed two feet by three feet in dimension, shall refer only to the Lot on which displayed and shall be limited to one sign per Lot, and
- b. Signs stating the name of the resident of any Lot and the street address, the design of which shall be furnished to Declarant and shall be subject to approval by Declarant.
- c. During the period of construction, the general contractor's sign, but no subcontractor's sign, shall be allowed.

Section 13. Antennae. No satellite dishes or similar structure nor any radio or television aerial or antenna or any other external electronic equipment or devices may be installed or maintained on any exterior of any structure erected on a Lot or elsewhere upon any Lot or within the Property without the prior written approval of Declarant, which approval Declarant may withhold in its sole and absolute discretion.

Section 14. Construction. No party shall be employed as a general contractor for the construction of Improvements on any Lot without

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the prior written approval of Declarant. Each Owner shall cause its approved general contractor, and all subcontractors, suppliers, and materialmen, to abide by the terms and provisions of this Declaration and by such rules and regulations regarding construction activities as are imposed by Declarant. No building construction on any Lot shall commence prior to 8:00 o'clock a.m. on weekdays or 9:00 o'clock a.m. on Saturdays. No construction shall be permitted on Sundays. Declarant reserves the right, but shall not be obligated, to waive in writing any violation of the foregoing requirement. No rubbish, trash or debris shall be allowed to accumulate at any construction site and no rubbish, trash, debris or mud shall be allowed to accumulate on any street adjoining a construction site, and each contractor will maintain a trash dumpster on site until the completion of construction. No building materials or other construction material shall be stored on a Lot nearer a property line of such Lot than the building setback lines and side lines shown on the Map. No rubbish, trash, leaves, tree branches or other debris shall be burned on a Lot at any time. The construction site shall be maintained on a daily basis in a neat and orderly fashion, and no loud music shall be permitted. A \$500.00 refundable construction deposit must be submitted by each Owner to Declarant at the time the final plans and specifications for the construction of improvements on the Lot are returned to the Owner approved by the Declarant. Such deposit shall be utilized, after written notice to the Owner, to repair any damage caused by construction personnel or equipment to adjacent property, roadways, drives, structures or amenities, or to maintain the construction site in a clean condition if not so maintained by the Owner or its contractor. Owner will be held responsible for any sums expended by the Declarant in excess of the \$500.00 deposited. Any funds not used as above provided will be returned to the Owner upon completion of construction.

Section 15. Lease of Homes. No dwelling unit on any Lot shall be leased for transient or hotel purposes, nor may any Owner lease less than the entire dwelling unit, nor shall any lease be for any period of less than thirty (30) days. Any lease must be in writing and provide that the terms of the lease and occupancy of this dwelling shall be subject in all respects to the provisions of the Declaration and the Bylaws of the Association and that any failure of any lessee to comply with the terms of such documents shall constitute a default under the lease.

Section 16. Parking Rights and Restrictions. Adequate off-street parking shall be provided by the Owner of each Lot for automobiles and other vehicles owned and controlled by such Owner, members of the Owner's family or guests and invitees of the Owner. Each dwelling unit constructed on a Lot shall include a two car enclosed garage. No automobiles, trucks, boats, trailers or other vehicles shall be parked on the streets or the yards, including front, side and back yards of the Lots, and all such vehicles and other

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property shall be required to be parked within the designated driveway and parking areas.

Section 17. No Private Boat Docks or Piers. No Owner of any Lot having riparian water access shall be allowed to construct on such Lot any private boat dock or boat pier.

ARTICLE V

THE ASSOCIATION

Section 1. Association Membership. Every Owner of a Lot shall be a Member of the Association which Declarant may organize at a time of his choosing. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Property as well as its own books, records, and financial statements available for inspection by all Owners, Mortgagees, and insurers and guarantors of Mortgages, upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

ARTICLE VI

COMMON AREA

PROPERTY RIGHTS AND OBLIGATIONS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right of easement of enjoyment in and to all Common Areas, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to and in accordance with the terms and provisions of this Declaration, including without limitation the following provisions:

(a) the right of the Association to suspend the voting rights and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least a majority of the votes appurtenant to all Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this subsection shall not preclude the

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Board of Directors of the Association from granting easements for the installation and maintenance of sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements, in the opinion of said Board, are requisite for the convenient use and enjoyment of the Property.

(c) the right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant all Lots, to mortgage, pledge, deed in trust, or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by any members of the Owner's family who occupy the residence of the Owner within the Property as their principal residence in New Hanover County, North Carolina.

(b) Tenants or Contract Purchasers. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Property, as their principal residence in New Hanover County, North Carolina.

Section 3. Private Streets. As is indicated hereinabove, the Private Streets shall be part of the Common Area. The Private Streets have been initially constructed by Declarant and are intended for the use and benefit of all Owners, their guests, employees, tenants and invitees for the purpose of ingress, egress and regress from portions of the Property to public streets by vehicle or otherwise. Neither the inclusion of the Private Streets on the Map nor the dedication of the Private Streets for the use and benefit of the Owners shall be construed to be an offer to dedicate the Private Streets for public use. The Association shall, at its own expense, operate, repair, maintain, and reconstruct the Private Streets, including all paved portions thereof, all curb and gutter, all irrigation systems, and all storm drains, sanitary sewer lines, and other utility facilities installed therein or thereunder, all street signs and related improvements, and all landscaped medians therein. The Association shall have the right to establish rules and regulations governing the use of the Private Streets, including establishing speed limits thereon.

That portion of the Private Streets lying between the southernmost terminus of Avenel Drive, as shown on the Map, and Edgewater Club Road, may be subject to the rights of other parties who are not Owners to use that road for ingress and egress to their properties. The Association shall use its best efforts to require

any such parties to contribute to the cost of operation, maintenance, repair and reconstruction of such portion of the Private Streets, but the Association shall have the sole responsibility to pay the costs of such operation, repair, maintenance and reconstruction if such third parties fail to contribute.

At some future date, upon the request of New Hanover County (or other applicable governmental authority), the right of way for Avocet Court may have to be extended from the existing terminus of its cul-de-sac across portions of Lots 61 and 62 to the westerly subdivision boundary of Avenel if required in order to provide a street connection between Avocet Court and a street which is then being constructed on the adjoining property to the west. If such a request is made, Declarant, or the Association as successor in interest to Declarant, shall comply and dedicate the required right of way and construct a paved street thereon up to the Avenel boundary line in accordance with applicable governmental standards. If the Association is then in control of the Common Area and is required therefore to build the said connector street, Declarant shall reimburse the Association for the reasonable costs of construction.

ARTICLE VII

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot 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 and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal or corporate obligation of the person(s), firm(s), or corporation(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Property and in particular for the operation and maintenance of the Common Areas. The assessments shall also be used for the acquisition, improvement and maintenance of properties, services, utilities and facilities related to the use and enjoyment of the Property, the Lots and in particular, the

1494 0041

Common Areas, including, but not limited to: the cost of all repair, replacement and additions thereto; the cost of operating and maintaining the Private Streets; the cost of labor, including the cost for providing a guard for a guardhouse if a guardhouse is built by or for the Association as a capital improvement with a special assessment as provided in Section 4 hereof; equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Areas; the procurement and maintenance of insurance as permitted or required under the terms of this Declaration or the Bylaws, including without limitation casualty insurance on the Common Area, or any portion thereof, general liability insurance with respect to the Property, and directors' and officers' liability insurance for the directors and officers of the Association, any or all of which coverages the Association is hereby expressly authorized to obtain and maintain in such amounts as the Board of Directors shall deem prudent and reasonable; the employment of attorneys to represent the Association when necessary; payments of principal and interest on funds borrowed for Association purposes; and such other needs as may arise.

Section 3. Maximum Annual Assessment.

(a) Until January 1st of the calendar year following the conveyance of the first Lot by the Declarant to another Owner, the maximum annual assessment shall be \$ 180.00 per Lot. The maximum annual assessment may be increased by the Board of Directors effective January 1st of each calendar year following the conveyance of the first Lot by the Declarant to another Owner, without a vote of the membership, by an amount of ten percent (10%) per year over the previous year.

(b) From and after January 1st, 1991, the maximum annual assessment may be increased without limitation if such increase is approved by no less than a majority of the votes of the Members of the Association, cast in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, and any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by said Board.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair, or replacement of any common amenities, private utility facilities, or capital

1494 CU42

improvements, repayment of indebtedness or interest thereon, borrowing of funds to make property comply with zoning ordinances, borrowing of money for capital improvement or pledging or mortgaging of Association property as security for loans, including fixtures and personal property related thereto, provided that any such assessment shall be approved by no less than a majority of the votes of the Members of the Association.

Section 5. Assessment Rate. Both annual and special assessments must be fixed at a uniform rate for all Lots.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 & 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 hereof shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members owning one-half (1/2) of the Lots, or of persons holding proxies entitled to cast one-half (1/2) of all the votes appurtenant to all Lots, shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot on the earlier of the date of issuance of a certificate of occupancy by appropriate governmental authorities for the residence constructed upon such Lot or one year after the date the deed to the Lot was delivered to Owner by Declarant. Each Lot owned by Declarant shall be exempt from any assessment unless a residence is constructed thereon, in which case an assessment shall be due from and after the date of issuance of a certificate of occupancy for such residence. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every Owner. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of the assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against such Owner's Lot in the same manner as is provided

1494 0043

in the North Carolina General Statutes for foreclosure of mortgages under power of sale, and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any Mortgage. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot which is subject to any Mortgage, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any Mortgage.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VIII

General Provisions

Section 1. Enforcement. The Declarant, the Association, or any Owner shall have the right to enforce by any proceeding at law or equity all conditions, covenants, and restrictions now or hereafter imposed by the provisions of this Declaration. Failure by such party to enforce any such covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of the covenants, conditions or restrictions of this Declaration by judgment or court order shall in no way affect any of the other provisions not expressly held to be void and such remaining provisions shall remain in full force and effect.

Section 3. Amendment. The covenants, conditions, and restrictions of this Declaration shall run with the land and bind the Owners of Lots for a period of twenty-five (25) years from the date this Declaration is recorded, after which time such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of seventy (70%) percent of the Owners after the

1494 CU44

expiration of said twenty-five (25) year period. This Declaration may be amended during the first twenty-five year period by an instrument signed by the Declarant and the Owners of not less than seventy (70%) percent of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy (70%) percent of the Lots. Any amendment must be properly recorded. For the purpose of this Section, an addition to the Existing Property as provided in Article I, Section 2 hereof shall not constitute an "amendment".

Section 4. Additional Property. In the future, the Declarant may or may not develop additional property in the vicinity of the Property. In such event the Declarant may, in its sole and absolute discretion, either annex such additional property to the Property by recorded instrument, as hereinabove described, in which case each lot within the annexed area shall be considered a Lot hereunder, or Declarant may separately impose the same, additional, or lesser restrictions on such additional property or may impose no restrictions whatsoever on the development of such additional property. Nothing herein contained shall be construed to impose any restrictions on or easements in any land or property now or hereafter owned by the Declarant, other than the Property.

Section 5. Waiver of Unintentional Violations. Declarant reserves the right, but shall not be obligated, to waive in writing any violation of the designated and approved building location line or either side Lot line, provided that such violation does not exceed ten percent (10%) of the applicable requirements and the violation thereof was unintentional.

ARTICLE IX

SPECIAL PROVISIONS CONCERNING BOAT FACILITY

As of the date of this Declaration, the Pier has not been constructed and there is no Boat Facility. Declarant does and shall have no obligation whatsoever to build the Pier and establish the Boat Facility or the Boat Facility Access Area. However, in the event that Declarant does construct the Pier and establish the Boat Facility, the Boat Facility will be subject to the exclusive jurisdiction and control of the Boat Facility Association; provided, however, that the Declarant may (but shall not be obligated to) grant to the Association an easement over the Boat Facility Access Area, if any, established by Declarant, which easement will become a portion of the Common Area, for the purpose of providing all Owners (including those who are not Boat Slip Owners) with pedestrian access to the banks of Little Creek and/or the Intracoastal Waterway, and for the purpose of providing Boat Slip Owners with pedestrian and vehicular access to the Boat Facility. The Pier and other improvements that are a part of any such Boat Facility will be reserved for the use and benefit of all Boat Slip Owners, and their guests and invitees, and members of their families, but not for the use and benefit of the Owners or

1494 6045

of the general public. Each Boat Slip Owner will be entitled to the exclusive use of the space adjacent to the Pier comprising his Boat Slip, to the exclusion of all other Boat Slip Owners. However, each Boat Slip Owner shall be entitled to temporarily tie up a boat to the Pier, as space is available outside the Boat Slips, and to use the Pier for other purposes not inconsistent with the use thereof by the other Boat Slip Owners for the mooring of their boats.

In the event that Declarant constructs the Boat Facility, and sells licenses to utilize Boat Slips to Owners, Declarant intends (but is not obligated) to form the Boat Facility Association. If the Boat Facility Association is formed, each Boat Slip Owner shall be required to be a member thereof and only Boat Slip Owners and the Declarant shall be allowed to be members thereof. Declarant also intends (but is not obligated) to record a declaration of covenants, conditions and restrictions with respect to the Boat Facility similar in form to this Declaration and to cause the Boat Facility Association to adopt bylaws similar in form to the bylaws of the Association. All use of the Boat Facility by the Boat Slip Owners shall be subject to such rules and regulations as are promulgated by Declarant, or by the Boat Facility Association, from time to time. Such rules will, in all events, include limits on all boats using the Pier or Boat Facility to the effect that: no boats shall be allowed which are more than twenty-one (21) feet in length; and no boats with toilet facilities or heads of any type are allowed. The Boat Facility Association shall, at its sole cost and expense, operate, maintain, repair, replace, and reconstruct the Boat Facility. The Boat Facility Association, at its option, may, but shall not be obligated to, purchase casualty insurance with respect to the Boat Facility and general public liability insurance with respect to bodily injury or death or property damage arising out of use by the Boat Slip Owners of the Boat Facility. Each Boat Slip Owner may, should it so desire, purchase such coverage in his own name at his own expense. The Boat Facility Association shall assess all such costs and expenses, including the premiums of any such insurance purchased, among the Boat Slip Owners on a uniform basis.

No party other than an Owner, Declarant, or the Boat Facility Association may own a Boat Slip. In the event that an Owner sells his Lot, such Owner may transfer his license for a Boat Slip only to the purchaser of his Lot, to another Owner, to Declarant, or to the Boat Facility Association. Such a selling Owner may not retain the license to his Boat Slip, nor may he transfer his license for a Boat Slip to any party not owning a Lot, other than Declarant or the Boat Facility Association.

BOOK

PAGE

1494 0046

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed and sealed by its general partner, all as of the day and year first above written.

PORTLAND PARTNERS LIMITED
PARTNERSHIP

[SEAL]

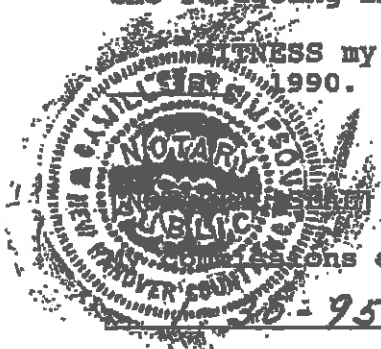
By:

A. Shee Poirer
General Partner

[SEAL]

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, Camille B. Simpson, a Notary Public for said County and State do hereby certify that A. HALL PAINTER, authorized partner of PORTLAND PARTNERS LIMITED PARTNERSHIP, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.



WITNESS my hand and notarial seal, this 23RD day of April 1990.

Camille B. Simpson
NOTARY PUBLIC

STATE OF NORTH CAROLINA
New Hanover County
The Foregoing/Annexed Certificate(s) of
Camille B. Simpson

Notary (Notaries) Public is/are certified
to be correct.

This the 24 day of April 1990
Rebecca P. Tucker, Register of Deeds

By [Signature]
Deputy/Assistant

1494 0048

EXHIBIT "A"DESCRIPTION OF THE EXISTING PROPERTY
ATTACHED TO AND MADE PART OF
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AVENEL

Being all of that certain tract or parcel of land located in Harnett Township, New Hanover County, North Carolina, and more particularly described as follows:

All the property known as Section 1 of AVENEL including all numbered lots shown thereon together with all private roadways all as shown on map thereof prepared by Robert H. Goslee and Associates, Wilmington, North Carolina, dated November 12, 1989, as recorded in Map or Plat Book 31 at Page 36 in the New Hanover County Public Registry, reference to which is hereby made; SAVING AND EXCEPTING THEREFROM, the portion of the property shown on said recorded map designated as "Reserved for Future Development Lot 10 and Lot 11, Avenel, Section 2".

7

BOOK

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STATE OF NORTH CAROLINA 7 6
COUNTY OF NEW HANOVER

0546

AMENDMENT TO DECLARATION
OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AVENEL

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENEL is made this the 18th day of June, 1993, by Portland Partners Limited Partnership, a North Carolina limited partnership (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant recorded a Declaration of Covenants, Conditions and Restrictions for Avenel in Book 1494, Page 27, New Hanover County Registry (hereinafter "Declaration"); and

WHEREAS, said Declaration provided that it could be amended to add additional property to the Avenel Subdivision and subject such additional property to the Declaration; and

WHEREAS, Declarant desires to amend said Declaration to add Avenel II to the Declaration.

NOW, THEREFORE, Declarant does hereby amend the Declaration of Covenants, Conditions and Restrictions for Avenel recorded in Book 1494, Page 27, New Hanover County Registry to add the property described in Map Book 32, Page 225 and referred to as Avenel II, to the Avenel subdivision and to submit Avenel II to the provisions of the said Declaration.

IN WITNESS WHEREOF, the Declarant has executed this document under its hand and seal under the day and year first above written.

PORTLAND PARTNERS LIMITED PARTNERSHIP

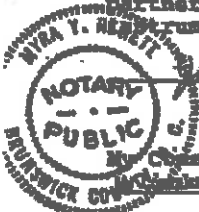
000108

By: A. Hall Painter (SEAL)
General Partner

NORTH CAROLINA
NEW HANOVER COUNTY

Myra V. Hewitt, a Notary Public in and for the State and County aforesaid, do certify that A. Hall Painter, General Partner of Portland Partners Limited Partnership, a North Carolina limited partnership, personally appeared before me this day and, on behalf and as the act of said partnership, acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal this 18th day of June, 1993.



Myra V. Hewitt
Notary Public

Commission Expires: July 4, 1995

NORTH CAROLINA
NEW HANOVER COUNTY

The foregoing certificate of Myra V. Hewitt, Notary Public, is certified to be correct.

This 18 day of June, 1993.

MARY SUE OOTS,
REGISTER OF DEEDS OF NEW HANOVER COUNTY

BY: Pr B Bl
Deputy

NG/rh/os6.83

RECORDED AND VERIFIED
MAY 26 1993
REGISTER OF DEEDS
NEW HANOVER CO. NO. 18
PM 12 56

RETURNED TO
MLT/GAD/BB

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BOOK PAGE
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FILED VERIFIED
FILE BOOKS
OFFICE OF DEEDS
NEW HANOVER CO. NC
35 AUG 31 AM 11 49

AMENDMENT FOR CERTIFICATION
TO DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AVENEL

THIS AMENDMENT FOR CERTIFICATION TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR AVENEL (the "Amendment") made as of
this 30th day of AUGUST, 1995, by PORTLAND PARTNERS
LIMITED PARTNERSHIP, a North Carolina limited partnership
("Declarant").

RECITALS:

000131

A. Declarant is the developer of that certain real property
comprising that residential subdivision known as AVENEL which is
more particularly described on Exhibit "A" attached hereto and
incorporated herein by this reference.

B. Declarant previously executed and recorded that certain
Declaration of Covenants, Conditions and Restrictions for Avenel
(the "Declaration") made as of April 24, 1990 and recorded in Book
1494 at Page 27 in the New Hanover County Public Registry, as
amended by Amendment to Declaration of Covenants, Conditions and
Restrictions for Avenel recorded June 18, 1993 in Book 1676 at Page
546 in said Registry.

C. Pursuant to Article III of the Declaration, Declarant
reserved full rights of architectural control with respect to all
of Avenel including the Lots therein. Such architectural control
grants Declarant full approval rights, in its sole discretion, over
any and all Improvements erected or to be erected or maintained
upon any Lot or other portion of Avenel.

D. Declarant desires to document and certify with respect to
such architectural control certain limits for the development of
Improvements on any Lot in Avenel as more particularly described
herein.

NOW, THEREFORE, Declarant does hereby certify and affirm the
following:

DRAWN BY AND MAIL TO:
Waynard E. Tigge
Kennedy Covington Lobbell & Hickman, L.L.P.
NationalsBank Corporate Center
Suite 4200, 100 North Tryon Street
Charlotte, North Carolina 28202-4006

26371.1

Returned To
MTHOD

386222

Section 1. Applicable Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to the Declaration and this Certification, irrespective of whether there may be additions thereto as provided for in the Declaration, is located in New Hanover County, North Carolina, and is more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Existing Property").

Section 2. Improvements to Existing Property. In exercising architectural control under Article III of the Declaration, Declarant does hereby certify and affirm that it will not approve, with respect to any Lot in Avenal, Improvements which cover more than 672 square feet of land per Lot whether such is covered by structures and/or paved surfaces, including walkways or patios of brick, stone, slate or similar materials. This requirement and certification is intended to insure continued compliance with storm water runoff rules adopted by the State of North Carolina which shall be a beneficiary of and entitled to enforce compliance with this agreement in addition to the rights of Declarant under the Declaration and this Amendment.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be duly executed and sealed by its general partner, all as of the day and year first above written.

PORTLAND PARTNERS LIMITED
PARTNERSHIP

[SEAL]

By:

A. Hall Painter [SEAL]
A. Hall Painter,
General Partner

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

BOOK PAGE
1921 0517

I, Hadley M. Hines, a Notary Public for said County and State do hereby certify that A. HALL PAINTER, authorized general partner of PORTLAND PARTNERS LIMITED PARTNERSHIP, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this 30th day of August, 1995.

Hadley M. Hines
Notary Public

My Commission Expires:

6-27-99

[NOTARIAL SEAL]



Seal
REPAIR OF FOUR QUARTY DUE TO
CORROSION OF ORIGINAL DOCUMENT
G.S. 241-34

STATE OF NORTH CAROLINA
New Hanover County

The foregoing / Amended Certificate of
Hadley M. Hines

Notary (Notarial) Public is/ are certified
to be correct

This the 21 day of Aug, 1995
by the Clerk, Register of deeds

C. B. Rank
Deputy/Assistant

EXHIBIT "A"

DESCRIPTION OF THE EXISTING PROPERTY
ATTACHED TO AND MADE PART OF AMENDMENT FOR
CERTIFICATION TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR AVENEL

BEING all those certain tracts or parcels of land located in Harnett Township, New Hanover County, North Carolina, and more particularly described as follows:

All the property known as Section 1 of AVENEL including all numbered lots shown thereon together with all private roadways, all as shown on map thereof prepared by Robert H. Goslee & Associates, Wilmington, North Carolina, as recorded in Map or Plat Book 31 at Page 36 in the New Hanover County Public Registry, reference to which is hereby made; and

All the property known as Section 2 of AVENEL including all numbered lots shown thereon together with all private roadways and other areas, all as shown on map thereof prepared by Robert H. Goslee & Associates, Wilmington, North Carolina, as recorded in Map or Plat Book 32 at Page 225 in said Registry, reference to which is hereby made.



FOR REGISTRATION REGISTER OF DEEDS
TERRY THEUSCH BERGLEY
NEW HANOVER COUNTY, NC
2014 JAN 13 10:27 28 AM
BK 5792 PG 2817-2824 FEE \$26 00

INSTRUMENT # 2014000909

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR AVENEL

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AVENEL ("Amendment") is made and entered into the 19th day of December, 2013 by AVENEL HOMEOWNERS ASSOCIATION, INC , a North Carolina nonprofit corporation ("Association"), and the Owners of at least 70% of the Lots in Avenel (collectively, the "Owners").

RECITAL

A Portland Partners Limited Partnership, a North Carolina limited partnership, caused to be recorded the Declaration of Covenants, Conditions and Restrictions for Avenel in Book 1494, at Page 27 in the office of the Register of Deeds of New Hanover County (as amended and supplemented, the "Declaration") The terms in this Amendment shall have the same meaning as set forth in the Declaration unless otherwise defined herein

B Pursuant to Article XIII, Section 3 of the Declaration, the Declaration may be amended by an instrument signed by the Owners of not less than 70% of the Lots in Avenel

C The Association and the Owners of not less than 70% of the Lots in Avenel desire to amend the Declaration as set forth herein.

Prepared by Ward and Smith, P A , 127 Racine Drive, University Corporate Center (28403), Post Office Box 7068, Wilmington, NC 28406-7068
Please return to Ward and Smith, P A , 127 Racine Drive, University Corporate Center (28403), Post Office Box 7068, Wilmington, NC 28406-7068
Attention Justin M Lewis

NOW THEREFORE, the Association and the Owners, pursuant to Article XIII, Section 3 of the Declaration, do hereby amend the Declaration as follows

1 Article VIII, Section 3 of the Declaration is amended by deleting the second sentence of the Section and inserting the following in lieu thereof "This Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of not less than 70% of the Lots in the Property "

2. The following Article is added to the Declaration

**ARTICLE X
STORMWATER MANAGEMENT**

To ensure compliance with Stormwater Management Permit No SW8 881108 ("Stormwater Permit") originally issued by the Division of Water Quality under NCAC 2H 1000, the following covenants and restrictions are hereby imposed upon the Property

- a The maximum allowable built-upon area per Lot is assigned as follows: Lots 1-5 and 7-66 are assigned a maximum allowable built-upon area of 6,712 square feet, Lot 6 is assigned a maximum allowable built-upon area of 7,287 square feet, and the Boat Facility Access Area depicted as "PIER ACCESS AND PARKING FOR BOAT DOCKS" on the map recorded in Map Book 32, at Page 225 in the office of the Register of Deeds of New Hanover County is assigned a maximum allowable built-upon area of 10,885 square feet. This maximum allotted amount includes any built-upon area constructed within the Lot property boundaries and that portion of the right-of-way between the front Lot line and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, and coquina, but does not include raised, open wood decking, or the water surface of swimming pools.
- b These covenants pertaining to stormwater regulations may not be changed or deleted without concurrence of the Division of Energy, Mineral and Land Resources
- c Filling in or piping of any vegetative conveyances (ditches, swales, etc) associated with Avenel except for average driveway crossings, is strictly prohibited by any persons.

d Lots within CAMA's Area of Environmental Concern may have the permitted built-upon area reduced due to CAMA jurisdiction within the AEC

e Each Lot must maintain a 30-foot wide vegetated buffer adjacent to surface waters. No built-upon area is allowed in the buffer.

3 Notwithstanding Section 2 of the Amendment for Certification to Declaration of Covenants, Conditions and Restrictions for Avenel recorded in Book 1921, at Page 515 in the office of the Register of Deeds of New Hanover County, Owners of Lots shall be responsible for ensuring that any improvements constructed on their Lots do not exceed the maximum built-upon area limits set forth in Article X of the Declaration and shall make such certification to the Association upon request by the Association.

4 Except as expressly provided in the paragraphs above, the terms and provisions of the Declaration shall continue in full force and effect according to the terms of the same as modified hereby.

5 The Owners of Lot 6 join in the execution of this Amendment to approve the terms of the Amendment and to explicitly consent to the maximum built-upon area assigned to Lot 6 pursuant to the Stormwater Permit as described in Article X of the Declaration.

IN TESTIMONY WHEREOF, the Association and the Owners of not less than 70% of the Lots in Avenel acting pursuant to the authority above recited, as evidenced by the signatures attached hereto as Exhibit A, have executed this Amendment under seal and in such form as to be legally binding and effective the day and year upon recording this Amendment in the office of the Register of Deeds of New Hanover County, North Carolina.

[Signatures to Follow]

AVENEL HOMEOWNERS
ASSOCIATION, INC

(SEAL)

By: David Brenner - PRES (SEAL)
David Brenner, President

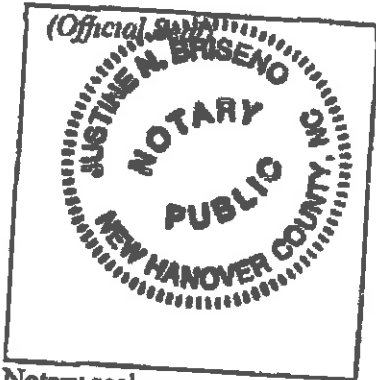
NEW HANOVER COUNTY, NORTH CAROLINA

I certify that DAVID BRENNER personally appeared before me this day, acknowledging to me that he signed the foregoing document as President of Avenel Homeowners Association, Inc. for the purpose(s) stated therein

Date 1-9-14

[Signature]
Signature of Notary Public
JUSTINE N BRISNO
My commission expires 7-30-17

(Official Seal)



Notary seal or stamp must appear within this box

EXHIBIT A
Approval List for Amendment to the Avenel Covenants

During the approval process for the construction of the new ABFA dock in 2011, the North Carolina Department of Environment and Natural Resources Water Quality Division requested that the subdivision approve and record an Amendment to the restrictive covenants to add the permitted maximum BUA (Built Upon Area / Impervious Area) for Lot 6 at 7,287 Square Feet and for the ABFA area at 18,885 Square Feet. Once the Amendment is approved by the required majority of the residents and lot owners the Amendment will be recorded and will become the Covenant of Record for this matter. A copy of the Amendment is attached for your review. Please indicate your approval of this Amendment by signing this Approval list.

Item	Resident	Address	Date
1	David C. Brazner	7928 BANYAN TRAIL	12/13/13
2	Lithia Allen	7920 Banyan Trail	12/13/13
3	Julia Smith	7925 Banyan Trail	12/13/13
4	Tom Womack	7917 Banyan Trail	12/13/13
5	James J. Johnson	7913 Banyan Trail	12-13-13
6	Cara Johnson *	7912 Banyan Trail	12/13/13
7	Alicia Bodan	1309 Avocet Ct	12/13/13
8	Elizabeth Loford	1316 Avocet Ct	12-13-13
9	Paul C. Ciba	7921 BANYAN TRAIL	12/13/13
10	Bjorn Magner	1401 AVENEL DR	12/13/13
11	Shary J. Dinsley	1403 Avenel Dr.	12/13/13
12	Christy W. Bille	7860 Banyan Trail	12-13-13
13	Thomas J. Truon	1310 Avocet Ct.	12/13/13
14	Dan & Ann	7908 Banyan Tr	12/13/13
15	Tom & Cathy Tom Cunny	7916 BANYAN TRAIL	12/13/13
16	Walter	1404 Halcyon Lane	12/14/13
17	Thomas Edinera	1414 Halcyon Lane	12/14/13
18	Deanne M. Mott	1500 Meridian Terr	12/14/13
19	Tom Mott	1508 MERIDIAN TER.	12/14/13
20	Nancy Briggs	1505 MERIDIAN TERR.	12/14/13
21	Gregory	1501 Meridian Terr	12/14/13
22	Tom Mott	1422 Halcyon Ln	12/14/13
23	Cy A. Hill	1421 Halcyon Ln	12/14/13
24		1504 Portsnorth Place	12/14/13

Approval List for Amendment to the Avenel Covenants

25			
26	Patrick M. Sparac	1428 Avenel Dr	12-14-13
27	Joanne M. Vismille	1432 Avenel	12-14-13
28	Charles M. Vaughan	1433 Avenel Dr	12-14-13
29	George T. ...	1425 Avenel Dr.	12-14-13
30	...	1404 Avenel Dr	12-15-13
31	Robert C. ...	1409 Halcyon Ln	12/15/13
32	...	1400 Halcyon Ln	12/15/13
33	...	1408 Halcyon Ln	12/15/13
34	...	1514 Meridian Ter	12/15/13
35	...	1510 Meridian Ter	12-15-13
36	...	1514 PORTSMOUTH PL	12-15-13
37	...	1527 PORTSMOUTH PL	12/15/13
38	...	1518 Portsmouth Place	12/15/13
39	...	1529 Portsmouth Pl	12/15/13
40	B. ...	1500 PORTSMOUTH PL	12/15/13
41	James Scott Lewis	1423 Halcyon Lane	12/16/13
42	...	1431 Avenel Dr	12/16/13
43	Edward A. ...	1417 Avenel Drive	12/16/13
44	...	1526 Portsmouth Pl	12/16/13
45	...	1509 Portsmouth Pl	12/16/13
46	Katherine C. Long	1509 Meridian Terrace	12/16/13
47	J.C. Nuse	1523 PORTSMOUTH PL	12-17-13
48	...	1513 Portsmouth Pl	12-17-13
49	Yvonne M. Dunshee	1508 Portsmouth Pl	12-17-13
50			

* COUNTY OSCAR LEHMAN ONLY IF NUMERICAL PAY LEGAL COST FOR AMENDMENT

OWNER OF LOT 10 IN AVENEL

Line # 149

Name _____ (Seal)

Pender COUNTY, NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he/she/they signed the foregoing document for the purposes(s) stated therein and, if other than in an individual capacity, in the capacity indicated, having been first authorized to do so

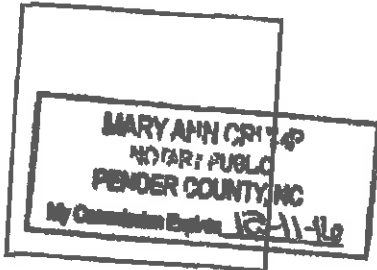
ROSE M. NUNWELEE

Date 12-17-13

Mary Ann Crump
Signature of Notary Public

(Official Seal)

My commission expires Apr. 11, 2016



Notary seal or stamp must appear within this box



TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration 01/13/2014 10:27:28 AM
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Recorder: JOHNSON, CAROLYN

State of North Carolina, County of New Hanover

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