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DECLARATION CREATING UNIT OWNERSHIP OF PROPERTY IN BRUNSWICK COUNTY UNDER THE PROVISIONS OF CHAPTER 47-A OF THE GENERAL STATUTES OF NORTH CAROLINA FOR OCEANSIDE WEST CONDOMINIUM

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1988 JUN 28 AM 10:33  
ROBERT L. LINDSEY  
REGISTER OF DEEDS  
BRUNSWICK COUNTY, N.C.

DECLARATION CREATING UNIT OWNERSHIP OF PROPERTY IN BRUNSWICK COUNTY UNDER THE PROVISIONS OF CHAPTER 47-A OF THE GENERAL STATUTES OF NORTH CAROLINA:

THIS DECLARATION made this 26th day of June, 1984, by OCEANSIDE WEST OF OCEAN ISLE BEACH, INC., a North Carolina Corporation, having its principal office in Ocean Isle Beach, North Carolina, and being duly authorized to transact business in the State of North Carolina with offices in Brunswick County, North Carolina, hereinafter referred to as DECLARANT, under and by virtue of the provisions of Chapter 47-A of the General Statutes of North Carolina;

W I T N E S S E T H:

WHEREAS the Declarant is the owner of that tract or parcel of land described in Exhibit "A" attached hereto and incorporated herein by reference, a copy of the plat or map of survey of said property referred to in Exhibit "A" to be filed for record, simultaneously with the filing of this declaration, in the office of the Register of Deeds of Brunswick County, North Carolina;

AND WHEREAS, the Declarant will convey the property described in said Exhibit "A" subject to certain protective and restrictive covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth into unit ownership (sometime referred to as "Condominium" ownership), said project to be known as OCEANSIDE WEST CONDOMINIUM in the manner provided for by the provisions of Chapter 47-A of the General Statutes of North Carolina;

NOW, THEREFORE, the Declarant does hereby publish and declare that all of the property described in said Exhibit "A" shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of same property and the division thereof into condominium units and shall be deemed to run with the land and shall be burden and benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. DESCRIPTION OF PROPERTY: All that certain tract or parcel of land with the buildings and improvements thereon erected or hereafter erected, situated and lying in Ocean Isle Beach, Shallotte Township, Brunswick County, State of North Carolina, and being more particularly described in Exhibit "A" attached hereto and made a part hereof.

2. DESCRIPTION OF BUILDINGS: The Declarant has constructed, or is in the process of constructing, on the property described in Exhibit "A" attached hereto, eight (8) two-story wood framed, wood veneer and surewall, multi-unit buildings, without basements. Each building is supplied with water and electrical service and is connected with a sewage disposal system designed and constructed in accordance with the laws of the State of North Carolina.

Each building shall contain (4) four units substantially similar in size, floor plan, and materials used in construction.  
Each unit shall contain 1,036.00 heated square feet.  
Ocean front sundecks and porches on upper level shall contain 226.0 square feet.  
Ocean front sundecks and porches on lower level shall contain 284 square feet.  
Non-ocean front porches shall contain 164 square feet.  
Common areas known as stairwells shall contain 130 square feet.  
Storage area underneath shall contain 23.75 square feet per unit.  
Each building on ocean front shall contain 5519 square feet of total space.  
Each non-ocean front building shall contain 5155 square feet of total space.  
Each unit consists of a kitchen combination dining area, living room, two bedrooms, two full baths, storage closets, and balcony.

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Kitchens in each unit shall be furnished with prefinished wood cabinets, formica counter tops, electric range continuous cleaning with hood and exhaust, electric refrigerator frost free with ice maker and dishwasher, and washer and dryer hookups.

Both bathrooms shall contain fiberglass tub and lavatory with marvilitie vanity top with integral bowls.

Exterior balconies and railings around same are part of the unit they are attached to. Unit owners shall not make any physical changes to any balcony, railing or wall to which same is attached, more specifically no physical change to the wall which separates the living room from the balcony.

Party walls shall be double stud wall constructions with 5/8" fire rated sheetrock with 1" air space plus sound board on one side of dead air space and gyplap on one side.

All living areas shall be carpeted except for baths and kitchen areas which shall be covered with vinyl.

Mechanical equipment in each unit shall consist of individual thermostatically controlled central heat and air conditioning system and an electrical water heater.

Specifics such as style, construction, materials, and finishes are best described in the plans and specifications for the construction of this project, a copy of which is attached hereto and made a part hereof and referred to as Exhibit "B", showing all particulars of the buildings, including their location, layout, ceiling and floor elevations, unit numbers and dimensions of the units and the location of the common areas and facilities affording access to each unit. The Declarant reserves the right to alter the location of the physical improvements as shown on Exhibits "A" and "B" or any other exhibits, Such modification may, inter alia, be required for dune preservation and/or to comply with rules and regulations promulgated by the State, County or local authorities.

3. **UNIT DESIGNATION.** The unit designations of each condominium and each condominium building, its location, its dimensions, approximate area, number of rooms and common areas and facilities to which it has immediate access, and other data concerning its proper identification are set forth in Exhibits "A" and "B" attached hereto and in paragraph 2 above. Each unit is bounded both as to horizontal and vertical boundaries by the interior surfaces of its perimeter wall, ceilings, and floors which are shown on said plans, subject to such encroachments as are contained in the building, whether the same now exist or may be caused or created by constructions, settlement, or movement of the building or by permissible repairs, constructions, or alteration.

The eight (8) buildings shall be alphabetically designated as described on Exhibit "F" to be filed for record, simultaneously with the filing of this declaration.

4. **SWIMMING POOL AND HOT TUB:** There shall be constructed on property as shown on Exhibit "A" attached hereto one swimming pool and one hot tub.

5. **DEVELOPMENT PLAN.** OCEANSIDE WEST CONDOMINIUM will be developed in the following manner:

A. **GENERAL:** The Declarant shall construct, or cause to be constructed, eight (8) residential buildings which shall contain 32 separate residential units total. Declarant shall also construct parking lots as shown on Exhibit "B". Further, the Declarant will construct on the property at its expense the sewage treatment facility as shown on Exhibit "B" and said facility shall conform to all plans and specifications promulgated by the State of North Carolina.

6. **COMMON AREAS AND FACILITIES.** To efficiently and effectively provide for the administration of the condominium project by the owners of units, a nonprofit North Carolina Corporation, known and designated as OCEANSIDE WEST Owners Association, Inc. has been organized, and said corporation shall administer the operation and management of the condominium and shall undertake and perform all acts and duties

incident thereto in accordance with the terms of the Articles of Incorporation of OCEANSIDE WEST Owners Association, Inc. hereinafter referred to as the Association, and the By-Laws of said Association. A true copy of the Articles of Incorporation and By-Laws of said Association shall be filed in the Brunswick County Register of Deeds and are incorporated herein by reference. The owner and owners of each unit shall automatically become members of the Association upon said owner or owners acquisition of an ownership interest and title to any unit and its appurtenant, undivided interest in common elements, and membership of such owner or owners shall terminate automatically upon each owner or owners being divested of such ownership interest and the title to such unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage, or other encumbrance upon any unit shall be entitled, by virtue of such lien, mortgage or other encumbrance to membership in the Association, or to any of the rights or privileges of such membership. In the administration of the operation and management of the condominium, said association shall have, and is hereby granted, the authority and power to enforce the provisions of this declaration, levy, and collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the unit and common elements as the Board of Governors of the Association may deem to be in the best interest of the condominium.

7. **RENTAL OF UNITS.** Units may be rented pursuant to rules and regulations as prescribed by OCEANSIDE WEST Owners Association, Inc.

8. **MANAGEMENT OF PROPERTY.** The operation, management and use of the property described in Exhibit "A", shall be vested in OCEANSIDE WEST Owners Association, Inc. and shall be subject to the By-Laws, rules and regulations of said Corporation and any amendment thereto. To properly administer the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the owners of Condominium units, costs and expenses which are sometimes herein referred to as "common expenses". To provide the funds necessary for such proper operation, management and capital improvement, the Association has heretofore been granted the right to make, levy and collect assessments against the unit owners and their condominium units.

9. **INTEREST IN COMMON AREAS.** The owner of each unit of this condominium shall own an undivided interest or share in the common areas and facilities as follows:

The percentage of undivided interest of each owner in the common area is appurtenant to the residence owned by him. The appurtenance may not be separated from the residence to which it appertains and such appurtenance shall be deemed to be conveyed or encumbered or to otherwise pass with the residence whether or not expressly mentioned or described in a conveyance or other instrument describing the residence.

The percentage of undivided interest in the common areas appurtenant to each residence is based on relative values assigned by the Declarant to each such residence or unit solely for this purpose. The value so assigned shall be based upon the relation the fair market value of the unit, as of the date of the Declaration, bears to the then aggregate fair market value of all the units having an interest in said common areas and facilities; provided, however, that such values do not necessarily reflect or represent the selling price of such residence or unit and no opinion, appraisal, sale, or market value transaction at a greater or lesser price than the assigned value recited herein shall be interpreted as requiring or permitting any change in the percentage of undivided interest assigned herein. The percentage of undivided interest is set forth in Exhibit "C".

10. **PERCENTAGE OF COMMON EXPENSES.** Each unit owner in OCEANSIDE WEST CONDOMINIUM shall share in the common expenses of OCEANSIDE WEST Owners Association, Inc. at the rate equal to said unit owner's interest in the undivided common area and facilities as determined in paragraph nine above, except as provided in Article VI, Section 1 of the By-Laws of the Association.

11. **USE.** The buildings and each of the units contained therein shall be used for residential purposes only; provided, however, that so long as OCEANSIDE WEST OF OCEAN ISLE BEACH, INC., a North Carolina Corporation, shall retain any unsold units within said project, it may utilize any dwelling or dwellings owned by it for a

sales office, model, or other usage for the purpose of selling said units within said project. OCEANSIDE WEST OF OCEAN ISLE BEACH, Inc., a North Carolina Corporation, may assign this commercial usage right to such other persons or entities as it may choose; provided however, that when all units have been sold, this right of commercial usage by OCEANSIDE WEST OF OCEAN ISLE BEACH, Inc. or its assigns shall immediately cease. Further, one additional unit may, subject to the rules and regulations promulgated by the Board of Directors of OCEANSIDE WEST Owners Association, Inc. be used as a manager's office and/or for the purpose of conducting a rental program for the benefit of the owners. Use of the buildings and units is or may be, further restricted under the ByLaws of OCEANSIDE WEST Owners Association, Inc.

12. PERSONS TO RECEIVE SERVICE OF PROCESS. Betty Williamson is hereby designated to receive service of process in any action which may be brought against or in relation to this condominium and such person's residence or place of business is Ocean Isle Beach, North Carolina, 28459. All correspondence to said process agent shall be addressed to Ocean Isle Beach, North Carolina, 28459.

13. EASEMENTS. Each unit owner shall have an easement in common with the other owners of all other units to use all pipe, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors of OCEANSIDE WEST Owners Association, Inc. or its designee, shall have the right of reasonable access to each unit to inspect the same, to remove therefrom such items which are in violation of any applicable law, regulation, By-Law or rule and to maintain, repair or replace the common facilities contained therein or elsewhere in the building.

The Board of Directors of OCEANSIDE WEST Owners Association, Inc. may hereafter grant easements for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair, and replace water lines, pipes, sewer lines, telephone wires and equipment and electrical conduits, and wires over, under, along and on any portion of the common area; and each unit owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge and record for and in the name of each unit owner such instruments as may be necessary to effectuate the foregoing.

14. THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES:  
RESTRICTION AGAINST NUISANCES

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

15. RIGHT OF ENTRY INTO UNITS IN EMERGENCIES. In case of emergency originating in or threatening any unit, regardless of whether the owner is present at the time of such emergency, the Board of Directors, or its designee, or the Building superintendent or managing agent, shall have the right to enter such unit for the purposes of remedying or abating the cause of such emergency, and the right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the owner of each unit, if required by the Board of Directors, shall deposit under the control of the Board of Directors or its designee a key to such dwelling.

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16. LIMITATION UPON RIGHT OF OWNERS TO ALTER AND MODIFY CONDOMINIUM UNITS:  
NO RIGHT TO ALTER COMMON PROPERTY

No Owner of a Condominium Unit shall permit any structural modification or alteration to be made to such Condominium Unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in their sole discretion, that such structural modifications or alterations would adversely affect or in any manner endanger the Condominium in part or in its entirety. No Owner shall cause any improvements or changes to be made on the exterior of the Condominium (including, painting or other decoration, or the installation of electrical wiring, television or radio antennae or any other objects, machines or air-conditioning units which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No Unit Owner shall cause any object to be fixed to the Common Property (including the location or construction of fences and the planting of or growing of flowers, trees, shrubs or any other vegetation) or in any manner change the appearance of the Common Property without the written consent of the Association being first had and obtained.

17. PARTITIONING. The common areas and facilities shall not be divided nor shall any right to partition of any part thereof exist. Nothing herein contained, however, shall be deemed to prevent ownership of a condominium unit by the entirety, jointly, or in common or in any other form permitted.

18. LIENS. While the property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the common areas and facilities except with the unanimous consent in writing of all of the condominium unit owners and the holders of first liens thereon except such liens as may arise or be created against the several units and their respective common interest under the provisions of the North Carolina Unit Ownership Act.

19. NATURE OF INTEREST IN UNIT.

Every Condominium unit, together with its undivided interest in the common areas and facilities, shall for all purposes, be and is hereby declared to be and to constitute a separate parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of his condominium as contained herein and the By-Laws, rules, regulations, resolutions, and decisions of OCEANSIDE WEST Owners Association, Inc. adopted pursuant thereto.

20. RESTRICTION AGAINST FURTHER SUBDIVIDING OF CONDOMINIUM UNITS:  
SEPARATE CONVEYANCE OF APPURTENANT COMMON PROPERTY PROHIBITED.

No Condominium Unit may be divided or subdivided into a smaller Unit or Units than as shown on Exhibit "B" hereto, nor shall any Condominium Unit or portion thereof be added to or incorporated into any other Condominium Unit. The undivided interest in the Common Property declared to be an appurtenance to each Condominium Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Condominium Unit, and the undivided interest in Common Property appurtenant to each Condominium Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Condominium even though such undivided interest is not equally mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Condominium Unit. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon a Condominium Unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a Condominium Unit and its undivided interest in Common Property, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Condominium Unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any Condominium Unit, which described said Condominium Unit by the alphabetical and numerical designation assigned thereto in Exhibit "B" without limitation or exception, shall be deemed and construed to

affect the entire Condominium Unit and its appurtenant undivided interest in the Common Property. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant undivided interest in the Common Property by more than one person or entity as Tenants in common, joint tenants, or as tenants by the entirety.

21. INSURANCE. Insurance coverage on the property shall be governed by the following provisions:

A. Amount and Scope of Insurance. All insurance policies upon the property (except personal property within a unit and limited common areas and facilities) shall be secured by the Board or by the Managing Agent if so designated by the Board, who shall have the authority to, and shall, obtain such insurance against (1) loss of damage by fire or other hazards normally insured against, and (2) such other risks, including public liability insurance, as from time to time shall be customarily required by private institutional mortgage investors for projects similar in construction, location and use as the property and the improvements thereon all under such terms and for such amounts as the responsible authority shall determine.

However, such liability coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common areas and legal liability arising out of law suits related to employment contracts of the Owners Association. The foregoing shall not preclude the Board from obtaining insurance coverage on all or a portion of the limited common areas and facilities. In obtaining such coverage, the responsible authority shall consider the reasonable requirements of holders of first liens on individual units.

B. Insurance Provisions. The Board of Directors shall make diligent efforts to ensure that said insurance policies provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the unit owners and their employees, agents, tenants and invitees.

(2) A waiver by the insurer of its right to repair and reconstruct instead of paying cash.

(3) Coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days written notice to the named insured and all mortgagees.

(4) Coverage will not be prejudiced by act or neglect of the unit owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the property over which the Association has no control.

(5) The master policy on the property cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual unit owners.

(6) The master policy on the property cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any unit owner or any mortgagee.

C. Premiums. All insurance policy premiums on the property and for the benefit of the Association purchased by the Board or the Managing Agent and any deductibles payable by the Association upon loss shall be a common expense.

D. Proceeds. All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board as insurance trustee or to such attorney-at-law or institution with trust powers as may be approved by the Board of Directors. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein or stated in the By-Laws and for the benefit of the unit owners and their mortgagees in the following shares:

(1) Proceeds on account of damage to common areas and facilities shall be held in undivided shares for each unit owner and his mortgagee, if any, each unit owner's share to be the same as such unit owner's undivided interest in the common areas and facilities.

(2) Proceeds on account of damages to units shall be held in the following undivided shares:

(a) When the buildings are to be restored, for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Board of Directors.

(b) When the buildings are not to be restored, an undivided share for each unit owner, such share being the same as such unit owner's undivided interest in the common areas and facilities.

(3) In the event a mortgagee endorsement has been issued with respect to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their respective interests may appear.

E. Policies. All insurance policies purchased by the Board of Directors shall be with a company or companies licensed to do business in the State of North Carolina and holding a rating of "AAA" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Board of Directors and the unit owners and their mortgagees as their respective interest may appear, and shall provide that all proceeds thereof shall be payable to the Board of Directors as insurance trustee. The originals of all such policies and the endorsements thereto shall be deposited with the Board of Directors and duplicates of said policies and endorsements and all renewals thereof, or certificates thereof, together with proof of payment of premiums, shall be delivered to the unit owners at least ten days prior to the expiration date with respect to the then current policies. Duplicates shall also be obtained and issued by the association to each mortgagee, if any, upon request of such mortgagee at any time.

22. DISTRIBUTION OF INSURANCE PROCEEDS. Proceeds of insurance policies shall be distributed to or for the benefit of the beneficial owners in the following manner:

A. Expense of Trust. All reasonable expenses of the insurance trustee shall be first paid or provisions made therefor.

B. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, in accordance with the Act, the remaining proceeds shall be paid to defray the cost thereof as provided in Paragraph 20 hereof. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or retained by the Association for such common expenses or purposes as the Board shall determine.

C. Failure to Reconstruct or Repair. If it is determined, as provided in paragraph 20 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, including lienholders of record.

23. DAMAGE AND DESTRUCTION. Except as hereinafter provided, damage to or destruction of the common areas and facilities, and to the extent insurance proceeds are available, limited common areas and facilities, shall be promptly repaired and restored by the Board using the proceeds of any insurance available for those purposes, and the unit owners of all units shall be liable for assessment of

any deficiency, in accordance with their undivided interests in the common areas and facilities; provided, however, if the building be more than two-thirds destroyed by fire or other casualty and the owners of three-fourths of the units resolve not to proceed with reconstruction or restoration, then in that event, the property shall be either (a) sold or otherwise transferred as hereinafter provided, or (b) deemed to be owned as tenants-in-common by the unit owners, and subject to the provisions of Section 47-A-25 of the Act as the same exists at the date hereof or as amended hereafter. Any reconstruction or repair shall be substantially in accordance with the plans and specifications of the original building and improvements, unless other plans and specifications are approved by the Board and by eligible holding mortgages on units which have at least 51% of the votes of units subject to eligible holder mortgages.

In the event of a taking by eminent domain (or condemnation or a conveyance in lieu of condemnation) of part or all common elements, the award for such taking shall be payable to the Association, which shall represent the owners named in the proceedings. Said award shall be utilized to the extent possible for the repair, restoration, replacement or improvement of the remaining common elements, if only part are taken. If all or more than two-thirds of all of the general common elements are taken, it shall be deemed a destruction of more than two-thirds of all of the common elements and the condominium shall be terminated as provided for in this Declaration. Any funds not utilized (in the case of partial taking or condemnation) shall be applied in payment of common expenses otherwise assessable. In the event of a taking of all or part of a unit, the awards shall be made payable to the owner of such unit and his mortgagee, if any, as their respective interest may appear.

The owner or owners of each unit shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by the act of any member of his family, or his or their guest, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of the unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

In any proceeding arising because of an alleged violation of this provision of the Declaration, the By-Laws of OCEANSIDE WEST Owners Association, Inc. or any rules or regulations promulgated pursuant thereto, by the owner of any dwelling, the Board of Directors if successful, shall be entitled to recover the cost of the proceeding, and such reasonable attorney fees as may be determined by the Court, but in no event shall the owner of any unit be entitled to such attorney fees.

24. RIGHTS OF ELIGIBLE MORTGAGE HOLDERS. To the extent permitted by law, an eligible mortgage holder upon written request to the owners Association, identifying the name and the address of the holder, will be entitled to timely written notice of:

A. Any condemnation, loss or casualty loss which affects a material portion of the project or any units on which there is a first mortgage held by such eligible mortgage holder.

B. Any delinquency in payment of assessments or charges owed by an owner of the unit subject to a first mortgage held, by such eligible holder, which remains uncured for a period of sixty days.

C. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owners Association.

D. Any proposed action which would require the consent of a specified percentage of eligible mortgage holders.

In addition to the foregoing rights, the eligible mortgage holders shall be afforded the following rights subject to the extent permitted by law and as allowed by the North Carolina Condominium Statutes as they now exist or as may be amended from time to time.

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A. Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of at least 51% of the votes of the unit estates subject to eligible mortgage holders.

B. Unless otherwise provided in the Declaration or ByLaws, no reallocation of interest in the common areas resulting from a partial condemnation or partial destruction of the project may be effective without the prior approval of eligible holders holding mortgages on all remaining unit estates whether existing whole or in part, and which have at least 51% of the votes of such remaining unit estates subject to eligible holders of mortgages.

C. If a professional management is ever used to govern the condominium, any decisions to establish self management by the Association shall require the prior consent of owners of unit estates to which at least 67% of the votes of the Owners Association are allocated and the approval of eligible holders holding mortgages on unit estates which have at least 51% of the votes of unit estates subject to eligible holder mortgages.

#### 25. FIDELITY BONDS.

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

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

C. Other Requirements. Fidelity bonds required herein must meet the following requirements:

(1) Fidelity bonds shall name the Association as an obligee.

(2) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

(3) The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.

(4) the bonds shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten days' prior written notice to the Association if a condominium project, to any insurance trustee and each eligible mortgage holder.

26. WORKING CAPITAL. At the time title is conveyed to an owner, each owner shall contribute to the Association as a working capital reserve an amount equal to two months' estimated common area assessment. Such funds shall be used solely for initial operation and capital expenses of the Association, such as pre-paid insurance, supplies and the common areas and facilities furnishing and equipment, etc. At the time of selection of the regular Management Agent, the interim Management Agent shall pay to the account of the Association all unused funds and shall provide an accounting of all revenues and expenditures. Amounts paid into the working capital fund are not to be considered as advanced payment of regular assessments.

27. COMMON SURPLUS. "Common Surplus", meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not

limited to assessments, rents, profits, and revenues from whatever source over amount of the common expense), shall be owned by the Owners of all Condominium Units in the same proportion that the undivided interest in Common Property appurtenant to each Owner's Condominium bears to the total of all undivided interest in Common Property appurtenant to all Condominium Units; provided, however, that said common surplus shall be held by the Association in the manner, and subject to the terms, provisions and conditions of this Declaration, imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance indemnity herein provided, or upon termination of the Condominium, any attribution or distribution of common surplus which may be made from time to time shall be made to the then Owners of Condominium Units in accordance with their percentage interest in common surplus as declared herein.

**28. UNITS SUBJECT TO DECLARATION, BYLAWS, RULES AND REGULATIONS.**

All present and future owners, tenants and occupants of units shall be subject to and shall comply with the provisions of this Declaration, the By-Laws of OCEANSIDE WEST Owners Association, Inc. and any rules and regulations as may be adopted in accordance with said By-Laws, as said Declaration, By-Laws, Rules and Regulations may be amended from time to time.

The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, By-Laws, and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time, any interest or estate in such unit as though such provisions were made a part of each and every deed or conveyance or lease.

**29. AMENDMENT OF DECLARATION.**

a. Amendments to this Declaration may be made only upon the approval of at least sixty-six and two-thirds percent (66-2/3%) in number and in common interest of all unit owners, cast in person or proxy at a meeting duly held in accordance with the provisions of the By-Laws of OCEANSIDE WEST Owners Association, Inc. provided, however, that paragraph 20 shall not be amended without the vote of at least seventy-five (75%) in number and in common interest of all unit owners. No such amendment shall be effective until recorded in the Office of the Register of Deeds of Brunswick County, North Carolina. No amendment to this Declaration shall be made which will alter the Declarant's rights and options created hereunder or any rights and options created by the By-Laws of OCEANSIDE WEST Owners Association, Inc.

**30. INVALIDITY.** The invalidity of any provisions of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provisions had never been included herein.

**31. WAIVER.** No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**32. CAPTIONS.** The captions herein are inserted only as a matter of convenience and for references and in no way to define, limit or described the scope of this Declaration nor the intent of any provisions hereof.

**33. LAW CONTROLLING.** This Declaration and the By-Laws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.

**34. COMPLIANCE WITH BRUNSWICK COUNTY DIVISION OF HEALTH SERVICES.**

OCEANSIDE WEST Owners Association, Inc. shall have a subsurface sewage disposal system consisting of a 3,000 gallon system and 1,067 square feet of drain field and boundaries resulting in +/-3,500 square feet of undisturbed land; is designed for 4-2 bedroom units per building; two (2) occupants per bedroom and any greater use could cause overloading and possible malfunction.

0572 0419

The Common Area shall include +/-3,500 square feet of undisturbed land which is set aside for septic tanks and subsurface drain field. No alteration to the green area shall occur, including no construction, paving, driving, or planting of trees or shrubs.

The cost of repair and maintenance of sewage disposal system shall be shared proportionately by owners who make use of the system.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed in its corporate name by its President, attested by its Secretary, and its corporate seal to be hereunto affixed, as of the date first above written.

(CORPORATE SEAL)

OCEANSIDE WEST OF OCEAN ISLE BEACH, INC.



By: Robert J. Robinson  
PRESIDENT

S. Williamson

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

I, Ava B. Maree, Notary Public, do hereby certify that Ava B. Maree personally appeared before me this day and acknowledged that she is Secretary of OCEANSIDE WEST OF OCEAN ISLE BEACH, INC. and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its corporate name by its President, sealed with its corporate seal and attested by her self as its Secretary.

WITNESS my hand and notarial seal, this 26<sup>th</sup> day of June 19 84.



Ava B Maree  
Notary Public  
My Commission Expires:

STATE OF NORTH CAROLINA, Brunswick County  
The Foregoing Certificate(s) of Ava B. Maree, Notary Public

(is/are) certified to be correct.

Recorded this 28th day of June 19 84 at 10:33 o'clock A. M. Ed

Robert J. Robinson, Register of Deeds

Robert J. Robinson

## EXHIBIT "A"

BEGINNING at an iron pipe located in the southern right-of-way line of Second Street; this said iron pipe also being located south 19 degrees 45 minutes east 30.00 feet from a point in the center line of Second Street; this said point being located these various courses and distances from a p.k. nail in the intersection of the centerline of Driftwood Drive with the centerline of Second Street. Thence running south 76 degrees 15 minutes west, 1505.70 feet; thence 73 degrees 15 minutes west, 3265.85 feet; thence south 70 degrees 15 minutes west, 876.57 feet to said point. From this said point running south 19 degrees 45 minutes east, 30 feet to the beginning iron; thence running south 19 degrees 45 minutes east, 335 feet; thence south 70 degrees 15 minutes west, 260 feet; thence north 19 degrees 45 minutes west, 335 feet; thence N 70 degrees 15 minutes east, 260 feet to the beginning corner.

This conveyance is made subject to the Deed of Easement and the reservations, exceptions, restrictions, covenants, and conditions contained therein dated 28th day of March, 1984 and recorded in Deed Book 561 at Page 706 and plat recorded in Map Cabinet O at Page 223 in the Office of the Brunswick Registry of Deeds.

0572 0421

EXHIBIT "B"

DECLARATION OF INTENTION TO SUBMIT PROPERTY  
TO THE PROVISIONS OF THE NORTH CAROLINA UNIT OWNERSHIP ACT

PLANS AND SPECIFICATIONS

The plans and outlined specification for OCEANSIDE WEST CONDOMINIUM, more particularly described in the architectural, plumbing, mechanical and electrical drawing for OCEANSIDE WEST CONDOMINIUM, were attached to this Declaration at the time it was filed for record and are duly filed for record in the Office of the Register of Deeds for Brunswick County, in the unit ownership file and are designated as File 2, Page 170-176, reference to which is hereby made and said plans and outlined specifications are incorporated herein by reference as though fully set out herein.

0572 0422

EXHIBIT "C"

TO THE DECLARATION OF INTENTION TO SUBMIT  
PROPERTY TO THE PROVISIONS OF THE NORTH CAROLINA UNIT  
OWNERSHIP ACT

UNIT DESIGNATION

<u>Unit Designation</u>	<u>Percentage Interest</u>
Units of Buildings A, B, G, H	2.8240
Units of Buildings C, D, E, F	3.4260

0572 0423

EXHIBIT "E"

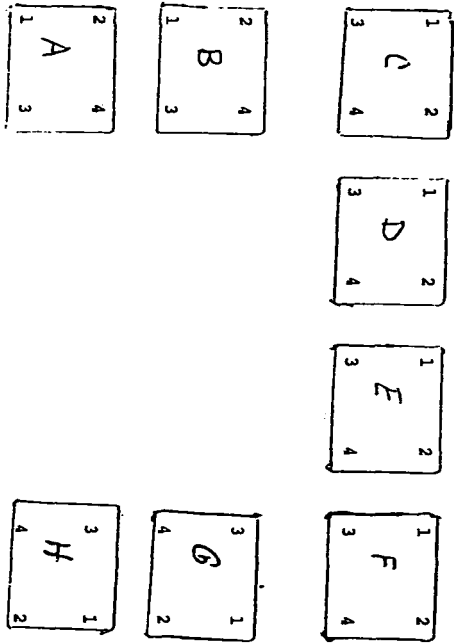
TO THE DECLARATION OF INTENTION TO SUBMIT PROPERTY TO  
THE PROVISION OF THE NORTH CAROLINA UNIT OWNERSHIP ACT.

MASTER SITE PLAN

The plat of the survey of OCEANSIDE WEST CONDOMINIUM dated April 30, 1984, prepared by Jan K. Dale, Registered Land Surveyor, entitled Map of OCEANSIDE WEST and consisting of one sheet(s), which was attached to this declaration at the time it was filed for record and duly filed in the Office of the Register of Deeds of Brunswick County, North Carolina, in the Unit Ownership File, and is designated as File # 2, Page 170-176. Said survey is incorporated herein by reference as though fully set out.

ATLANTIC OCEAN

SECOND STREET



1-2 DOWNSTAIRS  
3-4 UPSTAIRS

EXHIBIT "P"

EXHIBIT "D"

DECLARATION OF INTENTION TO SUBMIT PROPERTY TO THE PROVISIONS  
OF THE NORTH CAROLINA UNIT OWNERSHIP ACT

BY-LAWS

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BY-LAWS  
OF  
OCEANSIDE WEST OWNER'S ASSOCIATION, INC. FOR  
OCEANSIDE WEST CONDOMINIUM

ARTICLE I - PLAN OF UNIT OWNERSHIP

**SECTION 1. UNIT OWNERSHIP.** The property located in Brunswick County, State of North Carolina, and more particularly described in the Declaration to which these By-Laws are attached has been submitted to the provisions of Chapter 47-A of the North Carolina General Statutes entitled "Unit Ownership Act" by the Declaration recorded in the Office of the Register of Deeds for Brunswick County, State of North Carolina, simultaneously herewith, and shall hereinafter be known as OCEANSIDE WEST CONDOMINIUM (hereinafter called the "Condominium").

**SECTION 2. APPLICABILITY OF BYLAWS.** The provisions of these By-Laws are applicable to the property of the Condominium and to the use and occupancy thereof.

**SECTION 3. APPLICATION.** All present and future owners, mortgagees, lessees and occupants of Units and their employees, and any other persons who may use the facilities of the Condominium in any manner are subject to the Declaration, these By-Laws, and Rules and Regulations made pursuant hereto, and any amendment to these By-Laws upon the same being passed and duly set forth in an amendment to the Declaration, duly recorded.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of unit shall constitute an agreement that these By-Laws, and any Rules and Regulations made pursuant hereto, and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

ARTICLE II - UNIT OWNERS

**SECTION 1. NAME AND NATURE OF ASSOCIATION.**

OCEANSIDE WEST Owners Association, Inc. shall be a nonprofit corporation comprised of all of the Unit Owners as herein provided, which such corporation of unit owners are herein referred to as Association, governed by the Board of Directors as herein provided.

**SECTION 2. PLACE OF MEETINGS.** All meetings of the Association shall be held at the Condominium, or at such other place either within or without the State of North Carolina, as shall be designated in a notice of the meeting.

**SECTION 3. ANNUAL MEETING.** At the election of Declarant, but in no event later than the earlier of the following events:

- a. 120 days after 75% of the unit estates in the project have been conveyed to unit estate purchasers; or
- b. Three years following conveyance of the first unit estate.

Declarant shall notify all Unit Owners that the first annual meeting of the Association shall be held on the date specified in the Notice of Meeting but within 30 days of the date of such notice. At such meeting the members of the Board of Directors selected by Declarant and constituting the initial Board of Directors shall resign and all of the Unit Owners, including Declarant, shall elect a new Board of Directors. Said initial meeting shall be held for the purpose of electing said Board of Directors to succeed the initial Board and for the transaction of such other business as may be properly brought before the meeting. Thereafter, the annual members' meeting shall be held at such hour and place designated by the Board of Directors between April 1 and September 30 of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted

by the members, provided, however, that if the day is a legal holiday, the meeting shall be held at the same hour on the first day following which is not a legal holiday. The First Annual Meeting shall be held on the appropriate date in September, 1984.

**SECTION 4. SUBSTITUTE ANNUAL MEETING.** If the annual meeting shall not be held on the day designated by the By-Laws a substitute annual meeting may be called in accordance with the provisions of Section 5 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.

**SECTION 5. SPECIAL MEETINGS.** Special meetings of the Association may be called at any time by the Board of Directors or upon the written request of not less than 40% in Common Interest, in the aggregate, of the Unit Owners.

**SECTION 6. NOTICE OF MEETINGS.** Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed not less than ten (10) days nor more than fifty (50) days before the date thereof, either personally or by mail at the direction of the Board of Directors or Unit Owners calling the meeting, to each person entitled to vote at such meeting.

In case of an annual or substitute meeting, the notice of meeting need not specifically state the business to be transacted there at, unless it is a matter other than the election of Directors, on which the vote of Unit Owners is expressly required by the provisions of the North Carolina Unit Ownership Act. In the case of a special meeting the notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is effective.

**SECTION 7. QUORUM.** The presence in person or by proxy at any meeting of the Voting Members (as defined in Section 8 of this Article) having a majority of the total votes shall constitute a quorum. If there is no quorum at the opening of the meeting of the Association, such meeting may be adjourned from time to time by the vote of a majority of the Voting members present, either in person or by proxy; and at any adjourned meeting at which a quorum is present any business may be transacted which might have been transacted at the original meeting.

The Voting Members at a meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum.

**SECTION 8. VOTING RIGHTS.** There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit owners. Such person shall be known and herein referred to a "Voting Member." Such Voting Member may be the Owner, or one of a group composed of all the owners of a Unit, or may be some other person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Owner or Owners. The total number of votes of all Voting Members shall be limited to the number of units comprising membership in the OCEANSIDE WEST Owners Association, Inc. and each Owner or group of Owners (including the Association, if the Association, or its designee, shall then hold title to one or more Units) shall be entitled to the number of votes equal to the total of the percentage of Ownership in the Common Areas and Facilities applicable to his or their Unit as set forth in Exhibit "C" of the Declaration.

**SECTION 9. MAJORITY VOTE.** The vote of a majority in Common interest of Unit Owners present at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except where a higher percentage vote is required by the Condominium Documents or by provisions of law.

**SECTION 10. PROXIES.** Unit Owners may vote either in person or by agents duly authorized by written proxy executed by such Unit Owner or by his duly authorized

attorney-in-fact. A proxy shall not be valid after the expiration of eleven (11) months from the date of its execution unless the person executing it specifies therein the length of time for which it is to continue in force, or limits its use to a particular meeting, but no proxy shall be valid after ten (10) years from the date of its execution. Unless a proxy otherwise provides, any proxyholder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the Secretary or duly Acting Secretary of the Association either during or prior to the meeting in question.

**SECTION 11. CUMULATIVE VOTING.** In all elections for members to the Board of Directors, each voting member shall be entitled to vote on a cumulative voting basis and the Candidate receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected.

**SECTION 12. WAIVER OF NOTICE.** Any unit owner may, at any time waive notice of any meeting of the Association in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a unit owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof, except where a unit owner 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 unit owners are present at any meeting of the Association, no notice shall be required and any business may be transacted at such meeting.

**SECTION 13. INFORMAL ACTION BY UNIT OWNERS.** Any action which may be taken at a meeting of the Association 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 (that is, the voting members), and filed with the Secretary of the Association to be kept in the Association Minute Book.

**SECTION 14. CONDUCT OF BUSINESS.** The order of business at all meetings of the unit owners shall be as follows:

- (a) Roll Call
- (b) Proof of notice of meeting
- (c) Reading of Minutes of preceding meeting.
- (d) Reports of officers
- (e) Report of Board of Directors
- (f) Report of committees
- (g) Election of members to the Board of Directors (when required)
- (h) Old business (in order set forth in notice of meeting)
- (i) New business (in order set forth in notice of meeting)

All meetings of the Association shall be conducted in accordance with Roberts' Rules of Order, latest edition, and shall be presided over by the Chairman and in his absence by the Vice Chairman and Minutes thereof shall be recorded by the Secretary or in his absence by the Assistant Secretary.

#### ARTICLE III - BOARD OF DIRECTORS

**SECTION 1. NUMBER.** The business and property of the Condominium and Association shall be managed and directed by the Board of Directors composed of five (5) persons (except that the initial Board shall be (3) three in number) or by such Executive Committees as the Board may establish pursuant to the By-Laws.

**SECTION 2. INITIAL DIRECTORS.** The initial Directors shall be selected by the Declarant and need not be unit owners and shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the Brunswick County Registry of Deeds of North Carolina until and in any event, no later than the earlier of the following events:

- a. 120 days after 75% of the unit estates in the project have been conveyed to unit estate purchasers; or
- b. Three years following conveyance of the first unit estate; or
- c. Until such time as their successors are duly elected.

The names of the persons who shall serve on the initial Board of Directors (which such initial Board shall be composed of three (3) members) from the date

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upon which the Declaration is recorded in the Brunswick County Registry of Deeds of North Carolina until the first annual meeting of the members or until such time as their successors are duly elected and qualified, are as follows:

Iadane W. Bullington  
DeCarol Williamson  
Betty Williamson

**SECTION 3. ELECTION, TERM AND QUALIFICATION.** Except as provided in Sections 2 and 5 of this ARTICLE, the Directors shall be elected at the annual meeting of the Association and those persons who receive the highest number of votes shall be deemed to have been elected; provided, however, that so long as declarant shall own one or more Units, Declarant shall have the right to designate one member on the Board of Directors. The size of the Board of Directors may be increased or decreased from time to time upon the affirmative vote of three-fourths (3/4) in Common Interest of all unit owners of the total of the unit owners provided, that said Director shall hold office for the period for which he is elected or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualified. Each member of the Board (after the first annual meeting of the Association and the election and qualification of the successors to the initial Board of Directors) shall be one of the owners or co-owners or a spouse of an owner or co-owner; provided, however, that in the event an owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then an officer or director of such corporation, partner of such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board. From and after the date of the first annual meeting of the Association the five (5) Directors shall be elected from among the owners of the units.

At the first annual meeting of the Association, the members of the Board of Directors shall be divided into two (2) classes: the first class to consist of three (3) members; the second class to consist of two (2) members. The members of the first class shall initially hold office for a term of two (2) years; the members of the second shall initially hold office for a term of one (1) year. At all annual elections thereafter, a number of directors shall be elected by the Voting Members to succeed those Directors whose terms then expire, each such Director to be elected for a term of two (2) years. So long as Declarant shall own one or more units, the member to the Board which Declarant has that right to appoint shall be a member of the second class. Nothing herein contained shall be construed to prevent the election of a Director to succeed himself.

**SECTION 4. REMOVAL.** Directors may be removed from office with or without cause by the affirmative vote of the unit owners having a majority of the total votes entitled to vote at any election of Directors. However, unless the entire Board is removed, an individual Director may not be removed if the number of unit owners voting against the removal would be sufficient to elect a Director if such unit owners voted cumulatively at an annual election. If any Directors are so removed, new Directors may be elected at the same meeting; provided, however, that so long as Declarant owns one or more units, the Director designated by Declarant cannot be removed without the prior written consent of Declarant.

**SECTION 5. VACANCIES.** A vacancy occurring in the Board of Directors, including Directorships not filled by the unit owners, may be filled by a majority of the remaining Directors, though less than a quorum, or by the sole remaining Director, but a vacancy created by an increase in the authorized number of Directors shall be filled only by election at an annual meeting or a special meeting of unit owners called for that purpose. Voting Members may elect a Director at any time to fill any vacancy not filled by the Directors.

**SECTION 6. COMPENSATION.** The Board of Directors shall receive no compensation for their services.

**SECTION 7. EXECUTIVE COMMITTEES.** The Board of Directors may, by resolution adopted by a majority of the number of Directors fixed by these By-Laws, designate two (2) or more Directors to constitute an Executive Committee, which committee to the extent provided in such resolution shall have and may exercise all of the authority of the Board of Directors in the Management of the Condominium.

The Board of Directors may, in like manner, create such other committees as it deems necessary and appropriate in aiding the Board of Directors to carry out its duties and responsibilities with respect to the management of the Condominium.

**SECTION 8. POWERS AND DUTIES.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things, except such acts as by law or by the Declaration or by these By-Laws may not be delegated to the Board of Directors. Such powers and duties shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the Common areas and facilities.
- (b) Determination of the Common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the property.
- (c) Collection of the Common Expenses from the unit owners.
- (d) Employment and dismissal of the personnel necessary for the maintenance and operation of the Common Area and facilities.
- (e) The adoption and amendment of such reasonable rules and regulations as it may deem advisable for the maintenance, conservation, and beautification of the Condominium, and for the health, comfort, safety, and general welfare of the owners and occupants of the Condominium. Written notice of such rules and regulations shall be given to all owners and occupants and the entire Condominium shall at all times be maintained subject to such rules and regulations.
- (f) Opening of bank accounts on behalf of the Condominium and designating of the signatories required therefor.
- (g) Purchasing or leasing or otherwise acquiring in the name of the Association, or its designee, corporate or otherwise, on behalf of all unit owners, units offered for sale or lease or surrendered by their owners to the Association, provided, however, such action has been duly authorized by the affirmative vote of unit owners owning seventy-five (75%) in common interest of the Condominium.
- (h) Purchasing of units at foreclosure or other judicial sales in the name of the Association, or its designee, corporate or otherwise, on behalf of all unit owners, provided, however, such action has been duly authorized by the affirmative vote of unit owners owning seventy-five (75%) in common interest of the Condominium.
- (i) Selling, mortgaging, voting the votes appurtenant to or otherwise dealing with units acquired by the Association or its designee, corporate or otherwise, on behalf of all unit owners, subject to the Declaration and other applicable restrictions, and organizing corporations to act as designees of the Association on acquiring title to units on behalf of all unit owners.
- (j) Maintaining and repairing any unit, if such maintenance or repair is necessary in the discretion of the Board; or by operation of applicable restrictions to protect the Common areas and facilities or any other portion of the Building; or if an owner of any unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered or mailed by the Board to said owner, provided that the Board shall levy a special assessment against such owner for the costs of said maintenance or repair.
- (k) Entering any unit when necessary in connection with maintenance or construction for which the Board is responsible provided such entry shall be made during reasonable hours with as little inconvenience to the owner as practicable and any damage caused thereby shall be repaired by the Board and such expenses shall be treated as a common expense. The Board shall be entitled to retain a key to each unit in order to assure access thereto at all times.
- (l) Signing all agreements, contracts, deeds and vouchers for payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence or such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the Chairman of the Board.
- (m) Obtaining of insurance for the Condominium, including the units, pursuant to the applicable provisions of the Declaration.

- (n) Making repairs, additions and improvements to or alterations or restoration of the Condominium in accordance with the other provisions of these By-Laws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceeding.
- (o) Contract for all goods, services, and insurance, payment for which is to be made from the common expense fund.

**SECTION 9. MANAGING AGENT.** The Board of Directors for the Association may engage the services of any person, firm or corporation to act as managing agent at a compensation established by the Board, to perform such duties and services as the Board of Directors authorize including, but not limited to the duties listed in subdivision (a), (c), (d), (j), (m), (n), and (o) of Section 8 of this Article III, but may not delegate the powers set forth in subdivisions (b), (e), (f), (g), (h), (i), and (l).

#### ARTICLE IV - MEETINGS OF DIRECTORS

**SECTION 1. ORGANIZATIONAL MEETING.** The first meeting of the initial Board of Directors designated in these By-Laws shall be held at such time as the Declarant shall determine. The first meeting of a newly elected Board of Directors shall be held within fifteen (15) days following the meeting of the unit owners at which the Board was elected. No notice shall be necessary to the newly elected members of the Board of Directors in order to legally constitute such meeting, providing a quorum shall be present.

**SECTION 2. REGULAR MEETING.** A regular meeting of the Board shall be held immediately after, and at the same place as the annual meeting or substitute annual meeting of the Association. In addition, the Board of Directors may provide by resolution the time and place either within or without the State of North Carolina for the holding of a regular meeting of the Board.

**SECTION 3. SPECIAL MEETINGS.** Special meetings of the Board of Directors may be called by the Chairman or by any two (2) Directors and such meeting may be held either within or without the State of North Carolina.

**SECTION 4. NOTICE OF MEETINGS.** Regular meetings of the Board of Directors may be held without notice. The person or persons who call a special meeting of the Directors shall, at least two (2) days before the meeting, give notice thereof by usual means of communications. Such notice need not specify the purpose for which the meeting is called.

Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.

**SECTION 5. WAIVER OF NOTICE.** Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**SECTION 6. QUORUM.** A majority of the number of Directors fixed by these By-Laws shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

**SECTION 7. MANNER OF ACTING.** Except as otherwise provided in this section, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

A vote of a majority of the number of Directors fixed by the By-Laws shall be required to adopt a resolution constituting an Executive Committee. The vote of a majority of the Directors then holding office shall be required to adopt, amend, or repeal a By-Law. Vacancies in the Board of Directors may be filled as provided in Article III, Section 5, of these By-Laws.

**SECTION 8. ORGANIZATION.** Each member of the Board of Directors shall be presided over by the Chairman of the Board, and in the absence of the Chairman, by any person selected to preside by vote of the majority of the Directors present. The Secretary, or in the absence of both the Secretary and Assistant Secretary any persons designated by the Chairman of the meeting.

**SECTION 9. INFORMAL ACTION OF DIRECTORS.** Action taken by a majority of the Directors without a meeting, is nevertheless Board 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, whether done before or after the action so taken.

**SECTION 10. MINUTES.** The Board shall keep minutes of its proceedings, which shall be available for inspection by the Unit Owners during reasonable business hours.

**SECTION 11. FIDELITY BONDS.** The Board of Directors shall require all officers and employees of the Condominium handling or responsible for funds to be covered by an adequate fidelity bond. The premiums on such bonds shall constitute a common expense.

**SECTION 12. LIABILITY OF THE BOARD.** The members of the Board of Directors shall not be liable to the Association for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these By-Laws. 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 Condominium, except to the extent that they are unit owners. It is also intended that the liability of any unit owner arising out of any contract made by the Board of Directors, or out of the aforesaid indemnity in favor of the members of the Board, shall be limited to such proportion of the total liability thereunder as his interest in the common areas and facilities bears to the interest of all the unit owners in the common areas and facilities. Every agreement made by the Board or by the managing agent on behalf of the Condominium shall provide that the members of the Board of Directors, or the managing agent, as the case may be, are acting only as agents for the unit owners and shall have no personal liability thereunder (except as unit owners, and that each unit owner's liability thereunder shall be limited to such proportion of the total liability as his interest in the common areas and facilities bears to the interest of all unit owners in the common areas and facilities.)

#### ARTICLE V - OFFICERS

**SECTION 1. NUMBER.** The principal officers of the Association shall consist of a Chairman of the Board, a Secretary, a Treasurer, and such Vice Chairman, Assistant Secretaries, Assistant Treasurers and other officers as the Board of Directors may from time to time elect. Any two or more offices may be held by the same person except the offices of Chairman and Secretary.

**SECTION 2. ELECTION AND TERM.** The officers of the Association shall be elected by and from members of the Board of Directors. Such elections may be held at the regular annual meeting of the Board.

Each officer shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualified.

**SECTION 3. REMOVAL.** Any officer or agent elected or appointed by the Board of Directors may be removed by the Board with or without cause; but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**SECTION 4. COMPENSATION.** No officer shall receive any compensation from the Association for acting as such.

**SECTION 5. CHAIRMAN OF THE BOARD.** The Chairman of the Board 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 Condominium. The Chairman, shall, when present, preside at all meetings of the Board and of the Association and, in general, shall perform all duties incident to the office of Chairman of the Board and such other duties as may be prescribed from time to time by the Board.

**SECTION 6. VICE CHAIRMAN.** The Vice Chairman, and if there be more than one, the Vice Chairman designated by the Board of Directors, shall, in the absence or disability of the Chairman, have the powers and perform the duties of said office. In addition, each Vice Chairman shall perform such other duties and have such other powers as shall be prescribed by the Chairman of the Board.

**SECTION 7. SECRETARY.** The Secretary shall keep accurate records of the acts and proceedings of all meetings of the Association and Directors. He shall give, or cause to be given, all notices required by laws and by these By-Laws. He shall have general charge of the minute books and records of both the association and the Board. He shall sign such instrument as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned him from time to time by the Chairman of the Board or by the Board of Directors.

**SECTION 8. TREASURER.** The Treasurer shall have custody of all Association funds and securities and shall receive, deposit or disburse the same under the direction of the Board of Directors. He shall keep full and accurate accounts of the finances of the Condominium in books especially provided for that purpose. He shall cause a true statement of its assets and liabilities as of the close of each fiscal year, and of the results of its operations and of changes in surplus for each fiscal year, all in reasonable detail, to be prepared and distributed to all unit owners and members of the Board of Directors on or before the 15th day of the third month following the close of each fiscal year. The statement so filed shall be kept available for inspection by any unit owner for a period of three (3) years and the Treasurer shall mail or otherwise deliver a copy of the latest such statement to each unit owner annually on or before the annual meeting date covering the preceding calendar year. The Treasurer shall also prepare and file all reports and returns required by Federal, State or local law and shall generally perform all other duties as may be assigned to him from time to time by the Chairman of the Board or the Board of Directors.

**SECTION 9. ASSISTANT SECRETARIES AND TREASURERS.** The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary and Treasurer, respectively, have all the powers and perform all of the duties of those officers and they shall in general perform any other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the Chairman of the Board of Directors.

**ARTICLE VI - OPERATION OF THE PROPERTY**

**SECTION 1. ASSESSMENT AND DETERMINATION OF COMMON EXPENSES AND FIXING OF THE COMMON EXPENSES.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the condominium, determine the amount of the common expenses payable by the unit owners to meet the common expenses of the Condominium as set forth in the budget, and allocate and assess such common expenses among the unit owners according to their respective common interest, taking into consideration any expected income and any surplus from the prior year's operation. The common expenses shall include, among other things, the expenses, costs and charges incurred in connection with the administration operation and management of the Condominium property; the cost of maintenance, repair, replacement and restoration of the common areas and facilities including the repair and maintenance of the sewage disposal system serving their buildings; the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of

Directors pursuant to the provisions of the Declaration; the proportionate cost of security provided for Condominium constructed within the area known as Ocean Isle West, the proportionate cost of maintaining roadways and right of ways within the area known as Ocean Isle West, (the cost of the appropriate liability insurance shall be considered as an expense of maintaining the roadways and right of ways and the security organization within this said area.) provided, however, that the proportionate share shall be determined after considering an annual budget and fixing a uniform rate per hundred dollars of value for each affected and/or benefiting property—such value shall be based on the assessed taxable values as established from time to time by the taxing authorities of Brunswick County; such amounts as the Board of Directors may deem proper for the operation, management, and maintenance of the property. The assessments for the management and maintenance of the roadways, right of ways, and security operation shall be collected from unit owners as determined by the Board of Directors, but notwithstanding the manner of collection, the Association shall pay the assessments on a quarterly basis to the party, parties, or associations responsible for the maintenance of roadways, right of ways and security.

The assessments by the Board shall include such amounts as the Board of Directors may deem proper for the convenience, comfort and well being of the unit owners, and for the operation, management, and maintenance of the property, including, without limitation, an amount for working capital of the condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year; such amounts as may be required for the purchase or lease by the Association or its designee, corporate or otherwise, on behalf of all or less than all unit owners, of any unit whose owner has elected to sell or lease such unit or of any unit which is to be sold at foreclosure or other judicial sale; assessments by the Association, its successors and assigns, and any other expense lawfully agreed upon. The Board of Directors shall advise all unit owners promptly, in writing of the amounts of common expenses payable by each of them respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each budget on which such common expenses are based to all unit owners and to the mortgagees.

The Board of Directors shall be required to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas and those limited common areas which the Association may be obligated to maintain. The fund shall be maintained out of regular assessments for common expenses. Additionally, a working capital fund must be established for the initial months of the project operation equal to at least two months' estimated common area charge for each unit estate. Each unit estate's share of the working capital fund must be collected and transferred to the Association at the time of closing of the sale of each unit of the Association. The contribution to the working capital fund for each unsold unit estate shall be paid to the Association within 60 days after the date of the conveyance of the first unit estate in the project. The purpose of the fund is to insure that the Association Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered as advance payment of regular assessments.

Copies of the proposed budget and proposed assessments shall be transmitted to each member prior to January 1 of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of any copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time in their sole discretion, to levy any additional assessments in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

c) The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

d) A financial report of the accounts of the Associations shall be made annually and a copy of the report shall be furnished to each member not later than April 15 of the year following the year for which the report is made.

**SECTION 2. PAYMENT OF COMMON EXPENSES.** All unit owners shall be obligated to pay the common expenses assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article VI at such time or times as the Board shall determine, but in no event less frequently than quarterly.

No unit owner shall be liable for the payment of any part of the common expenses assessed against his unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such unit, together with his interest in the common areas and facilities as defined in the Declaration. A purchaser of a unit shall be jointly and severally liable with the seller for the payment of common expenses assessed against such unit prior to the acquisition by purchaser of such unit without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefor. Any such purchaser shall be entitled to a statement from the Board of Directors setting forth the amount of the unpaid assessments against the seller and such purchaser shall not be liable for, any unpaid assessments in excess of the amount therein set forth. Provided, however, that a mortgagor or other purchaser of a unit at a foreclosure sale of such unit shall not be liable for such assessments and such unit shall not be subject to a lien for the payment of common expenses assessed prior to the foreclosure sale. Such unpaid common expenses shall be deemed to be common expenses collectible from all of the unit owners including such purchaser, his successors and assigns.

Each unit estate owner, including the declarant, shall be required to pay a proportionate share of common expenses upon being assessed therefor by the Association. Such share may be allocated equally to each unit estate where each unit owner has equal common element interest and if such interest is not equal, then proportionate to the unit estate's common element interest. In any event, all unit estates should pay full assessments no later than 60 days (or other reasonable period of time) after conveyance of the first unit estate in the project.

**SECTION 3. SPECIAL ASSESSMENTS.** The Board of Directors may levy special assessments for common expenses not covered by the annual budget. Such special assessments shall be charged to the units according to their percentage interests in the common areas and facilities. In addition, the Board may levy special assessments against one or more but less than all of the units with respect to any other items of expense incurred with respect to such units. The period of assessment and manner of payment of such assessments shall be determined by the Board. Provided, however, any special assessment in the amount of \$5,000.00 or more must be approved by unit owners owning 66 2/3% of the common interest.

**SECTION 4. COLLECTION OF COMMON EXPENSES.** The Board of Directors shall determine common expenses against the unit owners from time to time and at least annually and shall take prompt action to collect any common expenses due from any unit owner which remain unpaid for more than (30) days from the due date for payment thereof.

The Board of Directors shall notify the holder of the first mortgage on any unit (of which it has notice) for which any common expense assessed pursuant to these By-Laws remain unpaid for more than thirty (30) days from the due date for payment thereof and in any other case where the unit owner of such unit is in default with respect to the performance of any other obligation hereunder for a period in excess of thirty (30) days.

**SECTION 5. DEFAULT IN PAYMENT OF COMMON EXPENSES.** In the event of default by any unit owner in paying to the Board of Directors the common expenses as determined by the Board, such unit owner shall be obligated to pay interest at the maximum allowable legal rate on such common expenses from the due date thereof; together with all expenses, including attorney's fees (if permitted by law), incurred by the Board in any proceeding brought to collect such unpaid common expenses.

The Board shall have the right and duty to attempt to recover such common expenses, together with interest thereon, and the expense of the proceeding, including attorney's fees (if permitted by law), in any action to recover the same brought against such unit owner, or by foreclosure of the lien on such unit in like manner as a deed of trust or mortgage of real property. Common expenses shall be assessed on an annual basis and shall be deemed to accrue upon assessment although payment may, in the discretion of the Board, be permitted on an installment basis. However, in the event of a default in the payment of any installment for more than thirty (30) days as provided in Section 4 above, then, in such event, the entire remaining amount of such assessment shall become immediately due and payable.

**SECTION 6. LIEN AND PERSONAL OBLIGATION.** Each assessment provided for in this Article, together with interest and expenses, including attorney's fees (as permitted by law), as provided in Section 5 hereof, shall be a charge on and a continuing lien upon the unit against which the assessment is made when a notice of such lien has been filed of record in the office of the Clerk of Superior Court for Brunswick County, North Carolina, in the manner provided by Article 8, Chapter 44, of the North Carolina General Statutes, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of thirty (30) days after the same shall become due. Said notice of lien shall also secure all assessments against the unit becoming due thereafter until the lien has been satisfied. In addition, each unit owner shall be reasonable liable for any assessment against his unit becoming due and payable while he is the owner of such unit.

**SECTION 7. FORECLOSURE OF LIENS FOR UNPAID COMMON EXPENSES.** In any action brought by the Board to foreclose on a unit because of unpaid common expenses, the unit owner shall be required to pay a reasonable rental for the use of his unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all unit owners, or on behalf of any one or more individual unit owners if so instructed, shall have the power to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same, subject however, to applicable restrictions or record. A suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. Where the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage or any proceeding in lieu of foreclosure thereon, the purchaser, its successors and assigns, shall not be liable for the share of common expenses or assessments by the Board of Directors chargeable to such unit which was assessed prior to the acquisition of title to such unit by such purchaser. Such unpaid share of common expenses or assessments shall be deemed to be a common expense collectible from all unit owners including such purchaser, its successors and assigns.

**SECTION 8. STATEMENT OF COMMON EXPENSES.** The Board of Directors shall promptly provide any unit owner so requesting the same in writing with a written statement of all unpaid common expenses due from such unit owner.

**SECTION 9. ABATEMENT AND ENJOINMENT OF VIOLATIONS BY UNIT OWNERS.** The violation of any rule or regulation adopted by the Board or the breach of any By-Law contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these By-Laws: (a) to enter the unit in which, or as to which, such violation or breach exists and to make any repairs, and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting unit owner; or (c) in any case of flagrant or repeated violation by a unit owner to require such unit owner to give sufficient sureties for his future compliance with such condominium documents. The failure of the Board to so act with respect to any violation or breach shall not be deemed a waiver of the Board's right to act with respect to the same or any other breach or violation.

**SECTION 10. MAINTENANCE AND REPAIR.** Each unit owner shall maintain, repair and replace at his sole cost and expense all portions of his unit which may become in need thereof, including the heating and air conditioning systems of each

unit, all bathroom and kitchen fixtures and appliances, light fixtures, interior non-load bearing walls, carpeting, drapes and other items within the unit, whether structural or non-structural, ordinary or extraordinary (other than maintenance of and repairs to any common area and facilities contained therein and not necessitated by the negligence, misuse or neglect of the unit owner, his family, guests, agents, servants, lessees, employees or contractor). Each unit owner shall further be responsible for all damages to any and all other units and/or to the common areas and facilities that his failure to do so may engender. All damages to the common areas and facilities intentionally or negligently caused by the unit owner, his family, guest, agents, servants, lessees, employees or contractors shall be promptly repaired by the subject unit owner at his sole cost and expense. Provided, there is excluded from the provisions contained in this section such repairs necessitated by casualties insured against by the Board of Directors to the extent the Board receives insurance proceeds for such repairs. If the unit owner does not make those repairs to be made by him within thirty (30) days from written demand by the Board of Directors, the same may be repaired by the Board and the cost thereof shall be assessed against the unit owned by the subject unit owner.

The Board of Directors shall maintain, repair, and replace all portions of the common areas and facilities which shall require same, whether located inside or outside of the units (unless necessitated by the negligence, misuse or neglect of a unit owner, his family, guests, agents, servants, lessees, employees or contractors, in which case such expense shall be charged to all the unit owners as a common expense.

**SECTION 11. RESTRICTIONS ON THE UNIT OWNERS.** No unit owner shall perform or cause to be performed any maintenance, repair or replacement work which disturbs the rights of the other unit owners, jeopardizes the soundness or the safety of the condominium property or reduces the value thereof. Each unit owner shall cause any work so performed or being performed on the unit, which, in the sole opinion of the Board of Directors, violates the terms of this section, to be immediately corrected and he shall refrain from recommencing or continuing any work so in violation without written consent of the Board.

No Unit Owner shall cause any improvements or alteration to be made to the exterior of the Condominium (including painting or other decoration, or the installation of electrical wiring, television or radio antennae, or any other objects, machines or air conditioning units which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of any portion of the exterior surface of any building without the prior written permission of the Board of Directors or a duly appointed Architectural Control Committee. No unit owner shall cause any object to be fixed to the Common Property or to any Limited Common Area (including the location or construction of fences or the planting or growing of flowers, trees, shrubs or other vegetation) or in any manner change the appearance of the Common Property or Limited Common Area without the prior written permission of the Board of Directors or a duly appointed Architectural Control Committee.

**SECTION 12. DUTY TO REPORT.** Each unit owner shall promptly report to the Board of Directors or its agent any defect or need for repairs or replacement the responsibility for which is that of the Board of Directors.

**SECTION 13. ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY BOARD OF DIRECTORS.** Whenever in the judgment of the Board of Directors, the common areas and facilities shall require additions, alterations or improvements, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all unit owners for the cost thereof, as a common expense.

**SECTION 14. ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY UNIT OWNERS.** No unit owner shall make any structural addition, alteration, or improvement in or to this unit, or any addition, alteration, or improvement which affects the exterior portion or outward appearance of such unit, without the prior written consent thereto of the Board of Directors and Declarant. The Board shall have the obligation to answer any written request of a unit owner for approval of a proposed addition, alteration, or improvement in such unit owner's unit, within fifteen (15) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed additions, alterations

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or improvements. The provisions of this Section 14 shall not apply to units owned by declarant until such units have been initially sold and conveyed by declarant.

**SECTION 14-A. RESTRICTIONS ON THE UNIT OWNERS' WINDOW TREATMENT.** Being the intent of this section to maintain an aesthetically pleasing project free of the exterior display of multicolored window treatment, all interior window coverings (i.e. blinds, curtains, etc.) shall present a white appearance to the exterior.

**SECTION 15. USE OF COMMON AREAS AND FACILITIES.** A unit owner shall not interfere with the use of the common areas and facilities by the remaining unit owners and their guests. Areas designated as common areas may be used by unit owners and their guests without interference from other unit owners. Unit owners or their guest may not be held liable in trespass when using any of the designated common areas, regardless who may hold legal title to said common areas.

**SECTION 15-A. PARKING OF VEHICLES.** No boats, trailers, campers, or recreational vehicles, unless such type of a vehicle is to be used as the sole and the principal mode of transportation shall be parked within the common area, or right of way of any public or private street in or adjacent to the Property.

**SECTION 16. RIGHT OF ACCESS.** A unit owner shall grant a right of access to his unit to the managing agent and/or any other person authorized by the Board of Directors or the managing agent for the purpose of correcting any condition originating in his unit and threatening another unit or common area and facility, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common areas and facilities in his unit or elsewhere in the building or to correct any condition which violated the provisions of any mortgage covering another unit, provided that requests for entry are made in advance and that any such entry is at a time reasonable convenient to the unit owner. The Board shall be entitled to retain a key to each unit. In the case of an emergency, such right of entry shall be immediate, whether or not the unit owner is present at the time such request for entry is made, or such entry is at a reasonably convenient time for the unit owner.

If any portion of the common areas encroaches upon any unit or any unit encroaches upon the common areas or another unit as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the improvements, a valid easement exist so long as the encroachment exists.

**SECTION 17. RULES OF CONDUCT.** Rules and regulations concerning the use of the units and the common areas and facilities including the limited common areas and facilities may be promulgated and amended by the Board with the approval of a majority of the unit owners. Copies of such rules and regulations shall be furnished by the Board to each unit owner prior to the time when the same shall become effective. The Grantors, or such administering agent(s) as may succeed them, of the roadways and right of ways and the security administrator(s) shall establish such rules and regulations as are deemed necessary for the proper management of these said common facilities and services. Such rules and regulations shall be binding on all persons enjoying the privileges afforded by this instrument.

a) No resident of the Condominium shall post any advertisements or posters of any kind in or on the Common Property except as authorized by the Association.

b) Residents shall exercise extreme care about making noises or the use of musical instruments, radios, television sets and amplifiers that may disturb other residents. Those keeping domestic animals will abide by the sanitary regulations of Brunswick County.

c) No garbage or trash shall be thrown or deposited outside the disposal installations provided for such purposes.

**SECTION 17-A. PROPERTY OWNERS ASSOCIATION AS MAY BE ESTABLISHED.**

If and when an owners association is formed to assume the responsibilities of managing such common facilities and services as are located and provided within the area known as Ocean Isle West (such roadways, right of ways, and security operations), the Owners Association shall join and become a contributing member.

**SECTION 18. ELECTRICITY, WATER, SEWER, AND TELEPHONE.**

Electricity and telephone service is supplied by the public utility companies serving the area directly to each unit through separate meters and each unit owner shall be required to pay the bills for such utilities consumed or used in behalf. The water and sewer service for each unit if not separately metered and all bills for such services shall be paid as if such use was for common areas and facilities. The electricity serving the common areas and facilities shall be separately metered, and the Board of Directors shall pay all bills for electricity, water, and sewer consumed in any portions of the common areas and facilities as a common expense.

**SECTION 19. RIGHTS OF ELIGIBLE MORTGAGE HOLDERS.**

An eligible mortgage holder is defined as a holder of a first mortgage or lien on a unit estate who has requested notice of certain matters from the Association. Upon written request to the owners association, identifying the name and address of the holder, any eligible mortgage holder will be entitled to timely written notice of:

- a. Any condemnation loss or casualty loss which affects a material portion of the project or any unit estate on which there is a first mortgage held by such eligible mortgage holder;
- b. Any delinquency in the payment of assessments or charges owed by an owner of a unit estate subject to a first mortgage held, by such eligible holder, which remains uncured for a period of 60 days;
- c. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the owners Association;
- d. Any proposed action which would require the consent of a specified percentage of eligible mortgage holders.

To the extent permitted by law, eligible mortgage holders shall also be afforded the following rights:

- a. Any restoration or repair of the project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the declaration and the original plans and specification, unless other action is approved by eligible holders holding mortgages on unit estates subject to eligible holder mortgages;
- b. Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of eligible holders holding mortgages on unit estates subject to eligible holder mortgages.
- c. Unless provided otherwise in the Declaration or By-Laws, no reallocation of interests in the common areas resulting from a partial condemnation or partial destruction of the project may be effected without the prior approval of eligible holders holding mortgages on all remaining unit estates whether existing in whole or in part, and which have at least 51 per cent of the votes of such remaining unit estates subject to eligible holder mortgages.
- d. If professional management is ever used to govern the condominium, any decision to establish self management by the owners association shall require the prior consent of owners of unit estates to which at least 67 percent of the votes in the owners association are allocated and the approval of eligible holders holding mortgages on unit estates which have at least 51 percent of the votes of unit estates subject to eligible holder mortgages.

**SECTION 20. TOTAL OR PARTIAL CONDEMNATION, LOSS OR DESTRUCTION.**

The owners association shall represent the unit estate owners in any condemnation proceeding or in negotiations, settlements and agreements with the condemning authority for acquisition of the common areas, or part thereof. The unit owners is deemed to have appointed the owners association as attorney-in-fact

for such purposes. In the event of a taking or acquisition of part or all of the common areas by a condemning authority, the award or proceeds of settlement shall be payable to the owner association for the use and benefit of the unit estate owners and their mortgagees as their interest may appear.

ARTICLE VII - RECORDS AND AUDITS

**SECTION 1. RECORDS.** The Board of Directors or the managing corporation/agent shall keep detailed records of the actions of the Board and the managing agent, minutes of the meetings of the Board of Directors, minutes of the meetings of the Association, and financial records and books of account of the condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each unit which, among other things, shall contain the amount of each assessment of the common expenses against such unit, the date when due, the amounts paid thereof, and the balance remaining unpaid. The financial records and books of account shall be available for examination by all the unit owners, their duly authorized agents or attorneys at convenient hours on working days that shall be set and announced for general knowledge. A written report summarizing all receipts and expenditures of the condominium shall be rendered by the Board to all unit owners on or before the fifteenth (15th) day of the third month following the close of each fiscal year covering the preceding year. In addition, an annual report on the receipts and expenditures of the condominium shall be rendered by the Board to all unit owners and to all mortgagees of units who have requested the same, promptly after the end of each fiscal year. Such annual report may, in the discretion of the Board of Directors, be certified by a firm or certified public accountants.

The owners association is required to make available to unit estate owners and lenders and eligible holders of any first lien or mortgage current copies of the declaration, By-Laws, and other rules concerning the project and the books, records and financial statements of the association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. The holders of 51 percent or more of first mortgages or liens shall be entitled to have an audited statement for the immediately preceding fiscal year prepared at their expense if one is not otherwise available.

**SECTION 2. COMMON EXPENSE FUND.** All sums collected by the association either as assessments of the common expenses or special assessments may be commingled in a single fund but some shall be held for the owners for the purpose for which they are to be paid and shall, subject to the right of withdrawal or refund hereinafter provided, be credited to accounts from which shall be the charges for which the assessments are made. Such accounts shall include the following or such other and further accounts as the Board of Directors from time to time shall determine:

- a General Common Expense Account--to which shall be credited collection of that portion for defraying the costs of operating the condominium on a day-to-day basis, including normal maintenance and repairs, insurance and related charges;
- b Current Alterations and Improvement Account--to which shall be credited that portion of any common expense assessment to be allocated to current alterations and improvements for the condominium;
- c Capital Reserve Account--to which shall be credited, subject to the right of the unit owners to elect to withhold such amount as hereinafter provided, all sums collected which are to be allocated for capital expenditure for the reconstruction, repair, and replacement of common areas and facilities at a future date.

All sums collected by the association, either as assessments of the common expenses or special assessments, during any fiscal year and allocated to the General Common Expense Account or to the Current Alteration and Improvement Account or to any other account from which non-capital expenditures may be made, in excess of expenditures during such fiscal year made from or chargeable to said account or accounts shall be deemed contributions to capital at the end of said

fiscal year and shall be transferred to the Capital Reserve Account unless the unit owners elect to withdraw such amounts as herein provided. All amounts credited to said Capital Reserve Account shall be contributions to capital and shall be held in trust by the association for future expenditures of a capital nature and shall serve to reduce the assessments required for said capital expenditures.

Notwithstanding anything herein to the contrary, in any year in which there is an excess of assessments received over amounts actually expended for the purposes described in these By-Laws and in the Declaration, such excess may, upon written consent of all unit owners be applied against and reduce the subsequent year's assessment or be refunded to the unit owners.

The preceding sentence shall automatically be repealed upon the revocation of Rev. Rul. 71-17 promulgated by the Internal Revenue Service or upon a court of competent appellate jurisdiction declaring such Rev. Rule invalid or upon amendment of the Internal Revenue Code or the Treasury Regulations thereunder obviating the requirement of membership vote to apply such excess to the subsequent year's assessments or to refund same in order that such excess be excluded from gross income of the association.

#### ARTICLE VIII - FISCAL YEAR

The fiscal year of the association shall begin on the first day of January, and end on the thirty-first (31st) day of December of each year, provided however, that the first fiscal year of the association shall commence with the closing of the sale of the first condominium unit.

#### ARTICLE IX - AMENDMENTS TO BY-LAWS

Except as otherwise provided herein, these By-Laws may be modified or amended by the vote of seventy-five percent (75%) for common interest of all unit owners at a meeting of the association duly held for such purpose. Provided, however, that the provisions of Article III, Section 2 and 8, Article IV, Sections 2, 3, and 4, Article VI, Section 1 and 14, in so far as they affect the rights of Declarant and this Article IX may not be amended without the consent in writing of Declarant, so long as Declarant shall be the owner of one or more units. No such amendments shall become operative unless and until the same is set forth in an amendment to the Declaration and duly recorded in the office of the Register of Deeds for Brunswick County, North Carolina.

Provided, however, that the Board of Directors shall give written notice to all holders of mortgages on condominium units of such amendments at least thirty (30) days prior to the effective date of such amendment.

The consent of owners of unit estates to which at least 67 percent of the votes in the owners association are allocated and the approval of eligible holders holding mortgages/liens on unit estates which have at least 67 percent of the votes of unit estates subject to eligible holder mortgages/liens, shall be required to terminate the legal status of the project as a condominium.

The consent of the owners of unit estates to which at least 67 percent of the votes in the owners association are allocated and the approval of eligible holders holding mortgages/liens on unit estates which have at least 51 percent of the votes of unit estates subject to eligible holder mortgages/liens, shall be required to add or amend any material provisions of the documents of the project, which establish, provide for, govern or regulate any of the following:

- a. Voting;
- b. Assessments, assessment liens or subordination of such liens;
- c. Reserves for maintenance, repair and replacement of the common areas;
- d. Insurance or Fidelity Bonds;
- e. Rights to use of the common areas;

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- f. Responsibility for the maintenance and repair of the several portions of the project;
- g. Expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project;
- h. Boundaries of any unit;
- i. The interests in the general or limited common areas;
- j. Convertibility of units into common area or of common areas into units;
- k. Leasing of unit estates;
- l. Imposition of any right of first refusal or similar restriction on the right of a unit estate owner to sell, transfer, or otherwise convey his or her unit estate;
- m. Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders of first mortgages/liens on unit estates.