



NORTH CAROLINA, CARTERET COUNTY
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FILE # 1354271

STATE OF NORTH CAROLINA

By Joy Lawrence
Joy Lawrence, Register of Deeds
Deputy, Register of Deeds

FOR REGISTRATION REGISTER OF DEEDS
Joy Lawrence
Carteret County, NC
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FILE # 1354271

COUNTY OF CARTERET

**WITHDRAWAL OF HOOP HOLE CREEK I
CONDOMINIUM
FROM THE PROVISIONS OF CHAPTER 47C, AND
SUBMISSION OF A DECLARATION OF TOWNHOME
COVENANTS FOR HOOP HOLE CREEK I TOWNHOMES**

This Withdrawal of Unit Ownership and Submission of Property to Covenants for Hoop Hole Creek I Townhomes executed this 15 day of Sept by Raymond R. Cutshaw, Jr, single, 145A Hoop Pole Creek Drive, Atlantic Beach, NC 28512, and Bain Hickman, single, 145 B Hoop Pole Creek Drive, Atlantic Beach, NC 28512, herein "Declarant", and as used herein "Declarant" shall mean both singular and plural as the context may require;

WITNESSETH:

WHEREAS, a two-unit building known as Hoop Hole Creek I Condominium has been located on Lot 13 of Hoop Hole Creek Subdivision (herein "Property") as shown on a plat recorded in Map Book 15, Page 23, Carteret County Registry, through the recordation of a Declaration of Unit Ownership pursuant to the provisions of Chapter 47C of the North Carolina General Statutes in Book UO 85, page 183, accompanied by the recordation of plats and drawings recorded in Map Book 10P, pages 23-32, Carteret County Registry;

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WHEREAS, through deeds recorded in Book 1333, page63 and Book UO 106, page 225, units A and B of Hoop Hole Creek I Condominium are now vested in Declarants so that both units and the undivided interest in the common areas are now owned by Declarants, subject to the liens set out on the exhibits hereto, with the lienholders having consented to the Withdrawal of the Property from Unit Ownership and the Submission of the Property to Townhome Covenants as indicated by their consent attached hereto;

WHEREAS, pursuant to NCGS 47C and Article X of said Declaration, Declarant with the consent of the lienholders now desires to terminate said condominium and to remove said real property from the provisions of NCGS 47C; and

WHEREAS, simultaneously with such Withdrawal, Declarant with the consent of the lienholders having deeds of trust on the Property desires to submit the Property to uniform townhome covenants designed to protect the Property, to enhance the value and attractiveness of the townhomes, and to promote the use and value of the Property, and has set forth herein the Covenants, Terms and Conditions for Hoop Hole Creek I Townhomes;

NOW, THEREFORE, Raymond R. Cutshaw, JR, and Bain Hickman do hereby terminate Hoop Hole Creek I Condominium and do hereby withdraw said Property from the provisions of Chapter 47C of the North Carolina General Statutes so that hereafter said real property described as Lot 13, Hoop Hole Creek Subdivision, Map Book 15, page 23, Carteret County Registry, as located in the Town of Atlantic Beach, Carteret County, North Carolina, may be owned, mortgaged, leased, sold, transferred and conveyed without regard to the former condominium method of ownership.

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FURTHER, the Declarant hereby submits the real property described in Paragraph 1 hereof to this Declaration of Protective Covenants and declares that the real property described in Paragraph 1 shall be hereafter held, transferred, sold and conveyed subject to these Protective Covenants as follows:

ARTICLE I - COVENANTS AND RESTRICTIONS

1. Description of Real Property: The real property which is and shall be held, transferred, sold and conveyed subject to these Protective Covenants is located in the Town of Atlantic Beach Morehead Township, Carteret County, North Carolina, and is described as Lot 13, Hoop Hole Creek Subdivision, as shown on a subdivision plat duly recorded in Map Book 15, page 23, Carteret County Registry.

2. General Description of Townhouse Development. Declarants are the owners of the property described in paragraph one above and are submitting this property to these Covenants. No additional lands may be submitted to these covenants. Hoop Hole Creek I Townhomes consist of two lots labeled "Unit A" and "Unit B" as shown on a plat recorded in Map Book 10P, page 24, Carteret County Registry. Henceforth, the term "Unit" as shown on the recorded plat in Map Book 10P, page 24, shall mean "Lot". There is located on lot A a one story townhome structure elevated on pilings with parking underneath the structure which contains approximately 1300 square feet. Lot A's structure has 3 bedrooms, a combination living, dining and kitchen, and 3 bathrooms. Lot B has located thereon a one story structure below the structure on Lot A on a typical foundation which contains approximately 1300 square feet. The floor plan for the structure on Lot B has a combination living, dining and kitchen, 3

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bedrooms and 3 baths. The two structures share a common party wall and the exterior walls are wood board and batten with a fiberglass shingled roof.

3. Survey. A survey of Hoop Hole Creek I Townhomes showing the two lots A and B is recorded in Map Book 10P, page 24.

4. Definitions:

- (a) Except for the specific terms and definitions set forth hereafter, the definitions of "allocated interest", "common elements", "common expenses", "common expense liability", "person", "purchaser", "real estate", "reasonable attorney's fees", and "specific declarant rights" shall have those meanings set forth in N.C.G.S. 47F-1-103.
- (b) The following terms are used or defined in general terms and shall have the following specific meanings:
- (1) "Association" or "Owner's Association" means the Hoop Hole Creek I Owners' Association, Inc., a non-profit incorporated association established pursuant to Chapter 55A and Chapter 47F of the North Carolina General Statutes, for the management, administration and operations of the Hoop Hole Creek I Townhomes' common elements pursuant to its Articles of Incorporation.
- (2) "Common Elements" means all portions of real property which are part of the Townhome Development other than the two individual lots(A and B), and would include real property owned by or leased to the Association for the common use and enjoyment of lot owners.

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- (3) "Declarant" means Raymond R. Cutshaw Jr. and Bain Hickman, current owners of the Property, as well as any person or group of persons acting in concert with them who (i) as part of a common promotional plan offers to dispose of his or its interest in a lot not previously disposed of or (ii) reserves or succeeds to any special Declarant rights held by them.
- (4) "Declaration" means this Declaration of Protective Covenants which creates and provides for the Hoop Hole Creek I Townhome project, as well as any amendments thereto.
- (5) "Lot" shall mean and refer to a physical portion of the Property designed for separate ownership or occupancy by a lot owner as shown on a recorded plat or as provided herein, and would include any structure or improvements thereon. Any common areas shown as part of any lot would be excluded.
- (6) "Limited Common Element" means a portion of the common elements allocated by this Declaration or by operation of law for the exclusive use of one or more lot owners but fewer than all of the lot and lot owners.
- As originally established in the Condominium Declaration in Book UO-85, page 183, Lot A's limited common element includes all portion of the lot from Lee Court southerly to the common line between lots A and B, if extended east and west to the side lines of the property, subject to the common driveway easement appurtenant to Lot B located on the western portion of Lot A as shown on the plat in Map

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Book 10P, page 24, which runs from Lee Court southerly to the common line between A and B. The limited common element for lot B includes all portions of the Property from the common line between lot A and B if extended east and west to the side lines of the Property, southerly to the highwater mark of Hoop Hole Creek.

- (7) "Lot Owner" means the Declarant and/or all other persons who own a lot, as well as a lessee of a lot, but does not include a person having any interest in a lot solely for security for an obligation or promissory note.
- (8) "Purchaser" means any person, other than the Declarant or a person in the business of selling real property for the Purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in any lot, other than (i) a leasehold interest (including renewal options) of less than twenty years, or (ii) as security for an obligation.
- (9) "Real Estate" means lot 13, Hoop Hole Creek Subdivision, Atlantic Beach, Map Book 15, page 23, as shown on the recorded plat.
- (10) "Residential Purposes" means use for dwelling purposes primarily with recreational purposes as accessory uses to the primary residential dwelling use.
- (11) "Alteration" means the combination or separation of residential structures permitted by this Declaration which entails one or more of: (i) the construction of all or a portion of one or more intervening partitions, walls, floors or ceilings within or as part of or adjoining any residential

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structure; (ii) the removal or alteration of all or a portion of one or more partitions, walls, floors or ceilings within residential structures; or (iii) the creation, alteration or removal of one or more apertures in one or more intervening partitions, walls, floors or ceilings either part of, between structures, or adjoining or connected to existing structures.

- (12) "Building or Structure" means each one level townhouse structure erected on each lot and intended for single family residential use and occupancy.
- (13) "Building Limited Common Elements" means common elements contain within or part of each building or structure the use of which is limited to that particular building or structure even though the same may be part of the common elements of the property. The decks on each structure are limited common elements for the exclusive use of the owner to which the same is attached.
- (14) "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a first mortgage on a lot who has requested notice of one or more matters in accordance with this Declaration.
- (15) "Eligible Mortgagee" means a lender who holds a mortgage on a lot and who has requested notice of one or more certain matters in accordance with this Declaration.
- (16) "Insurance Trust Agreement" means that certain Agreement between the Association and the insurance trustee providing for the management and

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disbursement of insurance proceeds in accordance with this Declaration.

(17) "Insurance Trustee" refers to the Association Executive Board which shall have the responsibility for the management and administration of insurance proceeds pursuant to the Insurance Trust Agreement. All such funds prior to disbursement shall be held pursuant to the Insurance Trust Agreement in deposit accounts which are fully insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation or another federally constituted body serving in an equivalent function.

(18) "Common Party Wall" means the common wall located between the boundaries of the two adjoining residential townhouses. The common wall shall be construed and interpreted as the wall located on the common boundary between Lots A and B extended east and west to the common corners of lots A and B as shown on the recorded plat

5. "Reservations". Declarants reserve the right absolutely to change, alter or redesignate the allocated, planned, platted or recorded use, area or designation of any of the lots shown on the map of the Townhouse development recorded aforesaid so long as the Declarants retain title to the lots and property involved, so long as any changes or alterations are in conformance with the Town of Atlantic Beach Subdivision and Zoning Ordinances, including, but not limited to the right to change,

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alter or redesignate utility and drainage facilities, and to change, alter or redesignate such other present or proposed lot lines and facilities as may, in the sole judgment of the Declarants, be necessary or desirable.

6. "Owner's Easements of Enjoyment":

Section 1. Every owner shall have a right and easement of enjoyment in and to the common elements which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (c) The right of the Association to charge and assess dues, assessments and fees for the use and upkeep of common elements situated upon the common elements;
- (d) The right of the Association to limit the number of guests or members to occupancy of the dwelling based upon the building and fire codes;
- (e) The right of the Association to suspend the voting rights and the right to use the common areas for any owner for any period of time during which an assessment against his lot remains unpaid and for a period not to exceed sixty days for any infraction of its published rules and regulations;
- (f) The right of the Association to dedicate or transfer all or a part of the common elements and areas to any public agency, authority, or utility for such purposes subject to such conditions as may be agreed to by the Association;
- (g) The right of the Association to adopt, impose, and enforce regulations for the use and enjoyment of the common elements and improvements thereon, which regulations may further restrict the use of the common elements;

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- (h) The right of individual owners to the exclusive use of parking spaces which may be set aside by the Association for each lot owner or residential structure.
- (i) Notwithstanding anything contained herein to the contrary, the Association shall not alienate or transfer in any way all or any part of the common elements without the prior approval of all holders of outstanding first priority mortgages against any of the properties that are subject to this Declaration; Provided, however, this restriction shall not be applicable to grants of easements for utilities, storm sewers, sanitary sewers and other conveyances for dedication to the public or for the use and benefit of the Association.

Section 2. Any Owner may delegate, in accordance with the Association Declaration, By-Laws, and Articles of Incorporation, his right of enjoyment in and to the common elements and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property.

7. Association Management, Membership and Voting Rights.

Section 1. Every Owner of a Lot shall be a member of the Association.

Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration.

Section 2. Each member of the Association shall have one vote for each lot owned. When more than one person or entity holds an interest in a lot as an Owner, or where a lot is owned by a corporation, partnership or other form of joint venture, a Certificate of Voting in a form established by the Association

shall be filed by such Owner or Owners, as the case may be, designating the person

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who shall be entitled to cast a vote with respect to such lot; Provided, however, no Certificate of Voting shall be required when a Lot is owned solely by a husband and wife as tenants by the entirety and a vote cast by either the husband or wife in person or by proxy shall be binding upon the other unless a contrary vote is timely received by the Association, in which event, neither vote shall be counted. A certificate of voting shall be valid until such time as the Association receives a subsequent Certificate of Voting. If no Certificate of Voting is properly filed with the Association with respect to a lot which requires such a certificate, no vote shall be allowed with respect to said lot until such time as a certificate of voting is properly filed with the Association. In no event shall any fractional vote be counted or more than one vote be cast with respect to any one lot.

Section 3. Management of the affairs of the Association shall be carried out in accordance with the terms and conditions of this Declaration, the terms and conditions of the Articles of Incorporation, and the By-Laws of the Association as adopted;

8. Residential Use.

A. Single Family Residential Use Only. All designated lots shall be used for single family residential purposes only. No structures shall be constructed, altered, placed or permitted to remain on any lot in the Development unless the same is a single family residence. A residence may not be divided nor may any portion less than the entire residence be rented out. No residence may be altered in such a manner as to create or provide for more than one living unit per lot for one single family.

B. Permitted Rentals. Every owner shall be permitted to rent his or her home for periods of not less than a 2 day weekend or one week intervals. All rentals as well as tenants,

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guests and invitees, shall be subject to rules and regulations which may be established from time to time by the Executive Board of the Association, and any lease of a residential dwelling on any lot shall be deemed subject to such rules and regulations, and the Association shall have the right to enforce violations of the rules and regulations against both the owner and the owner's tenants, guests and invitees.

9. Mobile Home Prohibition. Mobile homes, trailers, manufactured homes, modular homes, tents and all other structures of a temporary character are expressly prohibited from being placed, put or maintained on any lot at any time. Provided, this prohibition shall not apply to shelters used by a Contractor or Builder during the re-construction of a single family dwelling so long as said temporary shelter is not used at any time as a residence and said temporary shelter is immediately removed following completion of the dwelling. As used herein, the term "mobile home" and "manufactured home" shall have those definitions and meanings set forth in G.S. 41-2.5, G. S. 143-143.9(6), and G.S. 143-145(7). Provided, that the width and length of a manufactured home, or mobile home shall be irrelevant and inapplicable as it is the intent of these Covenants to prohibit manufactured homes, modular homes and mobile homes of all sizes regardless of length or width.

10. Stick Built Construction Required. Only stick built single family townhome structures first submitted to and approved by the Declarant or their successors in interest or assigns as the Architectural Control Committee shall be permitted on any of the lots. A "modular" home which is defined herein as a prefabricated structure having floors, walls, ceilings, or roof composed of sections or panels of varying size which have been fabricated prior to erection on a building foundation, shall be prohibited. No buildings or structures of any

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kind shall be permitted on any lot within the development unless first submitted to and approved in advance by the Architectural Control Committee and Declarant in accordance with the paragraphs hereafter.

11. Screening of Tanks and Storage Receptacles. All propane tanks or similar storage receptacles are prohibited from being exposed to view. Any such receptacles may be installed only within a screened area, under steps or stairways, within a building, or buried underground, if permitted by the building code. However, the Declarant shall be permitted to erect, place or permit the placement of tanks, equipment or other apparatus for uses related to the provision of sewage, water and other utilities to the Property.

12. Minimum Building Requirements.

- A. No residential structure shall be hereafter erected, placed, altered or permitted to remain on any lot other than a single family townhouse dwelling not to exceed one story in height. Outbuildings are prohibited unless both Owners reach a written agreement as to the location, style and placement of the outbuildings and the same shall be designed, located and used in accordance with the Town of Atlantic Beach's ordinances and in such a manner as not to interfere with views or enjoyment of the waterviews of either owner.
- B. Each townhouse dwelling shall contain not less than 1300 square feet of enclosed total heated area with regard to the one story structure on each lot. As used herein the term "enclosed heated area" shall mean the total enclosed heated area within a dwelling, excluding parking areas, terraces, decks, unenclosed porches and similar areas.
- C. All buildings or structures shall be erected or placed on any lot in accordance with the applicable covenant or building code provision, whichever is more restrictive. Nothing herein

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shall require or impose any setback requirement with regard to the common party walls between adjoining townhome dwellings as it is within the contemplation of the Declarant that Hoop Hole Creek I Townhomes will have two lots with adjoining townhome dwellings thereon with a zero lot line along the common wall between the two structures.

13. Conveyance of Single Family Townhouse Dwelling. Regardless of any provision in these Restrictive Covenants to the contrary, nothing herein shall prohibit or prevent the conveyance of a part or portion of any lot in order to convey one separate living quarters townhouse residence located thereon.

14. Party Walls.

Section 1. General rules of law shall apply with regard to party walls. Each wall which is built as a part of the original construction of the townhomes upon the phases and lots and placed between the separate living quarters of single family townhomes shall constitute a party wall, and, to the extent not inconsistent with the provisions of this paragraph, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repairs and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by each owner who makes use of the common wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a

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larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this paragraph, any owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this paragraph shall be appurtenant to the lot and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this paragraph, each lot owner shall choose one arbitrator, and the two arbitrators so chosen shall select the third, and the majority decision of the arbitrators shall be binding on the owners thereto. In the event the lot owners fail to arbitrate any matter in dispute, then the Executive Board is authorized to arbitrate the matter and to render a decision binding upon the lot owners.

15. Exterior Appearance.

Section 1. In the event of fire, hurricane, acts of God or other substantial damage that requires the reconstruction or repair of either or both structures, the exterior of the townhomes or other structures hereafter erected must be completed within 12 months after construction is commenced, except under certain circumstances where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities.

Section 2. Each lot owner shall provide receptacles for garbage and trash in a screened area not

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generally visible from the road giving access to each lot, or shall retain the same in the enclosed garage or to rear of the owner's townhome not generally visible by the other owner and his family and guests. All gas tanks shall be enclosed within a fence, wall or plant screen or shall be placed under the steps or stairway so that the same shall not be visible from any street or adjoining townhome lot..

Section 3. The Townhome on lot A on the ground floor has space for parking two automobiles. The owner of Lot A and his guests and invitees shall refrain from parking on the driveway which serves as access to Lot B. Lot B has parking areas within its limited common elements and the Owner of Lot B likewise shall refrain from parking on the limited common elements of Lot A so as to interfere with the access by the Owner of Lot A and his guests and invitees to his structure or parking areas. Other than in these locations specifically set aside for parking on each lot, no other vehicles shall be parked or placed in any other location except as permitted by the Rules of the Association so that the driveways serving the two townhomes will remain open and not be blocked for use by the owners, guests or families of either or both townhome lots. The Association shall have the authority to adopt and enforce rules regarding the parking of vehicles on each lot or within the common areas for automobiles and to insure that the driveways will not be blocked.

Section 4. The maximum building height of any residential dwelling and accessory building shall not exceed the maximum building height permitted by the Town of Atlantic Beach Building Ordinances. In the event either or both structures are hereafter rebuilt or reconstructed, the height, elevation, style, design and layout shall be generally carried out and completed in conformity with the existing structures except as may be required by the Town's

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flood and building regulations.

Section 5. Clothes lines and television satellites discs exceeding 24 inches in diameter are expressly prohibited. Any television satellite disc meeting the requirements of not exceeding 24 inches in diameter shall additionally be installed either at a location on the roof or to the rear of the main townhouse dwelling and/or screened appropriately with fencing or vegetation so that the same is not easily seen or observed from adjoining lots or the street on which the lot fronts. The placement of garbage, trash and refuse and containers therefore shall be in accordance with such rules and regulations as may be established from time to time by the Town of Atlantic Beach and the Hoop Hole Creek I Owner's Association, Inc.

Section 6. The driveways leading from the single family townhomes to the street shall be paved with stone, paving brick or other materials which are pervious and will allow the drainage of stormwater into the soils and sands or into any french drains or pits below portions of the driveways. The specific type of materials used is subject to approval of the Architectural Control Committee.

Section 7. The Association shall have the right to require that campers, boats, trailers, recreational vehicles or trucks exceeding 1 ½ tons be parked and located either on the ground level or immediately to the rear of the structure on Lot B and at a location not interfering with a view of the water by either structure, or at a location off site.

Section 8. No lot owner shall be permitted to fill in or alter any drainage system or area without the written approval of the Association.

Section 9. No metal or wire fencing shall be permitted on any lot or portion thereof. All other fencing materials and the location of the same s shall be required to be approved in advance by

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the Architectural Control Committee before being used or installed. The maximum height for fencing if so approved shall be four feet for any front, side or rear yard and no fencing shall be installed within the common areas.

Section 10. Window Appearance. All draperies or other window dressings in each single family townhouse dwelling visible from the street shall be white or soft pastel colors or in lieu thereof shall have a white or off white lining.

16. Architectural Control Committee.

Section 1. There is hereby established an Architectural Control Committee (herein "Committee") which shall be composed of the Declarants or their assignee as long as the Declarants own or have an ownership interest in a lot, and at such time as the Declarants no longer have an interest in a lot, then the Committee shall be appointees of the Declarants not exceeding 3 persons or upon failure of appointees, then the Association Executive Board shall serve as the Committee.

Section 2. No building, dwelling or structure of any type shall be hereafter erected, constructed, placed or altered on any lot until the construction plans and specifications showing the location and footprint of the structure, dwelling, buildings, driveway and utility systems, and detailing the type and quality of workmanship or exterior design, materials, location, finish grade elevation, vegetation removal and similar features of the structure, dwelling and building have been approved by a majority vote of the Architectural Control Committee. The Architectural Control Committee shall have the authority to review and approve the quality of workmanship, use and design of materials, harmony of exterior design with the existing structures, location vegetation removal, topography and finish grade elevation of any structure, building or

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dwelling, location and similar building and architectural features. Approval shall also be required by the Architectural Control Committee as to all outbuildings, fences, lot structures, clearing and landscaping. The Architectural Control Committee may also grant variances as to setback requirements if necessary or desirable because of topography, vegetation, irregular lot shape and similar factors. However, any such variance shall be conditioned upon approval of a similar variance by the Town of Atlantic Beach if so required by the Town's applicable ordinances and regulations.

Section 3. All plans and drawings shall be submitted to the Architectural Control Committee and thereafter reviewed by the Architectural Control Committee within thirty days. Approval or disapproval by the Committee shall be in writing, and reasons for denial of approval shall be specified therein. Denial may be based upon design, appearance and/or aesthetics or the lack thereof in the absolute discretion of the Architectural Control Committee. In the event the Committee fails to approval or disapprove an application within thirty days after plans and specifications have been submitted, then these covenants shall be deemed to have be complied within. If the new structure, renovations or new construction is being carried out as a result of fire or storm damage, then the same shall be required to closely match or mirror as possible the design, size, shape, layout, appearance and materials of the original structures and the adjoining townhome structure still existing.

17. Nuisances, Pets, Inoperable Vehicles, Etc.

- A. No unserviceable motor vehicles, appliances or other assorted junk and useless materials may be kept on any lot. All lots shall be maintained free and clear of rubbish and debris.
- B. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be

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done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood. No horses, fowl, livestock or other animals shall be allowed on any of the lots, except that lot Owners actually residing upon their lots may keep pets which are customarily domesticated, tame and considered house pets such as dogs, cats and birds, so long as the number does not exceed two per lot. Additionally the pet(s) shall be maintained inside the residence, and the pets shall be restrained from constant barking or shall be removed from the site if such barking and noise continues. Additionally, any household pet must be removed upon notice by the Owners Association if the Owners' Association determines that there is excessive noise or excessive smell from the habits and living conditions of the pet, or that the pet displays dangerous propensities, following written warning to the owner thereof and failure of the owner following reasonable notice to remedy the situation. Such determination shall be exclusively the authority and providence of the Owners' Association and any lot owner purchasing a lot shall be bound by this covenant and is charged with notice that any animal or pet located on a lot owner's property which causes excessive barking or noise, offers or shows dangerous propensities, or offending smells or habits, may be summarily removed by the Homeowners' Association following one warning.

18. Exterior Maintenance. All residential townhome dwellings shall be maintained in their original architectural design as closely as possible and no changes shall be made to the exterior which would alter or change the exterior appearance without the prior approval of the Declarant, Architectural Control Committee or Executive Board at such time as the development has been completely built out. The Association is authorized to maintain the exterior of each single family townhouse residence, yard and accessory building in a good state

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of repair and appearance, including but not limited to maintenance of yard, shrubs, landscaping, fencing, roof, siding, windows, doors, painting, trim and other exterior features, so as to maintain property values and to make the structures on the lot aesthetically pleasing and as close to the original design, paint colors and similar features as possible. Adjoining townhouse structures shall be painted and maintained with the same colors, trim and exterior features as originally completed, reasonable wear and tear excepted.

19. Insurance, Reconstruction and Resale.

Section 1. In the event of damage to any townhouse residence or other structure by fire or other casualty, the exterior of the building or structure shall be repaired within six (6) months or the building structures shall be demolished and the premises cleared of debris. Within six (6) months of the date the damage occurred, reconstruction shall have commenced as to the residence following approval by the Architectural Control Committee and the Declarant in accordance with Paragraphs 17 and 18 above. The lot owner shall use the insurance proceeds to rebuild if the consent of any lienholder on the lot may be so obtained, or if consent to rebuild can not be obtained, the Association and/or other lot owner may require that the lot owner sell said lot first to the Association or then to the other lot owner. Association shall notify Owner in writing that it is exercising its rights hereunder to require that the lot owner resell to the Association and/or Declarant as a result of the lot owner failing to reconstruct or rebuild. The sales price shall be the lot's appraised fair market value which shall be determined by a certified real estate appraiser. The Association as part of its written notice to the Owner shall specify three certified appraisers therein and in the event Owner fails to select one of the three within seven (7) days thereafter, then Association shall have the right to select one of the three on the

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list. "Certified appraiser" shall be defined as a person, firm or corporation having the requisite training and education for the appraisal of residential lots in Carteret County, North Carolina, and is on an approved list for such by two or more banks or mortgage lenders in Carteret County, North Carolina.

Once the appraised fair market value has been determined, Owner shall be notified as to the appraisal, and Association may require that the Owner convey said lot to the Association at its appraised value within ten (10) days thereafter, and if the Association foregoes purchase of said lot, the other lot owner for a period of ten (10) days thereafter may exercise the Association's right to repurchase at the same appraised value. Nothing herein shall require the repurchase of said lot by the Association or other owner but the Association may require Owner to either rebuild or demolish and remove all debris from the lot through an appropriate court action.

20. Required Insurance. In order to insure that adequate insurance is on hand for an Owner to rebuild in the event of a fire or other casualty, the Association shall require and each owner shall pay for and keep in full force and effect one or more policies of insurance covering fire, wind and hail, and flood if so located in a flood zone, and similar perils on their residential townhouse. Said insurance coverage shall be for replacement costs and upon completion of each dwelling and lot improvements, there shall be filed with the Association and other owner evidence of insurance coverage through a certificate of insurance. Additionally, each Owner shall be required to annually provide written evidence of insurance to the other owner and the Association. Every Owner prior to reconstruction of a dwelling shall also be required to obtain builder's risk coverage during reconstruction of the dwelling.

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The Association may specify the particulars of insurance coverage on each dwelling including the company, coverage, deductible provisions, agent and the like. In the event any Owner should fail to comply with the insurance requirements of this section, the Association is authorized to procure insurance coverage and to assess the Owner the premiums therefore. Failure to pay the premiums shall constitute default and shall entitle the Association to collect the premium together with interest at eighteen percent (18%) per annum from the date of payment, attorney's fees and other incidental expenses. Additionally, the Association's costs and expenses shall likewise constitute a lien and be enforceable in the same manner as for annual assessments.

The Association Board of Directors upon failure of a lot owner to rebuild using the insurance proceeds may intervene and recover the proceeds and use the same to rebuild, or may require the lot owner to sell the lot and payoff any liens using the insurance proceeds.

The Declarant and the Association Board of Directors shall have the right to establish maximum deductible sums for each policy procured, to require that all such policies be written by a company approved to do business in the State of North Carolina, and to fix such other procedural details and requirements for insurance coverage as deemed necessary or appropriate by the Association.

Section 21. Signs. Without the prior written permission of the Architectural Control Committee, no sign of any character shall be displayed on any lot except for a property identification sign not exceeding two square feet, and "for sale" or "for rent" signs not exceeding six square feet in size each.

22. Subdividing. No lot shall be further subdivided, or its boundary lines changed, except

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with the prior written consent of the Declarants. Likewise, no lot shall be used as a street, road, lane, way or easement over which access may be obtained from the real property or lot to any adjacent properties without the prior specific written consent of the Declarant.

23. Non-Business Use. Each lot and the residential townhouse dwelling thereon shall be restricted to residential use only and may not be used for any other purposes by a lot owner or his tenants, guests or invitees. No lot owner may permit his lot and residential dwelling to be used or occupied for any prohibited purposes.

24. Easements.

A. Utility Easements. The Declarants reserves unto themselves a perpetual, alienable and releasable easement and right-of-way on, over, under, through and upon the ground with men and equipment to erect, maintain, and inspect, repair and use electric and telephone poles, wires, cables, conduits, sewers, nitrification lines, water mains and pipes and other suitable equipment for the conveyance and use of electricity, telephone equipment, cable television, gas, sewage, water and community utilities or conveniences in and over the front and rear 10 feet of each lot and five feet along each side line, as well as other common areas that maybe shown on the recorded map of the development, together with the right to cut drainways for surface water whenever action may appear to the Declarant to be necessary in or to maintain reasonable standards of health, safety and appearance. These easements and rights-of-way expressly include the right to cut trees, bushes or shrubbery, grading of the soil, or to take similar actions reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to assign said easements to the Association or one or more public or private water and/or sewer

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utility companies for service to each lot in the future.

B. Association Easements. There is hereby granted to the Declarant and Association as well as the appropriate utility companies easements for electrical, gas, elevator, telephone, water, cable television, and sewer facilities as may be desirable or necessary to adequately serve the lots and all appurtenances thereto, including but not limited to the right to install, lay, maintain, repair, relocate and replace water mains and pipes, gas mains and pipes, sewer and drain lines, telephone and communication wires, cables and equipment, electrical wires and conduits, elevator shaft, wires and cables, and associated equipment, over, under, through, in, along and on each lot and the common elements. Additionally, easements are reserved by the Declarant and hereby granted to the Association for such utility lines and equipment in and to each residential townhouse dwelling for the installation, maintenance, repair, relocation and repair of utility lines and equipment for such services.

C. Common Element Easements. The common elements as well as limited common elements are hereby made subject to an easement in favor of the Declarant, the Association and the agent and employees of the Declarant and Association, as well as utility companies serving the same, for the installation, construction, maintenance, repair, relocation and replacement of all utility services and equipment to serve both the common elements as well as individual residential townhouses on lots.

D. Access Easements. The common elements shall be and are hereby made subject to an easement in favor of all lot owners, the Association, the members of the Association, and their invitees, employees, tenants, guests and servants, for purposes of access, egress and ingress, over, through and across each portion of the common elements, for repairs, reconstruction,

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maintenance and upkeep of all lots and the structures thereon, access to and from each residential structure, and for such purposes as deemed necessary or desirable by the Executive Board, and such right of use and access shall be subject to the authority of the Executive Board to adopt from time to time such rules and regulations regarding the same. The access areas shall not be blocked and vehicles and other equipment or property of any kind shall not be placed or allowed to remain in the access areas. Parking is prohibited in the common driveways serving each lot so that each lot owner and their guests and invitees may enter or go out the access drive to and from Lee Court.

E. Tri-Party Agreement with the Carteret County Health Department for Septic Tank System Maintenance. Declarant has heretofore entered into an agreement with the Hoop Hole Creek I Owners' Association, Inc. and the Carteret County Health Department for the future maintenance of the sewer/septic tank system, lines and equipment installed within the common elements of each phase and serving each lot which Tri-Party Agreement obligates the Association to provide all future assessments, costs, and funds necessary in order to perpetually maintain the sewer/septic tank systems, lines and equipment, serving the lots thereon until such time as a community sewer system is otherwise available to serve the development. The Association and each lot owner is hereby granted a perpetual easement and right of way on, over, under, through and upon each lot and the common areas in order to locate, construct, connect to, maintain and reconstruct the sewer/ septic tank system, nitrification lines, and equipment serving each lot thereon. The Association shall have the continuing obligation to maintain the sewer/septic tank system serving the lots and shall be obligated to include in its budget sufficient revenues for the perpetual maintenance and upkeep of the sewer/septic tank

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system. The Association shall further have the right to adopt and enforce rules and regulations concerning the proper maintenance, use and care of the system, as well as the tie-in connections to and discharges into the system.

F. Common Areas. The Association shall have the right to adopt rules and regulations concerning use of the common areas and any recreational amenities located or to be hereafter located within the common areas, including any swimming pool, docks or similar common amenities which may be hereafter placed or installed, and shall have the continuing obligation through dues and assessments charged each lot owner to provide for the upkeep, maintenance, repair and reconstruction of such amenities as part of the Association's budget.

G. Granting of Easements. The Association is authorized to grant permits, licenses and easements over the lots and common elements for maintenance, repair and reconstruction of structures, yard upkeep, and utilities or such other purposes reasonably necessary or useful for the maintenance or operations of the development.

25. Rights of Mortgagees. Each holder or insurer of a mortgage, upon written request to the Association, such request to state the name and address of such holder or insurer, the lot owner/mortgagor, and the description of the secured property, will be entitled to timely written notice of:

- (1) Any condemnation or casualty loss that affects either a material portion of the project or the lot securing the mortgage.
- 2) any 60 day delinquency in the payment of assessments or charges owed by the owner of any lot upon which it holds a mortgage.

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(3) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association.

(4) Any proposed amendment to this Declaration or the plats recorded in connection therewith which effects a change in the boundaries of any lot, ownership of common elements, if any, the number of votes in the Association pertaining to said lot, or any proposed material changes in this Declaration which would substantially affect the rights of the mortgage holder.

26. Covenants Run With the Land. These Covenants and Restrictions shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these Covenants are recorded, after which time such Covenants shall be automatically extended for successive periods of ten (10) years each. These Covenants and Restrictions may be amended by an instrument executed by not less than one or more lot owners (including Declarant) representing ownership of not less than 2/3's of all lots under the provisions of these covenants. Any such amendment shall be effective upon recordation.

27. Violations. In the event of a violation or breach of any of these Covenants by any lot Owner or other person, the Declarant, Owners' Association or anyone or more Owners of lots in the Development, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms and conditions set forth herein and to prevent the violation or breach of these Covenants, and to recover damages as compensation for a breach or violation of these Covenants. Any failure to enforce any right, reservation, or conditions

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contained in these Covenants, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach, or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.

The Town of Atlantic Beach is further given the right to enforce these covenants with regard to failure to perform any act required by Town or State Ordinances, rules and regulations.

28. Invalidation. The invalidation by a Court or other public agency of any of the provisions of these Covenants shall not in any way affect any of the remaining provisions, and the same shall remain in full force and effect.

30. Arbitration. In the event any dispute, impasse or disagreement should occur between the owners of the lots or between officers or directors of the Association which can not be resolved, then the matter shall be required to be submitted to binding arbitration upon written request by any owner, member or director. Each party or side shall designate their arbitrator in writing to the other, and the two arbitrators so selected shall then appoint a third who shall have no financial interest or other conflict of interest with the two owners. Arbitration shall then proceed in accordance with North Carolina law as to the hearing, notices and matters presented, and the decision of the majority shall be binding upon the parties to the dispute.

ARTICLE II - HOOP HOLE CREEK I OWNERS' ASSOCIATION, INC.,
ASSESSMENTS, EASEMENTS AND MAINTENANCE OF LOTS
AND COMMON ELEMENTS

1. Creation of HOOP HOLE CREEK I OWNERS' ASSOCIATION, INC. Declarant has heretofore incorporated a non-profit corporation entitled "Hoop Hole Creek I Owners'

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Association, Inc.” (Herein “Owners’ Association”) by the filing of articles in the Office of the Secretary of State with a copy of the same being attached hereto as Exhibit A. Said Association has been created for the benefit of all lot Owners within the Townhome Development, and so as to provide for the maintenance, upkeep and repair of yards, lots, structures, common elements, open space areas, easements and recreational areas, as well as the management and administration of Association properties within the Development.

2. Association Membership. There shall only be one type of membership in the Association, a regular membership, which shall be limited to Owners of lots within the Townhome project. Every owner of a lot in the Townhome Development shall become a regular member of the Association upon the date of recordation of a deed conveying the lot to the purchaser. Every owner as a member of the Association shall be bound by the terms and conditions set forth in these covenants, and every lot owner and his heirs, successors in interest and assigns, shall be obligated to comply with the duties and obligations set forth herein. Regular ownership shall be appurtenant to the lot owned by each lot owner and may not be severed, separately transferred or conveyed.

3. Association Properties and Authority to Assess and Rebuild Structures.

A. Driveway, Sewer System and Parking Areas.

The Association properties shall initially consist of all areas of the Townhome Project outside the lot lines as shown on a recorded plat. The common driveways are part of the common areas and are being provided to each lot owner for ingress, ingress and egress to and from each lot to Lee Court, and no vehicle or other impediment to vehicular use of the same shall be placed or allowed to be parked or to remain within the access drives so as

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to block circular traffic. The parking areas under the structure on Lot A and the parking area to the north of Lot B's Structure are limited common areas for the parking of vehicles for both lots so long as such parking uses do not block the use of the common drives for either lot owner or their guests and invitees.

The septic tank systems are also part of the common areas subject to the authority of the Association to regulate use of the same, to provide through dues and assessments upkeep, maintenance and replacement, and to insure against claims for personal injuries or death.

B. Use of Specified Limited Common Elements and Front, Side and Rear lot areas.

The limited common elements defined above and the side and rear yards of each lot as shown on the recorded plat are limited common elements for the use and enjoyment of each lot owner.

However, the Association shall be entitled to use the front, rear and side yards and limited common elements for access to and from the street for the upkeep, maintenance, reconstruction and replacement of the structures, utility placement, construction and repair, and for the sewer/septic sewer system for each lot.

C. Sewer/septic System Maintenance.

It shall be the responsibility of the Owners' Association to permanently maintain the sewer/septic system within the common areas serving each lot in accordance with the State of North Carolina and Carteret County Health Department rules and regulations.

D. Repairs to Exterior Of Residential Structures.

The Association shall further have the duty to budget for and carry out all required maintenance and repairs to the common areas, to the exterior of each residential structure including the decks and stairways attached to the exterior of each structure even though limited common

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elements, and to the septic sewer system in accordance with this Declaration and State and County rules and regulations, and the Association shall have a perpetual easement over, through and on the front side and rear yards of each lot and common areas as well as to the interior of the townhouse structures as necessary for such purposes. The Association shall also have the power to assess a lot owner whose structure has been damaged or destroyed for all costs and expenses to rebuild, replace or reconstruct all or any portion of the residential structure, sewage system and other portions of improvements which are the responsibility of the Association and are not covered by insurance, and the Association may require that the lot owner cause the insurance proceeds to be paid over to the Association for the purpose of rebuilding, repairing or replacing the structure.

4. Easements of Enjoyment. Every member of the Association shall have a right and easement of enjoyment in and to the Association properties. Each regular member may delegate, in accordance with the By-laws, his right of enjoyment to the Common Areas and facilities to the members of his family, tenants, or contract purchasers who reside on the property. Such rights of use and enjoyment shall be subject to the following provisions:

(a) The Association shall have the right to charge dues and assessments for the upkeep and maintenance of Association properties, recreational areas, septic system easements, lots, structures, elevator system and other amenities which are the responsibility of the Association herein. Likewise, the Association shall have the right to charge dues and assessments for the construction and maintenance of any improvements on lots, Recreational Areas and other common elements, and to provide for all types of insurance for the Association and its properties, as well as the upkeep and maintenance of easements, sewer systems, and other

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development common areas and facilities.

(b) The Association shall have the right to suspend the right to the use of any Association Properties by any Member for any period during which any dues or assessments against such Member are overdue and unpaid, and for a period not exceeding sixty (60) days for any infraction of rules and regulations established by the Association for the regulation and control of Association Properties. Likewise, the Association shall have the right to fine any Member an amount not exceeding \$50.00 for each violation of rules and regulations established by the Association. The Association shall further have the right to require the parking and storage of boats, recreation vehicles, campers, trailers and similar vehicles, at specified off site locations.

(C) The Association by rules and regulations established from time to time shall have the right to provide for the use and enjoyment of Recreational Areas and Association Properties. This right to the use of Association Properties shall extend to regular members of the Association and relatives of members who reside with and in the house of members, the member's tenants, and contract purchasers of lots in the development who reside on the lot.

5. Voting Rights. Each lot owner shall have one vote for each lot he or she may own in the property. Lots which are owned by multiple Owners, whether tenants in common, tenants by the entirety, or some other entity, shall have one vote per lot and the Owners thereof shall designate in writing the person who shall be entitled to cast a vote for the group. If any Owner shall own more than one lot, said Owner shall have one vote for each lot owned. Provided, the exercise of voting rights is subject to being suspended or terminated in accordance with Paragraph 12 hereafter for nonpayment of dues or violation of rules and regulations. Persons or entities holding a lot merely as security for the performance of a loan or other obligation shall

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not be members.

6. Membership Dues and Assessments.

- A. Every Owner of a lot in the Development by the acceptance of a deed to the same, which shall be conclusively evidenced by the recordation of a deed in the Office of the Carteret County Register of Deeds, hereby covenants and agrees to pay to the Association such monthly, quarterly or annual dues and assessments as may be established by the Association for the maintenance and upkeep of lots, yard, structures and Association properties, capital improvements and the construction of improvements and facilities on or to Association properties, maintenance and landscaping on lots, and the administration of properties and facilities assigned to the Association for operation and management. Such dues and assessments together with interest at the legal rate of interest, costs and reasonable attorney's fees if the dues and assessments remain unpaid, shall be a continuing lien on each lot against which said assessment is made until paid in full. Said dues and assessments shall also be the personal obligation of the Owner of each lot at the time the dues and assessments become due, and the personal obligation shall not pass to a successor in title unless expressly assumed by the successor. However, said dues and assessments shall be a lien on said lot and a sale or transfer of any lot shall not affect the lien for unpaid dues or special assessments against said lot.
- B. The dues and assessments shall be used exclusively for the purpose of maintaining and improving septic and sewer easements and systems, drainage facilities, open spaces, upkeep, maintenance and reconstruction of structures, the upkeep and maintenance of yards, and the maintenance and upkeep of Association properties, the construction of improvements and facilities thereon, the upkeep, maintenance, operation, and management of the recreational

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facilities, the acquisition and payment of all types of property, casualty and liability insurance for structures and the Association, the upkeep, maintenance, and replacement of equipment, improvements, and facilities thereon, the costs of repairs and the hiring of contractors, professionals, and other firms, and generally the promotion of the recreational, health, safety, and welfare of the membership. Generally, the dues and assessments may be used to fund any of the activities, powers and authority of the Association as set forth in the Association's Articles of Incorporation and By-Laws and as the Association may be authorized to carry out as a nonprofit owners' association.

C. The dues and assessments shall be used exclusively for the purpose of maintaining and improving landscaping, the maintenance and upkeep of townhouse structures, Association properties, landscaping and yard maintenance of the individual lots and the common areas, the construction of improvements and facilities thereon, the upkeep, maintenance, operation and management of structures, lots, properties or facilities leased to or assigned to the Association in accordance with these Covenants, as well as the upkeep, maintenance and replacement of equipment, improvements and facilities thereon, and generally for the promotion of the recreational, health, safety and welfare of the membership. Additionally, the dues and assessments may be used for acquiring all types of property, casualty and liability insurance, and the dues and assessments may be used to fund any of the activities, powers and authority of the Association as the Association is authorized to do as a non-profit Owners' Association.

D. The obligation to pay dues shall commence as to all members purchasing lots on the date the deed to the lot from the Declarant shall be recorded as to each lot.

7. Maximum Annual Assessment Until January 1 of the year immediately following the

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conveyance of the first lot to an Owner, the maximum annual assessment shall be \$ 3600.00 per lot, payable monthly or quarterly as determined by the Association.

A. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased each year not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the regular membership.

B. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased above ten (10%) percent by a majority vote of the regular members of the association who are voting either in person or by proxy, at a meeting duly called for said purpose.

C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

8. Special Assessments for Capital Improvements. In addition to the annual assessments authorized in Paragraph 7 above, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any lot(s) and the common elements, or property or facilities assigned to the Association for operation and administration, including equipment, fixtures and personal property related thereto, provided that any such assessment shall have the assent of fifty one (51%) percent of the regular members of the Association who are voting in person or by proxy at a meeting duly called for this purpose.

9. Notice and Quorum for Actions under Paragraphs 7 and 8. Written notice of any meeting

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called for the purpose of taking any action authorized under Sections 7 or 8 above shall be sent to all Regular Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) percent of all the votes of the membership of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

10. Non-Payment of Assessments. Any Member failing to pay the annual assessments and dues or any fees or charges authorized by the Association within a period of thirty (30) days after the billing thereof, shall be deemed to be in default. The Board of Directors shall cause to be filed in the Office of the Clerk of Superior Court or in the Office of the Register of Deeds of Carteret County an instrument suitable for recordation which shall set for the name of the Owners, the lot description, the amount of the assessment, the date the assessment was due, and the fact that the Board of Directors has given the Owner notice of said assessment and said Owner has failed to pay said assessment. In addition to the assessment so stated, all amounts necessary for the collection of said assessment, including, but not limited to mailing cost, recording cost, and a reasonable attorney's fee incurred for the collection thereof, together with interest at the legal rate of interest, shall constitute a lien against said lot and shall be due and payable from the delinquent Owner.

Following the recordation of said lien, the Board of Directors are authorized to institute an appropriate action in a Court having jurisdiction over the subject matter and the parties in order

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to collect the assessments, interest, cost and attorney's fees from the Owners and in order to effect a sale of the property to satisfy the lien for the delinquent assessments and expenses.

11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any lot shall not effect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to the sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. Likewise, the sale or transfer shall not relieve the lot Owner from personal liability therefrom.

12. Suspension or Termination of Voting Rights. In addition to any other rights the Association may have with regard to non-payment of assessments and dues, the payment of any assessments levied by the Association shall be a prerequisite to the exercise of any voting rights earlier provided for herein and for serving on the Board of Directors of the Association. Any member failing to pay the assessments or dues on his lot so that the same thereafter become delinquent, shall be deemed ineligible to vote at any annual or special meeting of the membership and shall be deemed ineligible to serve on the Board of Directors or as an officer of the Association so long as said delinquency continues.

13. By-laws and Rules and Regulations. The initial By-laws adopted by the Board of Directors of said Association are set forth on Exhibit B attached hereto and incorporated by reference. All Owners of lots together with their guests, families and invitees shall be bound by and fully comply with the By-laws of said Association as well as the Articles of Incorporation attached as Exhibit A. The Association shall have the authority to adopt amendments to the By-laws

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governing the business and affairs of the Association from time to time in the manner and procedures prescribed by the By-laws and Articles of Incorporation attached as Exhibits hereto. The By-laws set forth the organization of the Board of Directors and Officers, the time and manner of meetings of the Association, quorum and voting procedures, and other rights, powers, responsibilities, duties and obligations of the officers, directors and members of the Association.

The Association shall further have the authority to adopt from time to time rules and regulations regarding the duties and responsibilities of the Association and its individual members with regard to the use, enjoyment, maintenance, Ownership, upkeep and maintenance of Association Properties and the purposes of the Association.

14. Lenders' Rights: Consent to Withdrawal and to Submission of Declaration. Whenever any lender holding any mortgage or lien upon any lot or lots shall notify the Association in writing identifying the lot or lots upon which the mortgage or lien is held, further identifying the owner or owners of said lots as well as the name and address of said lender to which notices are to be mailed, and each lender shall have the right to be given notice of each membership meeting and to designate a representative at said meeting, to be given written notice of default as to any lot owner(s) or lot(s) encumbered by the lender's lien, to be given notice of any damage or loss to the common areas of the Development exceeding \$5,000.00, to receive notice of any governmental condemnation or eminent domain proceeding, to receive written notice of the delinquency and the payment of assessments and dues by a lot owner(s) covered by lender's lien or mortgage, to receive notice of the cancellation or substantial modification of any insurance policies or fidelity bonds of the Association, and to receive notice of any proposed

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action which would require the consent of the lienholder.

IN WITNESS WHEREOF, the Declarants have executed this instrument on the day and year first above written.

Raymond R. Cutshaw, Jr. (Seal)

Raymond R. Cutshaw, Jr.

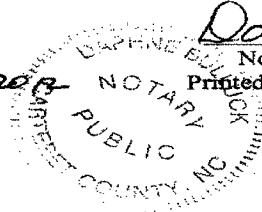
Bain Hickman (Seal)
Bain Hickman

STATE OF NORTH CAROLINA
COUNTY OF Carteret

I, Daphne Bulluck, a Notary Public for the County and State aforesaid, certify that Raymond R. Cutshaw, Jr. personally came before me this day and acknowledged the due execution the foregoing instrument.

Witness my hand and official stamp or seal, this the 15 day of Sept, 2010.

My Commission expires: 11/21/2012



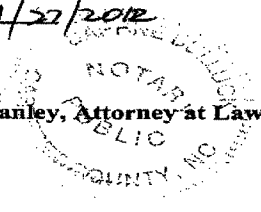
Daphne Bulluck
Notary Public
Printed Name: Daphne Bulluck

STATE OF NORTH CAROLINA
COUNTY OF Carteret

I, Daphne Bulluck, a Notary Public for the County and State aforesaid, certify that Bain Hickman personally came before me this day and acknowledged the due execution the foregoing instrument. Witness my hand and official stamp or seal, this the 15 day of

Sept, 2010.

My Commission expires: 11/20/2012



Daphne Bulluck
Notary Public
Printed Name: Daphne Bulluck

Prepared by Richard L. Stanley, Attorney at Law, P. O. Box 150, Beaufort, NC 28516

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CONSENT BY LIEN HOLDER

State Employees Credit Union, Beneficiary in that certain deed of trust on Unit B of Hoop Hole Creek I Condominiums executed by Bain Hickman, dated November 19, 2003, recorded November 25, 2003 in Book 1029, page 149, Carteret County Registry, in the sum of \$74000.00, does hereby consent to the Withdrawal of the Declaration of Unit Ownership for Hoop Hole Creek I Condominium, Atlantic Beach, North Carolina, and the submission of the Property described as lot 13 Hoop Hole Creek Subdivision, Atlantic Beach, NC, to the Declaration of Covenants for Hoop Hole Creek I Townhomes which has as its primary purpose alteration of the form of ownership from condominium units to individual lots or townhome use so that the townhome lots may hereafter be held, owned, mortgaged, leased and used as townhome lots each having 1 story residential structures thereon, and the same may be individually insured as townhome lots.

STATE EMPLOYEES CREDIT UNION

By: Philip E. GreerName of Officer: Philip E. GreerTitle of Officer: Sr. V.P.

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Robin W. Purvis, a Notary Public for the County and State aforesaid, certify that Philip E. Greer personally came before me this day and acknowledged that he (she) is the Sr. Vice President of State Employees Credit Union, and in such capacity he or she being authorized to do so, executed the foregoing on behalf of the Credit Union.

Witness my hand and official stamp or seal, this the 21st day of June 2010.

ROBIN W. PURVIS NOTARY PUBLIC WAKE COUNTY, N.C.

My Commission expires: November 2, 2010
Robin W. Purvis
 Notary Public
Printed Name: Robin W. PurvisBOOK 1354 PAGE 271.

CONSENT BY LIEN HOLDER

Wells Fargo Financial, successor to Wachovia Bank National Association, Beneficiary in those certain deeds of trust on Unit B of Hoop Hole Creek I Condominiums executed by Bain Hickman, dated April 27, 2007 recorded in Book 1223, pages 338 and 340, Carteret County Registry, in the respective sums of \$50,000 and \$30,422, does hereby consent to the Withdrawal of the Declaration of Unit Ownership for Hoop Hole Creek I Condominium, Atlantic Beach, North Carolina, and the submission of the Property described as lot 13 Hoop Hole Creek Subdivision, Atlantic Beach, NC, to the Declaration of Covenants for Hoop Hole Creek I Townhomes which has as its primary purpose alteration of the form of ownership from condominium units to individual lots or townhome use so that the townhome lots may hereafter be held, owned, mortgaged, leased and used as townhome lots each having 1 story residential structures thereon, and the same may be individually insured as townhome lots.

WELLS FARGO FINANCIAL, successor to
WACHOVIA BANK NATIONAL ASSOCIATION

By: Rosa M. Saunders
Name of Officer: Rosa M. Saunders

Title of Officer: Vice - President

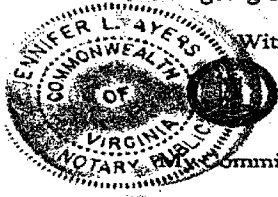
STATE OF VA

COUNTY OF Roanoke

I, Jennifer L Ayers, a Notary Public for the County and State aforesaid, certify that Rosa Saunders personally came before me this day and acknowledged that he (she) is the Vice - President of Wells Fargo Financial, successor to Wachovia Bank National Association, and in such capacity he or she being authorized to do so, executed the foregoing on behalf of the National Banking Association.

Witness my hand and official stamp or seal, this the 22 day of July, 2010.

Embossed Hereon is My Commonwealth of VA
Notary Public Seal - County of Roanoke
My commission expires 10/31/2014
Jennifer L. Ayers ID # 355890



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