

STATE OF NORTH CAROLINA
COUNTY OF PENDER

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR 822 S TOPSAIL TOWNHOMES**

This Declaration of Covenants, Conditions and Restrictions is made and entered in this the 31st day of October, 2023, by ONSLOW BAY HOMES, LLC, a North Carolina limited liability company with its principal place of business in Onslow County, North Carolina, which is hereinafter referred to as the "Declarant".

WITNESSETH

WHEREAS, Declarant is the record owner in fee simple of certain property located in Topsail Township, Pender County, North Carolina, which is more particularly described as follows:

BEING ALL THAT PROPERTY AS WILL APPEAR ON THAT PLAT ENTITLED "EXEMPT PLAT FOR ONSLOW BAY HOMES, LLC, UNIT A, UNIT B, AND COMMON AREA, " THE SAME BEING DRAWN BY CHARLES F. RIGGS & ASSOCIATES, INC. AND RECORDED IN MAP BOOK 73, PAGE 56 OF THE PENDER COUNTY REGISTRY

And Whereas on the Property there is constructed a townhouse development consisting of two (2) residential dwellings along with certain attendant facilities, all of which are depicted on the plat (the "Project"); and

Whereas, Declarant desires to provide for the preservation of certain values and amenities in the Project and for the maintenance of the common areas in the project; and desires to subject the Property and the improvements constructed thereon to this Declaration and the provisions of the North Carolina Planned Community Act, Chapter 47F, North Carolina General Statutes; and

Whereas, Declarant has created an incorporated owners' association which shall be delegated and assigned powers of maintaining and administering the common areas of the project, administering and enforcing the covenants and restrictions created in this declaration, and levying, collecting and disbursing the assessments and charges provided for and created by this declaration and pursuant to NCGS 47(f).

NOW, THEREFORE, Declarant declares that all of the property described above shall be held solely and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of the property and which shall run with the title or interest in the above-described property or any part thereof, and be binding on all

parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Act" shall mean and refer to the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes, as may be amended from time to time;

Section 2. "Association" shall mean and refer to the 822 S Topsail Owners Association, a North Carolina nonprofit corporation, its successors and assigns.

Section 3. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 4. "Building" shall mean and refer to a structure containing townhomes, constructed, or erected on the Property.

Section 5. "Bylaws" shall mean the Bylaws of 822 S Topsail Owners Association, a North Carolina nonprofit corporation, its successors, and assigns, which are attached hereto as Exhibit A incorporated herein by reference, including any amendments thereto.

Section 6. "Common Elements" or "Common Areas" are used interchangeably and shall mean and comprise (i) all of the real property, improvements and facilities of the Project, except the Lots and Living Units, (ii) all rights of easement benefitting the Common Area, (iii) all personal property held and maintained by the Association for the joint use and enjoyment of all the Owners and (iv) all Limited Common Areas or Limited Common Elements. The initial Common Elements are designated on the Plat.

Section 7. "Common Expenses" shall mean and include in regard to the Common Areas and Limited Common Areas;

- a. Hazard, liability or such other insurance premiums as the Declarant or the Bylaws may require the Association to purchase' or as the Association may deem appropriate to purchase;
- b. Ad valorem taxes and public assessments charges lawfully levied against Common Elements;
- c. Expenses agreed by the members to be Common Expenses of the Association; and
- d. All charges for utilities used in connection with the maintenance of the Common Elements, except Limited Common Elements;

Section 8. "Declarant" shall mean and refer to the parties whose signatures appear on this Declaration.

Section 9. "Limited Common Areas or Elements" shall mean those portions of the Common Areas that are dedicated for the exclusive use of a single lot, and which may include, but specifically are not limited to walkways, decks, side yards or areas serving only a specific lot. The Limited Common

Areas are delineated on the initial Plat but may be amended by the Board of Directors of the Owners Association.

Section 10. "Living Unit" shall mean and refer to any Lot on which a dwelling unit has been fully constructed and made ready for occupancy as a residence, including, without limitation, completion of the final floor covering, interior paint and wallpaper and all appliances and for which a Certificate of Occupancy has been issued.

Section 11. "Lot" shall mean and refer to any plot of land shown upon the Plat of the Property designated for separate ownership and occupancy by a Lot Owner, which Lots are identified as "Unit A" and "Unit B" on Plat.

Section 12. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 13. "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of title to any Lot which is a part of the Property, including the Declarant so long as any Lot as hereinafter defined is owned by the Declarant, which is a part of the Property, but excluding those having such interest merely as the security for the performance of an obligation.

Section 14. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 15. "Plat" shall mean that certain Plat recorded in Map Book 73, Page 56, Pender County Registry.

Section 16. "Property" shall mean and refer to that certain real property described on Exhibit A, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

Section 17. "Security for an Obligation" shall mean a mortgagee's interest in a mortgage, trustee's interest in a Deed of Trust, purchaser's interest under a sheriff's certificate of sale during the period of redemption, or the holder's interest in a lien.

Section 18. "Security Holder" shall mean any person owning a Security Interest in a Lot.

Any word not expressly defined herein, unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, having the meaning set out in N.C.G.S. §47F-1-103.

ARTICLE II PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment: Every owner shall have a right and easement of enjoyment in and to the common areas, all of which shall be appurtenant to and shall pass with the title to every lot, in accordance with the purpose for which it is intended and without violating the lawful rights of the other owners, subject to the following provision:

- a. The right of the Association to dedicate, sell, lease or transfer all or any part of the common areas or any interest thereof to any public agency, authority or utility or to any other person for such purposes and subject to such conditions as may be agreed upon by all of the members of the association.
- b. The right of the Members to the exclusive use of those areas identified as Limited Common Areas on the Plat, with the Unit A lot having exclusive use of the Limited Common Areas denoted as "Limited Common Area For Unit A 1,058.64 Sq. Ft. 0.024 ACRES" of the Plat and the Unit B lot getting exclusive use of the Limited Common Areas denoted as "Limited Common Area for Unit B 717.40 Sq. Ft. 0.016 ACRES" of the Plat.

Section 2. Delegation of Use: Any owner may delegate, in accordance with the bylaws, his right of enjoyment to the common areas to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title of Common Area: Declarant shall execute a general warranty deed, conveying title of the common elements illustrated on the abovesaid Plat Map to 822 S Topsail Townhomes Owners Association Inc., recorded in the Pender County Register of Deeds, not later than the conveyance of any Lot to a third party.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every record Owner of a Lot which is subject to assessment 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 assessment. The Association shall have one (1) class of voting membership:

Class I: Class I members shall be all Owners of a Lot and shall be entitled to one vote for each Lot owned. When more than one (1) person holds such interest or interests in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE IV COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which are assessed for Common Expenses, which must be collected either monthly, quarterly, or annually at the election of the Association, and (2) special assessments for extraordinary maintenance and capital improvements. The annual and special assessments together with interest and costs and reasonable attorney's fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment

became due. The personal obligation for the delinquent assessments shall not pass to a Lot Owner's successors in title unless expressly assumed by them.

Each Owner covenants for himself, his heirs, successors and assigns to pay each assessment levied by the Association on his Lot within thirty (30) days of the due date as established by the Board, and further covenants that if said assessment shall be in default and become a lien upon said Owner's Lot as provided herein then such lien shall continue to be enforceable until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners, and in particular, but not limited to, for the acquisition, improvement and maintenance of the Common Elements, including but not limited to, the cost of repairs, replacements and additions' the cost of labor, equipment, materials, management and supervision; the payment of taxes and public assessments assessed against the Common Elements; the procurement and maintenance of insurance in accordance with the Bylaws or as deemed appropriate by the Board; the employment of counsel, accountants and other professionals for the Association when necessary; and such other needs as may arise.

Section 3. Reserve/Replacement Fund. Out of the annual assessment, the Board may create and maintain a reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements which the Association may be obligated to maintain.

Section 4. Amount of Assessment. In establishing the annual assessment for any assessment year, the Board of Directors may consider all current costs and expenses of the Association, any accrued debts and reserves for future needs.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Common Element, any extraordinary maintenance, and in connection with exterior maintenance, including fixtures and personal property and any property for which the Association is responsible.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4 or 5 above shall be sent to all members not less than twenty (20) 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 fifty-one (51%) of all the votes of the membership shall constitute a quorum.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and Living Units and may be collected on a monthly, quarterly, or annual basis, as determined by the Board of Directors of the Association.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments concerning maintenance and upkeep of the Common Elements provided herein shall commence as to all Lots identified on the duly recorded Plat on the first day of the month following the recording of the Plat in the Pender County Registry. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Directions shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the annual

assessment period. Written notice of the annual assessment shall be sent to every Lot Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate of the Association as to the status of assessments on a Lot that is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within sixty (60) days after the due date shall be delinquent, in default and shall bear interest at the highest rate then permitted by North Carolina Law not to exceed 18.00% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorney's fees, and/or proceed with any other permissible legal remedy then available to the Association inclusive of those specified herein below. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his Lot.

Any assessment levied against a Lot remaining unpaid for a period of 60 days or longer shall constitute a lien on that Lot when a claim of lien is filed of record on the office of the clerk of Superior Court of Pender County, North Carolina. The claim of lien shall state the description of the Lot encumbered thereby, the name of the record owner at the time the lien is filed, the name and address of the Association, and the amount due and date when due. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. The claim of lien shall be recordable any time after sixty (60) days after the due date of the assessment or any installment thereof and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien may include all assessments which are due and payable when the claim of lien is recorded, fees, charges, late charges, fines, interest and other charges imposed pursuant to North Carolina General Statutes Sections 47F-3-103, 47F-3-107, 47F-3-107.1 and 47F-3-115, 47F-3-116, plus interest, costs, reasonable attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claim of lien shall be signed by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to such mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Foreclosure of Liens for Unpaid Common Expenses. In an action brought by the Board of Directors to foreclose on a Lot because of unpaid Common Expenses, the Board, acting on behalf of all Lot Owners, or on behalf of any one or more individual Lot Owners, if so interested, shall have the power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage convey or otherwise deal with the same, subject, however to applicable restrictions of record. A suit to recover a money judgment for unpaid Common Expenses may be maintainable without foreclosing or waiving the lien securing the same.

**ARTICLE V
INSURANCE**

Section 1. Insurance to be Maintained by the Association. The Association may carry any insurance it deems appropriate to protect the Association and/or the Lot Owners. At all times the Association shall carry a general liability insurance policy, insuring the Common Elements, with a policy limit of not less than One Million Dollars and No Cents (\$1,000,000.00).

Section 2. Insurance to be Maintained by the Lot Owner. The Association shall not provide nor purchase insurance for the repair or replacement of any Building. It shall be, and hereby is, the responsibility of each Lot Owner to procure and obtain the following types of insurance coverage:

- a. Property insurance on all structures located on Owner's Lot i.e. Building and Living Unit, insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils i.e. wind, hail. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations, and other items normally excluded from property policies, and
- b. Liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Lot and Limited Common Elements which may name the Association as a co-insured.
- c. The Association shall have the authority, in its discretion, to establish the minimum amount of coverage required under this Section.
- d. If any portion of a Building and/or Living Unit for which insurance is required under subdivision (a) of this section is damaged or destroyed, the Owner shall repair and/or replace such damage promptly and identical to the Living Unit prior to the damage or destruction, unless such changes are submitted to and approved in writing by the Board of Directors. The Owner shall begin repairs or reconstruction to the Building and/or Living Unit within one hundred twenty (120) days from the date of the damage or destruction and shall complete such repairs or reconstruction within one (1) year from the date of the damage or destruction. The obligation of the Owner to pay regular or special assessments as provided elsewhere in this Declaration shall not be suspended at any time as a result of damage, destruction, repair or reconstruction of any Living Unit.

An Owner's duty to repair and replace shall be waived if: (i) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (ii) all Owners unanimously vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds shall be the obligation of the Owner of the Lot.

If the damage to the Building or Living Unit is not to be repaired or replaced, (i) Owner shall be required to restore the damaged area to a condition compatible with the remainder of the planned community, using such insurance and personal funds as required, in a timely manner.

ARTICLE VI PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between Lots and all reconstruction or extensions of such walls shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support in below ground construction and or liability for property damaged due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair or Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners, with each Owner being responsible for his one-half (1/2) of the party wall.

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 other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof proportionate to such use without prejudice, subject, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act or omission 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 of Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successor in title.

Section 6. Certification by Adjoining Property Owner that No Contribution is Due. If any Owner desires to sell his Property, he may, in order to assure a prospective purchaser that no adjoining Owner has right of contribution as provided in this Article, request of the adjoining Owner a certificate that no contribution exists, whereupon it shall be the duty of each adjoining Owner to make such certification immediately upon request without charge; provided, however, that where the adjoining Lot Owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled at mediation and then, if necessary, binding arbitration in accordance with those rules set forth in the Bylaws.

**ARTICLE VII
EXTERIOR MAINTENANCE**

Section 1. Exterior Maintenance by Owner. The maintenance, upkeep and repair of all improvements on a Lot shall be the sole responsibility of the Owner of such Lot. It is expected that each Owner will perform such maintenance, upkeep and repair in a neat, workmanlike manner using quality materials of similar appearance in a manner and with such frequency as is consistent with good property management and maintenance, and will perform such maintenance in a timely manner.

Each Owner shall maintain his roofs, walls, eaves, windows, doors, trim, stairs, walks and decks in good working order according to Manufacturer's instructions and in a neat, safe, and clean condition.

No Owner shall change the exterior paint color of his Living Unit, including trim, without first receiving written approval from the other Lot Owner, which will not be unreasonably withheld.

Section 2. Plantings. An Owner may landscape the front and rear portions and any Limited Common Areas of his Lot with plants and flowers and shall maintain the same at his own expense.

**ARTICLE VIII
ARCHITECTURAL CONTROL**

Nothing in this Declaration shall prohibit the right of each Lot Owner to make improvements to his Lot and the Limited Common Areas allocated to his lot if approved by local government authorities. Notwithstanding, all such improvements shall be designed in a manner consistent with the following:

- a. All exterior improvements and renovations shall be compatible with the existing architecture of the Building, especially on the side facing the street. Existing exterior colors shall be maintained on all sides of the new and old parts of the Building, unless otherwise agreed to in writing by both Lot Owners. Moreover, street-side additions, renovations and repairs shall match existing architectural features, such as cedar shake walls, double hung windows, matching eaves and corner trim, and roof shingles, unless otherwise agreed to in writing by all Lot Owners. Notwithstanding, an Owner shall be entitled to choose any color for their main entry door.

As a courtesy, each Owner shall be required to give the other Owner thirty (30) days written notice of plans for any future exterior renovations or additions for comment.

**ARTICLE IX
USE RESTRICTIONS**

Section 1. Use of Property. No portion of the Property shall be used except for single-family residential purposes and for purposes incidental or accessory thereto. A lot owner may lease his Lot for no fewer than two (2) nights per contract and his/her tenants will be subject to this Declaration and amendments as may have been enacted at the time of the rental agreement.

Section 2. Quiet Enjoyment. No obnoxious or unlawful activity shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance on the Property.

Section 3. Animals. No animals, livestock or poultry of any kind and no exotic or dangerous animals shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets may be kept and maintained provided that they are not kept or maintained for commercial purposes and are controlled in accordance with applicable governmental ordinances and are not a nuisance or danger to other Owners. All persons owning pets are required to keep all Lots and Common Elements clear of waste from their pets at all times. Any person walking a pet within the Property shall be responsible for the immediate removal of their pet's waste material.

Section 4. Subdivision Specifications. No Lot shall be re-subdivided in such a manner that will result in there being more than the number of Lots shown on the applicable recorded plat.

Section 5. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding, shall be used on any Lot at any time as a residence, or otherwise, either temporarily or permanently, unless agreed to in writing by all the Lot Owners.

Section 6. Offensive Behavior. All valid laws, ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, order, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with.

Section 7. Parking. Vehicles shall only be parked in designated parking areas. The parking spaces, and facilities shall be used exclusively for the parking of passenger automobiles. No trailers, buses, tractors, campers or R/V' s shall be parked on the property nor a truck that exceeds three (3) tons or other commercial-type vehicles, except such vehicles loading and unloading temporarily. No repair work on motor vehicles shall be carried out in the parking spaces except emergency repairs. Any vehicle located on the Property shall have a current inspection sticker and license plate.

Section 8. Signs. No Owner shall display, or cause to allow to be displayed, to public view any sign, placard, poster, billboard or identifying name or number upon any Building, or any portion of the Common Elements, except as allowed by the Association pursuant to its Bylaws or regulations or as required by local governmental authority, provided, however that the Declarant and any mortgagee who may become the Owner of any Lot, or their respective agents may place "For Sale" or "For Rent" signs on any unsold or unoccupied townhome not to exceed 2'x 2' in size. Also, one building name sign, such as "822 S Topsail Townhomes" with the street address up to 2'x 3' may be installed which shall be compatible with the architecture for each Lot.

Section 9. Common Use Areas. The common use areas shall be used only for the purposes for which they are intended and reasonably suited and which are incidental to the use and occupancy of the townhomes, subject to any rules or regulations that may be adopted by the Association pursuant to its Bylaws. Limited Common Areas shall be allocated pursuant to Article II b of this Declaration for their exclusive use and enjoyment.

ARTICLE X EASEMENTS

Section 1. Utility Easement. All of the Property, including Lots and Common Areas and Limited Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines and other public

utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the Property to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Elements conveyed to it, such further easements as are requisite for necessary access to the utilities by the Lot Owners.

Section 2. Easements to Run With the Land. All necessary easements and rights described in this Article are appurtenant easements running with the land, and except as otherwise expressed shall be perpetually in full force and effect and shall inure to the benefit of and be binding upon Declarant, the Association, Lot Owners, Security Holders, and any other person having any interest in the Property or any part of any thereof. The Property and every part thereof shall be conveyed and encumbered subject to and together with all necessary easements and rights described in this Article, whether or not specifically mentioned in any such conveyance or encumbrance.

ARTICLE XI GENERAL PROVISIONS

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

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for an initial term of ten (10) years from the date this Declaration is recorded, after which time these declarations shall be automatically extended for successive period of ten (10) years. This Declaration may be amended by an instrument signed by both lot owners.

Section 4. Mediation. In the event a dispute arises concerning any of the provisions contained herein, the breach and/or and enforcement thereof, the parties shall attempt in good faith to resolve the dispute first by discussion and mutual agreement. If the parties cannot reach a mutual resolution of the disputed issue, they shall seek a mutually agreed upon certified mediator. The parties shall convene with the mediator, either in person or via telephone, or other electronic means on at least three occasions. If no resolution is achieved, either party may seek resolution through arbitration and/or court.

ARTICLE XII SPECIAL PROVISIONS

Section 1. Swimming Pool. The swimming pool located on the far East end of the Lot shall be accessible by both lot owners, his family, his tenants, or guests.

The maintenance responsibility including the insuring and liability coverage of the swimming pool, and related improvements as shown on the recorded Plat shall rest with the Association.

IN WITNESS WHEREOF, the undersigned being the Declarant named herein, has caused this instrument to be signed in its name, its company seal to be affixed hereto duly given, effective as of the 31 day of October 2023.

Andrea Hartley
Onslow Bay Homes, LLC
By: Andrea Hartley
Its Managing Member

STATE OF NORTH CAROLINA
COUNTY OF Onslow

I, the undersigned Notary Public of Onslow County aforesaid, certify that Andrea Hartley personally appeared before me this day in his/her capacity as the Managing Member of Onslow Bay Homes, LLC, a North Carolina limited liability company, and in such capacity acknowledged the due execution of the foregoing instrument for the purposes expressed therein. Witness my hand and Notarial stamp or seal this 31 day of October ~~2023~~ 2023

Tracy L. Watson (Seal)
NOTARY PUBLIC

My commission expires: 5/8/26

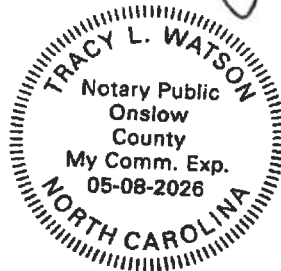


EXHIBIT A
BYLAWS OF
822 S TOPSAIL TOWNHOMES OWNERS ASSOCIATION, INC.

The operation of the Townhouse property described and named in the Declaration to which these By-Laws are attached shall be governed by these By-Laws.

ARTICLE I
FORM OF ADMINISTRATION

Section 1. Members. Voting All lot owners of record shall be members of a North Carolina non-profit Corporation styled "822 S TOPSAIL TOWNHOMES OWNERS ASSOCIATION, INC." The Association shall be run by the Board of Directors. Each Lot shall have one (1) vote on all Association matters.

Section 2. Board of Directors. The Board of Directors shall consist of Two (2) people, with each owner or owners of a Lot appointing a representative to sit on the Board of Directors. Should there be more than one owner of a Lot, a majority vote of the owners of that particular Lot shall determine its representative to sit on the Board of Directors. Should the owners of the Lot be unable to determine among themselves a representative to sit on the Board of Directors, then, and in the event, the various owners of that particular Lot shall sit in successive years, alternating between each other, in sequences determined alphabetically by first name.

Section 3. Provision for Mediation/Arbitration. When the Board of Directors is unable to reach a decision as to any matter because a vote has been taken and a majority vote has not been reached as to any matter affecting the management of the Association, then either member of the Board may call a special meeting and the members shall agree to a certified mediator to mediate the dispute between the members of the Board. The members of the Board shall convene with the mediator either in person or via telephone or other electronic means on at least three occasions.

In the event a resolution of the dispute is not achieved through mediation, then either Board member may submit the matter in controversy to arbitration. The members shall choose the arbitrator and if the members cannot agree on the arbitrator, each member shall choose an arbitrator and those two arbitrators shall choose a neutral third arbitrator to hear and settle any such dispute. The cost of the mediator shall be born equally between the two owners. If the matter is submitted to arbitration, the losing party shall pay for the neutral arbitrator and each owner shall each pay for the arbitrator chosen by them. The decision of the arbitrator shall be binding as the decision of the Board.

In the event the prior provisions relating to the apportionment of an arbitrator or arbitrators fail for any reason, any owner shall have the right to submit the matter to binding arbitration pursuant to the rules of the American Arbitration Association.

Section 4. Powers. The Board of Directors shall have full right and authority to manage the affairs of the Common Elements. The Board of Directors (hereinafter referred to as "Board") shall have all powers conferred on the Board by the Declaration to which this instrument is attached; and shall

further have all powers set out with this instrument. In addition, all the powers specifically reserved to the Association in the North Carolina Planned Unit Development Act (N.C.G.S. 47F) are to be reserved to the Board. These powers shall include all powers reasonably necessary for the administration, maintenance, upkeep, improvement and repair of the Common Elements on the Property.

ARTICLE II OFFICERS AND ASSOCIATED DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a President and a Secretary/Treasurer, who shall at all times be members of the Board of Directors, and such other officers as the Board may from time to time by resolution create; and the officers of the Association shall have such powers as are necessary to properly administer the affairs of the Association and as are set forth in these By-Laws and in appropriate resolutions adopted by the Board of Directors.

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

Section 3. Term. The officers of the Directors shall be elected annually by the Board, and each hold office for one (1) year unless he/she shall sooner resign, or shall be removed, or otherwise be disqualified to serve. Any officer may be elected to successive terms.

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

Section 5. Resignation and removal. The Board may remove any officers from office, with cause. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any officer who, as a condition of his service, is required to be a member of the Board shall be disqualified from holding such office upon loss of membership on the Board.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the office he replaces. Any officer so appointed shall have the same qualifications as those required of his/her predecessor.

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

Section 8. Duties. Unless amended or altered by the Board, in its reasonable discretion, the duties of the officers shall be as follows:

- a. **President.** The President shall be the principal executive officer of the Board of Directors and shall preside at all meetings thereof; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, contracts, and other written instruments, and shall co-sign all promissory notes.

- b. **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board; serve notice of meetings of the Board and of the members, and any other notice of required to be given by the Board; keep appropriate current records showing the members of the Association together with their addresses; record, compile, revise, index and publish all rules and regulations adopted by the Board; and perform such other duties as may be required by the Board.
- c. **Treasurer.** The Treasurer shall be responsible for the receipt and deposit in appropriate bank accounts of all monies of the Association and for the disbursement of such funds as directed by resolution of the Board of administration; shall keep or cause to be kept proper books of account; shall notify every member of the amount and due date of each annual assessment and special assessment at least thirty (30) days before such assessment shall be due.

ARTICLE III MEETINGS

The Board of Directors may meet when and as necessary at the site. Any member of the Association may, upon the giving of forty-five (45) days written notice, call a meeting; however, no more than one meeting may be called per two (2) month period without the consent of all members of the Association.

Meetings of the members of the Board of Directors shall be deemed a meeting of all owners; all decisions of the Board of Directors must be by unanimous consent unless decided by Arbitration as provided herein.

ARTICLE IV MAINTANENCE

The maintenance of all common areas shall be the responsibility of the Association. The Board shall have the power to assess each Lot equally for all expenditures necessary for repair, maintenance, and replacement of common areas. Each Owner shall, however, be responsible for paying all utility charges (water, sewer, electricity, gas and cable television) and repair, maintenance and replacement incurred or billed to their respective Lots.

ARTICLE V ASSESSMENTS

The Lot Owners may agree to forgo the monthly or annual collection of fees and agree to pay such expenses for the Common Elements as they arise. In order for this to occur, all Owners must execute a written waiver. The waiver may be revoked at any time by any Owner if it appears the other Owner is not paying the expense in a timely matter or in the event a dispute arises over payment of such expense.

**ARTICLE IV
RULES**

The Board of Directors shall have full right and authority to adopt rules and regulations for operation of the Common Elements, which rules shall be applicable both to all owners, guests, renters and invitees of the owners. Said rules may be posted in a prominent place in each of the Living Units.

**ARTICLE VII
RESTRICTIONS**

No Living Unit may be utilized in such a way as to unreasonably interfere with the peace, quiet, tranquility and quiet enjoyment of the other Living Unit.

**ARTICLE VIII
AMENDMENT**

These By-Laws, and all rules created under the authority hereby, may be amended only by action of affirmative vote of all members of the Association at a special called meeting to amend the bylaws.

**ARTICLE IX
FINANCIAL MATTERS**

The Board of Directors shall deposit in a designated depository, assessments paid and from this account all charges shall be paid. All checks in an amount of more than \$100.00 drawn on said administration account shall be signed by both the president and treasurer.

BK 4824 PG 888 - 890 (3)
This Document eRecorded:
Fee: \$26.00 DocType: DEED
Pender County, North Carolina
Sharon Lear Willoughby, Register of Deeds

DOC# 20121816
10/31/2023 01:45:19 PM
Tax: \$0.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$ 0.00 No Taxable Consideration

Parcel Identifier No. S/F 4234-57-7278-0000 Verified by _____ County on the ____ day of _____, 20__
By: _____

Mail/Box to: Watson Legal, PLLC, 200 Cape Fear Circle, Suite 7, Sneads Ferry, NC 28460

This instrument was prepared by: Watson Legal, PLLC, 200 Cape Fear Circle, Suite 7, Sneads Ferry, NC 28460 ***NO TITLE SEARCH PERFORMED BY PREPARING FIRM***

Brief description for the Index: Common Areas, Onslow Bay Homes, MB73 PG 56

THIS DEED made this 23rd day of October, 2023, by and between

GRANTOR

Onslow Bay Homes, LLC a North Carolina Limited Liability Company
120 Tidewater Ct
Hampstead, NC 28443

GRANTEE

822 S. Topsail Townhomes Owners Association, Inc.
**120 Tidewater Court
Hampstead, NC 28443**

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot, parcel of land or condominium unit situated in the City of Surf City, Topsail Township, Onslow County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 4730 page 1930.

All or a portion of the property herein conveyed _____ includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book 73 page 56.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Onslow Bay Homes, LLC a North Carolina Limited Liability Company

Print/Type Name: _____ (SEAL)

(Entity Name)

By: Andrea Hartley
Print/Type Name & Title: Andrea Hartley, Managing Member

Print/Type Name: _____ (SEAL)

By: _____
Print/Type Name & Title: _____

Print/Type Name: _____ (SEAL)

By: _____
Print/Type Name & Title: _____

Print/Type Name: _____ (SEAL)

State of North Carolina – County of Onslow

I, the undersigned Notary Public of the County and State aforesaid, certify that Andrea Hartley, personally appeared before me this day and acknowledged that she is the Managing Member of Onslow Bay Homes, LLC a North Carolina Limited Liability Company, a North Carolina a limited liability company, and that by authority duly given and as the act of such entity, she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 31 day of October, 2023

My Commission Expires: 5/8/26

Tracy L. Watson
Notary Public

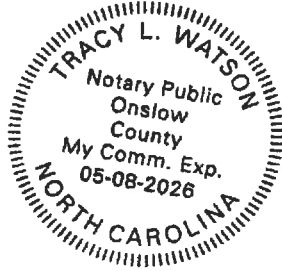


EXHIBIT "A"

BEING all those areas denoted as Common Areas or Limited Common areas, the same appearing on that Map entitled "Exempt Plat for Onslow Bay Homes LLC, Unit A, Unit B and Common Area", the same having been drawn by Charles F. Riggs & Associates and recorded in Map Book 73, Page 56 of the Pender County Registry.