

32
STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR TIDAL REACH

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, BRADLEY POND, LLC, a North Carolina corporation, is the owner of all that subdivided land designated and known as Tidal Reach, as the same is shown on the map recorded in Map Book 38 at Page 88 of the New Hanover County, North Carolina Registry; and

00054 WHEREAS, ROBERT L. MOUL and wife, NANCY J. MOUL are the owners of Lot 8 and Lot 14 of Tidal Reach referred to herein and by their signature below consent to and join in the submission of all real property designated as Tidal Reach as shown on said map above to these Covenants, Conditions and Restrictions; and

WHEREAS, Developer has established a general plan for improvement and development of said real property and desires to provide for stability and appeal in the development of said land;

WHEREAS, Developer has established a general plan for improvement and development of said real property and hereby covenants and agrees to and with all persons, firms and corporations now owning or hereafter acquiring any of the numbered lots shall be and the same now are, to the extent hereinafter defined and described, subject to the following restrictions as to the use thereof, running with said land by whomsoever owned, to wit:

1. DEFINITIONS: as used in this Declaration of Covenants, Conditions and Restrictions, the following terms shall mean:

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(a) "Association" shall mean the Tidal Reach Neighborhood, its successors and assigns. "Association" may also mean the Board of Directors of said Association, particularly where the context refers to the review and approval of plans and improvements. Every owner(s) of a lot in Tidal Reach shall be a member of the Association and shall be subject to its Articles of Incorporation, By-Laws and other rules, regulations and decisions of the Association or its Board of Directors.

(b) "Common Areas" shall be those areas designated as common areas or open space or buffer or Tidal Reach Park on the map recorded in Map Book 38 at Page 88 and any additional maps, including any revisions thereof, for Tidal Reach. In addition, common areas may refer to any areas so designated by the Association.

RETURNED TO

JACKSON, MILLS & CARTER, P.A.
WILMINGTON, NORTH CAROLINA

- (c) "Declaration" or "Covenants" and "Regulations" shall mean this instrument, the conditions, restrictions and covenants set forth herein or in any amendment hereto.
- (d) The "Developer" and/or "Owner" means Bradley Pond, LLC, its successors or assigns. "Owner" shall also mean and include any record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of Tidal Reach, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- (e) "Lot" or "Lots" shall mean those portions of the real property specifically allocated, platted and/or recorded as lots for sale and/or use as single family residences on any recorded map or maps of Tidal Reach Subdivision.
- (f) "Subdivision" and/or "Development" shall mean Tidal Reach all phases.

2. SINGLE-FAMILY RESIDENTIAL: This development shall contain only single-family "stick-built" residential dwellings. No mobile homes, modular homes or manufactured homes of any kind shall be permitted.

3. ARCHITECTURAL CONTROL AND LANDSCAPE PLAN APPROVAL:

- (a) All building plans and specifications for any and all structures to be constructed in the Subdivision, including any and all exterior additions to or change or alteration thereto, shall be approved by the Developer prior to the beginning of construction accompanied by the Tidal Reach Construction Application form with the required fees to be held in an escrow account until final inspection by the Architectural Review Committee of the completed improvements. \$1,000.00, building; \$1,000.00, landscaping; \$500.00, alterations. All review and approval authority reserved by the Developer herein shall also be exercisable and vested in an Architectural Review Committee which shall be comprised of members selected by the Board of Directors of the Association, or until such selection, shall consist of the Board of Directors of the Association. Front, rear and side elevations, together with specifications on the exterior siding, square footing, windows, doors, roofing and exterior colors must first be submitted to the Developer for review and approval prior to the beginning of construction, to include sitework. In the event that Developer or the Architectural Review Committee fails to approve or reject such plans within thirty (30) days of receipt of same, said plans and specifications shall be deemed to be approved.
- (b) All landscaping, tree cutting and site preparation work to be performed shall be approved by the Developer prior to any such landscaping, tree cutting and site preparation work being done. Plans must be submitted for approval to the Developer and shall include a site plan with lot lines, building outlines, driveways, parking areas, grading and impervious coverage compliance. Identification of trees requested to be removed is required. Specifically, trees with a caliper of 6" or more may not be cut or removed without the

express written consent of the Developer or the Architectural Review Committee. Landscaping plans shall include sufficient cover to screen air conditioning compressors, trash receptacle areas.

All landscaping, in addition to requiring approval by the Developer or the Architectural Review Committee, shall also be regularly and appropriately maintained by the owner of said lot. A violation of this covenant shall subject a lot owner to a reasonable penalty as prescribed by the Association, including but not limited to the Association arranging for the maintenance of said landscaping and requiring the lot owner to pay for said maintenance.

No vegetation shall be removed from any buffer zone without the consent of the Developer or the Architectural Review Committee.

If this section is violated and any tree is cut in violation of this Declaration without the written consent of the Developer or the Architectural Review Committee, the lot owner, by acceptance of his deed of conveyance and the considerations contained therein and herein, shall pay to the Developer the sum of \$1,000.00 for each tree cut in violation of this Declaration.

Every effort shall be made to preserve existing trees during construction except those which the owner has the written consent of the Developer or Architectural Review Committee to remove. Approved fencing and barricades should be employed to prevent root compaction. Trees damaged during construction shall be treated within two (2) weeks.

- (c) Since the establishment of building setback lines for location of houses on lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines are established by these Restrictions. However, setback lines as set forth on the recorded map of Tidal Reach shall be complied with. Moreover, in order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any lot shall be controlled by and must be approved absolutely by the Architectural Review Committee.
- (d) All trash and debris shall be cleaned from the site within thirty (30) days after completion of the main structure on any lot. During construction trash and debris shall be removed from the site to prevent unsightly accumulations and the resulting spread thereof to adjacent property. The Developer requires the owner to engage "Site Clean" of Wilmington, or an approved company providing equal service to provide trash and debris removal during construction which will be recycled and eliminate the need for large dumpsters. Fenced areas shall be required for the placing of loose trash and debris. Fenced trash areas shall not be placed within any street right of way and shall be placed in the rear of the lot. Upon a lot owner's failure to collect and dispose of such trash and debris within thirty (30) days after receipt of written

notice from the Developer, Developer may collect and dispose of same at the lot owner's expense.

(e) All property improvements on any lot must be completed within twelve (12) months after the beginning of construction.

(f) No structure, planting or other material may be placed in such a manner or location as to impede the installation and maintenance of utilities and drainage facilities, unless the location and manner of use thereof has been first approved in writing by the Developer or Architectural Review Committee.

4. SQUARE FOOTAGE: Each dwelling constructed in Tidal Reach Subdivision must contain a minimum of 2,000 square feet of heated living space. It is expressly understood and agreed that all building lots shall comply to the following distribution of impervious surface allowances for structures and/or paved surfaces, including walkways or patios of brick, stone, slate or similar materials without written permission from the Developer: Lots 1-7, 4140 square feet; Lot 8, 5940 square feet; Lots 9-14, 3640 square feet. This covenant is intended to insure continued compliance with stormwater runoff rules adopted by the State of North Carolina and therefore may be enforced by the State of North Carolina.

5. GARAGES: Garage doors shall be placed so as not to open toward or face the street. All alley lots, same being Lots 9, 10, 11, 12, 13 and 14, shall have garage doors facing the alley. The only exceptions would be for garages setting behind main structures.

6. PIERS: No individual piers shall be constructed into the adjacent Tidal Reach Pond.

7. VEHICLES: No commercial vehicles, other than $\frac{1}{2}$ ton pick-up trucks, may be parked within the development for long than one (1) week. There shall not be allowed to remain on any lot, street, or any other area within the subdivision any vehicles of any sort that are not in working order and are currently licensed and insured in accordance with the laws of the State of North Carolina.

8. ANTENNAS, CLOTHESLINES: No outside radio, television antennas or satellite dish, or outside clotheslines shall be erected on any lot within the subdivision without the written consent by the Association.

9. DRIVEWAYS: Driveways must be paved, using either concrete, brick, or other paving materials approved by the Developer. No dirt driveways will be permitted.

10. BOATS: Boats and boats on trailers must be placed so as not to be visible from the street.

11. ANIMALS: Barnyard animals, exotic animals and pit bull dogs (American Pit Bullterrier-Staffordshire Terrier) are specifically prohibited. Cats and dogs (other than as set forth above) and such animals commonly recognized as domestic household pets are permitted provided that they are not kept or maintained for commercial purposes and, further, provided that they are not allowed to run free and/or reasonably retained on the owner's lot. Any pens or other structures erected to house or maintain the domestic pets allowed hereunder shall be approved by the Developer or Architectural Review Committee and at a minimum shall be screened from public view.

12. USE OF LOTS: No lot (or structure located thereon) located within the subdivision shall be used for business or commercial purposes, except with the express written consent of the Developer or the Association. No noxious or offensive activity

shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

13. TEMPORARY STRUCTURES: No house trailer, mobile home, tent, shack, garage, prefabricated, premanufactured or temporary structure of any nature, shall be located on any lot or used at any time as a dwelling or otherwise, temporarily or permanently. No long-term camper parking shall be allowed.

14. FENCES, DECKS, EXTERIOR LIGHTING: Developer or the Architectural Review Committee reserves the right, in its sole discretion, to approve all fencing plans, trellis, decks, exterior lighting or any other structure, or landscape structure for any lot in the subdivision. Any owner of any lot who desires to erect a fence thereon must first submit a perimeter plan for said fencing, along with the specifications on materials and design to Developer and obtain Developer's approval prior to beginning of construction of said fence. All exterior lights, including all light bulbs included therein, shall be clear, white or non-frost light bulbs.

FRONT PORCHES: Eight foot deep front porches are required on every residence to occupy 50% of the first floor elevation facing the street. Corner residences must provide an additional porch on the adjacent side street occupying at least 30% of the side elevation of the heated square footage. No spot lights shall be directed towards any street, sidewalk or common area.

15. SIGNS: No advertising signs or billboards shall be erected on any lot or displayed to the public on any lot. No "For Sale" signs or any other signs shall be permitted on any lot or common areas or facilities. This covenant shall not apply to signs erected by the Owner/Developer used to identify and advertise the subdivision as a whole, by a building general contractor who is erecting/constructing a residence. Any such sign erected by a general contractor shall be approved by the Developer and comply with the standard lot sign that shows the name of the builder, the lot number and the building permit.

16. FUEL STORAGE: Fuel tanks or similar storage receptacles located on any lot shall not be exposed to public view when possible. Any such receptacles must be installed only within the main dwelling house, within an approved accessory building, within a screened area, or buried underground behind the dwelling.

17. YARD & GARAGE SALES: No yard sales or garage sales shall be permitted upon any lot in the subdivision without the permission of the Tidal Reach Association.

18. EASEMENTS AND MAINTENANCE:

- (a) Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat of Tidal Reach. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences. Developer reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements and/or utility services. By acceptance of a deed to any lot, the owner thereof covenants and agrees to mow weeds and grass and to keep and maintain in a neat and clean condition any easement which may traverse a portion of the lot, and in the event that the Buyer or Purchaser of any lot within the said subdivision breaches this restriction, Developer reserves the right to enter upon said lot and mow the grass, clean up the lot

and remove unsightly structures and objects, at the owner's expense.

All maintenance required hereunder shall also include that area from the lot line to paved streets and any easements that traverse any portion of the lot.

- (b) Tidal Reach Pond shall be restored or repaired if possible upon any drainage, destruction or enlargement due to storm or disaster. The intent is that no lot owner has riparian rights, but Association always has riparian rights arising from the existence of the pond.
- (c) The general grading, slope and drainage plan of a lot may not be altered without the express written approval of New Hanover County or other appropriate agencies having authority to grant such approval.
- (d) Each lot owner shall maintain the exterior of all buildings, fences, walls and other improvements on his lot in good condition and repair, and shall replace worn and rotten parts and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate in an unattractive manner.
- (e) Ingress and egress is reserved for all forms of pedestrian traffic over, through and across sidewalks, paths, walks, common areas and lanes as the same from time to time may exist; and, for vehicular traffic over, through and across all streets and alleys as from time to time may be paved and intended for such purposes, for all lot owners in Tidal Reach, their guests, families, invitees and lessees, the Association, the Developer its successors and assigns. Developer hereby reserves alienable easements over all streets and common areas as necessary to provide access for future development by Developer or its successors and assigns of any properties adjoining the Project.
- (f) All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

19. ASSESSMENTS: The Association shall, in addition to all other powers granted to it herein and its charter and by-laws, have the power and authority to levy and collect assessments (regular and special) from each lot owner as follows:

- (a) The owner of each residential lot shall, by the acceptance of a deed or other conveyance for such lot, be deemed to covenant and agree and be obligated to pay the Association: (i) annual assessments, dues or charges, and (ii) special assessments for unexpected or unbudgeted expenses,

including damage to the common areas from storm events, capital improvements and other monetary obligations incurred by the Association in performing its duties and obligations and (iii) penalties, including reasonable attorney's fees and court costs for violation of these covenants or the By-Laws or Articles of Incorporation of the Association. Any special assessments shall be due and payable as determined in the sole discretion of the Association. Upon transfer of title to an owner, the new owner shall pay a working capital assessment fee of \$150.00 to the Tidal Reach Association.

- (b) The annual assessments shall be due and payable on January 1 of the year for which they are assessed or may be payable in installments due monthly, quarterly or annually as determined in the sole discretion of the Association.
- (c) All assessments or charges relating to a lot shall be fixed, established, levied and collected on a uniform basis for each lot as determined by the Association. However, expenses, costs and charges incurred by the Association for the benefit of specific lot(s) shall be borne by the owner of that lot(s) as set forth in subparagraph 19 (f) below. No owner may waive liability for the assessments provided herein by non-use of the common area, non-use or abandonment of his lot or for any other reason.
- (d) Each annual special assessment or penalty, when due, shall become a lien against the lot against which such assessments are made and shall continue as lien against such lot and shall be deemed to with the land until such time as collected by the Association or paid in full. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on any lot.
- (e) The funds arising from said assessments or charges may be used for any or all of the following purposes: maintaining, operating, improving and replacing common areas, and the facilities and improvements located thereon, signage and landscaping and irrigation; protection of property; collecting and disposing of garbage, ashes, rubbish and the like; maintenance, improvement and lighting of the streets, roads, drives, rights of way, community land and facilities; employing watchmen; enforcing these restrictions; paying taxes, insurance premiums, legal and accounting fees, governmental charges of all kinds and descriptions, other indebtedness of the Association; and in addition, doing any other things necessary or desirable, in the opinion of the Association, to keep the property in neat and good order and to provide for the health, welfare and safety of owners and residents of Tidal Reach Subdivision.
- (f) Upon the failure of the owner of any lot to pay any assessment or charge, additional assessment, or installment thereof when due, the Association shall have the right to collect the amount thereof by an action at law against the owners as for a debt, and may bring and maintain such other suits and proceedings at law or at equity as may be available. Such rights and powers shall be deemed

to run with the land and the successive owners of each lot, by the acceptance of deeds therefor, shall be deemed personally to assume and agree to pay all unpaid assessments or charges or additional assessments which have been previously levied against the property, and all assessments or charges or additional assessments as shall become a lien thereon during their ownership. Unpaid assessments or charges, additional assessments, or installments thereof, shall bear interest at the rate of one and one-half (1-1/2%) percent per month, or at the maximum legal rate, whichever is greater, from the due date thereof, until paid. Annual assessments shall be delinquent on February 1 and special assessments at the expiration of thirty (30) days from their due date. All costs and reasonable attorney's fees incurred in collection of delinquent assessments, together with accrued interest, shall become a lien against the lot and are payable by the owner of the lot.

- (g) The Association shall not be obligated to spend in any one calendar year all of the sums collected during said year by way of assessments or charges or additional assessments and may carry forward to surplus any balance remaining. The Association shall not be obligated to apply any such surplus to the reduction of charges in the succeeding year.
- (h) The Association shall have authority, in its discretion, to borrow money to expend for the purposes set forth hereinabove upon such terms and security and for such periods as it may determine, and to repay said borrowings and the interest thereon from the assessments or charges or additional assessments provided for elsewhere in the Declaration. The Association shall provide for two (2) unrelated signature authorizations for all transactions.

20. OWNERS' EASEMENTS OF ENJOYMENT: Every owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of members;
- (b) The right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) The right of the Association to dedicate or transfer all or part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;
- (d) The right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

21. DEVELOPER'S RIGHTS:

- (a) The Declarant hereby reserves the right to subject to these restrictions other real property contiguous to Tidal Reach in order to extend the regulations of this Declaration to the other property to be developed and thereby bring such additional properties within the jurisdiction of the Association. Each additional parcel or tract of land, with the improvements thereon, or to be placed thereon, which is subjected to this Declaration shall be designated consecutively as an additional phase.
- (b) The rights reserved by Declarant in (a) above, include the right to change, alter or redesignate roads, utility and drainage facilities and easement, and to change, alter or redesignate such other present and proposed amenities or facilities as may, in the sole judgment of the Declarant, be necessary or desirable, except that the Declarant shall have no right to change, alter or redesignate the character of the single family use of the lots within the development.

22. MEMBERSHIP AND VOTING RIGHTS: Every 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 two classes of voting membership:

- (a) CLASS "A". Class A members shall be all owners with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest 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.
- (b) CLASS "B". Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
- (1) when the total votes outstanding in Class A membership equals the total votes outstanding in the Class B membership, or
 - (2) December 31, 2002 (or later in case the Developer or its successor assigns expands development).
- (c) For purposes of this Section only, those lots owned by the undersigned parties other than the Declarant shall be deemed to be owned by Declarant and the memberships represented by all of said lots shall be Class "B" memberships.

23. INSURANCE: It shall be the duty of the Association to maintain in effect casualty and liability insurance upon the Common Areas and facilities, including the private streets and alleys as it deems appropriate and necessary, as follows:

- (a) Amount and Scope of Insurance: All insurance policies upon the Common Areas and, etc., shall be

secured by the Board of Directors. Properties shall be secured by the Board of Directors, or its designee on behalf of the Association with full authority which shall obtain such insurance against (1) loss or damage by fire or other hazards normally insured against, and (2) such other risks, including public liability insurance, as from time to time shall be customarily required by private institutional Mortgage Investors for projects similar in construction, location and use as the Properties and the improvements thereon all under such terms and conditions as the responsible authority shall determine. However, such liability coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and deaths of persons in connection with the operation, or maintenance or use of the common areas and legal liability arising out of lawsuits relating to employment contracts of the Association.

- (b) Insurance Provisions: The Board of Directors shall make diligent efforts to ensure that said insurance policies provide for the following:
- (1) A waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the lot owners and their employees, agents, tenants and invitees.
 - (2) A waiver by the insurer of its right to repair and reconstruct instead of paying cash.
 - (3) Coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days prior written notice to the named insured and all mortgagees.
 - (4) Coverage will not be prejudiced by act or neglect of the lot owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the property over which the Association has no control.
 - (5) The insurance coverage on the property cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual lot owners.
 - (6) The insurance coverage on the property cannot be cancelled, invalidated or suspended on account of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any lot owner or any mortgagee.
- (c) Premiums: All insurance premiums on the property for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense and the Association shall levy against the Owners equally as an additional annual assessment, (herein called "Insurance

Assessment") which shall be assessable and collected by the Association in accordance with Paragraph 19 above, an amount sufficient to pay the annual cost of all such insurance premiums.

- (d) Proceeds: All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board as insurance trustee or to such attorney at law or institution with trust powers as may be approved by the Board of Directors.
- (e) Policies: All insurance policies purchased by the Board of Directors shall be with a company or companies permitted to do business in the State of North Carolina and holding a rating of "A" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and the Board of Directors thereof, as their respective interests may appear, and shall provide that all proceeds thereof shall be payable to the Board of Directors.

24. UNDERGROUND ELECTRIC SERVICE & STREET LIGHTING: Developer reserves the right to subject the real property in this Subdivision to a contract with Carolina Power & Light Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power & Light Company by the owner of each residence.

25. MAILBOXES: Each lot in the Subdivision shall have only one (1) cluster mailbox located at the central post office mailbox within the common area. Newspapers shall be delivered to each lot by placement on the required front porch of each residence.

26. WATER AND SEWER:

- (a) All water to be used in said subdivision for domestic purposes shall be obtained from the Community Water System, unless other sources are approved by the City-County Board of Health and the owner of the Community Water System, or their successors. Lot owners may, however, drill shallow wells for irrigation purposes and for non-domestic usage. An eight foot (8') radius from each water meter shall be an easement for maintenance and repair of such meter. Additionally, the front ten feet (10') of each lot is hereby reserved for utility easements.

The Developer hereby grants an easement to the community water company along all streets and roads in the subdivision for the purpose of installing, maintaining, repairing and replacing water lines.

- (b) Sewage disposal shall be only into the New Hanover County sewage collection system.

27. MODIFICATION OF RESTRICTIONS: These rules and restrictions may be released, changed, modified, or amended with respect to all lots, or with respect to one or more specific lots by a recorded instrument executed by the then owners of 80% of the lots in the development. Developer shall have the right, at any time prior to December 31, 2002, to amend these Restrictions, in whole or in part, without the consent or joinder of any owner of any lot in said Subdivision.

28. FIDELITY BONDS:

- (a) General: The Association shall maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association. If the Association shall delegate some or all the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association.
- (b) Amount of Coverage: The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association (or any management agent, as the case may be) at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all units plus reserve funds.
- (c) Other Requirements: Fidelity bonds required herein must meet the following requirements:
- (1) Fidelity bonds shall name the Association as an obligee.
 - (2) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.
 - (3) The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.
 - (4) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association if a condominium project, to any insurance trustee and each Eligible Mortgage Holder.

29. LEGAL ENFORCEMENT: It shall be lawful for the Association, Developer or any owner within the development, or, in matters dealing with compliance with stormwater run-off rules, the State of North Carolina, to enforce these covenants, conditions and restrictions by proceedings at law or in equity, said enforcement proceeding being either to seek injunctive relief or to recover damages. Failure by the Association, Developer or owner to enforce any covenant, condition or restriction herein shall not be deemed a waiver of the right to do so thereafter.

30. LOTS SUBJECT TO DECLARATION: All present and future owners, tenants and occupants of lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such owner, tenant or occupant. The

covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, or the owner of any lot, their respective legal representatives, heirs, successors and assigns, and shall run with and bind the land and shall bind any person having at any time any interest or estate in any lot as though such provisions were made a part of each and every deed of conveyance or lease.

31. AMENDMENT OF DECLARATION: The covenants and restrictions of this Declaration may be amended by an instrument duly recorded in the Office of the Register of Deeds of New Hanover County signed by not less than seventy (70%) percent of the lot owners; provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. In no event may the Declaration be amended so as to deprive the Declarant of any rights herein granted or reserved unto Declarant, including the right of Declarant to develop contiguous and to extend the scheme of this Declaration to such other property by the recording of subsequent Declarations as herein provided.

32. These covenants, conditions and restrictions shall be considered covenants which are to 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 of the recordation hereof and for successive periods of ten (10) years each thereafter unless terminated by a vote of the owners of not less than 60% of the total votes entitled to be cast.

33. Invalidation of any one or more of these covenants, conditions and restrictions shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, Developer has caused this instrument to be signed in its name by one of its Members/Managers, this 6th day of August, 1998.

BRADLEY POND, LLC

BY: _____

Member/Manager

Robert L. Moul (SEAL)
ROBERT L. MOUL

Nancy J. Moul (SEAL)
NANCY J. MOUL

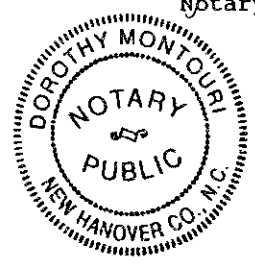
STATE OF NORTH CAROLINA
COUNTY OF New Hanover

I, Dorothy Montouri, a Notary Public of the County of New Hanover and State aforesaid, do hereby certify that Scott S. Stewart, personally appeared before me this day and acknowledged that he/she is Member/Manager of BRADLEY POND, LLC, a North Carolina Limited Liability Company, and further acknowledged the due execution of this instrument on behalf of the Limited Liability Company.

WITNESS my hand and notarial seal this 6th day of August, 1998.

Dorothy Montouri
Notary Public

My Commission Expires:
July 18, 2001
(AFFIX NOTARIAL SEAL)



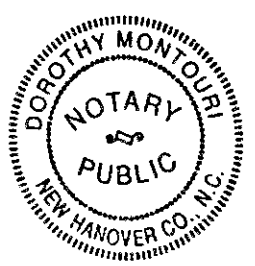
STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, Dorothy Montouri, a Notary Public of the County of New Hanover and State aforesaid, do hereby certify that ROBERT L. MOUL and wife, NANCY J. MOUL personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and official stamp or seal, this the 6th day of August, 1998.

Dorothy Montouri
Notary Public

My Commission Expires:
July 18, 2001
(AFFIX NOTARIAL SEAL)



NOTARIAL
RESTRICT

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

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

This the 10 day of August 1998
Mary Sue Ooty, Register of deeds
by Mavis Ann Storer
Deputy/Assistant