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NEW HANOVER COUNTY, NC

MORGHAN GETTY COLLINS

REGISTER OF DEEDS

NC FEE \$102.00

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

AMENDED DECLARATION OF
COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR TONBO MEADOWS

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR
TONBO MEADOW

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF
POLITICAL SIGNS**

This Amendment of Declaration of Restrictive Covenants is made and entered into this 24 day of June, 2024 by the affirmative vote of at least sixty-seven percent of the allocated votes in the Tonbo Meadow planned community; and further joined by the Tonbo Meadow Townhomes Owners Association, Inc., (hereinafter "Association"), a North Carolina non-profit corporation operating in New Hanover County, North Carolina, which has also approved these amendments.

WITNESSETH:

WHEREAS, the original Restrictive Covenants were effective on May 15, 2013, recorded in Book 5737, Page 547, of the New Hanover County Register of Deeds and established the Tonbo Meadow planned community.

WHEREAS, in order to provide for a uniform development of the properties in the Tonbo Meadow planned community, so as to preserve their value and to protect the present and future owners of lots thereof, for itself, its successors and assigns, and to continue the historical character of Tonbo Meadow as single-family residential housing, these covenants are hereby amended by formal vote of at least sixty-seven percent of the allocated votes in the Tonbo Meadow planned community with said action further being recorded in the Minutes of the meeting of the Association on the 30 day of May, 2024. All prior Declarations and Covenants are hereby superseded in their entirety by these Amended Restrictive Covenants.

NOW, THEREFORE, the Property described above shall be held, sold and conveyed subject to the North Carolina Planned Community Act set forth in Chapter 47F of the North Carolina General Statutes (the "Act"), as well as the following amended restrictions and covenants:

ARTICLE I.

DEFINITIONS

SECTION 1. Allocated Interest shall mean the Common Expense Liability and votes in the Association allocated to each Lot.

SECTION 2. Association shall mean and refer to Tonbo Meadow Townhomes Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns, the owners association organized pursuant to the Act for the purposes set forth herein.

SECTION 3. Common Elements shall mean and refer to all lands and easements within or appurtenant to the Planned Community owned or enjoyed by the Association, other than a Lot, and intended for the common use and enjoyment of the Owners, including, without limitation, any private roads and stormwater facilities, including those described in the stormwater plan for the Planned Community (the "Stormwater Plan"). Common Elements shall also include any areas designated on any plats for the Planned Community as "Open Space", "Common Area", "Common Element", "Recreation Area", "Amenity Area", or other similar designation.

SECTION 4. Common Expenses means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

SECTION 5. Common Expense Liability means the liability for Common Expenses allocated to each Lot as permitted by the Act, this Declaration or otherwise by law.

SECTION 6. Except as specifically set forth in these Declarations, Declarant shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by the context) and shall mean and refer to Tonbo Meadow Townhomes Owners Association, Inc., its successors and assigns.

SECTION 7. Declaration shall mean this instrument as it may be from time to time amended or supplemented.

SECTION 8. Executive Board or Board shall be used interchangeably with the Board of Directors and means the body, regardless of name, designated in this Declaration or otherwise to act on behalf of the Association.

SECTION 9. Limited Common Elements shall mean areas and facilities within any Lot which are for the exclusive use of the Lot Owner but which the Association is obligated to maintain pursuant to the terms of this Declaration. The Limited Common Elements shall consist of the exterior of all dwellings, including by way of illustration, but not limited to, roofs, exterior building surfaces, and decks and porches.

SECTION 10. Lot(s) shall mean and refer to any portion of the Planned Community designated on a recorded subdivision plat for separate ownership by a Lot Owner, together with any dwelling situated thereon.

SECTION 11. Lot Owner or Owner shall mean the Person who owns fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 12. Person means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, or agency or other legal or commercial entity.

SECTION 13. Planned Community shall mean and refer to plats recorded at Book 58, Page 51, Book 58, Page 72, Book 59, Page 9, and Book 63, Page 26 (New Hanover County Registry) plus any Additional Property made a part of it by the exercise of the Developer pursuant to any Special Declarant Right.

SECTION 14. Purchaser means any person, other than a declarant or a person in the business of selling real estate for the purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in a Lot, other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.

SECTION 15. Reasonable Attorney's Fees means attorney's fees reasonably incurred without regard to any limitations on attorney's fees which otherwise may be allowed by law.

SECTION 16. Special Declarant Rights means rights reserved for the benefit of a Declarant including without limitation the right (i) to complete improvements indicated on plats and plans filed with this Declaration; (ii) to exercise any development right reserved to the Declarant by this Declaration or otherwise; (iii) to maintain sales offices, management offices; signs advertising the Planned Community, and models; (iv) to use easements

through the Common Elements for the purpose of making improvements within the Planned Community or within real estate which may be added to the Planned Community; (v) to make the Planned Community part of a larger planned community or group of planned communities; (vi) to appoint or remove any officer or Executive Board Member of the Association during the Declarant Control Period; or (vii) to permit other land to be annexed to and made a part of the Planned Community in accordance with the terms of this Declaration.

SECTION 17. Townhouse or Townhome shall mean the dwelling located on a Lot.

SECTION 18. Unit means the dwelling located on a Lot

ARTICLE II.

PROPERTY RIGHTS AND EASEMENTS

SECTION 1. Owners' Property Rights and Easement of Enjoyment. Every Owner shall have and is hereby granted 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:

- (a) The Association may make and amend reasonable rules and regulations governing use of the Common Elements by the Owners, and limiting the number of guests of Members;
- (b) The Association may grant a security interest in or convey the Common Elements, or dedicate or transfer all or part of the Common Elements, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by at least 80 percent of the Members; provided, however, that the Association may without the consent of the Owners grant easements, leases, licenses and concessions through or over the Common Elements. No conveyance or encumbrance of Common Elements shall deprive any Lot of its rights of access or support.

SECTION 2. Easements in Favor of the Association. The following easements are reserved to the Association, their successors and assigns:

- (a) easements as necessary in the lands constituting the Common Elements and that portion of each Lot not occupied by a structure for the installation and maintenance of

utilities and drainage facilities (including the right of the Association to go upon the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone lines, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, cable TV, gas, sewer, water or other public conveniences or utilities on, in or over each Lot and such other areas as are shown on the plat of the Property or Additional Property recorded or to be recorded in the office of the Register of Deeds of the county where the Planned Community is located; the right to cut drain ways, swales and ditches for surface water whenever such action may appear to the the Association to be necessary in order to maintain reasonable standards of health, safety and appearance; the right to cut any trees, bushes or shrubbery; the right to make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance; and the right to locate wells, pumping stations, and tanks within residential areas, or upon any Lot with the permission of the owner of such Lot).

No structures or plantings or other material shall be placed or permitted to remain upon such easement areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion. Any of such easement areas which are located upon a Lot (whether or not shown on the recorded plats for the Planned Community) and improvements within such areas shall be maintained by the respective Owner except those for which a public authority or utility company is responsible;

(b) easements over all private streets, if any, access easements, and Common Elements within the Planned Community as necessary to provide access, ingress and egress, to the Additional Property;

(c) an easement of unobstructed access over, on, upon, through and across each Lot and the Limited Common Elements located thereon, if any, at all reasonable times to perform any maintenance and repair to the Limited Common Elements required by this Declaration. This easement shall also run in favor of the Association and the Association's agents, employees, successors and assigns.

SECTION 3. Other Easements. The following easements, in addition to any easements shown on the recorded plats of the Planned Community, are granted by Declarant to others:

(a) an easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all Lots and Common Elements in the performance of their duties;

(b) in case of any emergency originating in or threatening any Lot or Common Elements, regardless of whether any Lot Owner is present at the time of such emergency, the Association or any other person authorized by it, shall have the right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners, and such right of entry shall be immediate;

(c) the Association is granted an easement over each Lot for the purposes of providing Lot maintenance when an Owner fails to provide maintenance and upkeep in accordance with this Declaration.

SECTION 4. Nature of Easements. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property or the Additional Property, or any part or portion thereof, regardless of whether or not reference 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.

ARTICLE III

RIGHTS OF Declarant

The Declarant shall have, and there is hereby reserved to the Declarant, the Special Declarant Rights as herein defined and the following rights, powers and privileges which shall be in addition to the Special Declarant Rights and any other rights, powers and privileges reserved to the Declarant herein:

SECTION 1. The Architectural Control Committee. All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any Lot within the Property.

SECTION 2. Plan of Development. The right to change, alter or redesignate the allocated planned, platted, or recorded use or designation of any of the lands constituting the Planned Community including, but not limited to, the right to change, alter or redesignate road, utility and drainage facilities and easements and to change, alter or redesignate such other present and proposed amenities, Common Elements, or facilities as may in the sole judgment and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors and assigns, the right to re-plat any one (1) or more Lots shown on the plat of any subdivision of the Property or Additional Property in order to create one or more modified Lots; to further subdivide tracts or Lots shown on any such subdivision plat into two or more Lots; to recombine one or more tracts or Lots or a tract and Lots to create a larger tract or Lot (any Lot resulting from such recombination shall be treated as one Lot for purposes of Assessments); to eliminate from this Declaration Lots that are not otherwise buildable or are needed or desired by Declarant for access or are needed or desired by Declarant for use as public or private roads or access areas, whether serving the Planned Community or other property owned by the Declarant or others, or which are needed for Common Elements or amenities, and to take such steps as are reasonably necessary to make such re-platted Lots or tracts suitable and fit as a building site or access area or roadway or Common Elements. The Declarant need not develop the Additional Property. The Additional Property shall not be subject to this Declaration unless Declarant expressly subjects it hereto by the filing of a supplemental declaration in the Register of Deeds office of the county where the Planned Community is located.

SECTION 3. Amendment of Declaration by the Declarant. This Declaration may be amended without member approval by the Declarant, or the Board of the Association, as the case may be, as follows:

- (a) in any respect, prior to the sale of the first Lot or with regard to the Additional Property;
- (b) to correct any obvious error or inconsistency in drafting, typing or reproduction;

- (c) to qualify the Association or the Property, or any portion thereof, for tax-exempt status;
- (d) to incorporate or reflect any platting change as permitted by Section 2 of this Article or otherwise permitted herein;
- (e) to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such agency requesting or suggesting an amendment necessary to comply with the requirements of such agency shall be sufficient evidence of the approval of such agency, provided that the changes made substantially conform to such request or suggestion. The Declarant may at any time amend this Declaration to change the maximum allowable built-upon area as permitted by DENR. Notwithstanding anything else herein to the contrary, only the Declarant, during the Declarant Control Period, shall be entitled to amend this Declaration pursuant to this Section.

SECTION 4. Annexation of Additional Property. Declarant may annex the Additional Property to and make it a part of the Planned Community without the assent of the Members so long as the Additional Property is used for residential purposes, roads, utilities, drainage facilities, amenities and other facilities related thereto for any property located within one (1) mile thereof. Annexation shall occur by the recording in the New Hanover County Registry of a supplemental declaration declaring that the Additional Property is subject to this Declaration. The Additional Property shall not be subject to or controlled by the terms of this Declaration until the recording of such supplemental declaration.

ARTICLE IV. HOMEOWNERS' ASSOCIATION

SECTION 1. Formation of Association. The Association shall be incorporated no later than the date the first Lot is conveyed. The Association shall be a nonprofit corporation organized pursuant to the Nonprofit Corporation Act of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to operate and maintain the Common Elements and any Limited Common Elements in accordance with this Declaration, its Charter and Bylaws. The Association shall be empowered to perform

and/or exercise those powers set forth in the Act as it may be amended from time to time, in addition to any powers and authority otherwise granted to it.

SECTION 2. Membership. Every Lot Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Lot ownership.

SECTION 3. Voting Rights. The Association shall have two classes of voting Membership.

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 determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is prohibited.

Class B. So long as the Declarant owns a Townhome or any part of the Additional Property, the Declarant shall be a Class B Member and shall be entitled to three (3) votes for each Townhome shown on the above referenced plat and 3 votes for each of the three Townhomes planned for the Additional Property. If not earlier terminated, the Class B Membership shall cease and be converted to Class A Membership on December 31, 2023 or upon the voluntary surrender of all Class B Membership by the holder thereof.

The period during which there is Class B Membership is sometimes referred to herein as the "Declarant Control Period". During the Declarant Control Period, the Declarant shall have the right to designate and select the Executive Board of the Association and the right to remove any person or persons designated and selected by the Declarant to serve on the Executive Board, and to replace them for the remainder of the term of any person designated and selected by the Declarant to serve on the Executive Board who may resign, die, or be removed by the Declarant.

SECTION 4. Government Permits. After completion of construction of any facilities authorized to be constructed by Declarant pursuant to permits, agreements, approved plans and easements for the Planned Community, all duties, obligations, rights and privileges of the Declarant under any water, sewer, stormwater, utility agreements, easements, permits with municipal or governmental agencies or public or private utility companies, shall be the duties, rights, obligations, privileges and the responsibility of the Association, notwithstanding that such agreements, easements or permits have not been assigned or the

responsibilities thereunder specifically assumed by the Association. There are additional provisions made in this Declaration concerning stormwater facilities.

SECTION 5. Common Elements. The Association shall at its sole cost and expense be responsible for the operation and maintenance of each Common Element within the Planned Community from the date of completion of its construction or improvement by the Developer, whether or not (i) such Common Element has actually been deeded to the Association, or (ii) any permit issued by a governmental agency to Declarant for the construction and operation of the Common Element has been transferred from the Declarant to the Association or assumed by the Association. If the Declarant is required by any government agency to provide any operation or maintenance activities to a Common Element for which the Association is liable to perform such operation and maintenance pursuant to this section, then the Association agrees to reimburse the Declarant the cost of such operation and maintenance within 30 days after Declarant renders a bill to the Association therefor. The Association agrees to levy a Special Assessment within 30 days of receipt of such bill to cover the amount thereof if it does not have other sufficient funds available. Declarant shall be entitled to specific performance to require the Association to levy and collect such Special Assessment.

ARTICLE V INSURANCE AND BONDS

SECTION 1. Insurance. Commencing not later than the time of the first conveyance of a Lot to a Person that is not a Declarant, it shall be the duty of the Association to maintain in effect casualty and liability insurance as follows to the extent it is reasonably available:

(a) Amount and Scope of Insurance. All insurance policies upon the Common Elements shall be secured by the Board of Directors, or its designee on behalf of the Association which shall obtain such insurance against (1) loss or damage by fire or other hazards normally insured against in an amount, after application of any deductibles, of not less than 80 percent 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 (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 Planned Community and the improvements thereon 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 Elements and legal liability arising out of lawsuits relating to employment contracts of the Association. If the insurance described in subsection (a) of this section is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Lot Owners;

(b) Insurance Provisions. The Board of Directors shall make diligent efforts to insure 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 canceled 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 Planned Community over which the Association has no control.
- (5) the master policy on the Planned Community cannot be canceled, invalidated or suspended on account of the conduct of any one or more individual Lot Owners;
- (6) the master policy on the Planned Community cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured;
- (7) each Lot Owner is an insured person under the policy to the extent of the Lot Owner's insurable interest;

(8) if at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(c) Premiums. All premiums on such insurance policies and any deductibles payable by the Association upon loss shall be a common expense;

(d) Proceeds. All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board as insurance trustee or to such attorney-at-law or institution with trust powers as may be approved by the Board of Directors who shall hold any such insurance proceeds in trust for Lot Owners and lien holders as their interest may appear;

(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 Board of Directors and the Lot Owners and their mortgagees as their respective interests may appear, and shall provide that all proceeds thereof shall be payable to the Board of Directors and duplicates of said policies and endorsements and all renewals thereof, or certificates thereof, together with proof of payment of premiums, shall be delivered to the Owners at least ten (10) days prior to the expiration date with respect to the then current policies. Duplicates shall also be obtained and issued by the Association to each mortgagee, if any upon request of such mortgagee;

(f) Individual Policies. Lot Owners shall purchase insurance policies covering each Lot and Lot Owner individually shall purchase individual policies under such terms and conditions as the Association may prescribe. The Association shall be named as additional insured on each policy and each Lot shall be insured for its full replacement value;

(g) Distribution of Insurance Proceeds. Subject to the provisions of Section 47F-3-113(g) of the Act the proceeds of insurance policies shall be distributed to or for the benefit of the beneficial owners in the following manner:

(i) all reasonable expenses of the insurance trustee shall be first paid or provision may therefor;

(2) the remaining proceeds shall be used to defray the cost of repairs for the damage or reconstruction for which the proceeds are paid. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or retained by the Association for such common expenses or purposes as the Board shall determine.

SECTION 2. Fidelity Bond. The Association may maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association; provided, however, that if the Association shall delegate some or all of 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.

ARTICLE VI. COVENANTS FOR ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each Lot Owner covenants and agrees to pay to the Association the following assessments (collectively the "Assessments"):

- (a) Annual Assessments;
- (b) Special Assessments;
- (c) Insurance Assessments;
- (d) Ad Valorem Tax Assessments; and
- (e) Working Capital Assessments.

The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the Assessments are 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 fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

SECTION 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the Property and Additional Property and for the maintenance, repair, improvement and replacement of the Common Elements and the Limited Common Elements. The funds arising from said assessments or charges, may be used for any or all of the following purposes: Operations, maintenance and improvement of the Common Elements, and the Limited Common Elements, including payment of utilities; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees and governmental charges; establishing working capital; paying dues and assessments to any organization or other association of which the Association is a member, and in addition, doing any other things necessary or desirable in the opinion of the Executive Board to keep the Common Elements and Limited Common Elements in good operating order and repair.

SECTION 3. Annual Assessments. The Executive Board shall adopt a proposed annual budget at least 90 days before the beginning of each fiscal year. Within 30 days after adoption of the proposed budget for the Planned Community, the Executive Board shall provide to all of the Lot Owners a summary of the budget and notice of a meeting to consider its ratification, including a statement that the budget may be ratified without a quorum. The budget is ratified unless at the meeting a majority of all of the Lot Owners in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Executive Board. The Annual Assessment for each Lot shall be established based on the annual budget thus adopted; provided, however, that the first Annual Assessment shall be set by the Declarant prior to the conveyance of the first Lot to an Owner. The due date for payment shall be established by the Executive Board. The Executive Board shall have the authority to require the assessments to be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 4. Special Assessments. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to the year only for the following purposes:

A. To defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements and any Limited Common Elements, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the Members of each class who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting of Owners called for the purpose of approving such Special Assessment shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting.

B. Without a vote of the Members, to provide funds to reimburse the Declarant as provided for in Article IV, Section 5, hereof.

SECTION 5. Insurance Assessments. All premiums on insurance policies 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 may in any assessment year levy against the Owners equally an "Insurance Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay the annual cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment.

SECTION 6. Ad Valorem Tax Assessments. All ad valorem taxes levied against the Common Elements, if any, shall be a Common Expense, and the Association may in any assessment year levy against the Owners equally an "Ad Valorem Tax Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay such ad valorem taxes in such year not included as a component of the Annual Assessment.

SECTION 7. Working Capital Assessments. At the time title to a Lot is conveyed to a new Owner, the new Owner shall pay the sum of \$1500.00 to the Association as working capital to be used for operating and capital expenses of the Association. Amounts paid into the working capital fund are not to be considered as advance payment of the Annual or any other assessments.

SECTION 8. Rate of Assessment. The Association may differentiate in the amount of Assessments charged when a reasonable basis for distinction exists, such as between vacant Lots of record and Lots of record with completed dwellings for which certificates of

occupancy have been issued by the appropriate governmental authority, or when any other substantial difference as a ground of distinction exists between Lots. However, Assessments must be fixed at a uniform rate for all Lots similarly situated.

SECTION 9. Commencement of Assessments. Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant.

SECTION 10. Effect Of Nonpayment of Assessments and Remedies Of The Association. Any Assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. 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. All unpaid installment payments of Assessments shall become immediately due and payable if an Owner fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments.

SECTION 11. Lien for Assessments. The Association may file a lien against a Lot when any Assessment levied against said Lot remains unpaid for a period of 30 days or longer.

(a) The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of the county in which the Lot is located. 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 General Statutes. Fees, charges, late charges, fines, interest, and other charges imposed pursuant to Sections 47F-3-102, 47F-3-107, 47F-3-107A and 47F-3-115 of the Act are enforceable as Assessments.

(b) The lien under this section shall be prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot.

(c) The lien for unpaid assessments is extinguished unless proceedings to enforce the tax lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of Superior Court.

(d) Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(e) Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid Assessments shall be deemed to be Common Expenses collectible from all of the Lot Owners including such purchaser, its heirs, successors and assigns.

(f) A claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed.

ARTICLE VII.

USE RESTRICTIONS, ARCHITECTURAL CONTROL AND MAINTENANCE

SECTION 1. Approval of Plans for Building and Site Improvements. No structure shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change in or alteration therein (including painting or repainting of exterior surfaces) be made until the plans and specifications showing the nature, kind, shape, heights, materials, colors and location of the same, and any additional Request Form that may be required by the Association or the Architectural Control Committee, shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or its designee, or, after the sale of all Lots by Declarant, by the Board of Directors of the Association, or by an Architectural Control Committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, or its designee, or, if applicable, the Board, or the Architectural Control Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. Refusal or

approval of any such plans, location or specification may be based upon any ground, including purely aesthetic and environmental considerations, that in the sole and uncontrolled discretion of the Declarant, the Board, or Architectural Control Committee shall be deemed sufficient. One copy of all plans and related data shall be furnished to the Declarant, the Board, or Architectural Control Committee, as the case may be, for its records. Neither the Declarant, the Board, nor the Architectural Control Committee shall be responsible for any structural or other defects in plans and specifications submitted to it or any structure erected according to such plans and specifications.

SECTION 2. Minimum Standards for Site Improvements.

- (a) Each dwelling shall have a minimum of 1,500 square feet of enclosed, heated dwelling area; provided, however, the Architectural Control Committee may permit a variance to this minimum requirement if the Committee in its sole discretion finds that the variance will not adversely impact property values within the Planned Community. The term "enclosed, heated dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling which is heated by a common heating system; provided, however, that such term does not include garages, terraces, decks, open/screened porches, and like areas.
- (b) 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 Declarant, the Board, or the Architectural Control Committee, as the case may be; provided, however, that no structure shall be constructed closer to an adjoining property line than is permitted by applicable governmental regulations.
- (c) The exterior of all dwellings and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except 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.
- (d) All service utilities, fuel tanks, yard maintenance equipment when not in use, and wood piles are to be enclosed within a building, wall or plant screen of a type and size approved by the Declarant, the Board or the Architectural Control Committee, so as to preclude the same from causing an unsightly view from any highway, street or way, or from any other

residence within the Planned Community. Woodpiles may not be placed against wooden siding or fencing (to prevent pests and fire hazards). All mail and newspaper boxes shall be uniform in design. Design for mail and newspaper boxes shall be furnished by Declarant or Association

(e) All light bulbs or other lights installed in any fixture located on the exterior of any Town home for the purpose of illumination shall be uniform for all light fixtures; clear, white, or non-frosted and not colored; and 900 lumens or less (equivalent to a 60 watt incandescent light bulb). No colored bulbs are permitted. The locations and type of any motion detector lights must be approved by the Board of Directors or Architectural Review Committee prior to installation.

(f) Garage Conversion. No garage shall be utilized for other than the purpose of parking and storage of vehicles and other types of items normally stored in garages in residential neighborhoods. Conversion of any existing garage to finished space for use as an apartment or other integral part of the living area of a dwelling is not permitted. "Living Area" means the habitable area of the dwelling that is heated and air-conditioned and does not include garages, carports, porches, attics, or basements.

(g) Shutters. Shutters are permitted only on windows located in the courtyard or on windows of units with an enclosed backyard. Any damage and/or deterioration to the siding behind or caused by the shutters, such as rot or holes, must be repaired at the expense of the homeowner. Storm shutters are allowed with approval from the Board of Directors or Architectural Review Committee and must only be used/installed when needed, then removed.

SECTION 3. Use Restrictions.

(a) Land Use and Building Type. No Lot shall be used for any purpose except for residential purposes, subject, however, to the rights of the Declarant contained herein.

Notwithstanding this paragraph, a home office or home occupation may be conducted on any Lot with the following restrictions:

1. No employees other than residents of the Lot
2. The use of the Lot for a home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, up to 25% of the floor area of the

dwelling unit, but in no case more than 400 square feet, may be used in the conduct of the home occupation.

3. No bed and breakfast or short-term rentals as set forth in Section 5.
4. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes or electrical interference detectable to the normal senses off the lot
7. No display of products shall be visible from the street. The selling or manufacturing of merchandise, except baking, sewing and/or home crafts normally made in the home, is prohibited and therefore cannot be the function of the home occupation;
8. No entrance or exit way shall be specifically provided in the dwelling or on the premises for the conduct of the home occupation.
9. No more than one home occupation shall be permitted on any Lot.

All numbered Lots are restricted for construction of one single family Townhome dwelling.

(b) Nuisances. 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, including but not limited to loud noise, loud music, noise in violation of City of Wilmington ordinances, towels or items hung over gates/fences/deck railings, trash or garbage on the property, and offensive odors. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Lots by the Owners thereof. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkempt condition of buildings or grounds on the Owner's Lot which would tend to decrease the beauty of the neighborhood as a whole or the specific area.

(c) Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot any time as a residence either temporarily or permanently without the written consent of the Association or its

designee; provided, however, that this shall not prevent the Declarant, its designees or assigns from maintaining a construction trailer or office on any part of the Planned Community until the construction of dwellings on all Lots and Common Elements improvements are completed. Storage pods may be in a driveway only if currently being used and only for a maximum of 4 days from the date of approval by the HOA. No construction dumpsters allowed without prior written approval from the HOA.

(d) Vehicles/Boats. No vehicle, boat, motor boat, personal watercraft, camper, trailer, motor or mobile homes, tractor/trailer, construction equipment, bus, truck with more than 6 wheels, or similar type vehicle, shall be permitted to remain on any Lot or on any street at any time, without the written consent of the Association or its designee. No inoperable vehicle or vehicle without current registration and insurance, will be permitted on any Lot, street or Common Elements. The Association shall have the right to have all such vehicles towed away at the owner's expense and without prior notification. No repairs to any vehicle may be made on streets or in driveways but only in garages or other areas and not visible from the street. Vehicle repairs are to be made inside garages and not visible from the street. Car washing is prohibited.

(e) Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that domesticated dogs, domesticated cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further that they are not allowed to run free, are at all times kept properly leashed and do not become a nuisance to the neighborhood. Pets cannot be tied out in a common area. Pet waste must be collected and removed immediately from common areas, yards and enclosed backyards.

(f) Statuary. No yard statuary are permitted on any Lot

(g) Satellite Dishes, Outside Radio/TV Antennas: No satellite dish, outside radio, or TV antenna are to be installed in or on common areas (roofs, chimneys or exterior walls). The HOA will not be responsible for any damages (from inclement weather, accidents, installation or maintenance, etc.) caused by the antennae. The homeowner assumes all liability and financial responsibility.

(h) Construction in Common Elements. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Elements except at the direction or with the express written consent of the Association.

(i) Signs. No signs shall be permitted on any unit, lot, fence/gate, or common area except an official security company sign or, if necessary, a small pre-approved "Beware of Dog" sign (on the gate) with written permission from the Association. Advertising signs (such as "For Rent" or "For Sale") or commercial, business signs are not permitted. "Open House" signs are allowed on Saturday and Sunday only between the hours of 12:00 noon and 5:00 pm. Due to shallow utility lines in our community, no sign post may be put into the ground. Tent signs must be used. Political signs may be displayed only under the terms and conditions of the North Carolina Planned Community Act. All signs of any kind must be located on homeowner property, not in Common Areas.

(j) Subdividing. Subject to any rights reserved to the Declarant herein, no Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the period of Declarant control of the Association and thereafter by the Board of Directors of the Association.

(k) Smoking in Common Area: Due to the potential fire hazard and negative effect on property values, disposal of cigarette butts thrown in around the Common Areas and Limited Common areas is prohibited.

(l) Outdoor Items and Furniture: Grills, gardening equipment, tools, work benches, toys/play equipment, trash cans, cleaning items, clothes lines, etc. shall not be left/kept in common areas or visible areas of courtyards (unless completely concealed from view) or in the rear of homes on decks/patios (unless the backyard is enclosed or the items are concealed). All grills must be used in accordance with the City of Wilmington ordinance. No tiki torches, fire pits, or other open flame sources are permitted. Outdoor items and furniture, in good repair, may be placed on the deck/patio at the rear of each home but not in the grass or landscaped areas. The furniture must be in good repair and removed during stormy weather to prevent any damage. The Association will not be responsible for such repairs. Terraces/Patios must be kept neat, clean and free of trash at all times. All furniture placed on terraces/patios, must be outdoor furniture in good repair. Each owner is responsible for removing any furniture, plants, etc. located on their terrace/patio during

hurricane threats. If the items are not removed, the repair of any damage done to the Condominium property or the property of other Unit Owners, due to the items, will be the responsibility of the Unit Owner who owns the items.

(m) Trash: All garbage and trash must be kept in containers completely concealed from view and stored in garages, or enclosed back yards except on collection day(s), when the items must be placed on the sidewalk, not on the grass (which can damage grass and irrigation heads). Containers are to be brought back inside, out of view, on the day of collection. Trash/recycling containers must be concealed from view from the street. Lids on cans must be closed (to avoid litter) when placed out for collection and extra items must be bagged or sealed to prevent litter. No construction dumpsters allowed.

(n) Hot tubs and outdoor saunas are prohibited.

(o) Yard or garage sales are prohibited.

SECTION 4. Maintenance. Each Lot Owner shall keep his Lot free from weeds, underbrush or refuse piles, or unsightly growth or objects, including the front courtyards and enclosed backyards, and be cleaned and property maintained and in good repair. At least 2 inches of concrete foundation of the unit must be exposed, with no dirt, mulch, pine straw, or vegetation covering the concrete against the wood surfaces. Vegetation must be pruned at least 6 inches away from the foundation, wooden siding, gutters, roof, or fence. Uncontrolled grass or weeds in violation of the City of Wilmington ordinances is prohibited.

In the event that any maintenance activities are necessitated to any Common or Limited Common Element or any other area the Association is responsible for maintenance and repair, by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors of the Association, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may be added to the annual assessment levied against said Owner's Lot.

Gutters, Downspouts and Rain Barrels: All must be well-maintained and kept clean and connected. Downspout extensions (black pipes) are important for water flow away from the

foundation and must be replaced at the owner's expense if damaged or removed. Additional gutters and downspouts, especially on the eaves in the back of the units, are encouraged to help with proper drainage; however, installation is at the owner's expense. Rain barrels are allowed with prior approval from the Architectural Review Committee. If gutters are cut for rain barrel installation, they must be replaced or the rain barrel must remain if the unit is sold.

Irrigation System: Sprinkler heads are located in the grass and very near the streets and driveways - they can be easily damaged by vehicles parking improperly or on the grass. Any sprinkler heads or irrigation lines damaged by any owner, or their guests, invitees or tenants will be repaired at the owner's expense. Report broken sprinkler heads to the Association or its designee.

Landscaping: The Association is responsible for the common areas and limited common areas, including driveway dividers, but not enclosed backyards. A homeowner must request in writing and receive permission from the Board of Directors or the Architectural Control Committee for any changes, items or plantings in a common area or limited common area. Plants in common areas and limited common areas are the property of the HOA and will be maintained by the HOA. Plantings must be low maintenance, attractive, drought tolerant and low growing for vehicle/pedestrian safety, and in keeping with the style and appearance of the community. Native plants are recommended and an approved Association Plant List is available upon request. No items (solar lights, furniture, pots/potted plants, "yard art", fencing, trash cans, etc.) should be placed in, or near the edge of, the grass or landscaped areas. Landscaping requests must be made in writing to the Association - not directly to the Landscaping crew or contractor.

Section 5. Unit Leasing. To maintain the character and historical use of the planned community, homeowners must occupy the Unit as their primary residence for at least 12 consecutive months before the Unit can be rented. Leases of a Unit thereafter are limited to a minimum of a 12-month duration. No Unit will be leased for transient or hotel purposes. The homeowner must notify the Association that their Unit is/will be rented. A copy of the current lease (that specifies the names of all current tenants and is for 12 months or longer) is required to be filed with the Association along with any informational form provided by the Association. Names and phone numbers of all adult tenants included in the lease and

names and ages of minor children residents must be provided. No more than three non-related individuals can occupy a single Unit under one lease term. The Owner of a leased Unit shall provide to the lessee copies of the current Declaration, By-Laws, and the Rules and Regulations prior to the lessee entering into any agreement to lease a Unit and shall be responsible for any violations of the Governing Documents by the lessee or other occupants of the Unit, notwithstanding that the lessee and occupants are fully liable and may be sanctioned for their violations. The lease shall provide that tenant must abide by the Declarations, By-laws, and Rules and Regulations of the planned community or be in default. The lessee must acknowledge receipt of the Governing Documents. The homeowner shall provide a \$100 administration fee for any new lease.

If there is a change in the names of the lessees, the Association should be informed. A change of any tenant must be reported in writing within 20 days and/or a new lease submitted. The tenants leasing the unit must be in the same family. SUBLETTING is NOT PERMITTED. Only entire Units may be rented. Renting of individual spaces (i.e., rooms or levels) is NOT permitted. If the tenant vacates the Unit prior to the end of the minimum initial term, the Unit may not be leased to another tenant until expiration of the applicable minimum initial term.

In the event that the Association imposes a fine for violation of the Governing Documents by the lessee or occupants of the leased Unit, the Association shall give notice to the Owner and the Owner shall be responsible for payment as set forth in these Declarations. Unpaid fines shall constitute a lien against the Unit. Any violation of the Governing Documents by the lessee, any person residing in the Unit, or any guest of the lessee or other members of the lessee's household shall constitute a default under the terms of the lease and shall authorize the Owner to terminate the lease without liability and to evict the lessee in accordance with North Carolina law. The Owner hereby delegates and assigns to the Association, acting through its Board of Directors, the power and authority to enforce this provision against the lessee, including the power and authority to evict the lessee

Upon a determination, after notice and a hearing in accordance with the bylaws, that the Owner of a leased Unit has failed to comply, if capable of being cured, has failed to cure such non-compliance within 10 days after the date of written notice from the Association of

such non-compliance, the Board may terminate such Owner's eligibility to lease the Unit and prohibit such Owner from leasing any Unit in the future.

No signs advertising the Unit for rent or lease or otherwise indicating that the Unit is available for rent or lease shall be permitted within the community.

Leasing of multiple Units by a single Owner, or the leasing of two or more Owners related by blood, adoption, or marriage, or by Owners with a common ownership interest, or by a group of Owners under the control or direction of a single Owner or entity, shall be prohibited. No Owner shall directly or indirectly own more than two units. For purposes of this section, "indirectly owned" shall include ownership of a unit by a spouse, child, or parent of the unit Owner; or ownership of a unit by a corporation, LLC, or partnership.

The use of the amenities is limited to the tenant and their guests only. Unit owners will not be permitted to use the amenities while their unit is rented.

SECTION 6. Parking. Parking space is very limited in the planned community. The street is narrow and must be accessible at all times for access by emergency vehicles. Cars improperly parked degrade the safety and appearance of the community. Parking space varies per home based on the size of the driveway and use of the garage. Parking or driving on any grass, landscaped/natural area, driveway divider, common element or limited common element at any time is strictly prohibited. Additional temporary, short-term parking locations for residents' or guests' vehicles may be designated by the Association. Overnight street parking (1:00 a.m. - 6:00 a.m.) is prohibited for fire and safety reasons. The Association shall have the right to have all such vehicles towed away at the owner's expense and without prior notification to the owner.

SECTION 7. Solicitation. Solicitation of any type is strictly prohibited in our community. Only HOA official information (important HOA notices, etc.) will be delivered to units when, and if, necessary.

ARTICLE VIII PARTY WALLS

SECTION 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Town homes and placed on the dividing line between Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this

Article, the general rules of law in North Carolina regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

SECTION 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the 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 Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission.

SECTION 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act caused the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such element.

SECTION 5. Right to Contribute Runs with Land. The right of any Owner to contribute from any other Owner under this Article shall be appurtenant to the land 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 arbitrators shall choose one additional arbitrator, and the decisions shall be by a majority of all the arbitrators.

ARTICLE IX

LOTS SUBJECT TO DECLARATION/ENFORCEMENT

SECTION 1. Lots Subject to Declaration. The covenants and restrictions contained in this Declaration are for the purpose of protecting the value and desirability of the Planned Community and the Lots contained in it. 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 run with and bind the land and shall bind any person having at any time any interest or estate in any Lot, their heirs, successors and assigns, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless terminated by the Lot Owners.

SECTION 2. Enforcement and Remedies. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable (by proceedings at law or in equity) by the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns. The Executive Board shall be entitled to enforce its Articles of Incorporation, Bylaws and Rules and Regulations. In addition to the remedies otherwise provided for herein concerning the collection of Assessments, the following remedies shall be available:

A. Association to Remedy Violation. In the event an Owner (or other occupant of a Lot) is in violation of or fails to perform any maintenance or other activities required by this Declaration, the Association's Bylaws, Charter or Rules and Regulations, the Executive Board or its designee, after 30-days notice, may enter upon the Lot and remedy the violation or perform the required maintenance or other activities, all at the expense of the Owner, and such entry shall not be deemed a trespass. The full amount of the cost of remedying the violation or performing such maintenance or other activities and shall be chargeable to the Lot, including collection costs and reasonable attorneys' fees. Such amounts shall be due and payable within 30 days after Owner is billed. If not paid within said 30 day period, the amount thereof may immediately be added to and become a part of the Annual Assessment levied against said Owner's Lot. In the event that any maintenance activities are necessitated to any Common or Limited Common Elements by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors of the Association, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may immediately be added to and become a part of the Annual Assessment levied against said

Owner's Lot. Notwithstanding the foregoing, the Association shall not have a lien for the cost of any maintenance and repairs mentioned in this section if the Association is obligated to make such repairs or conduct such maintenance by virtue of yards or structures being Limited Common Elements.

B. Fines. The Association may in accordance with the procedures set forth in the Act establish a schedule of and collect fines for the violation of this Declaration or of the Association's Articles of Incorporation, Bylaws or Rules and Regulations. Fines will not exceed \$100 per day. If an Owner does not pay the fine when due, the fine shall immediately become a part of and be added to the Annual Assessment against the Owner's Lot and may be enforced by the Association as all other Assessments provided for herein.

C. Suspension of Services and Privileges. The Association may in accordance with the procedures set forth in the Act suspend all services and privileges provided by the Association to an Owner (other than rights of access to Lots) for any period during which any Assessments against the Owner's lot remain unpaid for at least 30 days or for any period that the Owner or the Owner's Lot is otherwise in violation of this Declaration or the Association's Charter, Bylaws, or Rules and Regulations.

SECTION 3. Miscellaneous. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The remedies provided herein are cumulative and are in addition to any other remedies provided by law.

ARTICLE X STORMWATER/ICAMA FACILITIES

SECTION 1. Stormwater. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8080528, as issued by the Division of Water Quality under NCAC 2H.1000. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit. These covenants are to run with the land and be binding on all persons and parties claiming under them. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality. Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division of Water Quality. The

maximum built-upon area per lot is 1,728 square feet. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot property and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools. All runoff on the lot must drain into the permitted system.

This may be accomplished through providing roof drain gutters, or grading perimeter swales and directing them into the pond or street. Lots that will naturally drain into the system are not required to provide these measures. Built-upon area in excess of the permitted amount will require a permit modification.

The Association and each of its Members agree that at anytime after (i) all work required under the Stormwater Plan (or any other stormwater permit) has been completed (other than operation and maintenance activities), and (ii) the Developer is not prohibited under government regulations from transferring the such permits or approved plans for the Planned Community to the Association, the Association's officers without any vote or approval of Lot Owners, and within 10 days after being requested to do so, will sign all documents required for such permits and plans to be transferred to the Association and will accept a deed conveying such facilities to the Association (if not already deeded). If the Association fails to sign the documents required by this paragraph or to accept a deed conveying such facilities, the Developer shall be entitled to specific performance in the courts of North Carolina requiring that the appropriate Association officers sign all documents necessary for such transfer to occur to the Association and requiring the Association to accept a deed conveying such facilities to the Association. Failure of the officers to sign as provided herein shall not relieve the Association of its obligations to operate and maintain the stormwater facilities.

SECTION 2. Facilities Operation & Maintenance. Any stormwater facilities for the Planned Community constitute Common Elements and, subject only to the provisions of Section 3 of this Article, the Association, at its sole cost and expense, is responsible for the operation and maintenance of such facilities. Such operation and maintenance shall include, but not be limited to, compliance with all of the terms of the Stormwater Plan. Except as provided in Section 3 of this Article, the Association shall indemnify and hold

harmless the Developer from any obligations and costs under the Stormwater Plan for operation and maintenance of the stormwater facilities.

SECTION 3. Damage. The Declarant shall at its sole cost and expense be responsible for repairing any damage to stormwater facilities caused by the Developer's development activities. The Developer shall not be responsible for damages to such facilities caused by any other cause whatsoever, including but not limited to acts of God and the negligence of others. Lot Owners shall be responsible for damages to such facilities caused by activities upon the Owner's Lot. Each Owner, shall within 30 days after receipt of notice of damage to such facilities, repair the damage at the Owner's sole cost and expense. If the Lot Owner fails to do so within said 30-day period, the Association shall perform the work and the cost of the work shall be added to the Annual Assessment due from the Lot Owner.

ARTICLE XI GENERAL PROVISIONS

SECTION 1. Rights of Institutional Note Holders. Any institutional holder of a first lien on a Lot will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings of the Association and right to designate a representative to attend all such meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the Planned Community or the Property securing its loan, (e) receive written notice of any sixty-day (60) delinquency in the payment of assessments or charges owed by any Owner of any property which is security for the loan, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (g) receive written notice of any proposed action that requires the content of a specified percentage of mortgage holders, and (h) be furnished with a copy of any master insurance policy.

SECTION 2. Utility Service. Declarant reserves the right to subject the Property to contracts for the installation of utilities, cable TV and street lighting, which may require an initial payment and/or a continuing monthly payment by the Owner of each Lot. Each Lot Owner will be required to pay for any water connections, sewer connections, impact fees or any other charges imposed by any entity furnishing water, sewer or other utility service to the Lots. In the alternative, the Declarant may collect such connection, impact and other

fees, charges directly from the Lot Owners. All Lot Owners shall be required, for household purposes, to use water and sewer supplied by the companies/governmental units servicing the Planned Community. Separate water systems for outside irrigation and other outdoor uses shall not be permitted without the consent of the Declarant or the Association.

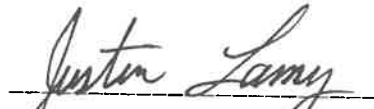
SECTION 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 4. Amendment of Declaration. Except in cases of amendments that may be executed by the Declarant under this Declaration or by certain Lot Owners under Section 47E-2-118(b) of the Act, this Declaration may be amended by affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, or by the Declarant if necessary for the exercise of any Special Declarant Right. Notwithstanding the foregoing, the Declarant has the unilateral right to amend this Declaration to ensure ongoing compliance with the Stormwater/CAMA Facilities provisions contained in Article X hereof.

SECTION 5. FHA/VA Approval So long as there is Class B membership, annexation of Additional Properties, dedication of Common Elements and amendments to this Declaration must be approved by the Federal Housing Administration and/or the Department of Veterans Affairs, as the case may be, if either of those agencies has approved the making, insuring or guaranteeing of mortgage loans within the Planned Community.

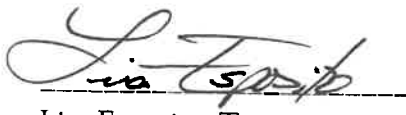
SECTION 6. North Carolina Planned Community Act. It is the intent of the Declarant to comply with the requirement imposed on the Planned Community by the Act and to the extent any of the terms of this Declaration violate the Act, the terms of the Act shall control.

In witness whereof, Tonbo Meadow Townhomes Owners Association, Inc. as authorized and directed by vote of at least sixty-seven percent of the allocated votes in the Tonbo Meadow planned community, and attesting that the covenants were amended by formal vote of at least sixty-seven percent of the allocated votes in the Tonbo Meadow planned community, has caused this instrument to be executed by the duly authorized officers of the Tonbo Meadow Townhomes Owners Association, Inc. this 24 day of June, 2024


Justin Lamy- President

Tonbo Meadow Townhomes Owners Association, Inc.

ATTEST


Lisa Esposito, Treasurer

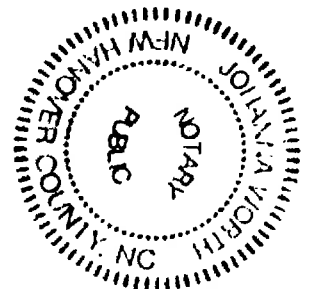
Tonbo Meadow Townhomes Owners Association, Inc.

NORTH CAROLINA
NEW HANOVER COUNTY

I, JOHANNA WORTH, a Notary Public of the County and State aforesaid, certify that Justin Lamy personally appeared before me this day and stated that he is the President of Tonbo Meadow Townhomes Owners Association, Inc. and, being authorized to do so, executed the foregoing AMENDMENT OF DECLARATION OF RESTRICTIVE COVENANTS on behalf of the corporation. And said Lisa Esposito, Treasurer of Tonbo Meadow Townhomes Owners Association, Inc. acknowledged the said writing to be the act and deed of the Association.

Witness my hand and official seal, this the 24th day of June, 2024


Notary Public
My commission expires: 6/13/2029

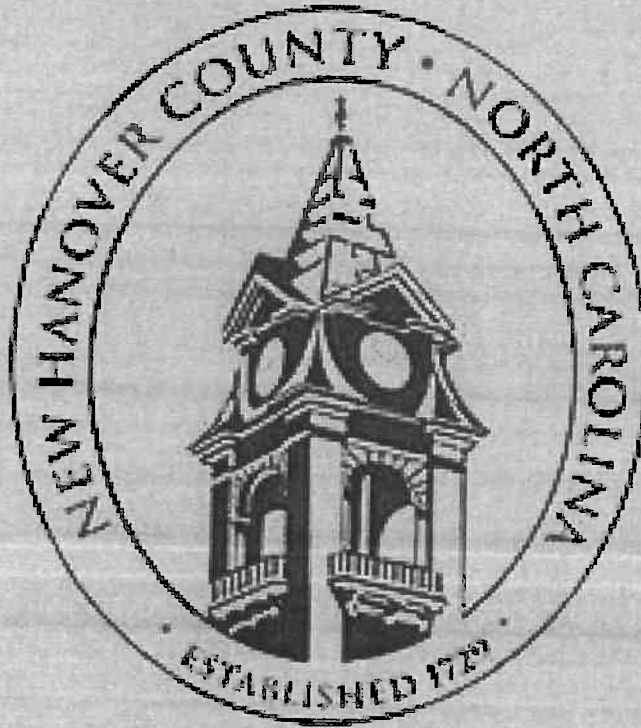


MORGHAN GETTY
COLLINS
Register of Deeds

New Hanover County

Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7716



State of North Carolina, County of NEW HANOVER
Filed For Registration: 06/26/2024 02:32:41 PM
Book: RB 6714 Page: 730-764
35 PGS \$102.00
Real Property \$102.00
Recorder: ANGELA ENGLISH
Document No: 2024015537

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit in re-recording.