



**CITY OF SOUTHPORT
BOARD OF ALDERMEN
REGULAR MEETING AGENDA**
223 E. BAY STREET
March 13, 2025
6:00 PM

Agenda

Please turn off all cell phones

Meetings are open to the public. If you are not able to attend the Board of Aldermen meetings in person, the meeting will be available for you to watch via live-stream on the City of Southport website (<https://cityofsouthport.com/board-of-aldermen-meetings/>), Facebook page, and YouTube channel.

ETHICS STATEMENT:

"If any members know of any conflict of interest or the appearance of a conflict of interest concerning matters on the agenda, please so state at this time."

- A. Call to Order**
- B. Invocation**
- C. Pledge of Allegiance**
- D. Public Comment**
- E. Mayor and Aldermen Response to Public Comment**
- F. Approval of Agenda**
- G. Approval of the Consent Agenda**
 - 1. Paving Contract and Budget Amendment (Pgs. 3-14)
 - 2. BRIC Grant Budget Amendment (Pgs. 15-18)
 - 3. Set a Public Hearing for April 10, 2025, Aldermen meeting for Special Event UDO Text Amendment (Pgs. 19-22)
- H. Agenda**
 - 1. Waters at Southport Final Plat (Planning Services Director Maureen Meehan, Pgs. 23-139)
 - 2. Public Hearing- Text Amendment to Section 3.14.C. Minimum Parking Requirements and Section 3.17.D Landscaping on Public Property of the Unified Development Ordinance (Planning Services Director Maureen Meehan, Pgs. 140-145)
 - 3. North Howe Street Overlay District (Planning Services Director Maureen Meehan, Pgs. 146-152)
 - 4. HB337 & HB338 (Aldermen Mosteller Pgs. 153-156)
 - 5. Sunny Point Property

I. Committee Reports

1. ABC Board (157-158)

J. Manager's Report

K. Mayor's Comments

L. Staff Reports

1. Permits and Inspections (Pg. 159)
2. Public Works (Pgs. 160-170)
3. Tax Collection (Pgs. 171-176)
4. Development Services (Pgs. 177-178)
5. Code Enforcement (Pgs. 179-182)

M. Board Comments

N. Closed Session NCGS 143-318.11

1. Motion to go into Closed Session Pursuant to NCGS 143-318.11 3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.
(5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease;

O. Adjourn

DATE: March 13, 2025 **DEPARTMENT:** Public Works

PRESENTED BY: Tom Stanley, Public Works Director

ITEM SPONSORED BY: Public Works

ITEM/TOPIC: 2025 Paving Project

COST: NTE \$200,000

BUDGET LINE ITEM: 20-20-4510-5900

JUSTIFICATION: Paving deteriorating city streets improves safety, reduces vehicle wear, and prevents further infrastructure decay, enhances accessibility, ultimately saving on long-term repair costs. Street paving improves safety, reduces maintenance costs, enhances accessibility, by providing smoother, more durable road surfaces.

IMPACT IF NOT APPROVED: If this paving project is not approved, the streets will continue to deteriorate and can lead to vehicle damage. Additionally, the lack of proper infrastructure maintenance can result in higher long-term repair costs.

DEPARTMENT HEAD COMMENTS: Proposals were solicited from multiple paving companies, and Highland Paving submitted the lowest, qualified bid. Staff recommends awarding the contract to Highland Paving for the city's paving project, utilizing the allocated Powell Bill funds. Project is projected to be completed by June 30th, 2025.

CITY MANAGER COMMENTS: The adoption of the contract and budget amendment will ensure that we continue to take care of our city streets and provide much needed repairs. In the original adopted FY2025 budget ordinance, we anticipated receiving \$160,000 from Powell bill funds from the state. However, we actually received \$179,538.09. The budget amendment accounts for the increased revenue received from Powell bill funds. It also appropriates \$20,461.91 of the Powell bill fund balance. This is due to the contract being not to exceed \$200,000. Our Powell bill fund balance after using the \$20,461.91 will be \$399,881.05.

ATTACHMENTS: Paving Contract, Project Area Map

REQUESTED ACTION: Based on the evaluation, staff recommends awarding the paving contract to Highland Paving for the city's paving project. The project will be funded using the allocated Powell Bill funds.

PROPOSED MOTION: We respectfully request the Board of Aldermen approve the award of the paving contract with Highland Paving and adopt the budget amendment and authorize staff to proceed with the necessary arrangements for the project.

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

THIS CONTRACT, made and entered into this ____ day of **MARCH** 2025, by and between Highland Paving Co. a North Carolina corporation of the County of Brunswick, State of North Carolina, Party of the First Part (hereinafter sometimes referred to as "Contractor"); and the **CITY OF SOUTHPORT**, a duly chartered municipal corporation and body corporate and politic of the County of Brunswick, State of North Carolina, Party of the Second Part (hereinafter sometimes referred to as "the City");

WITNESSETH:

THAT WHEREAS, the Contractor is engaged in the business of **asphalt paving**, as an independent contractor; and

WHEREAS, the City has the need for the services of Contractor to replace/repair various streets in various areas of the city; and

WHEREAS, it has been determined by the City of Southport that it would be in the best interest of the City and its citizens and residents to enter into this agreement with the Contractor for the purpose of engaging its' services to mill and pave various city streets in various areas of the city.

NOW, THEREFORE, for and in consideration of the charges, and the terms, covenants, promises and conditions hereinafter set forth, the City engages the services of the Contractor for the purpose to mill and pave various city streets in various areas of the city as set forth on **Exhibit "A"** attached hereto.

The terms, covenants, promises and conditions of this agreement and contract are as follows:

Contractor agrees to provide all services as set forth and described on Exhibit A attached hereto and incorporated herein by reference.

For these services outlined above, the City of Southport shall compensate Contractor in accordance with the schedule and terms not to exceed one hundred thousand (\$200,000.00).

Contractor agrees that it will furnish all the necessary labor, equipment, materials and apparatuses to provide for these services in a good and workmanlike manner free from defects in workmanship or materials.

It is understood and agreed that the Contractor shall be responsible for all worker's compensation and other types of insurance necessary to protect it and its' employees and the City and its' employees and officials from any liability whatsoever and the Contractor will provide the City with a copy of each Policy. Contractor shall pay all taxes and other expenses required in its/his/her business, and it is clearly understood and agreed that the Contractor is an independent contractor operating strictly on its' own and will not be considered as an employee of the City of Southport.

The Contractor shall indemnify and hold the City, its agents, officials and employees, harmless against any and all claims, demands, causes of action, or other liability, including attorney fees, on account of personal injuries or death or on account of property damages arising out of or relating to the work to be performed by Contractor hereunder, resulting from the negligence of or the willful act or omission of Contractor or his employees

It is necessary and required by the City that this contract is performed by the contractor in a timely, efficient and effective manner; and in the event the Contractor should fail to so perform said contract or fail to make progress satisfactory to City, then, and in such event, the Contractor agrees that the City of Southport shall have full and complete authority to terminate this contract, summarily, and to engage another contractor to carry out the performance of these functions. *In addition, the City reserves the right to terminate this contract upon ten (10) days written notice to contractor, solely at the election of the City.*

The contractor will perform all work in compliance with state and local law, including OSHA Safety and other governmental guidelines.

The contractor will provide all safety equipment to perform duties such as traffic control and personal protective equipment.

Contractor certifies that, as of the date listed below, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.

IN WITNESS WHEREOF, the City of Southport has caused this contract to be executed by the Mayor of the City of Southport and has caused its municipal seal to be here on impressed, all by authority of the Board of Aldermen duly given; and Highland Paving Co. has hereunto executed this contract, all on the day and year first above written.

Highland Paving Co.

Name & Title

Date

County, North Carolina

I, _____, a Notary Public in and for the state and county aforesaid, do hereby certify that _____, as president of Highland Paving Co., personally appeared before me this day and acknowledged the due execution of the foregoing document in the capacity indicated.

Witness my hand and official seal this the _____ day of _____, 2025

Notary Public

My commission expires: _____

CITY OF SOUTHPORT

Date: _____

Noah Saldo, Interim City Manager, City of Southport

Brunswick County, North Carolina

I, _____, a Notary Public in and for the state and county aforesaid, do hereby certify that Noah Saldo, as the Interim City Manager of the City of Southport, personally appeared before me this day and acknowledged the due execution of the foregoing document in the capacity indicated.

Witness my hand and official seal this the _____ day of _____, 2025.

Notary Public

My commission expires: February 21, 2029

Certification:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Lance Flint, Finance Officer



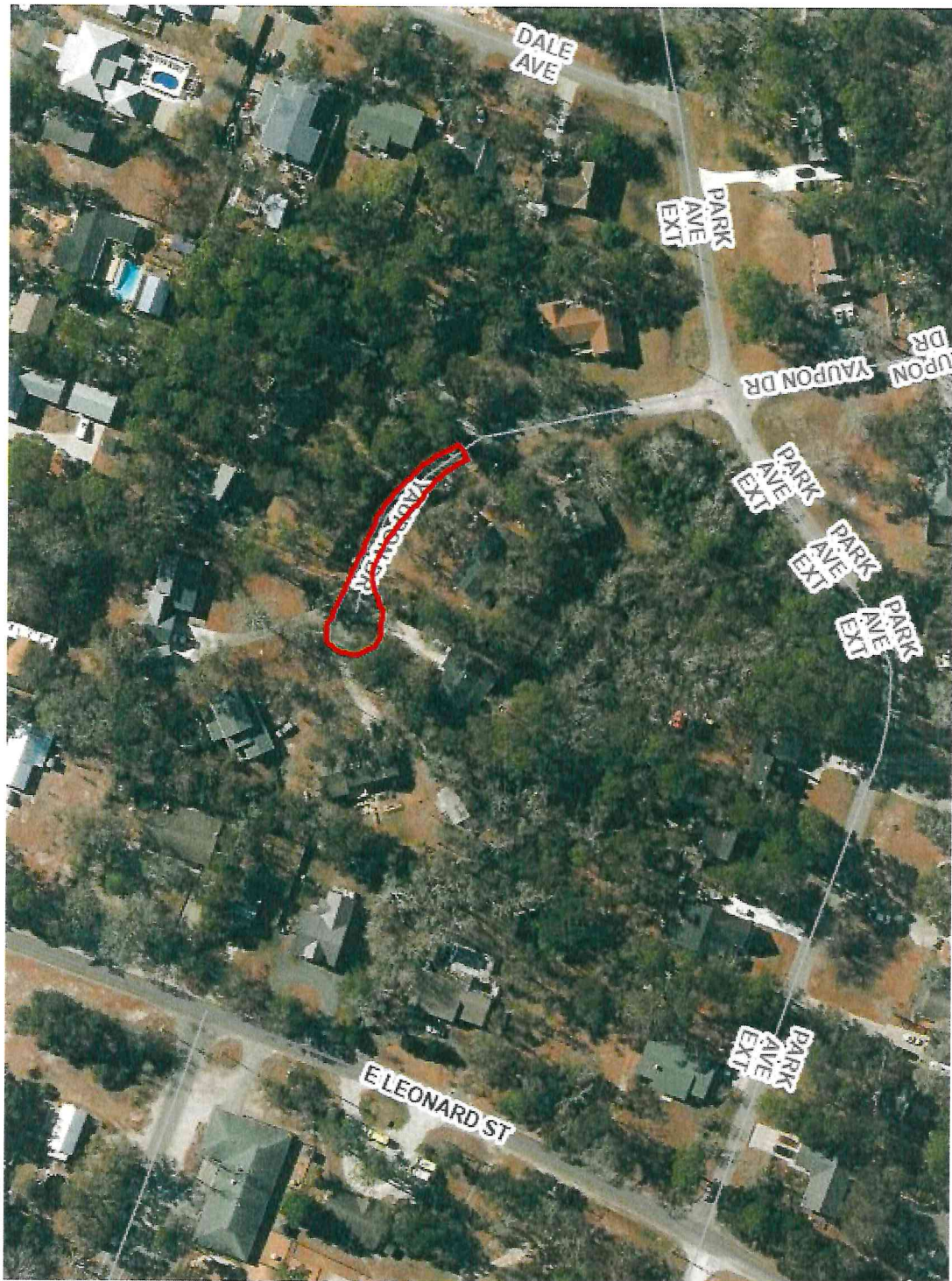














**Budget Amendment
Fiscal Year 2024-2025
Budget Amendment 9**

WHEREAS on June 26, 2024, the Board of Alderman adopted the FY2025 Budget which authorized \$160,000 of Powell Bill Revenue and \$160,000 of Powell Bill Expenditures; and

WHEREAS the actual amount of Powell Bill Revenue received in FY2025 was \$179,538.09; and

WHEREAS current year paving needs are expected to cost \$200,000; and

WHEREAS sufficient Powell Bill Fund Balance exists to fund paving costs that exceed the current year revenue:

NOW THEREFORE BE IT ORDAINED, by the Board of Aldermen of the City of Southport, North Carolina that the annual budget ordinance for fiscal year 2024-2025 shall be amended as follows:

Revenue	Increase
NC Powell Bill Funds	\$19,538.09
20-20-3316-0000	
Appropriated Fund Balance	\$20,461.91
20-20-3991-0000	
Expenditures	Increase
Capital Outlay - Improvements	\$40,000.00
20-20-4510-5900	

Adopted by the Southport Board of Aldermen in regular session, March 13th, 2025.

Rich Alt
Mayor, City of Southport

Tori Deviney
Deputy City Clerk



BOARD OF ALDERMEN

AGENDA ITEM SUMMARY

DATE: 3/7/2025 _____ **DEPARTMENT:** Public Services _____

PRESENTED BY: Tom Zilinek, City Engineer _____

ITEM SPONSORED BY: Public Services Department _____

ITEM/TOPIC: BRIC Stormwater Grant Update _____

COST: N/A _____ **BUDGET LINE ITEM:** N/A _____

JUSTIFICATION: This is an update on the status of the BRIC Grant LOI the City submitted and what will be needed to proceed with the full application.

IMPACT IF NOT APPROVED: _____

DEPARTMENT HEAD COMMENTS: The City submitted a Letter of Intent (LOI) to submit a grant for the FEMA mitigation program, Building Resilient Infrastructure and Communities (BRIC). We recently received notice that we have been selected to submit a full application. However, the submittal will require fully designed plans for our project.

CITY MANAGER COMMENTS: This is a great opportunity for the city to receive grant funds to begin the work to improve our stormwater system. Although it will require the city to invest in the design plans, the investment return to receive this multimillion dollar allocation is well worth spending the funds on the design. The attached budget amendment appropriates \$600,000 from the general fund balance to pay for the project designs. We currently have \$3.6 million of available general fund, fund balance to use above the board's 55% fund balance policy. As we go through the budget process, we will also need to use some portion of the available fund balance to help balance the budget and invest in capital projects. I believe the use of the \$600,000 for the project's designs is worth the investment to receive the grant funds and complete this project. We have also heard back that the design costs are reimbursable. We can also expand the scope of the grant application beyond what we have already submitted in or LOI. However, it has to be for mitigating the risk of a natural hazard to public infrastructure and not just a capacity increase. We are not sure that the expansion of the Bonnetts Creek area would meet the mitigating risk of a natural hazard to public infrastructure requirements. The LOI was for the stormwater piping under the Hospital. The other areas are primarily for increased capacity. Staff will look into it more closely and discuss it with the consultant when they are on board. We have until October 31 for the application deadline.

ATTACHMENTS: BRIC Grant Update and Bonnetts Creek Phase 1 System Improvements Location Map, Budget amendment _____

REQUESTED ACTION: Approve the budget amendment



**Budget Amendment
Fiscal Year 2024-2025
Budget Amendment 10**

WHEREAS in October 2024, the city submitted a Letter of Intent (LOI) for the Bonnets Creek Storm System Phase 1 Improvements, with an estimated project cost of \$3.9 million, of which \$1.2 million is a city contribution; and

WHEREAS on February 10, 2025, the city was invited by the NC Emergency Management Hazard Mitigation Division to submit a full BRIC Grant application; and

WHEREAS the City must secure funding for the design phase of the project in order to meet the October 31, 2025, submission deadline, ensuring that the project is shovel-ready in time for the grant submission.

NOW THEREFORE BE IT ORDAINED, by the Board of Aldermen of the City of Southport, North Carolina that the annual budget ordinance for fiscal year 2024-2025 shall be amended as follows:

Revenue	Decrease
Appropriated Fund Balance	\$600,000.00
23-23-3991-0000	
Expenditures	Increase
Capital Outlay – Capital Improv	\$600,000.00
23-23-7300-5800	

Adopted by the Southport Board of Aldermen in regular session, March 13th, 2025.

Rich Alt
Mayor, City of Southport

Tori Deviney
Deputy City Clerk

March 3, 2025, BRIC Grant Update

Letter of Intent (LOI) for the Bonnets Creek Storm System Phase 1 Improvements was submitted in October 2024. The project includes the storm water system under the hospital and in the rear yards of Fodale Avenue

The estimated cost is \$3.9 Million with a \$1.2 Million City contribution

On February 10, 2025, the NC Emergency Management Hazard Mitigation Division invited the City to submit a full BRIC Grant application. The City will receive further information on how to submit the full application in late April.

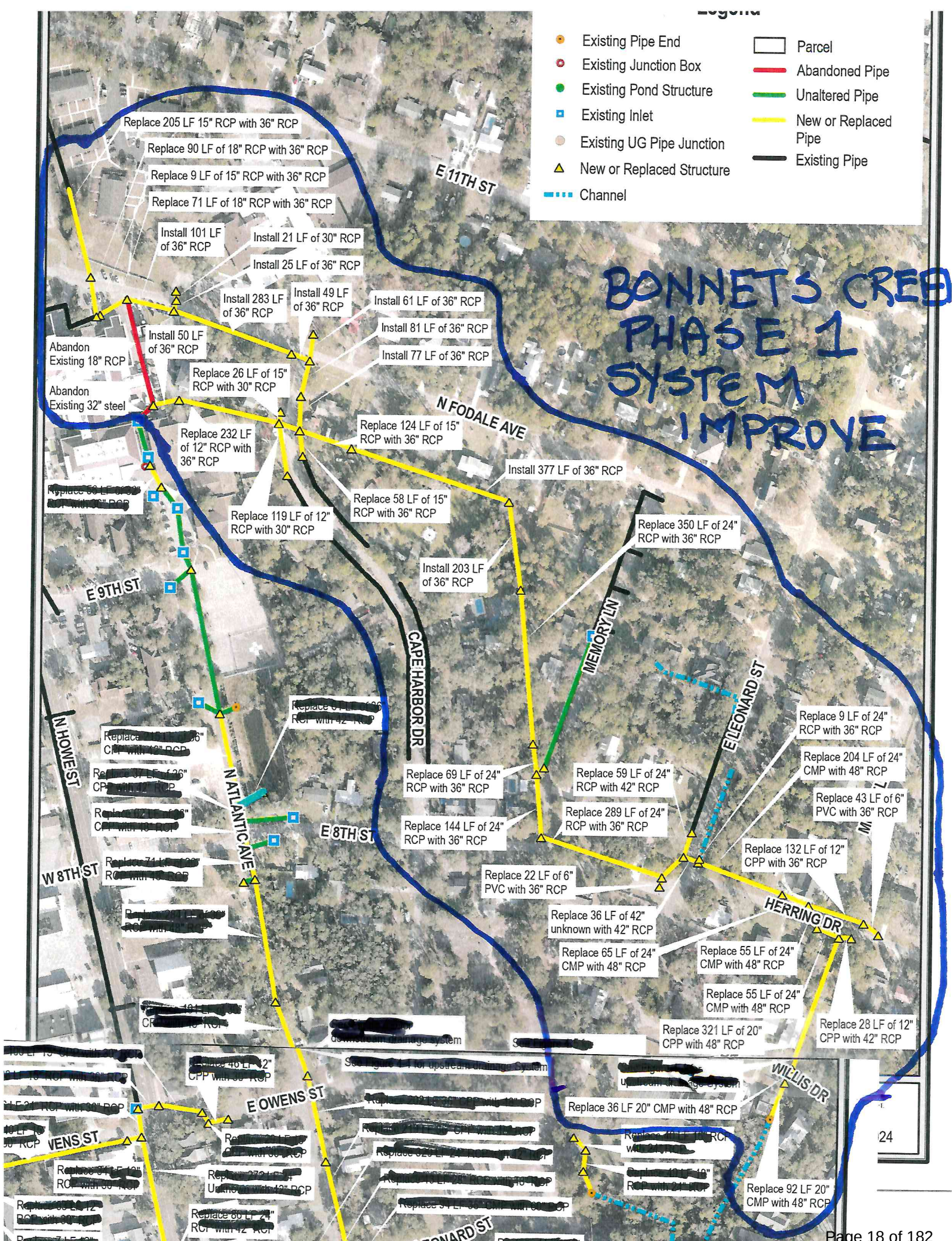
However, there is one issue with the potential submittal, it must be shovel ready by the October 31, 2025 grant submission deadline. The shovel ready requirement means the City will need to have the design contract awarded asap.

On February 18, 2025, we received further information about the BRIC grant and submittal which included the following 2 points.

First, the funding is a disaster-based mitigation allocation, and the local match is paid for by the State. The NC Emergency Management is only submitting shovel ready projects to FEMA so we must get our project fully designed with cost estimates by the October 31 deadline. Based on this the City will not need to fund the local match, the project will be fully funded.

But the City will need \$500 to \$600 thousand asap for the design. If the City wishes to go forward with the application, it is imperative that we get this under design immediately to meet the October 31 submission deadline.

Second, they have stated that the grant is not a competition but an allocation. Our project was included in a batch of 151 advanced projects that total just over \$800 million in fed share with the current fed funding amount at \$1.5 billion and expected to grow. Based on this statement, although nothing is ever 100% guaranteed it sounds like this grant is all but approved and fully funded if the City gets the completed application (which must include fully engineered plans) in by October 31.





BOARD OF ALDERMEN CONSENT AGENDA ITEM

DATE: 3/13/2025

DEPARTMENT: Development Services

PRESENTED BY: Wendell Biddle, City Planner

ITEM SPONSORED BY: Development Services

ITEM/TOPIC: Call for a Public Hearing for a Zoning Text Amendment to the Unified Development Ordinance

COST: N/A

BUDGET LINE ITEM: N/A

JUSTIFICATION: At their February 20, 2025, meeting the Planning Board voted to send the Board of Aldermen a recommendation of approval for the Zoning Text Amendment to the Unified Development Ordinance's Table 3.1; Accessory Use Standards Sections 3.6.A.5 & 3.6.Q; and Article 8 Definitions and Measurements. A duly advertised public hearing must be held prior to the Board of Aldermen deciding on the proposed amendment.

IMPACT IF NOT APPROVED: This is a legislative decision defined by the NC General Statutes. The Board is not obligated to approve the amendment. A statement of consistency must be adopted in conjunction with a motion to approve or deny the proposal.

DEPARTMENT HEAD COMMENTS: The attached proposed Zoning Text Amendment updates the UDO to enable Bed and Breakfasts and other nonresidential establishments the ability to host specialized events.

ATTACHMENTS: Staff Report, Zoning Text Amendment Language

REQUESTED ACTION: Set a public hearing for the proposed Zoning Text Amendments to the Unified Development Ordinance's Table 3.1; Accessory Use Standards Sections 3.6.A.5 & 3.6.Q; and Article 8 Definitions and Measurements.

PROPOSED MOTION: Motion to call a public hearing at the April 10, 2025, regular Board meeting, for the Zoning Text Amendments to Section 3.1 Table of Permitted and Special Uses; Accessory Use Standards Sections 3.6.A.5 & 3.6.Q; and Article 8 Definitions and Measurements of the Unified Development Ordinance.

MEMORANDUM

To: Mayor Rich Alt and Board of Aldermen

From: Wendell Biddle, City Planner

Re: Bed and Breakfast Standards Review for Events – Zoning Text Amendment, Unified Development Ordinance Table 3.1; Accessory Use Section 3.6.A.5 & 3.6.Q; and Article 8 Definitions and Measurements.

Date: March 13, 2025

At their July 30th, 2024, Board of Adjustment meeting, an applicant seeking a Special Use Permit for the creation of a Bed and Breakfast provided a management plan in which the proposed B&B was able to host specialized events such as weddings on the premises. It was this proposal that highlighted the lack of appropriate land use within the Unified Development Ordinance (UDO) that supports an event venue.

Staff presented the proposed amendments to the Planning Board at their January 16, 2025, regular meeting. Planning Board recommends APPROVAL of the text amendments to the Board of Aldermen.

The proposed text amendments to the UDO are attached to this memo.

Table 3.1: Table of Uses	Districts P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													Use Stand ard
	ICS	R- 10	R- 20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
DOCKS, , PIERS, GAZEBOS, BULKEADS, AND LIVING SHORELINES		PS	PS	PS	PS	PS	PS	PS	PS				SS	3.6.E
HOME DAYCARE, ADULT AND CHILD		SS	SS	SS	SS	SS								3.6.F
HOME OCCUPATION		SS	SS	SS	SS	SS								3.6.G
HOMESTAY		PS	PS	PS		PS								3.6.H
MODULAR UNIT					PS	PS	PS	PS	PS	PS	PS	PS		3.6.I
OUTDOOR DISPLAY								PS	PS	PS				3.6.J
OUTDOOR STORAGE									PS	PS	PS	PS		3.6.K
OUTDOOR VENDING MACHINE					PS	PS	PS	PS	PS	PS	PS	PS		3.6.L
PORTABLE STORAGE CONTAINERS		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		3.6.M
RECREATIONAL VEHICLE OR TRAVEL TRAILER		PS	PS		PS	PS	PS							3.6.N
SELF-SERVICE ICE VENDING MACHINES									SS	SS				3.6.O
SOLAR ENERGY SYSTEMS		PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS		3.6.P
<i>Specialized Events</i>		PS	PS	PS	PS	PS	PS	PS	PS	PS				3.6.Q

Table 3.1 Accessory Uses Amended

3.6 ACCESSORY USE STANDARDS

A. ACCESSORY STRUCTURE OR USE, GENERAL

Where permitted, the following shall apply:

4. No accessory structure, whether residential or nonresidential, shall be greater than 30 feet in height.

5. Temporary Use Permits apply to property outside the public rights-of-way only and are granted to one contiguous parcel of land at a time. No parcel may be granted more than one (1) Temporary Use Permit per quarter year. Permits may be granted for both indoor and outdoor occasions. A certified letter notifying all adjacent residential neighbors of the proposed event will be required prior to final permit approval.

Q. SPECIALIZED EVENTS

Where permitted, the following shall apply:

- 1. All Specialized Events must apply for a Temporary Use Permit 30 days prior to the event detailed on application. Refer to UDO Section 3.6.A.5 Temporary Use Permit.*
- 2. The property owner and or the on-site manager shall be required to be in attendance of the specialized event.*
- 3. All Specialized Events must adhere to the City of Southport's noise ordinance.*
- 4. Only one (1) A-frame sign may be used for the Specialized Event, the sign will be removed within 24 hours of the event.*
- 5. Alcohol shall only be provided by an ALE permitted vendor, caterer, or host.*
- 6. All trash will be disposed of within 24 hours of the event.*
- 7. All decorations will be removed from the venue within 24 hours of the event.*

ARTICLE 8 DEFINITIONS AND MEASUREMENTS

Specialized Events, would be defined as being a commercial venture held in non-religious venues wherein the event is secondary to the venue's primary land use and would be required to adhere to specific land use standards.



BOARD OF ALDERMEN AGENDA ITEM SUMMARY

DATE: 03/13/2025

DEPARTMENT: Development Services

PRESENTED BY: Maureen Meehan, Planning Services Director

ITEM SPONSORED BY: Development Services Department

ITEM/TOPIC: Final Plat – Waters at Southport (formerly Oakton) Lots 41 & 42

COST: N/A

BUDGET LINE ITEM: N/A

JUSTIFICATION: In accordance with the Unified Development Ordinance and the adopted major subdivision process, Stanley Martin Homes is requesting the approval of a Final Plat for Lots 41 and 42 of the Subdivision known as Waters at Southport. Phase 1 consists of 2 lots that are located on an existing public street with water and sewer hookups that meet the conditions on the Major Subdivision Preliminary Plat for the project.

IMPACT IF NOT APPROVED: A Final Plat is an administrative approval, and the request appears to be in conformance with all applicable standards as well as the approved Preliminary Plat. If not approved, the applicant could reapply for Final Plat or appeal to Superior Court.

DEPARTMENT HEAD COMMENTS: The Preliminary Plat for this project was approved in June 2023. Infrastructure exists on the lots, with storm drains collecting all stormwater. The lots are located on existing public streets, and water and sewer are available from Brunswick County. The request appears to conform to all applicable standards, and being a by-right project, it appears to be deserving of approval.

ATTACHMENTS: Memorandum, Final Plat Application, Proposed Final Plat, Homeowners Association Documents

REQUESTED ACTION: Review and consider a motion to approve the Final Plat for Lots 41 and 42 of the Waters at Southport Subdivision.

PROPOSED MOTION: A motion to approve the Final Plat for Lots 41 and 42, based on conformance with the previously approved Preliminary Plat and with the applicable standards of the City of Southport Unified Development Ordinance.



MEMORANDUM

To: Mayor Richard Alt, Members of the Board of Aldermen

From: Maureen Meehan, Planning Services Director

Date: March 13, 2025

Re: Major Subdivision Final Plat, Waters at Southport (formerly Oakton) Lots 41 & 42

Project Overview

Stew Gunn for Stanley Martin Homes, applicant, and owner, requests approval of a Final Plat for Lots 41 and 42 of the Subdivision known as Waters at Southport and approved under the name Oakton. The subject properties are located on Stuart Avenue and will be accessed from Stuart Avenue rather than the interior street system of the subdivision. The remaining 40 lots within the subdivision will request a final plat once all infrastructure for the lots is installed and inspected by the City Engineer and Public Services Department.

Unlike most other reviews of a final plat, these properties are located on existing public streets with existing infrastructure. The project engineer has provided documentation and drawings that ensure all stormwater will be collected by existing intakes at the front and rear of the two properties. Further, the City Engineer has reviewed all documents relating to the stormwater and grading find that the plans acceptable.

The property is zoned R-10 and each lot must be at least 10,000 square feet in size with a 75-foot width. The proposed final plat is in conformance with the Preliminary Plat and the applicable standards of the Unified Development Ordinance. Construction of homes on these lots shall require the submittal and approval of all applicable building and trade permits and shall be subject to any relevant building permit fees. Additionally, staff will review each home to ensure its conformance to the Unified Development Ordinance.

Request & Staff Recommendation

A motion to approve the Final Plat for Lots 41 and 42, based on conformance with the previously approved Preliminary Plat and with the applicable standards of the City of Southport Unified Development Ordinance.



Major Subdivision Final Plat Application

City of Southport, North Carolina

1029 N. Howe St, Southport NC 28461
www.southportnc.org

Planning & Inspections
Phone 910-457-7961 Fax 910-457-7957

For Staff Use Only

PERMIT No. _____ **FEE: \$** _____ **Date Received:** _____

Proposed/Approved Name of Development: _____

Applicant's Name: _____

Mailing Address: _____ **City:** _____

State: _____ **Zip Code:** _____ **Phone:** _____

Email: _____

Location of the property: _____

Parcel No.: _____ **Overall Acreage:** _____ **Number of lots (include remnant):** _____

Property Owner's Name: _____

Address of Owner: _____ **Phone:** _____

City: _____ **State:** _____ **Zip Code:** _____

Email: _____

Surveyor: _____ **Registration #:** _____

Mailing Address: _____ **City:** _____

State: _____ **Zip Code:** _____

Phone: _____ **Email:** _____

Subdivisions and/or divisions of land not qualifying as exempt or as a minor subdivision and whereby a major subdivision preliminary plat has been approved and all necessary and/or required improvements have been installed in accordance with Article 4: Subdivision Regulations, of the Southport UDO.

Submission Requirements for a Major Subdivision Final Plat Application are found in Appendix A.1 of the Southport UDO.

A Major Final Plat submitted to the city of Southport shall include the following required certificates:

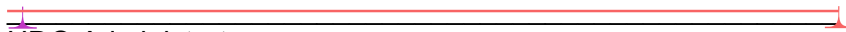
- _____ Certificate of Ownership and Dedication
- _____ Certificate of Survey and Accuracy
- _____ Certification of Board of Aldermen Approval
- _____ Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements
- _____ Certification of Septic and Water Supplies
- _____ Certificate of Disclosure; 404 Wetlands
- _____ Certificate of Disclosure; City of Southport Floodplain Management Regulations
- _____ Acknowledgement of Compliance (Private Developments)
- _____ Certificate of Purpose of Plat
- _____ Certificate of Approval for Recording

Stew Gunn

Signature (Owner or Authorized Applicant)

Date

APPROVED BY:


UDO Administrator

Date

SUBDIVISION PLAT OF

WATERS AT SOUTHPORT

LOTS 41 & 42

SMITHVILLE TOWNSHIP, BRUNSWICK COUNTY, NORTH CAROLINA

SOUTHPORT, NORTH CAROLINA

OWNER: STANLEY MARTIN HOMES, LLC

SUITE 1100

RESTON, VA 20190-4742

DATE: MARCH 2025

N/F JUSTIN CLARK
D.B. 232 PG 205
PARCEL: 238AC003

41

10800 sf

0.25 Ac.

42

11468 sf

0.26 Ac.

STUART AVENUE
60' PUBLIC R/W

STANLEY MARTIN HOMES, LLC
FUTURE DEVELOPMENT
PARCEL: 238AC002
DB. 4584 PG. 664

STANLEY MARTIN HOMES, LLC
FUTURE DEVELOPMENT
PARCEL: 238AC002
DB. 4584 PG. 664

STANLEY MARTIN HOMES, LLC
FUTURE DEVELOPMENT
PARCEL: 238AC002
DB. 4584 PG. 664

STANLEY MARTIN HOMES, LLC
FUTURE RIGHT OF WAY

STANLEY MARTIN HOMES, LLC
FUTURE RIGHT OF WAY

CERTIFICATE OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE CITY OF SOUTHPORT, NORTH CAROLINA, AND THAT THIS PLAT HAS BEEN APPROVED BY AUTHORIZED REPRESENTATIVE OF SOUTHPORT FOR RECORDING IN THE OFFICE OF REGISTER OF DEEDS OF BRUNSWICK COUNTY.

UDO ADMINISTRATOR

DATE

CERTIFICATION OF APPROVAL OF THE FINAL PLAT BY THE SOUTHPORT BOARD OF ALDERMAN

THE SOUTHPORT BOARD OF ALDERMAN HEREBY APPROVES CONDITIONALLY THE FINAL PLAT OF WATERS AT SOUTHPORT SUBDIVISION. IF APPROVED CONDITIONALLY THE SPECIFIC CONDITIONS SHALL BE LISTED.

DATE

MAYOR, CITY OF SOUTHPORT

Certificate of Ownership and Dedication

I hereby certify that I am (we are) the owner (s) of the property shown and described hereon, which is located in the subdivision jurisdiction of the City of Southport and that I hereby adopt this plat of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, open space, utilities, and other sites and easements to public or private use as noted.

Stanley Martin Homes, LLC

Date

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

I, REVIEW OFFICER OF BRUNSWICK COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE

REVIEW OFFICER

NOTES:

- IRONS SET AT ALL CORNERS.
- FOR REFERENCE SEE DEED BOOK 3857 PAGE 64, DEED BOOK 4584 PAGE 664.
- AREA COMPUTED BY COORDINATE METHOD.
- SURVEY DATE FEBRUARY-MARCH 2025.
- ALL DISTANCES ARE HORIZONTAL.
- COMBINED GRID FACTOR = 1.00013609
- THERE IS A 10' UTILITY EASEMENT ALONG ALL STREET R/W'S, UNLESS OTHERWISE NOTED.
- ALL BEARINGS ARE RELATIVE NC GRID N.A.D. 83 (2011)
- THIS PROPERTY IS NOT LOCATED WITHIN A SPECIAL FLOOD ZONE. ACCORDING TO FIRM # 3720209600K DATED 8/28/2018
- BUILDING SETBACKS FRONT 25', SIDE 8', CORNER 12.5', REAR 20'
- BRUNSWICK COUNTY PARCEL # 238AC002
- ZONING SP-R-10

Certificate of Disclosure, 404 Wetlands

This tract is not subject to 404 wetlands.

Stanley Martin Homes, LLC

Date

Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements, if applicable, to be signed by owner and City:

The undersigned hereby certifies that the required improvements:

Brunswick County Water
Brunswick County Sewer
City of Southport Storm Water
City of Southport Streets

have been installed in an acceptable manner and in accordance with the regulations of the City of Southport Unified Development Ordinance.

Stanley Martin Homes, LLC

Date

Professional Engineer (Seal)

Date

UDO Administrator

Date

Certificate of Survey and Accuracy

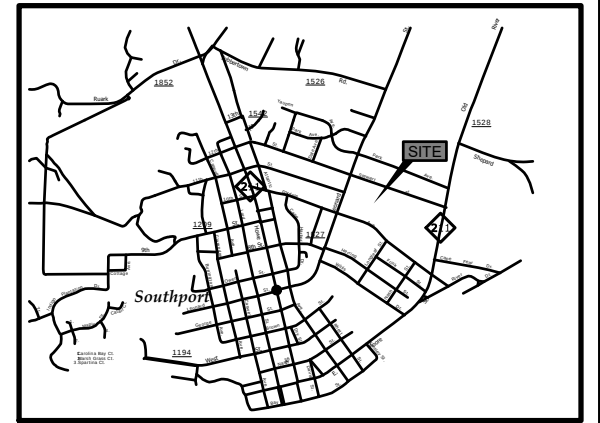
I, MICHAEL J. LAWRENCE, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, (DEED DESCRIPTION RECORDED IN BOOK AND PAGE AS NOTED, THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK AND PAGE AS NOTED; THAT THE RATIO OF PRECISION AS CALCULATED IS 1: 20,000±; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS DAY OF 2025.

MICHAEL J. LAWRENCE, PLS L-3830

Certificate of Purpose of Plat

I CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS A ORDINANCE THAT REGULATES PARCELS OF LAND.

MICHAEL J. LAWRENCE, PLS L-3830



LOCATION MAP (N.T.S)

N.C. GRID COORDINATE
N:66983.09
E:2300036.62
NAD 83 (2011)

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	260.00'	20.00'	20.00'	S 65°09'08" E
C2	260.00'	164.93'	162.18'	S 44°46'32" E
C3	200.00'	142.26'	139.28'	N 46°58'47" W

LEGEND:

- ◇ - CENTERLINE POINT
- - IRON SET
- UE - UTILITY EASEMENT
- - CONTROL CORNER
- D.E. - CONTROL CORNER

CENTERLINE

SURVEYED PROPERTY LINE

PROPERTY LINE OF RECORD

EASEMENT LINE

LOT AREA = 0.51 ACRES

TOTAL AREA THIS PLAT = 0.51 ACRES



SCALE IN FEET
1" = 40 FT.



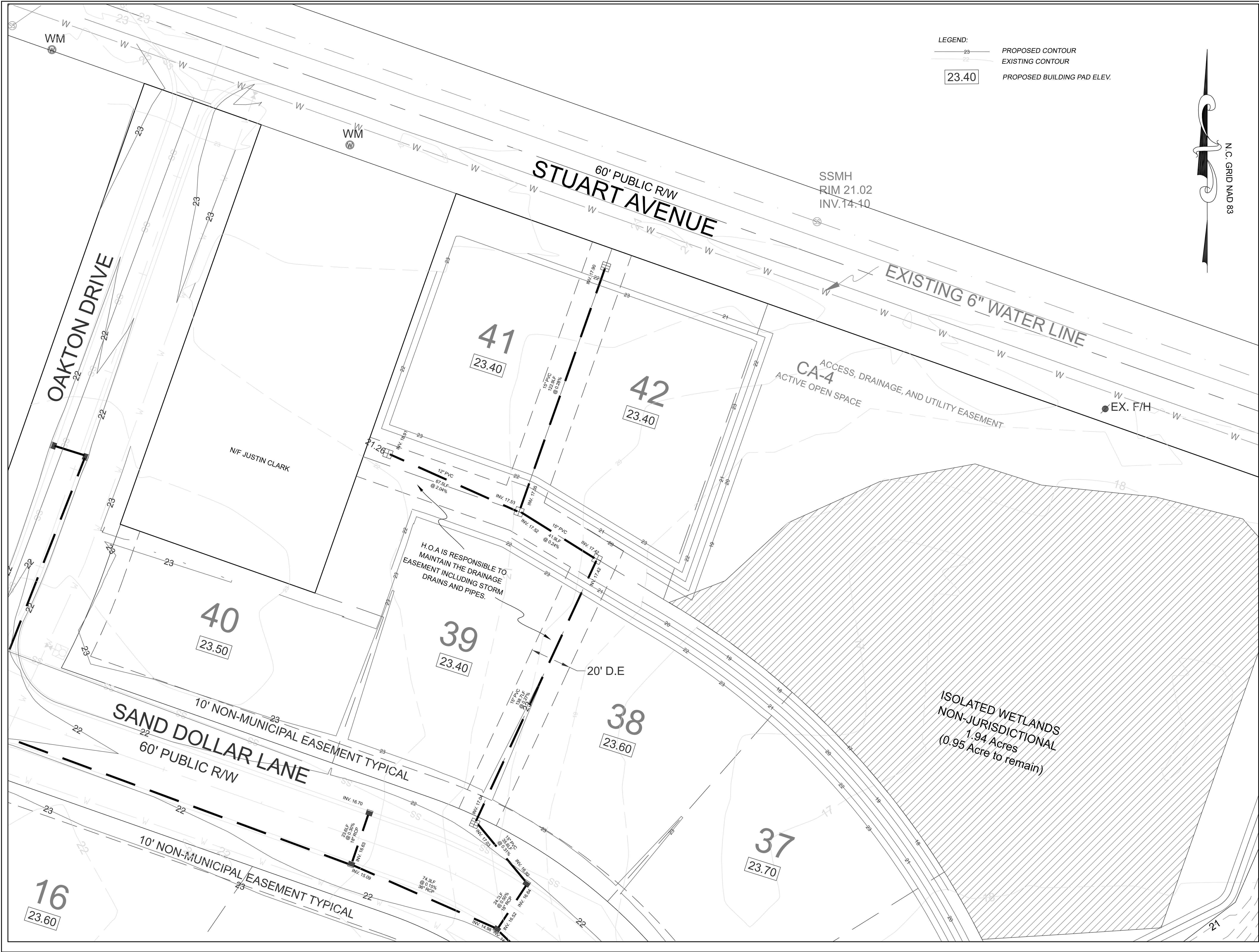
HANOVER DESIGN SERVICES, P.A.

LAND SURVEYORS ENGINEERS LAND PLANNERS

1123 FLORAL PARKWAY
WILMINGTON, N.C. 28403
PHONE: (910) 343-8002
FAX: (910) 343-9941
FIRM CERTIFICATE C-0597



F:\ALL\PROJ FOLDERS\15423\ LOT 41 & 42



STORMWATER POND PLAN

WATERS AT SOUTHPORT

STANLEY MARTIN HOMES
13310 SOUTH RIDGE DR., SUITE A
CHARLOTTE, NC 28273

DATE: FEB-2025

SCALE: HORIZ.: 1"= 20'

DRAWN: MUL

CHECKED: AHG

PROJECT NO: 15423

PARTIAL STORMWATER SYSTEM AS-BUILT

NORTH CAROLINA
PROFESSIONAL SEAL
L-3830
MICHAEL J. LAWRENCE
3/4/2025

SHEET NO: 1
OF: 1

LEGEND:

23

PROPOSED CONTOUR

22

EXISTING CONTOUR

23.40

PROPOSED BUILDING PAD ELEV.

SSMH
RIM 21.02
INV.14.10

EXISTING 6" WATER LINE

CA-4
ACCESS, DRAINAGE, AND UTILITY EASEMENT
ACTIVE OPEN SPACE

EX. F/H

ISOLATED WETLANDS
NON-JURISDICTIONAL
1.94 Acres
(0.95 Acre to remain)

0 20 40 60
1"= 20'

N.C. GRID NAD 83

3

2

1

REVISIONS

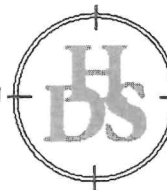
DATE

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Hanover Design Services, P.A.

Land Surveyors, Engineers, Land Planners



February 6, 2025

City of Southport
203 E. Bay Street
Southport, NC 28461

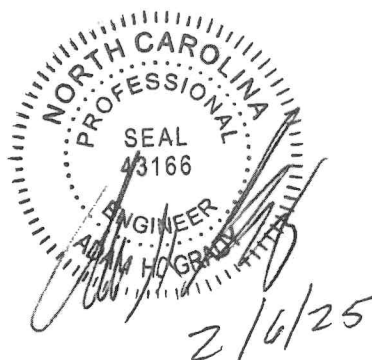
RE: Recording Lots 41 and 42 @ Waters at Southport

To whom it may concern,

As designed, runoff from lots 41 and 42, located in the Waters of Southport, is to be collected by yard inlets located along the property line to the north and south of the property. Once the lots are constructed, all stormwater runoff from these lots will be directed to these inlets by the existing lot swales, roof drains, additional landscape inlets and by any additional grading. Per the approved plans and as required, runoff from any impervious surface located on these lots will be collected and treated in the onsite stormwater pond. If any further information is needed, please do not hesitate to contact me.

Sincerely,

Adam H. Grady, P.E.
Hanover Design Services P.A.
agrady@hdsilm.com
(910) 343-8002 Office
(910) 343-9941 Fax



ARTICLES OF INCORPORATION
OF
WATERS AT SOUTHPORT HOA, INC.
(A NONPROFIT CORPORATION)

These Articles of Incorporation are made and acknowledged for Waters at Southport HOA, Inc. and shall govern a nonprofit corporation under and by virtue of the laws of the State of North Carolina.

Article 1. Name. The name of the corporation is Waters at Southport HOA, Inc. For convenience, the corporation shall be referred to in this instrument as the “***Association***.”

Article 2. Principal Office. The initial principal office of the Association is:

4330 Southport Supply Rd. SE #104
Southport, NC 28461
Brunswick County

Article 3. Initial Registered Agent and Office. The initial registered agent of the Association is Stanley Martin Homes, LLC, a Delaware limited liability company, and the street and mailing address of the registered agent’s office is:

4330 Southport Supply Rd. SE #104
Southport, NC 28461
Brunswick County

Article 4. Duration. The Association shall have perpetual duration.

Article 5. Applicable Statute. The Association is organized pursuant to the provisions of the North Carolina Nonprofit Corporation Act.

Article 6. Definitions. All capitalized terms used herein which are not defined shall have the meaning set forth in the Declaration of Covenants, Conditions and Restrictions for Waters at Southport recorded or to be recorded in the Office of the Register of Deeds of Brunswick County, North Carolina, by Stanley Martin Homes, LLC, a Delaware limited liability company (“***Stanley Martin***”), said declaration, as amended and/or supplemented from time to time in accordance with its terms, is herein referred to as the “***Declaration***.”

Article 7. Purposes and Powers. The Association does not contemplate pecuniary gain or benefit, direct or indirect, to its members. By way of explanation and not of limitation, the purposes for which it is formed are:

(a) to be and constitute the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as set forth in the Declaration, the Bylaws, and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the Owners of property subject to the Declaration.

In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by these Articles, the Declaration or Bylaws of the Association, may be exercised by the Board:

(x) all of the powers conferred upon nonprofit corporations by common law and the North Carolina statutes in effect from time to time, including without limitation N.C. Gen. Stat. § 47C-3-102;

(y) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws, and the Declaration, including, without limitation, the following:

(i) to fix, levy, collect, and enforce payment of all charges or assessments authorized by the Declaration by any lawful means; to pay all expenses in connection therewith and all administrative and other expenses incident to the conduct of the business of the Association including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(ii) to manage, control, operate, maintain, repair, and improve any Common Elements and/or Common Areas, or any other property for which the Association, by law, rule, regulation, declaration, or contract, has a right or duty to provide such services;

(iii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration;

(iv) to engage in activities which will foster, promote, and advance the common interests of Owners of property subject to the Declaration;

(v) to buy or otherwise acquire, sell, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(vi) to borrow money for any purpose subject to such limitations as may be contained in the Declaration or the Bylaws;

(vii) to enter into, make, perform, and enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other corporation, or other entity or agency, public or private;

(viii) to provide any and all supplemental services to the Community as may be necessary or desirable.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 7 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article 7.

Article 8. Membership. The Association shall be a membership corporation without certificates or shares of stock. Prior to the recording of the Declaration in the Office of the Register of Deeds, Brunswick County, North Carolina, Stanley Martin shall be the sole member of the Association. Following the recording of the Declaration, membership and voting rights shall be as specified in the Declaration.

Article 9. Executive Board. The business and affairs of the Association shall be conducted, managed, and controlled by the “**Executive Board**” and/or the “**Board**”. The Board may delegate its operating authority to such entities, individuals, or committees as it, in its discretion, may determine. The initial Executive Board shall be elected by the incorporator in accordance with N.C. Gen. Stat. § 55A-2-05(a)(2), and in accordance with the terms of the Declaration and the Bylaws. The method of election and removal of the members of this and subsequent Executive Boards, the filling of vacancies and the term of office of Executive Board members shall be as set forth in the Declaration and the Bylaws.

Article 10. Liability of Executive Board Members. No person who is serving or who has served as an Executive Board member of the Association shall be personally liable to the Association or any of its members for monetary damages for breach of duty as an Executive Board member, except for liability with respect to (a) acts or omissions that the Executive Board member at the time of such breach knew or believed were clearly in conflict with the best interests of the Association, (b) any transaction from which the Executive Board member derived an improper personal benefit or (c) acts or omissions with respect to which the North Carolina Planned Community Act does not permit the limitation of liability. As used herein, the term “improper personal benefit” does not include an Executive Board member’s reasonable compensation or other reasonable incidental benefit for or on account of his service as an Executive Board member, officer, employee, independent contractor, attorney, or consultant of the Association. No amendment or repeal of this Article, nor the adoption of any provision to these Articles of Incorporation inconsistent with this Article, shall eliminate or reduce the protection granted herein with respect to any matter that occurred prior to such amendment, repeal, or adoption.

Article 11. Dissolution. The Association may be dissolved only as provided in the Declaration, Bylaws, and by the laws of the State of North Carolina and shall be dissolved upon termination of the Declaration in accordance with its terms. If the Association is dissolved, the net assets of the Association (after distributions in accordance with the plan of termination/dissolution and applicable law) shall be dedicated to a public body or conveyed to another nonprofit organization with a purpose similar to that of the Association.

Article 12. Merger and Consolidation. The Association may merge or consolidate only upon a resolution duly adopted by the Executive Board and the affirmative vote of not less than eighty percent (80%) of the votes of the Association cast at a meeting duly called for such purpose.

Article 13. Amendments. Prior to the recording of the Declaration in the office of the Register of Deeds, Brunswick County, North Carolina, these Articles may be amended unilaterally by Stanley Martin. Following the recording of the Declaration, these Articles may be amended with the approval of at a majority of the votes cast at a meeting of the Members of the Association duly called for such purpose, or with the written consent of the Members entitled to cast at least a majority of the votes of the Association, provided, however, that: (a) on or before the expiration of the Development Period, Declarant’s prior written consent shall be required for any amendment; and (b) that no amendment shall be in conflict with the Declaration. In addition, notwithstanding the foregoing, on or before the expiration of the Development Period, Declarant shall have the unilateral right to amend and/or restate these Articles (x) as it determines to be necessary to correct any errors or omissions or to comply with applicable laws, regulations or rules and/or (y) to conform these Articles to any amendment or supplement to the Declaration adopted in accordance with its terms.

Article 14. Incorporator. The incorporator of the Association is TJ Rydzewski, Stanley Martin Homes, LLC, 4330 Southport Supply Rd. SE #104, Southport, NC 28461, Brunswick County.

Article 15. Business Email Address. The Association's current business email address for Secretary of State's Office purposes only is: rydzewskitj@stanleymartin.com (Please assure that the email provided is not viewable from the website).

Article 16. Effective Date. These Articles will be effective upon filing with the North Carolina Office of the Secretary of State.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation as of the ____ day of _____, 2025.

TJ Rydzewski
4330 Southport Supply Rd. SE #104
Southport, NC 28461
Brunswick County

**BYLAWS OF
WATERS AT SOUTHPORT HOA, INC.**

**ARTICLE I
Definitions**

The words, phrases and terms used in these Bylaws shall have the meanings as set forth in the Declaration of Covenants, Conditions and Restrictions for Waters at Southport, recorded in the Office of the Register of Deeds for Brunswick County, North Carolina, as amended and supplemented from time to time in accordance with its terms (the “**Declaration**”).

**ARTICLE II
Administration of Community**

Section 2.1 Authority and Responsibility. The Association shall be responsible for administering, operating and managing the Community in accordance with the Governing Documents.

Section 2.2 Official Action. Unless specifically required in the Governing Documents, all actions taken or to be taken by the Association shall be valid when such are approved by the Board of Directors as hereinafter set forth or when taken by the committee, person or entity to whom such authority has been duly delegated by the Board of Directors as set forth in the Governing Documents or these Bylaws. The Association, its Board of Directors, officers and Members shall at all times act in conformity with the Nonprofit Corporation Act of the State of North Carolina, the Governing Documents, and the North Carolina Planned Community Act (the “**Act**”).

**ARTICLE III
Offices-Seal-Fiscal Year**

Section 3.1 Principal Office and Registered Office. The initial principal office and registered office of the Association shall be located at 4330 Southport Supply Rd. SE #104, Southport, NC 28461 (Brunswick County).

Section 3.2 Other Offices. The Association may have other offices at such other places within the State of North Carolina as the board of directors of the Association (referred to herein as the “**Board of Directors**” or the “**Board**”) may from time to time determine or as the affairs of the Association may require.

Section 3.3 Seal. The seal of the Association shall contain the name of the Association, the word “Seal” and such other words and figures as desired by the Board of Directors.

Section 3.4 Fiscal Year. The fiscal year of the Association shall be the calendar year as more particularly set forth in the Declaration.

**ARTICLE IV
Membership**

Section 4.1 Qualification. Membership in the Association shall be limited to the Owners, and every Owner of a Lot shall automatically be a member of the Association (“**Member**”). Membership in the Association shall be appurtenant to and may not be separated from Lot ownership, subject, however to Section 5.01 of the Declaration captioned “Membership”.

Membership in the Association shall inure automatically to Owners upon acquisition of the fee

simple title (whether encumbered or not) to any one or more Lots. The date of recordation in the Office of the Register of Deeds of Brunswick County of the conveyance of the Lot in question shall govern the date of ownership of each particular Lot. However, in the case of death, the transfer of ownership shall occur on date of death in the case of intestacy or date of probate of the will in the case of testacy. Until a decedent's will is probated, the Association may rely on the presumption that a deceased Owner died intestate.

Section 4.2 Place of Meetings. All meetings of the Association shall be held at a place in Brunswick County, North Carolina designated by the Board of Directors or by means of remote communication as designated by the Board of Directors.

Section 4.3 Annual Meetings. A meeting of the Association shall be held at least once each year. The first Annual Meeting of the Association shall be held on the date and hour designated by Declarant. Thereafter, the Annual Meeting of the Association shall be held on the date and hour designated by the Board of Directors.

Section 4.4 Substitute Annual Meeting. If an Annual Meeting shall not be held on the day designated by these Bylaws, a Substitute Annual Meeting may be called in accordance with the provisions of Section 4.5 and Section 4.6 of these Bylaws. A meeting so called shall be designated and treated for all purposes as the Annual Meeting.

Section 4.5 Special Meeting. After the first Annual Meeting of the Association, Special Meetings of the Members may be called at any time by the President; by not less than twenty percent (20%) of all Owners; or by not less than fifty-one percent (51%) of the members of the Board of Directors. Business to be acted upon at all Special Meetings shall be confined to the subjects stated in the notice of such meeting.

Section 4.6 Notices of Meeting. Written or printed notice stating the time and place of Association meetings, including Annual Meetings, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, and any proposal to remove a director or officer, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of any such Membership meeting, either personally or by mail, by or at the discretion of the President or the Secretary, to the mailing address of each Lot, to any other mailing address designed in writing by the Owner, or by electronic mail sent over the Internet to an electronic mailing address designated in writing by the Owner. Notice shall be deemed given upon deposit prepaid in the United States mail, or upon successful delivery of electronic mail to the intended recipient. Notice given to any one tenant in common, tenant by entirety or other joint Owner of a Lot shall be deemed notice to all joint Owners of the subject Lot. The notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

Section 4.7 Quorum. Except as otherwise provided in these Bylaws, the presence in person of or by proxy of at least forty percent (40%) of the eligible Association vote shall constitute a quorum at all meetings of the Association. If a quorum is not present or represented at any meeting, those present shall have the power to adjourn the meeting from time to time, without notice other than the announcement at the meeting, until a quorum is present or is represented. The Members at any meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough votes to leave less than a quorum.

Section 4.8 Voting Right. All Owners are Members. The voting rights of the Owners are as provided in Section 5.02 of the Declaration. If fee simple title to a Lot is owned of record by more than one person or entity, all such persons or entities shall be Members of the Association, but the vote with respect to any such jointly owned Lot shall be cast as hereinafter provided.

If the fee simple title to any Lot is owned of record by two or more persons or entities (whether individually or in a fiduciary capacity), the vote with respect to any such jointly owned Lot may be cast by any one of the joint Owners in person or by proxy, except that the holder or holders of a life estate in a Lot shall have the sole right to cast the votes allocated to the Lot. If more than one of the joint Owners vote or more than one life estate holder in a Lot vote, the unanimous action of all joint Owners or joint life estate holders voting shall be necessary to effectively cast the votes allocated to the particular Lot.

Such unanimous action shall be conclusively presumed if any one of such multiple Owners casts the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other of such joint Owners.

In no event may the vote that may be cast with respect to any Lot be divided among joint Owners of the Lot or cast in any manner other than as a whole, it being the intention of this Section 4.8 that there be no “splitting” of votes that may be cast by any Member or Members.

Section 4.9 Proxies. Votes may be made either in person or by agents duly authorized by written proxy executed by the subject Member or by his, her or its duly authorized attorney-in-fact. A proxy is not valid after the earlier of the term stated therein or the expiration of twelve (12) months from the date of its execution. Unless a proxy otherwise provides, any proxy holder may appoint in writing a substitute to act in his, her or its place. In order to be effective, all proxies must be filed with the Secretary or duly acting Secretary either during or prior to the meeting in question. A proxy given pursuant to this Section 4.9 may not be revoked except by written notice of revocation delivered to the person presiding over a meeting of the Association.

Section 4.10 Majority Vote. The casting of a majority of the votes represented at a meeting at which a quorum is present, in person or by proxy, shall be binding for all purposes except where a different percentage vote is stipulated by these Bylaws, the Declaration, the Articles of Incorporation of the Association, or the non-waivable provisions of the Act.

Section 4.11 Actions Without Meeting. Any action which may be taken at a meeting of the Association may be taken without a meeting if consent or ratification, in writing, setting forth the action so taken or to be taken shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and such consent is filed with the Secretary of the Association and inserted in the minute book of the Association.

ARTICLE V

Board of Directors

Section 5.1 General Power. The business and affairs of the Association shall be managed by the Board of Directors or by such committees as the Board of Directors may establish pursuant to Section 6.1 of these Bylaws. Provided, however, the Board of Directors may not act unilaterally on behalf of the Association to amend the Declaration, to terminate the Declaration, to elect members of the Board of Directors, or to determine the qualifications, powers and duties, or terms of office of the members of the Board of Directors. The Board of Directors may, however, fill vacancies in its membership for the unexpired portion of any term.

Section 5.2 Number, Term and Qualification. The initial Board of Directors shall be elected by the incorporator in accordance with N.C. Gen. Stat. § 55A-2-05(a)(2). Prior to the expiration of the Development Period, Declarant shall have the right, in Declarant’s sole discretion, to do all or any of the following: (a) to appoint, remove, and replace any or all of the directors of the Board and the officers of the

Association; and (b) to authorize one (1) or more directors of the Board to be elected by the Class A Members of the Association, upon such terms and conditions as Declarant, in its sole discretion, determines. Quorum requirements for any meeting of the Association or the Board are not applicable to Declarant's right to appoint, remove, or replace directors and officers.

Following the Development Period, the Board shall be not less than three (3) members. The Board shall establish its own procedures for electing, removing and replacing the members.

Section 5.3 Chairman. The President shall preside at all meetings of the Board of Directors and perform such other duties as may be directed by the Board.

Section 5.4 Compensation. No member of the Board of Directors shall receive any compensation from the Association for acting as such. Provided, however, each Board member shall be reimbursed for reasonable out-of-pocket expenses incurred and paid by him or her on behalf of the Association, and nothing herein shall prohibit the Board from compensating a Board member for unusual and extraordinary services rendered on the basis of *quantum meruit*. Further provided, each Board member, by assuming office, waives his, her or its right to institute suit against or make claim upon the Association for compensation based upon *quantum meruit*.

Section 5.5 Loans to Board Members and Officers. No loans shall be made by the Association to its Board members or officers. The Board members who vote for or assent to the making of a loan to a Board member or officer of the Association, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the Association for the amount of such loan until the repayment thereof.

Section 5.6 Liability of Board Members. To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable time, each Board member is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his, her or its activities as a Board member. Such indemnity shall be subject to approval by the Members only when such approval is required by said Act.

Section 5.7 Meetings of the Board of Directors.

A. Regular Meeting. Regular Meetings shall be held, without notice, at such hour and address as may be fixed from time to time by resolution of the Board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

B. Special Meetings. Special Meetings shall be held when called by the President of the Association, or by any Board member, after not less than three (3) or more than thirty (30) days written notice to each Board member.

C. Notices of Special Meetings. The notice provided for herein may be waived by written instrument signed by those Board members who do not receive said notice. Except to the extent otherwise required by law, the purpose of a Board members' special meeting need not be stated in the notice. Notices shall be deemed received upon the happening of any one of the following events: (1) three business days following deposit of same in the United States mail with proper postage paid and addressed to the Board member at his, her or its last known address on file with the Association; (2) deposit of same in his, her or its Lot mail box; (3) delivery to the Board member; or (4) delivery by electronic mail to the email address for such Board member at his, her or its last known email address on file with the Association. Attendance by a Board member at a

meeting shall constitute a waiver of notice of such meeting unless the subject Board member gives a written statement at the meeting to the person presiding objecting to the transaction of any business because the meeting is not lawfully called and gives such notice prior to the vote on any resolution.

D. Approved Meeting Place. All Board meetings shall be held in Brunswick County, North Carolina or by means of remote communication.

E. Quorum. A majority of the Board members then holding office shall constitute a quorum for the transaction of business, and every act or decision done or made by a majority of the Board members present at a duly held meeting at which a quorum is present shall be regarded as the act or decision of the Board.

Section 5.8 Action Without Meeting. The Board members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Board members. Any action so approved shall have the same effect as though taken at a meeting of the Board. Said written approval shall be filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5.9 Presumption of Assent. A Board member who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his, her or its contrary vote is recorded or his, her or its dissent is otherwise entered in the minutes of the meeting or unless he, she or it shall file his, her or its written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail, return receipt requested, to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Board member who voted in favor of such action.

Section 5.10 Powers and Duties. The Board of Directors shall have the authority to exercise all powers and duties of the Association necessary for the administration of the affairs of the Community except such powers and duties as by law or by the Governing Documents may not be delegated by the Owners to the Board. The powers and duties to be exercised by the Board shall include, but shall not be limited to, the following:

A. Operation, care, upkeep and maintenance of the Common Elements to the extent such operation, care, upkeep, and maintenance is not the obligation of the Owners;

B. Determination of the funds required for operation, administration, maintenance and other affairs of the Community and collection of assessments from the Owners, as provided in the Governing Documents;

C. Employment and dismissal of personnel (including without limitation the Independent Manager) necessary or desirable for the efficient operation, maintenance, repair, and replacement of the Common Elements;

D. Adoption of rules and regulations covering the details of the operation, maintenance, repair, replacement, use and modification of the Common Areas, Common Elements or Common Property;

E. Opening of bank accounts on behalf of the Association and designating the signatories required therefor;

F. Obtaining insurance as required or permitted under the terms of the applicable provisions of the Declaration;

G. Keeping detailed, accurate records of the receipts and expenditures of the Association; obtaining annual audits of the financial records of the Association from the Association's public accountant; furnishing the annual reports; and furnishing current budgets. All books and records shall be kept in accordance with good and accepted accounting practices and the same shall be available for examination by all Owners or their duly authorized agents or attorneys, at convenient hours on business days;

H. Keeping a complete record of the minutes of all meetings of the Board and Membership in which minute book shall be inserted actions taken by the Board and/or Members by consent without meeting;

I. Supervising all officers, agents and employees of the Association and insuring that their duties are properly performed;

J. Enforcing, on behalf of the Association, the obligations and assessments provided in the Declaration, including, but not limited to, the institution of civil actions to enforce payment of the assessments as provided in the Declaration, the institution of actions to foreclose liens for such assessments in accordance with the terms of N.C. Gen. Stat. § 47F-3-116, the imposition of fines and suspensions for violating the Governing Documents in accordance with Section 5.12 of these Bylaws;

K. Making of repairs, additions, and improvements to or alterations or restoration of the Property, in accordance with the other provisions of these Bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of a condemnation or eminent domain proceeding;

L. Enforcing by any legal means or proceeding the provisions of the Articles of Incorporation of the Association, these Bylaws, the Declaration or other Governing Documents and applicable rules and regulations;

M. Paying all taxes and assessments that are or may become liens against any part of the Association's property, other than the Lots, and to assess the same against the Owners in the manner herein provided;

N. Hiring attorneys, accountants and other professionals;

O. Maintaining and repairing any Lot, if such maintenance or repair (i) is required by the Declaration or (ii) is necessary in the discretion of the Board to protect the Common Areas or Common Elements or any other Lot or (iii) if the Owner of such Lot has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered or mailed by the Board to said Owner, provided that the Board shall levy a Special Individual Assessment against such Owner for the costs of said maintenance or repair;

P. Entering any Lot when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the Owner as practicable, and any damage caused

thereby shall be repaired by the Board and such expenses shall be treated as a Common Expense; and entering any Lot for the purpose of correcting or abating any condition or situation deemed by the Board of Directors to be an emergency;

Q. Signing all agreements, contracts, deeds and vouchers for payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by either the Treasurer or the Assistant Treasurer of the Association, and countersigned by any Board member;

R. Furnishing certificates setting forth the amounts of unpaid assessments that have been levied upon a Lot to the Owner or Mortgagee of such Lot, or a proposed purchaser or Mortgagee of such Lot, and imposing and collecting reasonable charges therefor; and

S. Exercising any other powers and duties reserved to the Association exercisable by the Board of Directors in the Declaration, the Articles of Incorporation, these Bylaws, or the Act.

Section 5.11 Independent Manager. The Board of Directors may employ or enter into a management contract with any individual, firm or entity it deems appropriate and in the best interest of the Association concerning the routine management of the Community. The Board of Directors may delegate to such person, firm or entity (referred to in these Bylaws as the “**Independent Manager**”) such duties and responsibilities in the management of the Property as the Board of Directors deems appropriate. Provided, the Board of Directors may not delegate to the Independent Manager the complete and total responsibilities and duties of the Association in violation of the Nonprofit Corporation Act of North Carolina or the Act. The Independent Manager’s contract shall be for a term not to exceed three (3) years, renewable by agreement between the Board of Directors and such Independent Manager for successive one-year terms; provided, however, that any such contract shall provide that it is terminable by the Association, with or without cause, upon not more than ninety (90) days’ prior written notice and without payment of any penalty, and any such contract entered into prior to the expiration of the Development Period also shall be terminable to the extent permitted by N.C. Gen. Stat. § 47F-3-105. The Board of Directors shall have authority to fix the reasonable compensation for the Independent Manager. The Independent Manager shall at all times be answerable to the Board of Directors and subject to its direction.

Section 5.12 Fines and Suspensions. Subject to the Declaration, the Executive Board shall not impose a fine (a late charge shall not constitute a fine) or suspend an Association Member’s right to use any part of the Common Elements unless and until the following procedure is followed:

A. Notice. Written notice shall be served upon the violator by first-class or certified mail sent to the last address of the Association Member shown on the Association’s records, specifying:

i. the nature of the violation, the fine or suspension to be imposed and the date, not less than fifteen (15) days from the date of the notice, that the fine or suspension will take effect;

ii. that the violator may, within ten (10) days from the date of the notice, request a hearing regarding the fine or suspension imposed;

iii. the name, address, and telephone numbers of a person to contact to challenge the fine or suspension;

iv. that any statements, evidence, and witnesses may be produced by the violator at the hearing; and

v. that all rights to have the fine or suspension reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

B. Hearing. Any requested hearing may, in the sole discretion of the Board, be held before the Board in executive session. At the hearing, the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing.

C. Enforcement. In any action or proceeding to enforce the Declaration, these Bylaws, the rules and regulations of the Association, or decision of the Board, the Association shall be entitled to recover all expenses from the violator, including all reasonable attorneys' fees, thus incurred.

D. Cumulative. The provisions for fines and suspensions set forth in this Section 5.12 are cumulative with respect to other rights and remedies of the Association; they are in addition to, and not in lieu of, such provisions and procedures as may from time to time be set forth in the Governing Documents.

ARTICLE VI

Committees

Section 6.1 Creation. The Board of Directors, by resolutions adopted by a majority of the number of Board members then holding office, may create such committees as they deem necessary and appropriate in aiding the Board of Directors to carry out its duties and responsibilities with respect to the management of the Community. Each committee so created shall have such authorities and responsibilities as the Board members deem appropriate and as set forth in the resolutions creating such committee. The Board of Directors shall elect the members of each such committee. Provided, each committee shall have in its membership at least one (1) member of the Board of Directors.

Section 6.2 Vacancy. Any vacancy occurring on a committee shall be filled by a vote of a majority of the number of Board members then holding office at a regular or special meeting of the Board of Directors.

Section 6.3 Removal. Any member of a committee may be removed at any time with or without cause by a vote of a majority of the number of Board members then holding office.

Section 6.4 Minutes. Each committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Section 6.5 Responsibility of Board Members. The designation of committees and the delegation thereto of authority shall not operate to relieve the Board of Directors or any member thereof of any responsibility or liability imposed upon it, him or her by law.

If action taken by a committee is not thereafter formally considered by the Board, a Board member may dissent from such action by filing his, her or its written objection with the Secretary with reasonable promptness after learning of such action.

ARTICLE VII

Officers

Section 7.1 Enumeration of Officers. The officers of the Association shall consist of a President, a Secretary, a Treasurer and such Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers as the Board of Directors may from time to time elect. Except for the President, no officer need be a member of the Board of Directors.

Section 7.2 Election and Term. The officers of the Association shall be elected annually by the Board of Directors. Such elections shall be held at the first meeting of the Board next following the Annual Meeting or Substitute Annual Meeting of the Members. Each officer shall hold office until his or her death, resignation, removal or until his or her successor is elected and qualified.

Section 7.3 Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interest of the Association will be served thereby.

Section 7.4 Vacancy. A vacancy in any office may be filled by the Board of Directors by the election of a successor to such office. Such election may be held at any meeting of the Board. The officer elected to such vacancy shall serve for the remaining term of the officer s/he replaces.

Section 7.5 Multiple Offices. The person holding the office of President shall not also hold the office of Secretary or Treasurer at the same time. Any other offices may be simultaneously held by one person. Any officer may also be a member of the Board of Directors.

Section 7.6 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members. If not disabled, the President shall preside at all meetings of the Board of Directors and see that the orders and resolutions of the Board of Directors are carried out. The President shall sign all written instruments regarding the Common Areas and/or Common Elements and sign for the corporation all promissory notes of the Association, if any; and he or she shall have all of the general powers and duties which are incident to the office of President of a corporation organized under Chapter 55A of the North Carolina General Statutes in the supervision and control of the management of the Association in accordance with these Bylaws.

Section 7.7 Vice Presidents. The Vice Presidents in the order of their election, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the President, perform the duties and exercise the powers of that office. In addition, they shall perform such other duties and have such other powers as the Board of Directors shall prescribe.

Section 7.8 Secretary. The Secretary shall keep the minutes of all meetings of Members and of the Board of Directors and its committees; he or she shall have charge of such books and papers as the Board of Directors may direct; and he or she shall, in general, perform all duties incident to the Office of Secretary of a corporation organized under Chapter 55A of the North Carolina General Statutes.

Section 7.9 Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He or she shall co-sign promissory notes of the Association; shall prepare a proposed annual budget (to be approved by the Board) and the other reports to be furnished to the Members as required in the Declaration, and perform all duties incident to the office of Treasurer of a corporation organized under Chapter 55A of the North Carolina General Statutes.

Section 7.10 Assistant Secretaries and Treasurers. The Assistant Secretaries and Treasurers shall, in the absence or disability of the Secretary or the Treasurer, respectively, perform the duties and exercise the powers of those offices, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

Section 7.11 Compensation. Officers shall not be compensated on a regular basis for the usual and ordinary services rendered to the Association incident to the offices held by such officers. The Board of Directors may, however, compensate any officer or officers who render unusual and extraordinary services to the Association beyond that called for to be rendered by such person or persons on a regular basis. Each officer, by assuming office, waives his, her or its right to institute suit against, or make claim upon, the Association for compensation based upon *quantum meruit*.

Section 7.12 Indemnification. To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable times, each officer is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his, her or its activities as an officer. Such indemnity shall be subject to approval by the Members only when such approval is required by applicable law.

ARTICLE VIII

Operation of the Property

Section 8.1 Payment of Assessments. All Owners other than Declarant shall be obligated to pay the assessments against their Lots pursuant to the Governing Documents (collectively, “*Assessments*”) at such time or times as the Board shall determine. No Owner shall be liable for the payment of any part of Assessments against his, her or its Lot subsequent to a sale, transfer or other conveyance by him, her or it of such Lot. A purchaser of a Lot shall be jointly and severally liable with the seller for the payment of Assessments against such Lot prior to the acquisition by the purchaser of such Lot without prejudice to the purchaser’s rights to recover from the seller the amounts paid by the purchaser therefor. The Board of Directors shall take prompt action to collect any Assessments which are due and unpaid.

Section 8.2 Notification of Mortgagees. The Board of Directors may notify the holder of the Mortgage on any Lot (from which it has received notice) for which any Assessments remain unpaid for more than thirty (30) days from the due date for payment thereof and in any other case where the Owner of such Lot is in default with respect to the performance of any other obligation hereunder for a period in excess of thirty (30) days.

Section 8.3 Default in Payment of Assessments, Remedies. In the event of default by any Owner in paying to the Board of Directors the Assessments levied by the Board, such Owner shall be obligated to pay interest on Assessments from the due date thereof at the rate of eighteen percent (18%) per annum (or the maximum amount permitted by applicable law, if lesser), together with all expenses, including reasonable attorneys’ fees (if permitted by law), incurred by the Board of Directors in any proceeding brought to collect such unpaid Assessments. In addition, the Board shall have the authority to levy a late charge on any Assessment not paid within fifteen (15) days after its due date, in the amount of four percent (4%) of the overdue Assessment.

The Board of Directors shall have the right and duty to attempt to recover such Assessments, together with interest thereon, and the expenses of the proceedings, including reasonable attorneys’ fees (if permitted by law), in an action to recover a money judgment for the same brought against such Owner, or by foreclosure of the lien on such Lot in like manner as a deed of trust or mortgage of real property.

In the event of the failure of an Owner to pay any Assessment imposed hereunder, or any installment thereof, for more than sixty (60) days after such Assessment or installment thereof shall become due, in addition to the other remedies available under the Governing Documents, the Act and other applicable law, the Board of Directors shall have the right to declare all other Assessments, and installments thereof, with respect to such Owner's Lot that are to fall due during the then current Fiscal Year of the Association to be immediately due and payable.

Section 8.4 Lien and Personal Obligations. All Assessments, together with the interest and expenses, including reasonable attorneys' fees (if permitted by law), as provided for herein, shall be a charge on and a continuing lien upon the Lot against which the assessment is made, which such lien shall be prior to all other liens excepting only (i) assessments, liens and charges for real estate taxes due and unpaid on the Lot and (ii) all sums unpaid on Mortgages and other liens and encumbrances duly recorded against the Lot prior to the docketing of such lien. Such lien shall become effective when a notice thereof has been filed in the office of the Clerk of Superior Court for Brunswick County, North Carolina, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of more than thirty (30) days after the same shall become due. Such notice of lien shall also secure all assessments against the Lot becoming due thereafter until the lien has been satisfied.

The lien for unpaid assessments shall not be affected by the sale or transfer of the Lot, except in the case of a foreclosure of a Mortgage, or a deed in lieu of foreclosure of a Mortgage, in which event the purchaser at foreclosure, or the grantee of a deed in lieu of foreclosure, shall not be liable for any Assessments against such Lot that became due prior to the date of acquisition of title by such purchaser. Such unpaid Assessments shall be deemed Common Expenses collectible from all Owners of Lots, including the purchaser at foreclosure. In addition, each Owner shall be personally liable for any assessment against his, her or its Lot. No Owner may exempt himself, herself or itself from such liability by non-use of enjoyment of any portion of the Common Areas or Common Elements or by the abandonment or sale of his, her or its Lot.

Section 8.5 Foreclosure of Liens for Unpaid Assessments. In any action brought by the Board of Directors to foreclose on a Lot because of unpaid Assessments, the Owner shall be required to pay a reasonable rental for the use of his, her or its Lot and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same.

Section 8.6 Abatement and Enjoinment of Violations by Owners. The violation of any rule or regulation adopted by the Board of Directors or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in the Declaration, these Bylaws or at law or in equity: (a) to enter the Lot in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Owner; and/or (c) after notice and opportunity to be heard, to levy reasonable fines in accordance with these Bylaws and the Declaration.

Section 8.7 Use of Common Areas. An Owner shall not interfere with the use of the Common Areas or Common Elements by the remaining Owners and their employees and invitees.

Section 8.8 Right of Access. Each Owner grants a right of access to his, her or its Lot and the appurtenances thereto to the Independent Manager and/or any other person authorized by the Board of Directors or the Independent Manager for the purpose of making inspections, or for the purpose of correcting any condition originating in his, her or its Lot and threatening another Lot or the Common Areas

or Common Elements, for the purpose of performing installations, alterations or repairs to the mechanical or electrical equipment or other Common Elements in or adjoining his, her or its Lot or otherwise fulfilling an obligation of the Board under the Governing Documents or applicable law; provided, however, such requests for entry (except in the case of emergencies where no request shall be required) are made in advance and any such entry is at a time reasonably convenient to the Owner. In the case of an emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

Section 8.9 Rules of Conduct. Rules and regulations concerning the use of the Lots and the Common Areas and/or Common Elements may be promulgated and amended by the Board. Copies of such rules and regulations shall be furnished by the Board to each Owner prior to the time when the same shall become effective.

Section 8.10 Common Expenses for Utilities. Any utilities which may be provided to the Lots through a single or common meter or facility, and utilities furnished to any portion of the Common Areas and/or Common Elements shall be paid by each Owner as and when billed according to the extent of such Owner's use or, at the option of the Board, such may be paid by the Board and assessed against the Lots as a Common Expense.

ARTICLE IX Amendments

Unless the Declaration expressly provides to the contrary, these Bylaws may be amended at any time by the Board of Directors; provided, however, where a certain vote in the Association is required for the Association to take or refrain from taking a specific action as set forth in the Declaration or the Articles, no corresponding amendment of these Bylaws shall be made unless and until the Owners holding such percentage of the vote in the Association execute said amending instrument. All persons or entities who own or hereafter acquire any interest in the Property shall be bound to abide by any amendment to these Bylaws which is duly passed, signed, acknowledged and recorded as provided herein. No amendment to these Bylaws shall be adopted or passed which shall impair or prejudice the rights and priorities of any Mortgagee without the consent of such Mortgagee. No amendment to these Bylaws shall be adopted or passed which shall impair or prejudice the rights of Declarant provided for in the Governing Documents, without the consent of Declarant. Declarant shall have the right to amend these Bylaws for the purpose of exercising any development rights under the Declaration or to comply with applicable law.

ARTICLE X Miscellaneous

Section 10.1 Severability. Invalidation of any covenant, condition, restriction or other provisions of the Declaration or these Bylaws shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

Section 10.2 Successors Bound. The rights, privileges, duties and responsibilities set forth in the Governing Documents, as amended from time to time, shall run with the ownership of the Property and shall be binding upon all persons who own or hereafter acquire any interest in the Property.

Section 10.3 Gender, Singular, Plural. Whenever the context so permits, the use of the singular or plural shall be interchangeable in meaning and the use of any gender shall be deemed to include all genders.

Section 10.4 Nonprofit Corporation. No part of the Association's assets or net income shall inure to the benefit of any of the Members, the officers of the Association, or the members of the Board of

Directors, or any other private individual either during its existence or upon dissolution except as reasonable compensation paid or distributions made in carrying out its declared nonprofit purposes as set forth in the Articles of Incorporation of the Association and these Bylaws.

Section 10.5. Conflicting Provisions. If any provision in these Bylaws conflicts with a provision in the Act or the Declaration, the provisions in the Act or the Declaration shall override the conflicting provisions in these Bylaws.

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IN WITNESS WHEREOF, I, being the sole incorporator of WATERS AT SOUTHPORT HOA, INC., have executed these Bylaws effective this _____ day of _____, 2025.

WATERS AT SOUTHPORT HOA, INC.

TJ Rydzewski, Incorporator

Consented to by:

DECLARANT:

STANLEY MARTIN HOMES, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

CERTIFICATION

I, the undersigned, hereby certify:

THAT I am the Secretary of WATERS AT SOUTHPORT HOA, INC.,

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted pursuant to a consent to action in lieu of the organizational meeting of the incorporators thereof, held on the _____ day of _____, 2025.

_____, Secretary

Type of Instrument: DECLARATION OF COVENANTS, CONDITIONS AND
 RESTRICTIONS FOR WATERS AT SOUTHPORT

Prepared By and Return To: Williams Mullen (DLH)
 301 Fayetteville Street, Suite 1700
 Raleigh, NC 27601

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR WATERS AT SOUTHPORT**

**THE FOLLOWING STATEMENTS ARE REQUIRED BY THE NORTH CAROLINA PLANNED
COMMUNITY ACT:**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE
UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA.**

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

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FOR WATERS AT SOUTHPORT

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STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
WATERS AT SOUTHPORT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WATERS AT SOUTHPORT (the “*Declaration*”) is made effective as of the date and time of its recording in the Registry by **Stanley Martin Homes, LLC**, a Delaware limited liability company (as more particularly defined in Article I, “*Declarant*”).

RECITALS

A. Declarant is the owner of certain real property located in the City of Southport, Brunswick County, State of North Carolina, said real property being described on **Exhibit A** attached hereto and incorporated by reference herein (as more particularly defined in Article I, the “*Property*”).

B. Declarant has developed/is developing the Property, and may develop any Additional Property annexed to this Declaration pursuant to the terms hereof, less any real property withdrawn from this Declaration, all real property subject to this Declaration being referred to herein together as the “*Properties*”, or “*Community*” or “*Subdivision*” (subject to the more particular definitions set forth in Article I), into a residential subdivision known as “Waters at Southport” in accordance with the Legal Requirements of applicable Governmental Authorities, which development may include, but shall not be required by this Declaration to include, any one or more of the following: residential single family dwellings, residential townhomes or other attached dwellings; public or private streets; public and private utilities; public and private utility easements; stormwater drainage easements, systems and facilities; buffers; greenways; Recreational Amenities; open space; streetscapes; associated parking; and other uses consistent with the zoning of the Properties and the Governmental Authority approvals for the Subdivision.

C. In connection with this Declaration, Waters at Southport HOA, Inc. has been incorporated under the nonprofit corporation laws of the State of North Carolina (as more particularly defined in Article I, the “*Association*”). The purpose of the Association shall be to own and/or maintain and/or administer Common Elements, to administer and enforce this Declaration and any other covenants, restrictions, and agreements applicable to the Subdivision that the Association is authorized to administer and enforce, and to collect and disburse the assessments and charges provided for herein.

D. The purposes of this Declaration include establishing a general plan of development for the Properties, providing for the maintenance and upkeep of the Lots, Dwellings and Common Elements in the Properties, providing for enforcement of this Declaration, protecting the value and desirability of the Properties, and, in furtherance of the foregoing, subjecting the Properties to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and each owner of any part or all thereof.

NOW, THEREFORE, Declarant hereby declares that the Properties, including without limitation, every Lot (as hereinafter defined) which is a part of the Properties, shall be owned, held, transferred, sold, conveyed, leased, used, occupied and mortgaged subject to this Declaration, including the following easements, restrictions, covenants, conditions, charges and liens set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with the Properties and shall be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

The words and terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified in one or more of the Governing Documents.

The following words and terms, when used anywhere in this Declaration (including the Recitals) or any amendment hereto, or in any Supplemental Declaration, unless subsequently amended or unless the context clearly indicates otherwise, are defined as follows and are subject to the provisions contained in such definitions (when these and other defined words or terms herein have an initial capital letter or letters, however, it is not required that their use in this Declaration, any amendment thereto, or any Supplemental Declaration, have initial capital letters in order to have the defined meaning). When two different words or groups of words are defined as part of the same definition, those words or groups of words each have that definition. Terms and words used herein without definition shall have the meanings, if any, specified therefor as defined in the Act or, if not defined in the Act, as defined in the Nonprofit Corporation Act, or if not defined in either the Act or Nonprofit Corporation Act, as defined in the Code, or if not defined in the Act, Nonprofit Corporation Act, or the Code, and, in the event of any conflict between the definitions contained herein and the definitions contained in the Act, the Nonprofit Corporation Act, or the Code, then the Act, Nonprofit Corporation Act, Code, and this Declaration, in that order and as appropriate, shall control. Multiple words or terms defined by the same definition are used interchangeably herein. It should be noted that one or more definitions contain provisions in addition to the defined word or terms, and such additional provisions are part of the Declaration in the same manner and to the same extent as if they had been set out in an Article or Section of the Declaration other than this Article I. Definitions of words and terms in other portions of this Declaration also are subject to the foregoing provisions of this paragraph. Declarant has the authority to resolve any dispute over any definition of a word or term defined in this Declaration.

(a) “**Act**” is defined as the North Carolina Planned Community Act, as it exists from time to time, it currently being contained in Chapter 47F of the North Carolina General Statutes, and including all amendments, supplements, and replacements thereof.

(b) “**Additional Property**” is defined as all real property allowed by this Declaration to be annexed or subjected to this Declaration subsequent to the recording of this Declaration (the words “annex” and “subject” being used interchangeably in the context of adding Additional Property to this Declaration), such Additional Property being any part of or all of the real property described on **Exhibit B** attached hereto and incorporated by reference. As the context allows or requires, the term also can apply to such real property after it has been annexed to this Declaration. No such Additional Property shall be subject to the terms of this Declaration until it has been annexed or subjected to this Declaration in one of the ways allowed herein, and, except as required by Legal Requirements, neither the Declaration nor any other Person is required to annex Additional Property to this Declaration.

(c) “**Amenities**” is defined as the improvements, if any, constructed, erected, installed or existing on the Common Elements for the common use, benefit and enjoyment of the Property by the Owners. Declarant and the Association are not obligated by this Declaration to construct any amenities.

(d) “**Annexation Declaration**” is defined as a document, by whatever name denominated, that is recorded in whole or in part for the purposes of annexing Additional Property to this Declaration. Upon annexation to this Declaration, Additional Property becomes part of the Properties.

(e) “**Approved Plans**” is defined as Plans that have been approved by the Declarant or by the Architectural Review Committee (or by the Board, on appeal from the Architectural Review Committee), as applicable.

(f) “**Architectural Committee**” or “**Architectural Review Committee**” is defined as a committee of one or more individuals appointed by the Declarant or the Board to review Plans, as more particularly provided herein, for improvements to be constructed, placed, altered, or maintained on any part of the Properties.

(g) “**Architectural Guidelines**” is defined as the guidelines and standards from time to time adopted by the Architectural Review Committee and in effect with respect to Dwellings and other improvements in the Properties.

(h) “**Articles**” is defined as the Articles of Incorporation of the Association, including all duly adopted amendments thereto.

(i) “**Association**” is defined as Waters at Southport HOA, Inc., a North Carolina nonprofit corporation, or its successors or assigns, which has been created as a legal entity by the filing of its Articles.

(j) “**Board of Directors**” or “**Board**” is defined as those persons elected or appointed and acting collectively as the directors of the Association. The Board is responsible for the management and administration of the Association as provided for herein and in the Act and other Legal Requirements. The Board is the “executive board” as that term is defined in the Act.

(k) “**Builder**” is defined as a Person, other than the Declarant, who regularly is in the business of constructing Dwellings for sale to other Persons, and who purchases or becomes the Owner of one or more Lots in the Subdivision for the purpose of constructing thereon one or more Dwellings for sale to other Persons. “**Builders**” refers to all such persons or entities collectively. Nothing herein shall prevent Declarant from constructing Dwellings on Lots in the Properties for resale to other Persons.

(l) “**Bylaws**” is defined as the bylaws of the Association that are in effect from time to time.

(m) “**City**” is defined as the North Carolina municipal corporation, if any that at the applicable time has jurisdiction over the Property or applicable portion thereof.

(n) “**Code**” is defined as the applicable ordinances of the County and/or City as they exist from time to time, including all valid amendments, supplements, and annexations and replacements thereof, and including all duly adopted regulations, rules, directives, and policies of the County or City in furtherance of the Code.

(o) “**Common Elements**”, or “**Common Property**”, or “**Common Area**” is defined as real property, together with any improvements situated thereon, intended for the common use and benefit of Owners and occupants of the Properties, regardless of how such real property is described in a Governing Document. Common Elements may consist of real property or rights in real property owned or leased by the Association or owned by or dedicated to another Person with the Association having a right or easement therein (for example, part or all of a private stormwater drainage easement located on either a Lot or real property that is not part of the Properties and that serves more than one (1) Lot in the Properties). Common Elements may include all of the following:

(i) All of the items included in the definition of common areas (or other word or term used to describe common areas - for example, common open space) in the applicable section of the Code;

(ii) All other items included in the definition of Common Elements, Common Area or Common Property in any Governing Document;

(iii) Any property owned by the Association or for which the Association has or assumes responsibility for maintenance thereof pursuant to the terms of this Declaration, any supplemental Declaration, or any other applicable covenants, contracts or agreements; and

(iv) All Common Areas shown on any map or plat of the Properties or any part thereof recorded by Declarant in the Registry.

(v) Common Elements also shall consist of all retaining walls designated as Common Elements as provided herein and any Impervious Surface lying and being situated in whole or in part in the Common Elements. All Common Elements shall be maintained by the Association as provided herein and the costs of such maintenance are Common Expenses. The foregoing definition of Common Elements in the Declaration is broader than the definition of “common elements” in the Act.

(p) “**Common Expense**” (also “**Common Expenses**”) is defined as all expenditures made by the Association and all financial liabilities of the Association, including allocation to reserves, and including expenditures for all Association liabilities and obligations imposed by the Code, other Legal Requirements and by the Declaration and other Governing Documents.

(q) “**Community Wide Standard**” is defined as the standard of conduct, maintenance, or other activity generally prevailing in the Properties, or the minimum standards established by the Declarant or pursuant to the Architectural Guidelines, Restrictions and Rules, or Board resolutions, whichever is a higher standard. At any time during the Development Period the Declarant, in its sole discretion, may establish the Community Wide Standard, and, during the Development Period, any Community Wide Standard established by Declarant will control over any other Community Wide Standard applicable to the Properties or any part thereof. The Community Wide Standard may contain both objective and subjective elements. The Community Wide Standard may change as development of the Properties progresses and as the needs and desires within the Properties change.

(r) “**contiguous**” or “**adjoining**” is defined as having a common boundary with the subject property, or separated from a boundary of the subject property by a public or private street right of way or a greenway easement or by property owned by a Governmental Authority.

(s) “**County**” is defined as the County or Counties in which the Properties, or any part thereof, are located, and the County that at the applicable time has jurisdiction over the Properties or applicable portion thereof. At the time of the recording of this Declaration in the Registry, the Properties are in the County of Brunswick.

(t) “**Declarant**” is defined as Stanley Martin Homes, LLC, a Delaware limited liability company and its successors and assigns. The term “**Declarant**” also includes (i) any Person to whom or which Declarant or any subsequent holder of Declarant rights and/or obligations assigns or delegates any or all of the rights and/or obligations of Declarant under this Declaration by an assignment of Declarant’s rights recorded in the Registry; or (ii) any Person to whom any rights and/or obligations of Declarant are assigned or assumed or on whom any rights and/or obligations are conferred in accordance with Legal Requirements.

(u) “**Declaration**” is defined as this Declaration of Covenants, Conditions and Restrictions for Waters at Southport, together with all valid amendments, supplements, and annexations hereto recorded in the Registry. The Declaration is referred to herein as “the Declaration” and “this Declaration”.

(v) “**Development Period**” is defined as the period of time commencing on the date of the recording of this Declaration in the Registry and ending at 11:59 P.M. local time on the date on which the last of the following occurs:

(i) the last day on which Declarant owns any Lot or Proposed Lot; provided, however, until such time as the Development Period ends pursuant to another subparagraph of this definition without the possibility of any reinstatement, the Development Period shall be reinstated automatically as the Development Plan is revised such that the Declarant is the owner of one or more Lots or Proposed Lots;

(ii) the last day on which Declarant has the unilateral right to subject Additional Property to this Declaration;

(iii) the date that is ten (10) years after the date of recording of the most recent Annexation Declaration subjecting Additional Property to the Declaration;

(iv) the date of release of the last bond (or letter of credit or other, similar financial guarantee) posted by Declarant with the City in connection with Declarant’s development of the Properties or any portion thereof;

(v) the date on which a certificate of occupancy is issued for initial construction of a dwelling on the last Lot in the Properties remaining after certificates of occupancy have been issued for dwellings on all other Lots in the Properties and such Lot is owned by a Person other than the Declarant or a Builder; or

(vi) the thirtieth (30th) anniversary of the date this Declaration is recorded in the Registry.

Notwithstanding the foregoing, if Declarant is delayed in the development of any part or all of the Properties as a result of a sanitary sewer, water or building permit moratorium, or as the result of some other cause or event beyond Declarant’s control, then the foregoing applicable time period shall be extended by the amount of time of the delay. The original outside date or any subsequent outside date may be extended one or more times by Declarant by recording in the Registry, on or before the then current outside date, a document extending that outside date. Declarant may terminate the Development Period at any time by recording a termination document in the Registry. Except in the case of voluntary termination by the Declarant, the Development Period also shall include any periods of time after the applicable termination event during which Declarant is conducting any activity within the Properties that is required by Legal Requirements or for Declarant to fulfill any obligation to a governmental entity, the Association, any Builder or any Owner. In the event of an assignment of Declarant rights, with respect to the rights assigned the Development Period shall remain in full force and effect through the applicable periods of time unless otherwise provided in the assignment document or the Act or earlier terminated by the assignee. Declarant has the sole authority to resolve any issues or disputes regarding the date on which the Development Period ends.

(w) “**Development Plan**” is defined as the Declarant’s most current land use or development plan for the Property or applicable portion thereof, whether or not Declarant’s plan has been approved by a Governmental Authority. Declarant reserves the right, in its sole discretion to amend or modify any Development Plan at any time and from time to time and in any manner and in whole or in part, including re-zoning of any portion of the Property subject to a Development Plan, or the addition or deletion of property to or from a Development Plan, modification of existing or proposed uses, or the reconfiguration of any portion of the Property subject to a Development Plan.

(x) “**Dwelling**” or “**Dwelling Unit**” is defined as any building or portion of a building on a Lot which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one housekeeping unit, whether by the Owner thereof or by tenants or sub-tenants of the Owner.

(y) “**Fiscal year**” is defined as the calendar year, until such time as the Board establishes a different fiscal year for the Association.

(z) “**Force Majeure**” is defined as any one or more of the following: acts of God, earthquakes, blizzards, tornadoes, hurricanes, fire, flood, malicious mischief, insurrection, terrorism, riots, strikes, lockouts, boycotts, picketing, labor disturbances, public enemy, war (declared or undeclared), landslides, explosions, pandemics, epidemics, public health crises, compliance with any order, ruling, injunction or decree by any court, tribunal or judicial authority of competent jurisdiction, inability to obtain materials or supplies after the exercise of all reasonable efforts, substantial interference in construction activities resulting from construction activities conducted simultaneously on adjacent lands by or under the direction of unrelated parties, and any other similar circumstances beyond the reasonable control of the Person responsible for complying with some provision of the Declaration. Lack of funds or inability to obtain financing will not constitute Force Majeure.

(aa) “**Governing Documents**” (also “**Governing Document**”) is defined as and includes all of the following as the same may be amended, restated, or supplemented from time to time: agreements with Governmental Authorities; this Declaration, specifically including all applicable Supplemental Declarations and Annexation Declarations; the Articles; the Bylaws; Rules and Regulations; Board Policies; Board resolutions; Architectural Guidelines; conditions of approval for development of any part or all of the Properties required by the Architectural Review Committee; plats (or maps, those terms being used interchangeably herein) of the Properties or any portions thereof approved by a Governmental Authority and recorded in the Registry; other declarations of restrictive or protective covenants applicable to the Properties or any portion thereof; documents withdrawing portions of the Properties from this Declaration; agreements with Governmental Authorities; all documents applicable to the Properties that are included in the term “Governing Documents”; and all duly adopted amendments, modifications, revisions and supplements to any of the foregoing documents or plats. Approvals granted by the Declarant under the Governing Documents shall be binding upon all successors to Declarant’s approval authority.

(bb) “**Governmental Authority**” or “**Governmental Authorities**” or “**Governmental Entity**” or “**Governmental Entities**” is defined as any applicable city, town, municipality, county, the State of North Carolina, the United States of America, and all other governmental entities and quasi-governmental entities that have jurisdiction over the Properties or any part thereof, and all applicable departments, divisions, sections, branches, agencies, and other subdivisions of such Governmental Authorities, whichever governmental entity or entities is/are applicable.

(cc) “**Impervious Surface**” is defined as an area that releases as runoff all or a majority of the precipitation that falls on it, including but not limited to rooftops, sidewalks, driveways, parking lots and streets, unless specifically designed, constructed and maintained to be pervious.

(dd) “**improvement**” is defined as any improvement of or on any Lot or other applicable portion of the Properties, including any or all of the following: Dwellings and other buildings and structures (specifically including exterior materials, colors, size, location and architectural style of same). Improvements also include any Impervious Surface, upon, over, across, above or under any part of the Properties; decks; patios; car ports; porches; driveways; playhouses; motor vehicle and other parking areas; exterior storage areas located outside of a Dwelling; exterior recreational areas, equipment and facilities located outside of a Dwelling; mailboxes; generators and power cells; solar panels; exterior antennae, dishes, towers, and other apparatus to receive or transmit radio, television, or microwave or other signals; fences; exterior walls; hedges; other landscaping (including planted areas, grassed areas, natural areas and

the plant and other materials therein); poles; flags; decorative features and items attached to or on the exterior of a Dwelling or in the yard; ponds; lakes; staking, clearing, grading, filling, change in grade or slope, and other site preparation; swimming pools; coverings for windows and other glass portions of a Dwelling or other building or structure (for example, curtains, blinds, and shutters), which coverings are visible from anywhere off of the Lot or other applicable portion of the Properties; exterior lights and signs located outside of a Dwelling; lights and signs visible inside a Dwelling or other building or structure from anywhere off of the Lot or other applicable portion of the Properties; and all other exterior improvements and items used or maintained on a Lot outside of the Dwelling. The definition of “improvements” includes both initial improvements and all subsequent alterations, changes and additions to same. The term “initial improvements” is defined as all of the improvements constructed or placed or located on a Lot or other applicable portion of the Properties, or approved for construction, placement, or location on a Lot or other applicable portion of the Properties, in accordance with either Approved Plans or Architectural Guidelines not requiring Approved Plans. The examples of improvements stated for the purposes of this definition are not inclusive of all types of improvements and do not imply that all improvements listed as examples will be allowed in the Properties, and all improvements are subject to the architectural approval provisions of the Declaration. For the purposes of this definition, the word “exterior” means located on a Lot or other applicable portion of the Properties outside of the Dwelling or other building or structure thereon, as well as attached to the outside of (such as on a wall or roof) a Dwelling, building, or other structure on a Lot or other applicable portion of the Properties.

(ee) “**include**” or “**including**” is defined as being inclusive of, but not limited to, the particular matter described, unless otherwise clearly obvious from the context.

(ff) “**Institutional Lender**” is defined as a Mortgagee who is a commercial bank, savings bank, savings and loan association, trust company, credit union, industrial loan association, insurance company, pension fund or business trust, including real estate investment trust, any other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities and who holds a first lien deed of trust encumbering a Lot (“first lien” meaning that it has priority over all other security interests in the Lot given by the Owner thereof as security for an obligation). Only for the purposes of the notice and inspection rights contained in this Declaration in the portions hereof dealing specifically with Institutional Lenders, amendment of the Declaration and termination of the Declaration, the term “**Institutional Lender**” also shall include the Federal Housing Administration (“**FHA**”), the Federal Home Loan Mortgage Corporation (“**FHLMC**” or “**Freddie Mac**”), the Federal National Mortgage Association (“**FNMA**” or “**Fannie Mae**”), the Department of Veterans Affairs (“**VA**”), the Government National Mortgage Association (“**GNMA**” or “**Ginnie Mae**”) and any other public or private secondary mortgage market agency participating in purchasing, guaranteeing or insuring mortgages which has notified the Board of such participation in writing (each of whom generically is referred to herein as a “**Secondary Mortgage Market Agency**”). Where the approval of Institutional Lenders is required, such approval consists of any one or more of the following: (i) written approval; (ii) any written waiver of approval rights; (iii) a letter stating no objection; or (iv) presumptive approval if an Institutional Lender does not respond to a notice from the Association requesting approval by notifying the Association, in the manner required herein for giving notices, within thirty (30) days after the Association gives notice to the Institutional Lender of the request for approval.

(gg) “**landscaping**” is defined as any or all of the following: flowers, plants, shrubs, trees, grass, natural areas (for example, areas covered with pine straw, mulch, or naturally growing vegetation), fences, walls, statues, brick pavers, paving stones or other decorative ground covering of a similar nature, ornamental water features, and any other items that the Board, in the exercise of its reasonable discretion, determines should be included in the term “landscaping” under this Declaration.

(hh) “**Landscape Maintenance**” is defined as any or all of the following with respect to Lots and the Common Elements: mowing, seeding, aerating, weed control, watering, irrigating, and other maintenance of lawns; pruning of trees and shrubs; provision of mulch and/or pine straw on non-lawn areas; and other maintenance of lawns and vegetation provided for herein or as determined by the Board from time to time.

(ii) “**Legal Requirement**” is defined as and includes any duly adopted and applicable law, ordinance, regulation, building code, or requirement (including without limitation applicable Code) of any Governmental Entity or quasi-Governmental Entity or agency having jurisdiction over the Properties or any portion thereof, including any branch, department or division of any of the foregoing Governmental Entities and quasi-Governmental Entities. Legal Requirements apply to the exercise of all rights or the taking of all actions under the Declaration by Declarant, the Association, or any other Person, whether or not the Declaration states that a specific right or action is subject to Legal Requirements or must be exercised or taken in accordance with Legal Requirements.

(jj) “**Limited Common Elements**” or “**Limited Common Property**”, or “**Limited Common Area**” is defined as any and all Common Elements that are established by the Declarant, the Association or Legal Requirements for the benefit of the Owners of fewer than all of the Lots in the Property, and which have been designated (or allocated) as Limited Common Elements for certain Lots by the Declarant, the Association, or Legal Requirements. Limited Common Elements may include, for example, private streets, private alleys or landscaped medians in streets and private alleys adjacent to Lots in particular sections of the Subdivision. Limited Common Elements also may include property that benefits the Owners of less than all of the Lots in the Properties and with respect to which the Association has a maintenance obligation. There is no requirement under this Declaration that there be any Limited Common Area in the Property.

(kk) “**Limited Common Expenses**” is defined as any and all expenses of the type included within the term Common Expenses, but that are related solely and specifically to Limited Common Elements. Limited Common Expenses shall be paid out of assessments against Members who own Lots in the particular phase or section or portion of the Properties for or in which the associated Limited Common Elements have been allocated. All references in this Declaration to Common Expenses in the context of Limited Common Elements are deemed to refer to Limited Common Expenses for the applicable Limited Common Elements.

(ll) “**Lot**” or “**Unit**” is defined as any portion of the Properties, whether improved or unimproved, that has delineated boundary lines as shown on a Plat recorded in the Registry and that either has a Dwelling constructed or partially constructed thereon or is intended (in its current configuration, without further subdivision) for construction of a Dwelling thereon. “**Proposed Lot**” (or “**Proposed Unit**”) is defined as any real property included in the Development Plan, whether improved or unimproved, that has delineated boundary lines as shown on the Development Plan or on a Plat recorded in the Registry and either has a Dwelling constructed or partially constructed thereon or is intended for construction of a Dwelling thereon. A Proposed Lot becomes a Lot from and after the later of the dates (if not the same date) on which it becomes a part of the Properties and a Plat thereof is recorded in the Registry. In the event that any Lot is increased or decreased in size by recombination or re-subdivision through the recording of a new or revised plat, the newly platted lot thereafter shall constitute a Lot under this Declaration. The Declarant has the authority to determine whether any real property is a Lot or a Proposed Lot under this Declaration.

(mm) “**maintain**”, “**maintenance**”, “**maintaining**”, or any similar term used herein is defined to include any one or more of the following, as the context requires or allows: acquisition, purchase, construction, re-construction, installation, maintenance, inspection, examination, upkeep, cleaning, renewal, alteration, repair, replacement, repainting, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering, and

preservation. In addition, maintenance also includes any action necessary for real or personal property to be maintained so that it functions for the purposes for which it is intended and so that it complies with the Community Wide Standard.

(nn) “**Member**” is defined as each Person who owns a Lot in the Properties and, with respect to the Class B Member, is defined as the “Declarant”.

(oo) “**mortgage**” or “**deed of trust**” is defined as any mortgage, deed of trust or other instrument that creates a security interest in real property, and includes acts required to create such security interest.

(pp) “**Mortgagee**” is defined as the beneficiary or payee under any mortgage or deed of trust.

(qq) “**Nonprofit Corporation Act**” is defined as the North Carolina Nonprofit Corporation Act as it exists from time to time, including all amendments, supplements, and replacements thereof. The Nonprofit Corporation Act currently is codified in Chapter 55A of the North Carolina General Statutes.

(rr) “**Owner**” is defined as the record owner, whether one or more Persons, of fee simple title to any Lot, and shall include Declarant so to any Lot owned by Declarant. “**Owner**” shall not include any Person, including a trustee or beneficiary of a deed of trust or a mortgagee, who holds an interest in a Lot solely as security for the performance of an obligation.

(ss) “**Person**” is defined to include any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, Governmental Authority or other legal entity.

(tt) “**Plans**” or “**Plan**” is defined as the plans and specifications for a proposed improvement on a Lot, showing (where applicable) the size, shape, dimensions, materials, exterior finishes and colors, location on the Lot, driveway, parking areas, provisions for handling stormwater, landscaping, floor plans and elevations, and other items, specified in any applicable Architectural Guidelines or required by the Architectural Review Committee.

(uu) “**Plat**” is defined as any plats for any portion of the Properties recorded in the Registry, as the same may be amended from time to time pursuant to plat or instrument subsequently recorded in the Registry.

(vv) “**present**” at a meeting of the Association is defined as being present in person or by a proxy that has been executed and is effective under Legal Requirements and the Governing Documents.

(ww) “**Property**” or “**Properties**” is defined as all real property subject to this Declaration. The Property initially subject to this Declaration is described in **Exhibit A**.

(xx) “**property manager**” or “**management company**” is defined as a Person employed (or contracted with) by the Association to manage or assist in the management of the business and by property of the Association.

(yy) “**Proposed Property**” or “**Proposed Properties**” is defined as all real property included in the Development Plan that is not part of the Properties.

(zz) “**Recreational Amenities**” is defined as those portions of the Common Elements, if any, on which active or passive recreational equipment or facilities, including associated parking and other improvements, are constructed or placed.

(aaa) “**Registry**” is defined as the office of the Register of Deeds (or any successor office under applicable law) for the County (or Counties) in which deeds, plats, easements, mortgages and deeds of trust of the Properties are recorded. All references herein to recording or to any requirement to record a document or plat refer to recording in the Registry of the County or Counties in which the applicable portion of the Properties is located.

(bbb) “**Restrictions and Rules**” or “**Rules and Regulations**”, is defined as rules, regulations, requirements, prohibitions, and/or conditions with respect to any one or more of the following that are adopted by the Declarant or the Association and are in effect from time to time: (i) use of the Properties or any part thereof, including the Common Elements; (ii) the conduct of Persons while in or on the Properties or any part thereof, including the Common Elements, including without limitation any Recreational Amenities; (iii) the implementation and enforcement of the Governing Documents; or (iv) any other matters that the Declarant or Board, as applicable, determines to adopt as part of the Association’s Rules and Regulations. The Board may adopt, amend, modify and enforce Rules and Regulations for the use and operation of the Common Elements and/or for the implementation and enforcement of the Governing Documents without having to comply with the procedures specified herein for adoption, amending, modifying, and enforcing other Rules and Regulations. Such Rules and Regulations with respect to use and operation of the Common Elements and/or implementation and enforcement of the Governing Documents also may be referred to herein as “**Board Policies**”.

(ccc) “**Single Family Home**” is defined as a Dwelling that is detached from, and does not share any party walls with, other Dwellings.

(ddd) “**Single Family Lot**” is defined as a Lot on which a Single Family Home has been built, is being built, or is intended to be built.

(eee) “**Special Declarant Rights**” or “**Declarant Rights**” is defined as all rights granted to, or reserved by, or established for the benefit of, Declarant in the Act or in this Declaration or in other Governing Documents, whether or not such rights are referred to as Special Declarant Rights or Declarant Rights in the Act, this Declaration or other Governing Documents. Declarant may assign Special Declarant Rights, in whole or in part, temporarily or permanently, at any time and from time to time, subject to such terms and conditions as Declarant specifies in the assignment document. Unless this Declaration or other Governing Documents specify that Special Declarant Rights may be exercised by any Person other than the Declarant or that they become rights exercisable in whole or in part by the Association at any time, or as otherwise provided in any Legal Requirements, any assignment of Special Declarant Rights must be in writing and recorded in the Registry, executed by the assignee, and the assignment becomes effective only upon the recording of the document in the Registry or any later date specified therein. Special Declarant Rights shall be construed broadly so as to allow Declarant the greatest flexibility in development and sale of the Properties.

(fff) “**Stormwater Agreement**” is defined as any agreement required by the City, County or Legal Requirements with respect to the Stormwater Control Facilities and any other agreement or other document entered into or executed by Declarant, on behalf of the Association, or by the Association, or any other agreement or document recorded in the Registry that binds the Properties or portions thereof, with respect to Stormwater Control Facilities.

(ggg) “**Stormwater Control Facilities**”, “**Stormwater Facilities**”, “**Stormwater Control Measures**”, or “**Stormwater Measures**” is defined as any one or more of the following devices and measures, together with associated private drainage easements utilized for conveying, collecting, storing, filtering, treating, and/or discharging stormwater (however identified on a plat, map, this Declaration, or other recorded document) that serves more than one (1) Lot or parts of more than one (1) Lot in the Properties and which are located outside of public street rights of way and drainage easements accepted

into public use by the applicable Governmental Authority (but including the Stormwater Control Facilities in public street rights of way if the applicable Governmental Authority has not accepted the maintenance obligation for such Stormwater Control Facilities or the applicable Governmental Authority is not maintaining): conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wetponds, dry retention basins, bio-retention areas, retention or detention ponds, and other devices and measures, necessary to collect, convey, store and control stormwater runoff, nitrogen, and pollutants for or from more than one (1) Lot in the Properties. Private drainage easements, however identified on a recorded plat or recorded map or in a recorded document, that serve more than one (1) Lot in the Property are deemed to be dedicated to the Association for the benefit of the Properties or applicable portions thereof. Stormwater Control Facilities may be located in the Properties or on real property that is not part of the Properties. Except as otherwise provided herein, Stormwater Control Facilities are part of the Common Elements or Limited Common Elements, as applicable, and maintenance of Stormwater Control Facilities is a Common Expense or Limited Common Expense, as applicable.

(hhh) “**Stormwater Maintenance Manual**” (which term includes any other instrument or document under the Legal Requirements or Stormwater Agreement, by whatever name denominated therein, addressing the same or similar matters) is defined as the specific requirements for maintenance of the Stormwater Control Measures as required by the City or the Stormwater Agreement.

(iii) “**street**” or “**street right of way**” is defined as any public or private street, alley, or drive shown on a Plat of any part of the Properties, but excluding a driveway on a Lot that is specific to that Lot and provides access from said Lot to and from a street. A street consists of the entire area or right of way established therefor, whether improved or unimproved.

(jjj) “**Subdivision**” is defined as the Properties, together with any other real property included in the Development Plan.

(kkk) Intentionally omitted.

(lll) Intentionally omitted.

(mmm) “**Unsubdivided Land**” is defined as all portions of the Properties owned by the Declarant, other than Lots and portions of the Properties that have been dedicated to a Governmental Authority. With respect to the Class B membership in the Association, all Unsubdivided Land owned by the Declarant together constitutes one (1) Lot. Unsubdivided Land owned by Declarant is not subject to assessment under this Declaration.

(nnn) “**utility**” or “**public utility**” is defined as any one or more of the following used in any part or all of the Properties: electricity; telephone; internet service; water; sanitary sewer; stormwater drainage, detention, and other discharge; natural gas; propane gas; television; refuse collection; collection of materials for recycling; and any other service or facility generally recognized as a public or private utility or determined to be a utility by the Declarant (during the Development Period, and thereafter, by the Board). “**utility provider**” or “**public utility provider**” is defined as the Person who provides a utility to any part or all of the Properties.

ARTICLE II

THE PROPERTIES; ANNEXATION; WITHDRAWAL

Section 2.01 The Properties. The real property which initially is and shall be owned, held, transferred, sold, conveyed, leased, used, occupied and mortgaged subject to this Declaration, and which is within the

jurisdiction of the Association, is described on **Exhibit A** attached hereto, and constitutes the Properties at the time of the recording of the Declaration. The Properties constitute a “planned community” as defined in the Act.

Section 2.02 Annexation of Additional Property. Note: All annexations of Additional Property to the Declaration are subject to Legal Requirements and, if required by the Code, must be approved by the applicable Governmental Authorities.

Section 2.03 Annexation by the Declarant. At any time during the Development Period, Declarant, in its sole discretion and without the consent, approval or joinder of the Association or any Owner or other Person except the owner (if not Declarant) of the Additional Property being annexed, may annex Additional Property to this Declaration by recording an Annexation Declaration extending the operation and effect of this Declaration thereto. Subject to the requirements or restraints of Legal Requirements, nothing herein shall be deemed to require the Declarant to annex any Additional Property to this Declaration or to develop it in any manner whatsoever and nothing herein shall be deemed to prohibit the Declarant from annexing any Additional Property to this Declaration.

Section 2.04 Other Annexation. If the Declarant or Association desires to annex Additional Property to this Declaration other than as allowed in the immediately preceding subsection, or if a Person other than the Declarant desires at any time to annex Additional Property to this Declaration, such Additional Property may be annexed to this Declaration only upon obtaining the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association for which the notice of the meeting includes notice of the proposal to annex such Additional Property, and the recording in the Registry of an Annexation Declaration signed by the owner of such Additional Property and by the appropriate officers of the Association certifying the required meeting and vote. In addition to the foregoing, during the Development Period an annexation of Additional Property by a Person other than Declarant must have the written consent of Declarant, as evidenced by Declarant’s execution of the Annexation Declaration or other document specifically consenting to the annexation.

Section 2.05 Approval by Governmental Entities. Notwithstanding the foregoing **Section 2.03** and **Section 2.04**, if any Legal Requirement requires approval of annexation of Additional Property by a Governmental Authority, the annexation shall not be effective until the requisite approval of the Governmental Authority is obtained.

Section 2.06 Annexation Declaration. Each Annexation Declaration shall be effective to annex (or subject, those two words being used interchangeably in the context of adding Additional Property to the Declaration) Additional Property to this Declaration only upon obtaining all approvals required by the Declaration and upon its recording in the Registry, and the effective date of such annexation shall be the later of the date specified therein, if any, or the date of recording. Each Annexation Declaration shall contain a description of the Additional Property annexed sufficient to determine its size and location, either by reference to a plat or deed recorded in the Registry or by a metes and bounds description, and shall indicate that the Additional Property is being annexed to this Declaration. An Annexation Declaration need not be in any specific form and need not be titled Annexation Declaration or Supplemental Declaration (for example, the annexation language may be contained in a deed from the Declarant conveying the Additional Property being annexed), but it shall indicate clearly the intention to annex such Additional Property to this Declaration. Any Annexation Declaration may specify such use restrictions and may contain such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens applicable to such Additional Property as the Person annexing such Additional Property to this Declaration may determine. Provided, however, this Declaration shall control over any provision of any Annexation Declaration that conflicts with this Declaration unless the Annexation amends the Declaration in compliance with the requirements for amendments set forth in this Declaration.

Section 2.07 Votes Allocated to Additional Property. Except as otherwise provided herein or in any Annexation Declaration annexing Additional Property to this Declaration, votes in the Association shall be allocated

to Additional Property annexed into the Declaration in the same manner that votes are allocated to the Properties already subject to this Declaration.

Section 2.08 Conveyance of Common Elements in Additional Property. Common Elements, if any, located within any Additional Property or the applicable phase or portion thereof annexed to this Declaration, shall be conveyed to the Association pursuant to the requirements of this Declaration for conveyance of other Common Elements to the Association.

Section 2.09 Development and Annexation. Subject to Legal Requirements that provide otherwise, no Development Plan shall obligate the Declarant to develop any portion of the Properties now or in the future, whether for the purposes shown therein or for any other purpose; and the Declarant shall not be required to follow any particular sequence or order of development whether or not development of all the Properties previously subjected to this Declaration has been completed.

Section 2.10 Withdrawal of Properties from this Declaration. All withdrawals of portions of the Properties from the Declaration are subject to Legal Requirements and, if required by the Code, must be approved by the applicable Governmental Authorities.

Section 2.11 Withdrawal by the Declarant. During the Development Period the Declarant, in its sole discretion and without the consent, approval or joinder of the Association or any Owner or other Person except the Owner (if not Declarant) of the portion of the Properties being withdrawn, may withdraw portions of the Properties from this Declaration by recording a Withdrawal Declaration to withdraw the applicable portion of the Properties from the operation and effect of this Declaration. Provided, however, Declarant may not withdraw from this Declaration Lots on which there are Dwellings at the time of the withdrawal unless the conditions of this Section 2.11 are satisfied with respect to such withdrawal. Except for the foregoing, and subject to the requirements or restraints of Legal Requirements, nothing herein shall be deemed to require the Declarant to withdraw any portion of the Properties from this Declaration and nothing herein shall be deemed to prohibit the Declarant from withdrawing any portion of the Properties from this Declaration.

If the Declarant desires to withdraw any portion of the Properties from this Declaration other than as allowed in the immediately preceding paragraph of this Section 2.11, or if a Person other than the Declarant desires at any time to withdraw any portion of the Properties from this Declaration, such portion of the Properties may be withdrawn from this Declaration only upon obtaining the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association for which the notice of the meeting includes notice of the proposal to withdraw such portion of the Properties, and the recording in the Registry of a Withdrawal Declaration signed by the Owner of such portion of the Properties and by the appropriate officers of the Association certifying the required meeting and vote. Provided, however, the required percentage vote of the Members for withdrawal of any Lot on which there is a Dwelling at the time of the proposed withdrawal is eighty percent (80%) or more. In addition to the foregoing, during the Development Period a withdrawal of any portion of the Properties from this Declaration by a Person other than Declarant must have the written consent of Declarant, as evidenced by Declarant's execution of the Withdrawal declaration or other document specifically consenting to the withdrawal.

Section 2.12 Approval of Withdrawal by Governmental Entities. Notwithstanding the foregoing Section 2.11, if any Legal Requirement requires approval of withdrawal of any portion of the Properties by a Governmental Authority, the withdrawal shall not be effective until the requisite approval of the Governmental Authority is obtained.

Section 2.13 Withdrawal Declaration. Each Withdrawal Declaration shall be effective to withdraw portions of the Properties from this Declaration only upon obtaining all approvals required by this Declaration and upon its recording in the Registry, and the effective date of such withdrawal shall be the later of the date specified therein, if any, or the date of recording. Each Withdrawal Declaration shall contain a description of the portion of the Properties withdrawn sufficient to determine its size and location, either by reference to a plat or deed recorded

in the Registry of by a metes and bounds description, and shall indicate that the applicable portion of the Properties is being withdrawn from this Declaration. A Withdrawal Declaration need not be a specific form and need not be titled Withdrawal Declaration or Supplemental Declaration (for example, the withdrawal language may be contained in a deed from the Declarant conveying the portion of the Properties being withdrawn), but it shall indicate clearly the intention to withdraw such portion of the Properties from this Declaration.

Section 2.14 Effect of Annexation or Withdrawal. Other than as specifically limited by the Governing Documents or any Legal Requirement, the Declarant shall have full power to add to, subtract from, or make changes in, any Development Plan, and annex real property to and withdraw real property from the Declaration, regardless of the fact that such actions may affect the relative voting strength of any class of membership in the Association or reduce the number of Owners subject to assessment under the Declaration. Any portion of the Properties that is withdrawn from the Declaration may be owned, held, transferred, sold, conveyed, leased, used, occupied, mortgaged and developed in any manner allowed under Legal Requirements, and shall be released from the terms and provisions of the Declaration on the date the withdrawal becomes effective as provided herein, subject to any terms of the withdrawal declaration and except that all easements specifically affecting such withdrawn portions of the Properties, as shown on plats recorded in the Registry or as described in documents recorded in the Registry, shall remain in force and effect unless released or terminated by all Persons having rights to exercise such easements.

Section 2.15 Declarant's Right to Record Subdivision Declarations and Supplemental Declarations. Notwithstanding anything to the contrary herein, during the Development Period the Declarant has the right to record one or more declarations with respect to any portion of the Properties or Additional Property owned by Declarant that contain use restrictions and/or such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens, not in conflict with the Declaration, as the Declarant determines. Such declarations may be referred to as "Supplemental Declarations", "Subdivision Declarations", or by any other name selected by Declarant.

ARTICLE III

ASSOCIATION

Section 3.01 Board Acts for Association. All obligations required or allowed to be performed by the Association shall be performed in accordance with Legal Requirements and applicable provisions of the Governing Documents. Unless reserved by or for the Declarant in the Declaration, other Governing Documents or Legal Requirements, or unless otherwise required by Legal Requirements, all rights, powers, easements, functions, services, obligations and duties of the Association may be performed, exercised, directed, or contracted for by the Board on behalf of the Association. There is no distinction intended in the Declaration between items that may be adopted, enforced, acted upon, or waived by the Board and items that may be adopted, enforced, acted upon, or waived by the Association, except where a vote of the Members of the Association is expressly required therefor. The officers of the Association may act on behalf of the Association as authorized in the Governing Documents or by Legal Requirements and/or as directed by the Board.

Section 3.02 Powers and Obligations. Subject to Legal Requirements and Governing Documents, the Association shall have all of the powers conferred upon the Association described in the Governing Documents, in the Act, and in the Nonprofit Corporation Act, specifically including all of the powers of owners' associations described in Section 47F-3-102 of the Act, and, whether or not described in Section 47F 3-102 of the Act or in this Declaration, shall have all powers necessary to enable the Association to conduct its business, carry out its functions, and satisfy its obligations, including but not limited to the following:

- (a) The Association shall satisfy or perform the obligations required of the Association by Legal Requirements and the Governing Documents, specifically including maintenance of the Common

Elements, and the Association shall have all powers conferred upon the Association by the Governing Documents and Legal Requirements.

(b) The Association may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property.

(c) Subject to any Declarant Rights under this Declaration, the Association has the sole and exclusive power and authority to regulate use of the Common Elements by Owners and other Persons, including establishment of Rules and Regulations for use and user fees or charges.

(d) The Association has the power and authority to enter into such access and encroachment agreements and other agreements with Governmental Authorities, utility providers, and other Persons as are reasonably necessary to enable the Association to maintain Common Elements, and to perform its obligations under the Declaration. During the Development Period, the Declarant has the power and authority to enter into encroachment agreements and other agreements with Governmental Authorities, utility providers, and other Persons as Declarant, in its sole discretion, determines, each of which agreements are binding on the Association and all Owners, unless otherwise provided therein.

(e) The Association shall accept transfer of ownership from Declarant of any and all Common Elements any and all improvements thereon, including transfer or assignment of any and all associated rights, easements, permits and obligations.

(f) The Association shall accept from Declarant any and all assignments of Declarant's rights and obligations under any part or all of the Declaration, any Supplemental Declaration, applicable Code, any Stormwater Agreement, any easement benefitting any part or all of the Properties, any encroachment agreement or other agreement with a Governmental Authority, a utility provider, or any other Person, specifically including assumption of all Declarant or Association obligations which are contained in such documents and relate to the Properties, the Common Elements, architectural approvals, or other functions or services performed or provided by the Association.

(g) The Association shall accept from Declarant any and all appointments of the Association as the agent of Declarant for administration and enforcement of any part or all of the Declaration or any Supplemental Declaration, specifically including all rights and obligations related to the Properties, the Common Elements, architectural approvals, or other functions or services performed or provided by the Association.

(h) All rights and powers granted to, or reserved for, or established for the benefit of, the Association may be exercised by the Association (or, as the case may be, on behalf of the Association by the Board or a committee of the Board), at any time and from time to time.

(i) Landscape Maintenance as provided in this Declaration.

Section 3.03 Functions and Services. In accordance with the requirements of the Governing Documents, and the Act and other Legal Requirements, the Association shall or may, as indicated, do, provide, provide for, perform, accept, or be responsible for the following, the expenses for which are Common Expenses, and in carrying out these and other functions and providing services as required or allowed by the Governing Documents, the Association has all of the following described or referenced rights and powers.

(a) The Association shall conduct its business, perform its services, and satisfy its obligations in accordance with Legal Requirements and the Governing Documents, including legal, financial, accounting and communications services, and shall provide or procure the administrative or other services necessary in connection therewith.

(b) The Association shall maintain the Common Elements, and shall provide Landscape Maintenance, in such manner and to such extent as reasonably determined by the Board from time to time, giving due consideration to the Community Wide Standard and to the level of maintenance, if any, that may be performed by a Governmental Authority, Owners or other Person.

(c) The Association shall pay, or provide for payment of, all of the Common Expenses, whether or not any particular Common Expense is referred to specifically in this Declaration.

(d) The Association shall maintain all private streets in the Properties, except for driveways and walkways that are the maintenance responsibility of Owners as described herein. (Note: private streets typically will be identified as private on recorded Plats of the Properties).

(e) The Board has the authority to resolve all issues as to whether the Association or an Owner is responsible for maintenance of any portion of a Dwelling or other improvement on a Lot.

(f) The Association shall maintain, or cause to be maintained, that portion of any private sanitary sewer line and related facilities (but excluding meters that measure usage) that is used or is for use by more than one Dwelling and that is not maintained by a Governmental Entity, and the Owner of each Lot shall be responsible for all maintenance of private sanitary sewer lines and facilities on such Owner's Lot that are for the exclusive use of the Dwelling on that Lot. For these purposes, a "private sanitary sewer line" is one that is located outside of a public street right-of-way or public utility easement.

(g) The Association shall maintain, or cause to be maintained, that portion of any private water line and related facilities (but excluding meters that measure usage) that is used or for use by more than one Dwelling and that is not maintained by a Governmental Entity, and the Owner of each Lot shall be responsible for all maintenance of private water lines and facilities on such Owner's Lot that are for the exclusive use of the Dwelling on that Lot. For these purposes, a "private water line" is one that provides potable water and is located outside of a public street right-of-way or public utility easement.

(h) Intentionally omitted.

(i) The Association shall operate the Architectural Review Committee as provided herein.

(j) The Association shall keep appropriate records of all its acts and corporate business, including sufficiently detailed financial records, to enable the Association to comply with the Act.

(k) In accordance with Section 47F-3-118 of the Act, the Association shall provide an annual financial report to each Member making written request therefor and paying the reasonable charge for the same established by the Board and, upon either the (i) the affirmative vote of majority of the votes cast by the Members present at a meeting of the Association, or (ii) the written request of the Members possessing more than twenty-five percent (25%) of the total number of votes of all the Members of the Association, shall have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member making written request therefor. Provided, however, and notwithstanding the foregoing, the Association shall not be required to have more than one audit performed in any calendar year.

(l) The Association shall make available for inspection by the Members and Mortgagees, upon reasonable request, during normal business hours and upon payment of reasonable copying and administrative costs, current copies of the Governing Documents, and the books, records and financial statements of the Association.

(m) As required by the Governing Documents and Legal Requirements, the Association shall establish budgets, shall establish the amount of and collect assessments, and may establish reserve funds.

(n) The Association shall hold meetings and give proper notice thereof, as required by the Governing Documents and Legal Requirements.

(o) The Association shall pay all applicable *ad valorem* property taxes and Governmental Authority assessments, if any, on the Common Elements owned by the Association and on other property or assets owned by the Association.

(p) To the extent, if any, that a Governmental Entity is not obligated to do so, the Association shall be responsible for stormwater management and maintenance of Stormwater Control Measures as provided in the Stormwater Agreement, the Declaration and in any other Governing Document or as required by Legal Requirements.

(q) The Association shall be responsible for all financial and other obligations of the Association pursuant to any agreement entered into by or on behalf of the Association as contemplated by the Declaration; encroachment agreements or other agreements with a Governmental Authority; agreements between the Association and any utility provider or any other Person.

(r) The Association may take all actions and do all things its deems necessary or desirable to enforce and implement the provisions of the Governing Documents and to comply with Legal Requirements applicable to the Association, and to exercise the rights, satisfy the obligations, and perform the functions or services the Association is required or allowed to do by the Governing Documents, and except as specifically limited by the Governing Documents, the Association shall have all of the rights and powers under the Act and other Legal Requirements.

(s) The Association may maintain grass, landscaping, decorative paving or other decorative features, and all equipment and facilities associated therewith, within street rights of way and on sidewalks in or adjacent to the Properties, with such frequency and in such manner as determined by the Board. In determining the level of maintenance to be performed by the Association, the Board may give due consideration to the extent to which a Governmental Authority or any other Person is responsible for and performs such maintenance and to the terms of any encroachment agreement between the Declarant or the Association and a Governmental Authority. The Association may enter into encroachment and other agreements with a Governmental Authority or other Persons with respect to such maintenance.

(t) To the extent that such services are not, in the opinion of the Board, provided adequately by a Governmental Authority, the Association may provide services of a governmental nature for maintenance of portions of the Properties not owned by the Association.

(u) The Association may provide, or provide for, services and facilities for Owners and their Lots and Dwellings (as distinguished from services and facilities relating to Common Elements) and may enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided to or for an Owner or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the annual assessment if provided to all Owners. By way of example, such services and facilities might include Landscape Maintenance, insect and pest control service, cable television service, security, caretaker, transportation, fire protection, and similar services and facilities. In addition, the Association shall accept assignment of all such contracts entered into by the Declarant when the Declarant is the owner of all of the Properties, or entered into at any time by all of the Owners (the execution of the contract by any one of multiple owners of a Lot being sufficient with respect to that Lot). NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED AS A REPRESENTATION, PROMISE,

WARRANTY, OR GUARANTY BY DECLARANT OR THE ASSOCIATION AS TO WHAT, IF ANY, OF SUCH SERVICES WILL BE PROVIDED.

(v) The Association may borrow funds to pay the obligations of the Association, which borrowing may be secured by assignment or pledge of Association rights to receive and collect assessments or by liens on Common Elements or other Association assets, as determined by the Board, subject to the Governing Documents and Legal Requirements.

(w) The Association may maintain one or more bank accounts, and enter into contracts or other agreements reasonably necessary in connection therewith.

(x) The Association may sue or defend in any court of law on behalf of the Association, and may employ attorneys and other necessary professionals in connection therewith.

(y) The Association may adjust the amount, collect, and use insurance proceeds to repair damage to or replace Common Elements, and if proceeds are insufficient to repair damage to or replace same, levy special assessments (in the manner provided herein) to cover the deficiency.

(z) The Association may employ or contract with a property manager and may employ or contract with independent contractors or other Persons as the Board deems necessary.

(aa) The Association may retain the services of legal and accounting firms and such other professionals and/or tradesmen as it deems necessary and appropriate.

(bb) The Association may contract with Declarant or any other Person for performance of services provided by the Association, such contracts to be at competitive rates and upon such terms and for such consideration as the Board deems proper, advisable and in the best interests of the Association.

(cc) The Association may establish and maintain the nonprofit corporation tax status of the Association for federal and State of North Carolina income tax purposes, as determined by the Board to be in the best interests of the Association.

(dd) The Association may contract with other nonprofit corporations or associations which exist for purposes substantially similar to those for which the Association exists, with respect to the maintenance of the Common Elements and/or property owned by such corporation or association.

(ee) The Association may impose reasonable charges for late payment of assessments and, subject to any applicable notice and hearing requirements of the Act, may suspend privileges or services provided by the Association (except rights of access to Lots and rights of access to easements in the Properties that provide stormwater drainage or public utility services to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer after the payment due date.

(ff) Subject to any applicable notice and hearing requirements of the Act, the Association may impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to Lots and rights of access to easements in the Properties that provide stormwater drainage or public utility services to Lots) for reasonable periods for violations of the Declaration or other Governing Documents.

(gg) The Association shall obtain and maintain insurance and fidelity bonds in accordance with Legal Requirements and the Governing Documents, and in addition to insurance required by Legal Requirements and/or the Governing Documents, the Association may obtain and maintain such other

insurance coverage as the Board determines to be in the best interests of the Association, and may adjust the amount, collect, and use the proceeds of such insurance as the Board determines.

(hh) As provided in the Governing Documents, the Association may adopt, amend, and repeal Restrictions and Rules.

(ii) The Association may enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to Common Elements.

(jj) The Association may grant easements, leases, licenses and concessions through or over the Common Elements, as the Board determines to be in the best interests of the Association.

(kk) The Association may enter into contractual agreements or covenants to share costs with any neighboring property owner or association of property owners to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Elements maintenance.

(ll) The Association shall maintain the landscaping of the Common Elements in accordance with the Rules and Regulations.

(mm) As a Common Expense, the Association may provide educational and training opportunities within the Subdivision, including providing funding and permitting facilities use for such purposes. As examples, the Association may provide education and training activities as a tool for fostering Owner and resident awareness of the Subdivision and the facilities and services provided by the Association, as well as governance and operation of the Association. Other appropriate educational topics include dispute or conflict resolution issues involving the Governing Documents, and benefitting from and contributing to the Subdivision. The Association also is authorized to fund and support the education and training required for officers, directors, and committee members.

Section 3.04 Stormwater Management. Except for maintenance responsibilities (i) placed on Owners by the Governing Documents or Legal Requirements, or (ii) assumed or undertaken by other Persons (for example, a Governmental Authority), the Association shall maintain the Stormwater Control Measures and shall pay for the maintenance thereof as part of the Common Expenses. As used in the immediately preceding sentence, the word “maintain” includes provision for maintenance of, which may include financial contributions toward maintenance of Stormwater Control Measures located on and/or shared with other properties not subject to this Declaration. Provided, however, such maintenance obligations shall cease and terminate, or be reduced proportionally, temporarily or permanently as applicable, at such time as a Governmental Authority accepts responsibility to maintain, in whole or in part, the Stormwater Control Measures for the Property, or some other Person is providing the necessary maintenance therefor (for example, pursuant to an agreement which requires monetary payments by the Association to the Person who is performing the maintenance). Following any such assumption of maintenance by a Governmental Authority or other Person, the Association may, without obligation, continue to provide maintenance to the extent that the Governmental Authority or other Person fails to provide adequate maintenance, in the opinion of the Board, and shall continue to provide maintenance for those portions of the Stormwater Control Measures with respect to which the Governmental Authority or such other Person has not assumed maintenance responsibility, or following termination of the Governmental Authority’s or such Person’s maintenance responsibility. The Owner of a Lot on which a Stormwater Control Measure is located shall not obstruct it or interfere with its normal and intended operation. Notwithstanding anything to the contrary herein, each Owner of a Lot, and not the Association, shall be responsible for maintenance of all stormwater drainage easements and stormwater management facilities located on and used exclusively in connection with such Owner’s Lot or the improvements thereon, including guttering, and pipes and drains on the Lot used exclusively for transportation of stormwater from such Lot into any Stormwater Control Measures. All issues as to whether a stormwater drainage easement or stormwater management facility is part of the Stormwater Control Measures for which the Association

is responsible or whether it is the responsibility of an Owner shall be determined by the Declarant during the Development Period (unless Declarant assigns such right to the Association), and thereafter by the Association.

Declarant, during the Development Period, and the Association, when the Development Period is not in effect, subject to any approval required by a Governmental Authority, may grant, relocate, modify, abandon and/or release one or more stormwater drainage easements in the Properties, subject to the following: (i) the grant of any such stormwater drainage easement also shall be consented to in writing by the Owners of all portions of the Property on which such stormwater drainage easement is located, such consent not to be unreasonably withheld, delayed, or conditioned, unless the stormwater drainage easement is shown on a recorded plat of such portions of the Properties or is within any ten foot (10') wide easement area reserved by Declarant in Section 12.02 of this Declaration, in which event the consent of the Owners is not required and the Declarant or the Association, as applicable, also may grant the stormwater drainage easement by written instrument; and (ii) no such grant, relocation, abandonment or release shall materially adversely affect the Stormwater Control Measures for the Property. The provisions of this paragraph also are applicable to any access easement over any portion of the Property that provides pedestrian or vehicular access from a public street right of way or other public easement or facility to and from any Stormwater Control Measures.

The Governmental Authority that has jurisdiction over the Stormwater Control Facilities shall have a perpetual, non-exclusive easement for ingress, egress and regress over and across the Common Elements and other portions of the Property on which the Stormwater Control Facilities are located for the purpose of inspecting and maintaining the Stormwater Control Facilities and for the purpose of exercising all rights of the applicable Governmental Authority that are provided for by any Stormwater Agreement.

With respect to its obligations under this Section, the Association shall pay, post, provide for or comply with all bonds and other financial obligations under Legal Requirements and Stormwater Agreements related to Stormwater Control Measures that are executed by or on behalf of the Association (or, during the Development Period, by the Declarant on behalf of the Association or and subsequently assigned to the Association). The Association, and, during the Development Period, the Declarant on behalf of the Association and without the consent, approval, or joinder of the Association, has the authority and discretion, without the consent or approval of any Owner or other Person, to enter into one or more Stormwater Agreements, and amend, add to, supplement, or terminate existing Stormwater Agreements (and when such Stormwater Agreements are referred to in this Declaration, the reference includes amendments, additions, and supplements thereto), with a Governmental Authority, another property owners' association, or any other Person with respect to inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating, and managing any part or all of the stormwater on, to, or from any part or all of the Property and/or any or all of the Stormwater Control Measures for the Property, whether such Stormwater Control Measures are located within or outside of the Property, and with respect to maintenance of the Stormwater Control Measures and access to Stormwater Control Measures. Such Stormwater Agreements shall be binding on all Owners (or, with respect to Limited Common Elements, all Owners to whose Lots such Limited Common Elements is allocated), and may require payments from the Association or the Owners for the services provided by a Governmental Authority, such other association or such other Person in inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating or managing any part or all of such stormwater and/or Stormwater Control Measures, and such Stormwater Agreements may include all other terms and obligations required by Legal Requirements. In connection with the foregoing purposes expressed in this paragraph, the Association, subject to Declarant's written consent during the Development Period, and during the Development Period, the Declarant on behalf of the Association, may grant rights over, in, under, upon and through any and all stormwater drainage easements and Stormwater Control Measures in the Property, and may grant rights over, in, under, upon and through all easements in the Property that provide pedestrian and/or vehicular access from a publicly dedicated street right of way to and from stormwater drainage easements and/or Stormwater Control Measures.

In recognition of the fact that different Stormwater Control Measures may be necessary or desirable for different portions of the Property or phases of the Subdivision (for example, because of the topography of the Property it may be desirable for a portion of the Property to have Stormwater Control Measures separate from and/or in addition to, other Stormwater Control Measures in or serving the Property and it may be desirable for other portions of the Property to utilize Stormwater Control Measures located outside of the Property), and in further recognition of the desire of the Declarant for the provisions of this Declaration to be as flexible as reasonably necessary in order to maximize the benefit to the Property of having or using one or more Stormwater Control Measures in accordance with sound engineering practices and approvals by a Governmental Authority, in fulfilling its obligations under this Declaration the Association or, during the Development Period, the Declarant on behalf of the Association or for subsequent assignment to the Association, may enter into different agreements for different portions of the Property, and/or may amend, add to, or supplement existing agreements, subject to all of the other terms of this Declaration. It further is recognized and contemplated by this Declaration that if such multiple Stormwater Control Measures and/or other agreements are determined to be necessary or desirable, that the costs of maintaining such Stormwater Control Measures and/or funding such agreements may be different for different portions of the Property and annual assessments may be different for Lots in different portions of the Property to the extent that one or more Stormwater Control Measures are Limited Common Elements. For example, there may be different portions of the Subdivision that have different Stormwater Control Measures or different portions of the Subdivision that share some of the same Stormwater Control Measures but also have one or more separate Stormwater Control Measures. During the Development Period Declarant has the right to designate any Stormwater Control Measures as Limited Common Elements, including existing and new Stormwater Control Measures in the Property as well as existing and new Stormwater Control Measures associated with Additional Property. Stormwater Control Measures not designated by the Declarant as Limited Common Elements are Common Elements.

Declarant hereby informs all Owners and other Persons who deal with or come in contact with the Property, that as stormwater drains from the Property or other properties onto or into the Property, including Lots, Stormwater Control Measures, and other Common Elements, it is possible that substances or materials that may be classified or regulated as "hazardous substances" or "toxic substances" or other regulated substances or materials under Legal Requirements relating to the environment, may flow from or through and/or accumulate on or in the Property, including Lots, Stormwater Control Measures, and other Common Elements. Accordingly, each Owner and other Person assumes the risk of the existence of such hazardous substances, toxic substances, or other regulated substances or materials that flow from or through, enter, and/or accumulate in the Property. In addition, each Owner further acknowledges that if it becomes necessary (as determined by Legal Requirements or by the Board) for such substances to be removed from the Stormwater Control Measures or other Common Elements or otherwise handled in accordance with Legal Requirements, and for such Stormwater Control Measures or other Common Elements to be cleaned-up following such removal or other handling, that the costs associated with such removal, handling and/or clean-up are Common Expenses, and that an additional assessments may be required to pay for such removal and/or resultant clean-up of the Stormwater Control Measures or other Common Elements.

Declarant reserves for itself and the Association a blanket easement across all Lots for maintaining satisfactory storm water drainage in the Property; provided, however, such easement area shall not include any portion of a Dwelling on a Lot. It is anticipated that increased storm water run-off across downstream Lots may result from the construction of Impervious Surface within the Property. Neither the Declarant nor the Association with respect to improvements it constructs in accordance with Legal Requirements applicable at the time of construction, nor any Builder or Owner constructing improvements according to Approved Plans and Legal Requirements applicable at the time of construction, shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from construction of such improvements in compliance with Approved Plans and Legal Requirements.

Declarant may assign to the Association, and the Association shall accept from Declarant the assignment of, all obligations of the Declarant under agreements entered into by the Declarant with respect to Stormwater Control Measures for the Subdivision, provided the Declarant has performed, or made adequate provision for the

performance of, all obligations, if any, specifically required of the Declarant under the applicable agreement prior to the time of the assignment. The provisions of this Section 3.04 shall be construed liberally in order to allow the Declarant and the Association, on behalf of the Subdivision and all Owners, the necessary flexibility to comply with all Legal Requirements with respect to stormwater in the manner Declarant and the Association deem appropriate, including the execution of agreements with a Governmental Authority or other Persons and the granting of easements to a Governmental Authority or other Persons.

Section 3.05 Landscape Maintenance. As determined by the Board from time to time, the Association shall provide the following Landscape Maintenance to the Common Elements: mowing of grass; weed control for grass and areas planted with shrubs and or flowers; trimming of trees and shrubs; blowing of leaves; and maintaining or repairing landscaping (however, the Association shall not be responsible for removing diseased, dying, or dead trees, shrubs, or other vegetation from Lots nor shall the Association be responsible for replacing trees, shrubs, flowers, or other vegetation on Lots). The Board may also elect, in its discretion, for the Association to provide Landscape Maintenance to Lots or to portions of such Lots (*e.g.*, front yards only, excluding potted plants, etc.) so long as such Landscape Maintenance is provided on a reasonably equitable basis to each of the applicable categories of Lots or portions of Lots. Such Landscape Maintenance shall be provided by one or more lawn maintenance companies or other Persons as determined by the Board from time to time, and such Landscape Maintenance shall be provided at such times and to such extent as determined by the Board in its sole discretion. The Landscape Maintenance shall not prohibit Owners from providing for additional maintenance of lawns, shrubs, flowers, and other vegetation.

If individual irrigation systems are installed to serve Lots individually, the Board may set the days and times at which such irrigation systems may water a Lot's landscaping, the duration of such watering, and may control an Owner's use of such irrigation system, all without the Association incurring any cost for water or other utility charge. Repair and replacement of irrigation systems shall be the responsibility of the Owners whose Lots are served by irrigation systems. Owners are advised that use of irrigation systems may be further limited from time to time by Legal Requirements.

Installation by an Owner of any landscaping improvements on his or her Lot first must be approved by the Architectural Review Committee, including but not limited to vegetation, hardscape, and irrigation systems, and Owner of the Lot shall be responsible for the maintenance, repair, and replacement of landscaping on the Owner's Lot to the extent that such maintenance, repair and/or replacement is not provided by the Association.

The Association, and its successors and assigns, and such lawn maintenance companies or other Persons engaged by the Association to perform Landscape Maintenance, shall at all times have the right of ingress, egress, and regress over and upon each Lot for the purpose of Landscape Maintenance, and each Lot Owner shall accept title to his or her Lot subject to such right of ingress, egress, and regress.

The Association shall include a line item for Landscape Maintenance in each annual operating budget, and may establish reserves with respect to Landscape Maintenance for working capital (in addition to the working capital assessment provided for in Section 6.16 of this Declaration), operations (including losses due to insurance deductibles), contingencies and replacements.

Section 3.06 Dedication, Conveyance or Exchange of Common Elements. The Association, (i) upon obtaining the affirmative vote of those Members of the Association having the minimum required voting percentage under applicable provisions of the Act for conveyance of Common Elements (or if no percentage is specified in the Act, upon obtaining the affirmative vote of those Members having sixty-seven percent (67%) or more of the total number of votes in the Association), (ii) upon compliance with any applicable provisions of the Code or other Legal Requirements, and (iii) prior to the end of the Development Period, upon obtaining the written consent of Declarant, may dedicate portions of the Common Elements to public use and/or convey or exchange portions of the Common Elements with the Declarant or any other Person, for any purpose approved by such Members, including any one or more of the following purposes: (a) to eliminate unintentional encroachments of improvements or easements;

(b) to correct any building or other setback violations; (c) to adjust boundary lines of portions of the Properties; (d) to facilitate the orderly subdivision and development of the Properties; (e) to conform the configuration of the Properties to any applicable Development Plan; (f) to satisfy, or correct any violation of, any applicable Legal Requirements related to an Impervious Surface; or (g) to reallocate an Impervious Surface to any portion of the Lots or the Common Elements. All conveyances and exchanges of Common Elements are subject to the following: (A) no such conveyance or exchange (either alone, or in conjunction with other conveyances or exchanges) shall result in a reduction of the portion of the Common Elements that constitutes “open space” below the minimum amount of “open space”, if any, required by Legal Requirements; (B) if required by Legal Requirements, the City must approve any exchange or boundary line adjustment; (C) any boundary line adjustment must be approved by the Owners of all portions of the Properties affected by the adjustment; (D) properties received by the Association in an exchange must be of like value and utility to the Common Elements of the Association that was part of the exchange transaction; (E) each Lot contiguous to Common Elements prior to the conveyance shall remain contiguous to Common Elements after the conveyance, unless otherwise approved by the Owner of the Lot that no longer will be contiguous; (F) the conveyance shall not materially conflict with any applicable Development Plan; (G) no conveyance of Common Elements shall deprive any Lot of its rights of access and support; and (H) any conveyance of real property to the Association must be free and clear of all encumbrances except those permitted under Section 4.03 below.

All real property acquired by the Association is part of the Common Elements. Any Common Elements dedicated to public use, conveyed or exchanged by the Association, without further act of the Association or its Members ceases to be Common Elements and shall be subject to those provisions of the Declaration (and any applicable Supplemental Declaration) that would have been applicable to such real property had it not been Common Elements. Provided, however, if the vote of the Members approving the dedication, conveyance, or exchange so provides, or if required by a Governmental Authority or a utility provider who receives Common Elements from the Association by dedication, conveyance, or exchange, such Common Elements shall be released from all provisions of this Declaration and any applicable Supplemental Declaration upon the recording of the document or plat that effects such dedication, conveyance, or exchange.

Section 3.07 Mortgage and Pledge of Common Elements. The Association, (i) upon complying with the minimum required voting percentage under applicable provisions of the Act for conveyance or dedication of Common Elements (or if no percentage is specified in the Act, upon obtaining the affirmative vote of sixty-seven percent (67%) or more of the total number of votes in the Association [at the time of recording this Declaration the minimum percentage specified in the Act is eighty percent (80%)]), and (ii) prior to the end of the Development Period upon obtaining the written consent of Declarant, shall have the power and authority to mortgage the Common Elements and to pledge its assets as security for loans made to the Association, which loans shall be used by the Association in performing its functions and providing services under the Declaration. Declarant may, but shall not be required to make loans to the Association, subject to the foregoing and further subject to approval by the Declarant of the use of such loan proceeds and the terms pursuant to which such loans will be repaid. Notwithstanding anything in the Declaration to the contrary, at any time that there is any unpaid amount owed to Declarant under any loan made by it to the Association, without Declarant’s written consent the annual assessments shall not be reduced below the amounts in effect at the time such loan first was made.

Section 3.08 Liability Limitations. Except as required by Legal Requirements or the Declaration, or agreed to by any of the following Persons otherwise excluded from liability by the provisions of this sentence, neither Declarant, nor any Builder, nor any current or former Member of the Association, nor the Board, nor any director on the Board, nor any officer of the Association, nor any member of the Architectural Review Committee or any other committee appointed by the Board, nor any shareholder, director, officer, partner, member, manager, agent or employee of any of the foregoing, shall be personally liable for debts contracted or incurred by the Association or for a tort of another current or former Member, whether or not such other current or former Member was acting on behalf of the Association, unless such Person specifically agrees in writing to be obligated for any such debt of the Association (but the foregoing shall not relieve such Person from that Person’s obligation, if any,

under the Declaration, to pay assessments to the Association or other obligations as a Member of the Association) or tort of another current or former Member. Neither Declarant, nor the Association, nor the Board, nor any director on the Board, nor any officer of the Association, nor any member of the Architectural Review Committee or any other committee appointed by the Board, nor any shareholder, director, officer, partner, member, manager, agent or employee of any of the foregoing, acting in those official capacities, shall be liable for any incidental or consequential damages for failure to inspect any Owner's Lot or improvements thereon, or for failure to maintain the same. Provided, however, and notwithstanding the foregoing, as required herein Declarant and the Association shall maintain all portions of the Properties it each owns, and, except as otherwise specifically provided herein, directors on the Board and officers of the Association and members of the Architectural Review Committee or any other committee of the Association shall have all of the other obligations and liabilities of an Owner under the Declaration with respect to portions of the Properties owned by such Persons.

Neither the Board or any director of the Board, the Association or any of its officers, the Declarant or any of its shareholders, directors, officers, partners, members, managers, agents or employees, nor any current or former Member of the Association, shall be considered as a bailee of any personal property stored or placed on the Common Elements (including vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to the Person who owns such personal property, nor shall any of the foregoing Persons (other than the Person who owns the personal property) be responsible for the security of such personal property or for any loss or damage thereto. With the exception of liability for gross negligence, the Association shall not be liable for any personal injury or damage to property arising out of or resulting from any of the following: (i) failure of or interruption to any service to be obtained by the Association or paid for as a Common Expense; (ii) weather or other natural events or events of Force Majeure; (iii) the acts or omissions of any Owner or any other Person; or (iv) electricity, water, snow or ice which may leak or flow from or over any portion of the Properties or from any pipe, drain, conduit, appliance or equipment, or any secondary or consequential damages of any type resulting from the foregoing. No diminution, offset or abatement of any assessment or other charge shall be claimed or allowed for inconvenience or discomfort arising from maintenance of the Common Elements or from any action taken by the Association to comply with any Legal Requirement. This Section is not intended, nor shall it be construed, to relieve any insurer of its contractual obligations under any policy benefitting the Association or any Owner.

The Association shall indemnify all Association directors, officers, and members of the Architectural Review Committee and other Association committee members as provided by Legal Requirements or in the Governing Documents.

Section 3.09 Merger or Consolidation. Upon a merger or consolidation of the Association with another association in accordance with all Legal Requirements, the properties, rights and obligations of the Association, by operation of law, may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, by operation of law, may be added to the properties, rights and obligations of the Association as the surviving association pursuant to a merger or consolidation. The surviving or consolidated association shall be considered the Association under the Declaration and may administer the terms and provisions of the Declaration and any applicable Supplemental Declaration or Subdivision Declaration, together with the terms and provisions of any declarations, covenants and restrictions applicable to other property under the jurisdiction of the surviving or consolidated Association, as a common plan. Other than as specifically stated in the plan of merger or consolidation approved pursuant to all Legal Requirements, no merger or consolidation shall effect any revocation of the provisions of the Declaration with respect to the Properties, including the limits on any assessment or any other matter substantially affecting the interests of the members of the Association. In addition to obtaining the minimum required voting percentage under applicable provisions of Legal Requirements for merger or consolidation with another association, during the Development Period such merger or consolidation must have the written consent of Declarant.

ARTICLE IV

RIGHTS IN AND TO COMMON ELEMENTS

Section 4.01 Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section 4.01, or by other provisions of the Declaration or any other Governing Documents, every Owner shall have a non-exclusive right and easement of enjoyment in, use of and access to, from, and over the Common Elements, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following:

(a) restrictions, easements, and other matters applicable to any Common Elements existing at the time of the conveyance to the Association;

(b) subject to the provisions of Legal Requirements and the Governing Documents, the right of the Association to charge reasonable admission and other fees for the use of any Common Elements and to regulate the use thereof by Owners and other Persons;

(c) the right of the Association to regulate or limit use and access by Owners to Common Elements to only such use or access as is reasonably necessary to the full use and enjoyment of the portion of the Properties owned by such Owner. In this regard, it is contemplated that there may be some Common Elements to which no Owners, or only a limited number of Owners, will have any right of use or access;

(d) limitation of use of Limited Common Elements to those Lots and Owners to whom such Limited Common Elements is allocated;

(e) subject to any applicable notice and hearing requirements of the Act and maximum fine limitations of the Act, the right of the Association to fine an Owner and/or suspend the voting rights of an Owner and/or suspend other rights and easements of enjoyment in and to the Common Elements of an Owner and such Owner's family members, tenants, contract purchasers, guests, or other Persons to whom the Owner has delegated such rights, for any period during which any assessment or other amount owed by the Owner to the Association remains unpaid, and for a reasonable period of time for any violation or infraction of the Governing Documents by an Owner or such Owner's family members, tenants, contract purchasers, guests, or other Persons to whom the Owner has delegated such rights or who are asserting any rights through such Owner. Provided, however, no such suspension shall constitute a waiver or discharge of the Owner's obligation to pay any assessment or other charge under the Declaration. Further provided, the Association shall not suspend the right of any Owner to use any portion of the Common Elements over which there is a private street or easement that provides access for ingress and egress from a public street to and from such Owner's Lot, or over which a stormwater drainage easement or sanitary sewer, water or other utility easement is located that provides such drainage or utility services to such Owner's Lot, or on which there are any Stormwater Control Facilities that serve the Owner's Lot, but such Owner shall remain subject to the Rules and Regulations, if any, established by the Association for use of such portion of the Common Elements;

(f) the right of the Association to dedicate, sell, transfer or exchange all or any part of the Common Elements, subject to the applicable voting requirements for such actions;

(g) the right of the Declarant, during the Development Period, and the right of the Association, to grant easements, leases, licenses, and concessions over, across, in, on, under, and through the Common Elements to any Governmental Authority or utility provider for the installation and maintenance therein of water and sanitary sewer, natural gas, electric, telephone, cable television, and other utilities, and Stormwater Control Measures;

(h) the right of the Association to borrow money and, subject to the applicable voting requirements for such actions, to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Elements or its other assets as security for such indebtedness. Provided, however, that the rights of any such lender or Mortgagee shall be subordinate to the property rights of the Members and the Association provided for in the Declaration and Legal Requirements;

(i) the right of the Association, as provided by and consistent with the provisions of the Code, the Act and the Declaration, to exchange all or part of the Common Elements for other property or consideration;

(j) the right of the Association to close or limit the use of Common Elements for maintenance of improvements thereon or to close or limit use of Common Elements temporarily in order to prevent or defeat any claims of adverse possession or unintentional dedication to public use;

(k) the right of the Association to adopt and enforce Rules and Regulations and Board policies governing the use of the Common Elements; and

(l) the Special Declarant Rights and any other rights of the Declarant.

Section 4.02 Delegation of Use. The Board has the authority to resolve any issue as to whether a Person is a family member, tenant, or guest of any Owner or tenant under this Section 4.02 and the right of such Person to use the Common Elements.

(a) Family. Subject to all provisions of the Governing Documents for use of the Common Elements applicable to Owners, members of the Owner's family unit who occupy the Dwelling of the Owner within the Properties as their principal residence may use the Common Elements in the same manner and to the same extent as the Owner.

(b) Tenants. Subject to all provisions of the Governing Documents applicable to Owners and tenants, tenants to whom an Owner has delegated the Owner's right to use the Common Elements, may use the Common Elements in the same manner and to the same extent as the Owner. Each Owner shall notify the Association of any tenant to whom the Owner has delegated such Owner's rights to use the Common Elements.

(c) Guests. Subject to all applicable provisions of the Governing Documents, guests of Owners and guests of tenants to whom an Owner has delegated the Owner's right to use the Common Elements, may use the Common Elements in the same manner and to the same extent as the Owner.

(d) Suspension of Use Privilege. All uses of the Common Elements by an Owner's family members, tenants, and guests, and by guests of an Owner's tenant, constitute a privilege and not a right. The privilege of any Person under this Section to use the Common Elements may be suspended for violation of the Governing Documents and as otherwise provided in the Governing Documents, and such privilege also shall be suspended during any period of time that the rights of the Owner through whom the Person derives his, her or its privilege to use the Common Elements are suspended.

Section 4.03 Conveyance of Title to the Association. Declarant covenants, for itself, its successors and assigns, that it will convey Common Elements to the Association as required by Legal Requirements and the Declaration. Provided, however, specific performance shall be the only remedy available for any failure of Declarant to do so, and the Association shall accept conveyance of Common Elements from the Declarant at any time. During the Development Period, Declarant reserves the right to determine and designate what real property constitutes Common Elements. During the Development Period, Declarant reserves an easement in, over, across, under and through the Common Elements for the purpose of constructing any improvements on the Common

Elements or for the benefit of the Properties as it deems necessary or advisable, provided that any such improvements must comply with the Legal Requirements. Except as otherwise stated herein, all conveyances by Declarant to the Association of real property may be by special warranty deed and shall be free and clear of all encumbrances and liens, except for the Declaration, Legal Requirements, rights of the Declarant provided for in the Declaration or other Governing Documents, applicable rights of way and easements in documents or plats recorded in the Registry, agreements affecting the Common Elements that have been executed as allowed by the Declaration, applicable *ad valorem* property taxes for years subsequent to the year in which the conveyance occurs, conservation easements granted to any Person or Governmental Entity, and other exceptions to title that existed prior to the time of Declarant acquired title to such Common Elements.

Any improvements constructed or placed on, in, under, or over the Common Elements by Declarant and intended for the common use and enjoyment of some or all of the Owners, shall become the property of the Association upon the conveyance of such Common Elements to the Association or, as determined by the Declarant, upon the later completion of such improvements. Provided, however, and notwithstanding the foregoing sentence, improvements constructed or placed on, in, under, or over the Common Elements shall not become the property of the Association upon conveyance of the Common Elements to the Association as follows: (i) improvements (for example, pipes for transmission of water or sanitary sewer) owned by any Governmental Entity or with respect to which dedication to public use is accepted by any Governmental Entity, regardless of when such ownership or dedication occurs, or (ii) improvements (for example, pipes, wires, and other facilities for transmission of electricity, telephone, natural gas, cable television, or internet service) owned by a utility provider, regardless of when such ownership occurs, or (iii) improvements (for example, a storm water drainage pipe) that are located in any easement reserved by Declarant or allowed to be established by Declarant under the Declaration and which serve or benefit other real property that is not part of the Properties and which improvements either are owned by a property owners association, Governmental Entity, utility provider, or Person other than the Association or such property owners association, Governmental Entity, utility provider, or Person who has maintenance obligations with respect thereto, or (iv) as provided on any Plat of the Common Elements recorded prior to conveyance of the Common Elements to the Association, or (v) as otherwise provided in the document by which the Common Elements are conveyed to the Association.

All conveyances of Common Elements to the Association, whether or not stated in the instrument of conveyance, are subject to the right and easement of Declarant and its successors and assigns to construct, install, and maintain such improvements on, in, over, or under such Common Elements as Declarant determines are necessary or desirable for the development of the Properties or in the exercise of any other rights or easements of the Declarant provided for in the Declaration or other Governing Documents or the special warranty deed by which the Declarant conveys the Common Element to the Association. Declarant may convey or transfer to the Association real property, personal property, and rights and easements in real property by written instrument, without warranty, and in an "as is, where is" condition, or may convey or transfer the same to the Association in any other manner determined by Declarant.

Section 4.04 Ingress and Egress; Utilities. Notwithstanding anything to the contrary appearing in the Declaration, (i) if ingress and egress from a public or private street to and from any Lot is over any part of the Common Elements as shown on any Plat or described in any document recorded in the Registry, or (ii) Stormwater Control Facilities, stormwater drainage, sanitary sewer, water or other utility services are provided to a Lot over or through an easement located on the Common Elements as shown on any Plat or described in any document recorded in the Registry, any conveyance or encumbrance of the affected portion of the Common Elements shall be subject to those easements for ingress and egress and/or utilities, and no suspension of the rights of the Owner of said Lot in and to the use and enjoyment of the Common Elements as allowed herein shall include suspension of any such rights of such Owner to ingress and egress or utilities.

Section 4.05 Limitation of Liability. Owners, occupants, tenants, and guests shall use the Common Elements and other property maintained by the Association at their own risk and shall assume sole responsibility

for their personal belongings used or stored thereon. All Owners, occupants, tenants, and guests shall have an affirmative duty and responsibility to inspect such Common Elements and other property maintained by the Association for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof and to report any of the foregoing to the Association. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on any of the Common Elements or other property maintained by the Association. The Association shall not be liable to any Owner, occupant, tenant, or guest for loss or damage, by theft or otherwise, of any property of Owner, occupant, tenant, or guest. The Association shall not be liable for injury or damage to any Person or property: (i) caused by the elements or by an Owner or any other Person, (ii) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, Stormwater Control Facilities, or utility line or facility, or from any portion of the Common Elements or other property maintained by the Association, unless resulting from the gross negligence of the Association, or (iii) resulting from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, Stormwater Control Facilities, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair, unless resulting from the gross negligence of the Association.

Section 4.06. Rights and Obligations of Owners, the Association, and Declarant as to Common Elements on a Lot.

(a) Owners. Each Owner of a Lot upon which any Common Elements are located shall pay all *ad valorem* property taxes and assessments levied against such Lot, including that portion of such tax or assessment as is attributable to such Common Elements (unless such Common Elements constitute a separate parcel owned by the Association for *ad valorem* property tax purposes or are taxed separately from the Lot, in which event the Association shall pay the tax or assessment, if any, attributable to such Common Elements), and, except as otherwise provided by the Association, shall maintain the portion of such Owner's Lot subject to the Common Elements in the same manner as the Owner is required to maintain the remainder of the Lot under this Declaration, except that the Association shall maintain those improvements on the Lot constructed or installed by or on behalf of the Association for use in connection with the Common Elements, and the Association shall reimburse the Owner for any additional *ad valorem* property taxes assessed against the Lot specifically for the improvements associated with those Common Elements. The Board shall have the right to resolve any conflict with an Owner with respect to payment of any such tax or assessment attributable to the Common Elements. Notwithstanding any other provision of this Declaration, no Owner or other Person shall, without the prior written consent of the Association (or, during the Development Period, the prior written consent of the Declarant): (i) remove any trees or other vegetation or improvements located within Common Elements; (ii) maintain gates, fences, or other improvements in or on any Common Elements; (iii) place any garbage receptacles or other property in or on any Common Elements; (iv) fill or excavate any Common Elements or any part thereof; or (v) plant trees or other vegetation in, or otherwise restrict or interfere with, the maintenance of any Common Elements.

(b) Declarant and Association. The Declarant and Association, and their respective employees, agents, contractors and subcontractors, have a non-exclusive right and easement at all times to enter upon any Common Elements located on a Lot or any other portion of the Property not owned by the Declarant or the Association for any or all of the following purposes: (i) maintaining entrance signs, monuments and decorative features, and other signs, all of which shall have been approved by a Governmental Authority if such approval is required under Legal Requirements; (ii) maintaining landscaping, Stormwater Control Measures, and other improvements to or in the Common Elements that have been constructed or installed by the Declarant or the Association; (iii) otherwise maintaining the Common Elements or keeping the Common Elements free from obstructions and impediments to its use; and (iv) carrying out the Association's responsibilities for maintenance of the Common Elements.

(c) Use of Common Elements by Declarant. During the Development Period Declarant, for itself and other Persons authorized by Declarant, shall have the right to use any or all of the Common Elements for such purposes as Declarant determines, in its sole discretion.

Section 4.07 Recreational Amenities. As of the date of recording this Declaration, the Declarant anticipates that the Recreational Amenities for the Community will include: passive open spaces. The operation, management, and use of the Recreational Amenities will be subject to the Rules and Regulations in effect from time to time. Without limiting the generality of the foregoing, Rules and Regulations pertaining to the Recreational Amenities may, among other things: (a) limit use to Owners and their authorized tenants and authorized guests; (b) establish reasonable fees for the use of certain Recreational Amenities; and (c) establish a system of access cards/fobs, reservations, scheduling or similar policies and procedures managing the access to and of use of Recreational Amenities. Notwithstanding the foregoing: (x) Declarant reserves the right to expand, reduce, alter, eliminate and reconfigure Recreational Amenities in the course of developing the Community; and (y) nothing in this Declaration or other Governing Documents shall be construed as imposing any obligation on the Declarant or any other Person to construct or provide for any Recreational Amenities on or for any part or all of the Property or any Owner, occupant, or user thereof.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

Section 5.01 Membership. Each and every Owner of a Lot is a Member of the Association, and by execution of the Declaration or by acceptance of a deed conveying to such Owner title to any Lot, each Owner consents to be a Member of the Association, subject to the terms of the Governing Documents. Membership shall be appurtenant to and may not be separated from ownership of the Lot owned by such Owner. An Owner's membership in the Association automatically terminates whenever such Person ceases to be an Owner of a Lot (except that the Declarant's Class B Membership shall terminate only as provided herein), but such termination shall not release or relieve any such Owner from any liability or obligation incurred under the Declaration, nor impair any rights or remedies which the Association or any other Owner has with respect to such former Owner.

Section 5.02 Classes of Voting Members. The Association shall have two (2) classes of voting Members as follows:

Class A. "***Class A Members***" are all Owners of Lots, except for the Class B Member. A Class A Member is allocated one (1) vote for each Lot owned by the Class A Member; provided, however, only one (1) Class A Member vote is allocated for each Lot, regardless of the number of Owners thereof. When more than one Person owns an interest (other than a leasehold or security interest, to which voting rights are not applicable) in any Lot, all such Persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine, but fractional voting shall not be allowed.

Class B. The "***Class B Member***" is the Declarant. During all times that the Class B Membership exists the Class B Member shall have four (4) votes for each Lot in the Property, whether or not the Lot is owned by the Class B Member. The Class B Membership shall exist until one (1) year after the last date on which Declarant owns any Lot or Unsubdivided Land in the Property. After any termination of the Class B Membership, it shall be reinstated upon Declarant becoming the Owner of any Lot or Unsubdivided Land in the Property and shall exist until one (1) year after the last date on which Declarant owns any Lot or Unsubdivided Land in the Property.

Provided, however, and notwithstanding anything to the contrary in the Declaration or any other Governing Document, with respect to the dedication, conveyance, or exchange of Common Elements (but not with respect to the mortgage and pledge of Common Elements), at all times during the Development Period the Class B Member

is deemed to have the number of votes required under applicable provisions of the Act or the Governing Documents to authorize and require the Association to dedicate, convey, or exchange Common Elements.

At any time that the Class B Membership does not exist, the Declarant shall be a Class A Member with respect to any Lots owned by the Declarant.

Section 5.03 Exercise of Voting Rights. The exercise of voting rights shall be governed by the Articles and/or Bylaws of the Association, as applicable, including exercise of voting rights by written consent or other method allowed in the Articles and/or Bylaws instead of a vote at a meeting of the Association, or by any combination of voting at a meeting and other method of voting as allowed in the Articles and/or Bylaws. Any provision of the Declaration or other Governing Documents that refers to a vote of the membership of the Association shall not preclude the exercise of voting rights by such other methods. When there is more than one Owner of any Lot, all such Owners shall be Members and the voting rights allocated to their Lot shall be exercised as they, among themselves, determine (subject to any applicable provisions of the Articles or Bylaws), but fractional voting of the votes allocated to such Lot shall not be allowed.

Section 5.04 Period of Declarant Control. During the Development Period the Declarant shall have the right, in Declarant's sole discretion, to do any or all of the following: (i) to appoint, remove, and replace any or all of the directors of the Board and the officers of the Association; and (ii) to authorize one (1) or more directors of the Board to be elected by the Class A Members of the Association, upon such terms and conditions as Declarant, in its sole discretion, determines. Quorum requirements for any meeting of the Association or the Board are not applicable to Declarant's right to appoint, remove, or replace directors and officers.

ARTICLE VI

ASSESSMENTS AND OTHER CHARGES

Section 6.01 Creation of the Lien and Personal Obligation for Assessments. Each Owner, by execution of the Declaration or by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to consent and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies on behalf of the Association) all assessments and other charges as required or allowed by the Declaration, including the following: (i) annual assessments; (ii) working capital assessments; (iii) stormwater assessments; (iv) special assessments for capital improvements or other matters as set forth herein; (v) special individual assessments levied against an Owner for the purposes as stated herein; (vi) architectural review fees and costs as specified herein; (vii) fines for violations of Restrictions and Rules and Association Rules and Regulations with respect to use of the Common Elements; (viii) late payment penalties and interest on unpaid assessments; and (ix) other charges imposed under authority contained in the Governing Documents (architectural review fees, fines, penalties, interest and other charges all being referred to herein collectively as "other charges"), and, in addition to such assessments and other charges, to pay all costs, fees and expenses, including reasonable attorneys' fees, incurred by the Association in enforcing or collecting any of the foregoing assessments or other charges against the obligated Owner. All assessments and other charges shall be established and collected as hereinafter provided. All assessments and other charges remaining unpaid for a period of thirty (30) days or longer, together with the costs of collection thereof, including reasonable attorneys' fees, shall constitute a lien on the Lot against or with respect to which they are assessed or charged from the time of the filing of a lien in the office of the Clerk of Superior Court of the County, and shall be the personal and continuing obligation of the Person who was the Owner of such Lot at the time when the assessment or other charge first became due and payable. An Owner's personal obligation for payment of such assessments and other charges shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amounts due are paid (or such lien otherwise is terminated by Legal Requirements or as provided herein). No Owner shall be exempt from liability for any assessment provided for herein by reason of non-use of the Common Elements or such Owner's Lot, or abandonment of a Lot, or temporary unavailability of the use or enjoyment of the Common Elements. If necessary to establish the right to

collect reasonable attorneys' fees under the Declaration, any obligation of an Owner to pay assessments or other charges or monetary obligations under the Declaration shall constitute evidence of indebtedness for the purpose of establishing under Section 6-21.2 of the North Carolina General Statutes (or any successor statute) the right to collect reasonable attorneys' fees in any action or proceeding to enforce or collect payment of such obligation. Provided, however, the foregoing sentence specifically is intended to supplement, and not to interfere, limit, invalidate or be in conflict with, any provisions of the Act with respect to attorneys' fees.

Section 6.02 Continuing Liability for Assessments. No Owner shall be relieved of, or released from, the obligation to pay assessments and other charges under the Declaration because of any resignation or attempted resignation by such Owner of membership in the Association while such Owner owns a Lot, or because of any suspension of such Owner's membership or membership rights in the Association as allowed under the Legal Requirements or the Governing Documents.

Section 6.03 Nature, Purpose and Use of Assessments. The assessments shall be used by the Association to pay the Common Expenses, including: (i) improvement, maintenance, repair and reconstruction of the Common Elements; (ii) maintenance and repair of private streets, street lights, walks and parking areas; (iii) procurement and maintenance of insurance, including payment of applicable deductibles; and (iv) payment of any taxes and public assessments assessed against Common Elements or Association property. The annual assessment primarily is for the purpose of funding the Common Expenses of the Association, including monies set aside for reserves, for the fiscal year to which it applies and in accordance with the budget adopted by the Association, although such assessments may be used for payment of any Common Expenses as determined by the Board.

All assessments and other charges collected by the Association shall be the separate property of the Association. As assessments and other charges are paid to the Association by Owners, such funds may be commingled with assessments and other charges paid to the Association by other Owners. No Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer, such Member's interest in the assets of the Association, except as an appurtenance to the Lot owned by such Member. When any Owner ceases to be a Member of the Association, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association or any portion thereof which may have been paid to the Association by such Owner or acquired with any funds paid to the Association by such Owner.

Section 6.04 Commencement of Assessments. Each Lot becomes subject to all assessments under the Declaration from and after the date on which it becomes a Lot. The annual assessment for any Lot that is not a Lot on the first day of the applicable fiscal year and becomes a Lot on any other day during that fiscal year is determined by multiplying the applicable annual assessment amount by a fraction whose numerator is the number of days remaining in that fiscal year from and after the day on which it becomes a Lot and whose denominator is the total number of days in that fiscal year. Such annual assessment is due and payable by the Owner of such Lot on or before the 30th day following the date on which it becomes a Lot.

Section 6.05 Budget and Annual Assessments. Beginning with the fiscal year that starts on January 1 of the calendar year in which this Declaration is recorded in the Registry, the Board shall adopt for each fiscal year a proposed budget containing an estimate of the total amount believed to be necessary to pay the Common Expenses for that fiscal year, including such reasonable amounts as the Board deems necessary to pay for: (i) maintenance of Stormwater Control Measures for which the Association has maintenance responsibility; (ii) payment of any amounts the Association is required to pay pursuant to a Stormwater Agreement and applicable Code; (iii) maintenance of Common Elements other than Stormwater Control Measures; (iv) working capital (available for day-to-day operating expenses of the Association and otherwise uncommitted for specific expenses); (v) reserves for contingencies; and (vi) reserves for repair and replacement of Common Elements and Common Expenses of a capital nature, and the proposed budget (and ratified budget) shall contain separate line items for each of the foregoing (but no budget shall be invalid if any one or more of such items are not shown separately). The proposed budget (and ratified budget) shall contain separate line items for all other items as required by Legal

Requirements. In adopting a proposed budget and annual assessment, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessments during the applicable fiscal year. The proposed budget shall state the amount of the annual assessment per Lot proposed by the Board as necessary to pay for the budgeted Common Expenses, which is the annual assessment that will be assessed upon ratification of the proposed budget. During any fiscal year, without any meeting or vote of the Members, the Board may assess and collect from the Owners one or more “additional assessments”, not to exceed a total of 50% of the annual assessment, determined by the Board to be necessary to cover actual Common Expenses that exceed the budgeted amount therefor and new or unexpected additional Common Expenses incurred during the applicable fiscal year. The amount of the annual assessment resulting from budget ratification, plus the total amount of additional assessments permitted for that fiscal year, is referred to herein as the “maximum annual assessment” (for example, if the annual assessment is \$500.00 per Lot, the additional assessment amount that could be assessed and collected during the applicable fiscal year would be \$250.00 per Lot, and the maximum annual assessment for that fiscal year would be \$750.00 per Lot). The total amount of the annual assessment, including additional assessments, actually assessed against each Lot during a fiscal year is referred to herein as the “actual annual assessment” (for example, if the annual assessment resulting from budget ratification is \$500.00 per Lot and an additional \$100.00 per Lot is assessed during the fiscal year, the actual annual assessment for that fiscal year would be \$600.00).

When there are Members in the Association in addition to Declarant, pursuant to Section 47F-3-103(c) of the Act, within thirty (30) days after adoption of the proposed budget, the Board shall provide a copy or summary thereof to all Members (a copy or summary provided to any one (1) of multiple Owners of a Lot is deemed to be provided to all Owners of such Lot), together with a notice of the annual or special meeting of the Association at which ratification of such proposed budget will be considered, including a statement that the proposed budget may be ratified without a quorum for the meeting. The annual or special meeting at which ratification of the proposed budget is to be considered shall be held not less than ten (10) days nor more than sixty (60) days after mailing of the summary and notice, and there is no quorum requirement applicable to the ratification vote on the proposed budget (although if other matters are to be considered at such meeting, applicable quorum requirements are in effect with respect to those other matters). The proposed budget is ratified unless rejected at that meeting as follows: (i) if the proposed annual assessment per Lot does not exceed the actual annual assessment for the immediately preceding fiscal year by more than 50% (for example, if the actual annual assessment for the immediately preceding fiscal year was \$500.00 per Lot, then it does not exceed \$750.00 per Lot), the budget is ratified unless Members possessing ninety percent (90%) or more of the total number of votes in the Association reject it; (ii) if the proposed annual assessment per Lot exceeds the actual annual assessment per Lot for the immediately preceding fiscal year by more than 50%, the budget is ratified unless Members possessing sixty-seven percent (67%) or more of the total number of votes in the Association reject it. In the event that the proposed budget is rejected, the budget last ratified by the Members shall be the ratified budget for that fiscal year until such time as a subsequent proposed budget from the Board is ratified by the Members.

The Association shall send written notice of each annual assessment and each additional annual assessment to the Members of the Association (for purposes of notice of all assessments under the Declaration, notice sent to any one (1) of multiple Owners of a Lot is deemed to be notice sent to all of such Owners), not less than thirty (30) days in advance of the payment due date specified in the notice (which shall not be earlier than the first day of the applicable fiscal year), which written notice may be in the form of an invoice for the annual assessment. The failure of the Board to establish the amount of any annual assessment or send notice as required herein shall not constitute a violation, waiver or modification of the provisions of the Declaration, or a waiver of the Board’s right to establish and collect the annual assessment or an additional annual assessment at any time during the fiscal year to which it is applicable, or a release of any Member from the obligation to pay the annual assessment or any installment thereof for that or any subsequent fiscal year. Until an annual assessment has been established for a fiscal year, the actual annual assessment for the immediately preceding fiscal year shall continue in effect, but when the new annual assessment is established, it shall be retroactive to the first day of the applicable fiscal year, and notice of same shall be sent to the Members not less than thirty (30) days in advance of the payment due specified in the notice. If the

annual assessment for any fiscal year has not been established by the last day of the immediately preceding fiscal year, the Board may send a notice of assessment to the Members for the amount of the immediately preceding fiscal year's annual assessment, together with notice that a new assessment may be established for that fiscal year that may require an additional payment. Once the new annual assessment is established, any additional amount owed is due and payable by the payment due date specified in a supplemental notice to the Members sent not less than thirty (30) days in advance of the payment due date specified in the supplemental notice.

During any fiscal year, the Board may revise the budget and adjust the annual assessment (including the maximum amount of any additional annual assessment), subject to the same notice and ratification requirements as those applicable to the initial budget for that fiscal year. Upon ratification of a revised budget, it shall replace all previously ratified budgets for the applicable fiscal year.

Except as otherwise provided in the Declaration, or in any Supplemental Declaration or Subdivision Declaration not in conflict with the Declaration, or by Legal Requirements (for example, additional or different assessments for Limited Common Elements, which are applicable to some but not all of the Lots, and stormwater assessments, which may be applicable to Lots in different amounts), all annual assessments shall be the same for all Lots.

Section 6.06 Declarant's Obligation to Pay Annual Assessments. With respect to Lots that it owns, Declarant may satisfy its obligation to the Association for payment of annual assessments either by paying the full amount of the applicable annual assessment for each Lot it owns or by paying the amount of the deficit, if any, that results from the total amount of the actual annual assessments levied on all other Lots subject to assessment being less than the amount of actual expenditures by the Association during the fiscal year for items contained in the budget (paying the difference being referred to herein as the "deficit funding obligation" or "funding the deficit"), excluding from such determination any stormwater assessment for excess expenses as described herein. Unless Declarant otherwise notifies the Board prior to the Board's adoption of a proposed budget for the next fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the current fiscal year. Declarant has elected to fund the deficit for the fiscal year of the Association during which this Declaration is recorded. The deficit funding obligation does not include any expenses that the Association is unable to meet because of nonpayment of any assessment by Owners other than the Declarant, or because of unusual or extraordinary or unanticipated expenses not included in the budget (for example, a judgment obtained against the Association, or a Common Expense obligation caused by the negligence or misconduct of any Owner or occupant). The deficit funding obligation of the Declarant may be enforced against the Declarant and collected by the Association in the same manner as enforcement and collection of assessments applicable to other Owners.

Regardless of Declarant's election as to payment of annual assessments or funding the deficit, Declarant's obligations with respect to annual assessments may be satisfied by Declarant by any combination of the provision of services or materials toward satisfaction of Common Expenses, including (i) payment for such services or materials directly to the providers thereof, or (ii) payment of money to the Association, or (iii) providing, directly or indirectly, to or for the Association, services or materials related to Common Expenses (the value of which shall be determined by the Board in its reasonable discretion, giving due consideration to what the fair market value of such services or materials would be if they had been furnished by a Person other than Declarant).

Section 6.07 Intentionally Omitted.

Section 6.08 Special Assessments. In addition to the annual assessments authorized herein, except for matters related to stormwater management by the Association (a stormwater assessment being established in another Section of the Declaration) and subject to the other requirements of the Declaration, the Association may levy special assessments for the purpose of defraying, in whole or in part, the costs or expenses of any one or more of the following:

- (a) Maintenance of a capital improvement in or on the Common Elements, including fixtures and personal property related thereto.
- (b) Additions to the Common Elements, including acquisition of new Common Elements and improvements to existing Common Elements.
- (c) The necessary facilities and equipment to enable the Association to perform the functions and offer the services required or authorized herein.
- (d) The Common Expenses of the Association, to the extent that such Common Expenses are not covered by annual assessments and applicable reserve funds.
- (e) Repayment of any loan made to the Association to enable it to pay the Common Expenses or to perform the other functions and provide the other services required or authorized herein.
- (f) Landscape Maintenance.
- (g) Any other purpose for a special assessment authorized by Legal Requirements or the Governing Documents.

Except as otherwise provided herein, each special assessment assessed under this Section first shall be approved by the affirmative vote of by sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association and, during the Development Period, by the written consent of the Declarant. Provided, however, the Board may impose special assessments against Lots, without a vote of the Members, for the following:

- (A) against the Lots in the Properties at the time the judgment was entered, a special assessment to pay for a judgment against the Association; and
- (B) against all Lots in the Properties at the time the special assessment is levied, a special assessment to pay for part or all of any assessments against a Lot that remain unpaid after title to the Lot has been transferred to a new Owner in foreclosure of a first mortgage on such Lot or by a deed or other document or proceeding in lieu of foreclosure.

Notices for all meetings of the Association at which there is to be a vote on a special assessment shall include notice of the purpose and amount of the proposed special assessment. A special assessment is effective on the later of the date it is approved by the Members or Declarant (if such approval is required), or such date adopted by the Members in the vote approving the special assessment, and is due and payable as established by the vote of the Members approving the special assessment, or, if not established by such vote of the Members or assessed by the Board without a vote of the Members as allowed herein, as established by the Board. Except as otherwise allowed by the Declaration (for example, additional or different special assessments applicable to Limited Common Elements, which are applicable to some but not all of the Lots), all special assessments shall be the same for all Lots.

Section 6.09 Special Individual Assessment. In addition to all other assessments, the Board (without the requirement of any vote of the Members) may levy a special individual assessment against any Owner for (i) the repair of any damage to any portion of the Properties, including, without limitation, Common Elements and streets (other than normal wear and tear), caused by the Owner or any such Owner's family members, tenants, contractors, subcontractors, agents, or guests, or (ii) maintenance expenses resulting from the failure of such Owner to maintain adequately that Owner's Lot, or (iii) for any other purposes for which a special individual assessment may be assessed under the Declaration. The notice of such special individual assessment shall describe the nature of the damage and the necessary repairs or maintenance, or any other purpose for the special individual assessment, and any such special individual assessment shall be due and payable to the Association on or before the tenth (10th) day

following the giving of such notice by the Association. The Board may, in its discretion, levy any such special individual assessment prior to the commencement of the repairs or maintenance for which such special individual assessment is levied; provided that upon the Association's receipt of payment of such special individual assessment, the Board promptly shall undertake to have such repairs or maintenance performed and shall refund to such Owner any excess of the amount assessed and paid over the cost of such repairs or maintenance. In the event that the cost of such repairs exceeds the amount assessed and paid, the Board may assess another special individual assessment against such Owner for the excess costs.

Section 6.10 Stormwater Assessment. Notwithstanding anything to the contrary in the Declaration, and in keeping with the obligation of the Association under Section 47F-3-107(a) of the Act to be "responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement", (i) if the Board determines that the amount required in any fiscal year to pay for the Common Expenses, including the Association's obligation, if any, for stormwater management, maintenance of Stormwater Control Measures, and payment of sums due from the Association under the Code and any Stormwater Agreement for any part or all of the Properties, would cause the Association's total expenses for that fiscal year to exceed the amount that would be due and payable to the Association if all Lots were assessed in the amount of the maximum annual assessment for that fiscal year (such excess amount of total expenses for that fiscal year being referred to in this Section as "excess expenses"), and (ii) the Board determines that there are not sufficient reserve funds available both to pay the excess expenses and continue to have adequate reserve funds, and (iii) the maximum annual assessment has been assessed for that fiscal year, and (iv) Declarant either has paid annual assessments to the Association or has funded the deficit for that fiscal year in an amount equal to or greater than the maximum annual assessment on all Lots owned by Declarant, then the Board may assess for that fiscal year, a "stormwater assessment" in an amount sufficient to pay for the excess expenses. The amount of such stormwater assessment shall be determined and assessed against all Lots in the Properties at the time the assessment is made, and no vote of the Members is required. The payment due dates for such stormwater assessment shall be as determined by the Board and shall be enforceable against Owners and their Lots in the same manner as annual assessments. Provided, however, during the Development Period no such stormwater assessment shall be assessed unless the same shall have been consented to in writing by the Declarant. Further provided, except as may be necessary to account for different Stormwater Control Measures, the Code and/or Stormwater Agreements (or other agreements related to stormwater) applicable to different Lots as allowed in the Declaration, all stormwater assessments shall be the same for all Lots. Any stormwater assessment for excess expenses is in addition to all other assessments provided for herein.

Section 6.11 Collection of Assessments; Penalties for Late Payment. Assessments may be collected on a monthly, quarterly, annual or other basis, as determined by the Board, with the payment due date to be specified in the notice of the applicable assessment. The billing schedule and payment due date shall be the same for all Owners. Provided, however, the Board has the power, in its sole discretion and upon such terms as the Board deems appropriate, to allow percentage discounts to Owners who pay assessments earlier than the payment due date therefor; provided, however, all such discounts shall be made available and applied uniformly to all Owners. Subject to any limitations contained in the Governing Documents or any Legal Requirement, the Board has the authority to establish the payment due dates, interest rate on unpaid amounts, and penalties for late payment of assessments and other charges. Assessments and other charges not paid by the payment due date shall bear interest at a rate equal to the lesser of (i) eighteen percent (18%) per annum, or (ii) the highest lawful rate under Legal Requirements, or (iii) the amount, if any, established by the Board (or, in the absence of any amount being established by the Board, the lesser amount otherwise established by this subsection). In addition to the obligation to pay the assessment and other charges and interest charges thereon, the defaulting Owner also shall pay all of the Association's costs and expenses of collection thereof, including reasonable attorneys' fees. The Board may authorize a management company or other Person, on behalf of the Association, to bill, collect, deposit and disburse all assessments and other charges payable under the Declaration.

Section 6.12 Certification of Assessments Paid. The Association, or any property manager or other Person authorized by the Association, upon written request, shall furnish to any Owner or other Person designated by such Owner, or to any holder of a first lien deed of trust on a Lot, or to an attorney who represents the Owner or a prospective purchaser of such Lot, or to any other person approved by the Board, a certificate signed by an officer of the Association or other Person authorized by the Board to give such certificate setting forth whether or not and through what date the assessments and other charges against that Owner's Lot have been paid, and the amount of any unpaid assessments or other charges. The certificate shall be furnished within ten (10) business days after receipt of the request therefor. If requested by the requesting party, the certificate also shall indicate whether the Association has knowledge of any uncured default in, or violation of, any provision of the Declaration and other Governing Documents with respect to the Lot and the then Owners thereof and, if there is any uncured default or violation, the action required to cure it. The Association or property manager or other Person authorized to furnish the certificate may charge a reasonable fee for furnishing the certificate as established or approved by the Board.

Section 6.13 Assessment Lien and Foreclosure. The assessments and other charges provided for herein shall be the personal and individual debt of each Person who, at the time of the assessment or other charge, is the Person against whom they are charged or is an Owner of the Lot against which they are assessed or charged. All assessments levied against a Lot and other charges owed by the Owner of a Lot that remain unpaid for a period of thirty (30) days or longer, together with the costs of collection thereof, including reasonable attorneys' fees, shall constitute a charge and continuing lien on that Lot from and after the time of the filing of a claim of lien by the Association in the office of the Clerk of Superior Court of the County, and shall be the personal and continuing obligation of such Owner at the time when the assessment or other charge first became due and payable. Once filed, a claim of lien secures all sums due the Association through the date filed and any sums due to the Association thereafter. Fees, charges, late charges, and other charges imposed pursuant to this Declaration and/or pursuant to Section 47F-3-102, Section 47F-3-107, Section 47F-3-107.1, and Section 47F-3-115 (all of which are included in the term "other charges" as used in this Declaration) are subject to the claim of lien under this Section 6.13 as well as any other sums due and payable to the Association under this Declaration, the Act, or as the result of an arbitration, mediation, or judicial decision.

For the purposes of this Section 6.13 and collection of assessments from an Owner, the Association must make reasonable and diligent efforts to ensure that its records contain the current mailing address for the Owner of such Lot. No fewer than fifteen (15) days prior to filing the claim of lien, the Association shall mail a statement of the amount of the assessment and other charges due by first-class mail to the physical address of the Lot and to the Owner's address of record with the Association, and, if different, to the address for such Owner shown on the County property tax records for the Lot. If the Owner of the Lot is a corporation or other legal entity that has a registered agent, the statement also shall be sent by first-class mail to the mailing address of the registered agent for the corporation or such other legal entity. Provided, however, and notwithstanding anything to the contrary in this Declaration, the Association is not required to mail a statement to an address known to be a vacant Lot on which no Dwelling has been constructed or to a Lot for which there is no United States postal address.

The claim of lien shall set forth all of the information required by the Act and comply with all of the requirements of the Act, and it may contain such other information as determined by the Board, including the appointment of a trustee to conduct a foreclosure. Except as otherwise provided in the Governing Documents or by Legal Requirements, such lien shall be superior to all other liens and charges against such Lot. The Board shall have the power, in its sole discretion, to subordinate the lien to any other lien.

Except as otherwise provided in the Act, the Association may foreclose the claim of lien in like manner as a mortgage on real estate under a power of sale as provided in Chapter 45 of the North Carolina General Statutes (a "***nonjudicial foreclosure***") if the assessment remains unpaid for ninety (90) days or more, and/or the Association may institute suit against the Owner personally obligated to pay the assessment or charge, and/or the Association may seek any other remedy or relief available under Legal Requirements, including judicial foreclosure in accordance with Legal Requirements or accepting a deed in lieu of foreclosure. Provided, however, the Association

shall not foreclose the claim of lien unless the Board votes to commence the proceeding against the specific Lot. In any nonjudicial foreclosure, the Association shall have the right to appoint a trustee or commissioner (or other appropriately named Person) to implement the foreclosure, and the Association, upon giving any notice to the Owner required by Legal Requirements, may recover reasonable attorneys' fees and costs it incurs in connection with the collection of any sums due, subject to any limitations imposed by the Act or other Legal Requirements. The Association shall have the power to bid on and purchase the Lot at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal therewith. The remedies against a defaulting Owner and such Owner's Lot are cumulative and not mutually exclusive, and the Association may seek none, or any one or more of such remedies, separately or simultaneously, as deemed appropriate by the Board.

Notwithstanding the foregoing provisions allowing the Association to foreclose a claim of lien by nonjudicial foreclosure, a claim of lien securing a debt consisting solely of fines imposed by the Association, interest on unpaid fines, or attorneys' fees incurred by the Association solely associated with fines imposed by the Association may only be enforced by judicial foreclosure, as provided in Article 29A, Chapter 1, of the North Carolina General Statutes. The Association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any Lot Owner unless the fee is expressly allowed in this Declaration, and any claim of lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure, as provided in Article 29A, Chapter 1, of the North Carolina General Statutes.

The Association shall be entitled to recover the reasonable attorneys' fees and costs it incurs in connection with the collection of any sums due for assessments and other charges. A Lot Owner may not be required to pay attorneys' fees and court costs until the Lot Owner is notified in writing of the Association's intent to seek payment of attorneys' fees, costs, and expenses. The notice must be sent by first-class mail to the physical address of the Lot and the Lot Owner's address of record with the Association and, if different, to the address for the Lot Owner shown on the records of the County Tax Administration Office (or other County office in which property tax records are kept). The Association must make reasonable and diligent efforts to ensure that its records contain the Lot Owner's current mailing address. Notwithstanding anything to the contrary herein, there shall be no requirement that notice under this subsection be mailed to an address which is known to be a vacant Lot on which no Dwelling has been constructed or a Lot for which there is no United States postal address. The notice shall set out the outstanding balance due as of the date of the notice and state that the Lot Owner has fifteen (15) days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the Lot Owner pays the outstanding balance within this period, then the Lot Owner shall have no obligation to pay attorneys' fees, costs, or expenses. The notice also shall inform the Lot Owner of the opportunity to contact a representative of the Association to discuss a payment schedule for the outstanding balance, as provided in the next succeeding paragraph on installment payments and shall provide the name and telephone number of the representative.

The Association, acting through the Board and in the Board's sole discretion, may agree to allow payment of an outstanding balance of assessments and other charges in installments. Neither the Association nor the Lot Owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule after the Lot Owner has been given notice as required in the immediately preceding paragraph on collection of reasonable attorneys' fees. Attorneys' fees incurred in connection with any request that the Association agrees to accept payment of all or any part of sums due in installments shall not be included or considered in the calculation of fees chargeable in connection with a nonjudicial foreclosure of a claim of lien.

Section 6.14 Lien Priority. The lien for unpaid assessments and other charges provided for herein is prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including a mortgage or deed of trust on a Lot) recorded before the docketing of the claim of lien in the office of the Clerk of Court for the County, and (ii) liens for real estate taxes and other Governmental Entity assessments and charges against the Lot. Provided, however, this Section does not affect the priority of mechanics' or materialmen's liens. A lien for

unpaid assessments and other charges is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing of the claim of lien in the office of the Clerk of Court for the County. No Person, including the holder of a first mortgage on a Lot, and including the heirs, successors, and assigns of such Person, who purchases or obtains title to a Lot as a result of foreclosure of a first mortgage or deed or other document or proceeding in lieu of foreclosure, shall be liable for the assessments against such Lot which became due prior to the acquisition of title to such Lot by such holder or other Person. Such unpaid assessments shall be deemed to be Common Expenses collectible from all the Owners, including such purchaser, its heirs, successors, and assigns in the event that the Association is unable to collect, or chooses not to pursue collection, from the Person who was the Owner of the Lot during the time the assessments were assessed against the Lot. For the foregoing purposes, "acquires title" means and refers to the recording of a deed conveying title or the time at which the rights of the parties are fixed following the foreclosure or a mortgage or deed of trust, whichever occurs first.

Section 6.15 Reserve Funds. From the annual assessments and working capital assessments, the Board, in the exercise of its reasonable discretion, shall establish and maintain reserve funds for (i) working capital, (ii) contingencies, (iii) acquisition, replacements, and maintenance of Common Elements and improvements thereon, and (iv) other financial obligations of the Association. Reserve Funds are subject to the following:

Extraordinary or contingency or unanticipated expenditures not originally included in the annual operating budget may be paid for out of appropriate reserve funds, as determined by the Board, including (i) major rehabilitation or repair of the Common Elements, (ii) emergency or other repairs required as a result of storm, fire, natural disaster or other casualty loss, (iii) the initial costs of any new service to be performed by the Association, (iv) intentionally omitted, (v) Landscape Maintenance, and (vi) any other items allowed by the Governing Documents or Legal Requirements to be paid out of reserve funds. Except for expenses of normal and routine maintenance included in the annual operating budget, all expenses for repair or replacement of the Common Elements not paid by a special assessment first shall be charged against appropriate reserves in such amount as determined by the Board.

If reserve funds become excessive, as determined by the Board, the Board may adjust the reserve funds by reallocation to other annual operating budget items or by applying excess amounts as credits against annual assessments, or by refunding the excess amount to the then Owners.

Section 6.16 Working Capital Assessment. At (i) the closing of the sale by Declarant of a Lot on which a Dwelling exists, or (ii) the closing of the sale of a Lot by the Declarant to any Person other than a Builder or a successor or assignee Declarant, or (iii) the closing of the sale of a Lot by a Builder to any Person other than the Declarant or another Builder, whether or not there is a Dwelling on the Lot, or (iv) the time of the recording of a deed or other document in a foreclosure or in a proceeding in lieu of foreclosure to a Person other than the holder of the mortgage (or such holder's affiliate) subject to the foreclosure or proceeding in lieu of foreclosure, the Declarant, or a Builder, or (v) the time of the sale of the Lot by the holder (or such holder's affiliate) who acquired the Lot in foreclosure or a proceeding in lieu of foreclosure to a Person other than the Declarant or a Builder, the purchaser of the Lot or Lot and Dwelling shall pay to the Association a "working capital assessment" in the amount to be determined by Declarant, to be applied to payment of Common Expenses as determined by the Board. As of the date of the recording of this Declaration, the initially required working capital assessment is [\$500.00] per Lot. Provided, however, the working capital assessment shall be paid only once with respect to each Lot, at the time of the first of the applicable events that occurs, and it is in addition to all other assessments under this Declaration. All working capital assessments may be enforced and collected against the purchaser in the same manner as other assessments may be enforced and collected under this Declaration.

Section 6.17 Assessments for Limited Common Elements. With respect to any portion of the Properties owned by Declarant (and, with the written consent of the Owner thereof, with respect to any portion of the Properties not owned by Declarant), the Declarant reserves the right, by recording Supplemental Declarations or Subdivision Declarations or other documents, to subject such portions of the Properties located in one or more

phases, sections, groups, or subdivisions of the Properties to provisions requiring the Owners thereof to pay additional assessments to the Association for the maintenance of Limited Common Elements allocated to such phase, section, group, or subdivision of the Properties, including but not limited to any one or more of the following: (i) private streets; (ii) landscaping, signs and decorative features; (iii) Stormwater Control Measures; and (iv) anything else with respect to such Limited Common Elements that would be a Common Expense for Common Elements.

All of the provisions of the Declaration relating to annual assessments, special assessments and stormwater assessments shall apply to the additional annual assessments, special assessments and stormwater assessments for Limited Common Elements, with the following exceptions: (i) the additional assessments with respect to any particular Limited Common Elements are assessed only against those Owners of the Lots to which such Limited Common Elements are allocated; (ii) budget ratification with respect to Limited Common Expenses is subject to voting only by Owners of those Lots to which such Limited Common Elements are allocated; (iii) the initial additional maximum annual assessment and additional annual assessment for each Limited Common Elements may be established in the Supplemental Declaration, Subdivision Declaration, or other document that creates or establishes the Limited Common Elements; (iv) the additional annual assessments, special assessments and stormwater assessments for Limited Common Elements may vary with respect to different groups of Lots or from phase to phase, section to section, or subdivision to subdivision within the Properties; and (v) the additional annual assessments, special assessments and stormwater assessments for Limited Common Elements with respect to any particular group of Lots or in any particular phase, section or subdivision of the Properties shall be used exclusively in connection with the Limited Common Elements allocated to such group of Lots or phase, section or subdivision.

Section 6.18 No Default Under Insured Mortgage. Nothing contained in the Declaration shall be construed as stating or implying that any failure of an Owner to pay assessments constitutes a default under any mortgage on such Owner's Lot that is insured by the FHA, VA, FNMA, FHLMC, or any Secondary Mortgage Market Agency, or any mortgage program administered by any of said agencies.

ARTICLE VII

INSURANCE

Section 7.01 General Provisions for Association Insurance.

(a) The Board shall have the power on behalf of the Association to: (i) purchase and maintain in effect insurance policies relating to the Common Elements and the activities, functions, and obligations of the Association, including the Board, Association officers, and Association committee members; (ii) intentionally omitted; (iii) purchase and maintain in effect insurance policies required by Legal Requirements; (iv) purchase and maintain in effect any other policies of insurance as determined by the Board; (v) adjust all claims arising under such policies; and (vi) sign and deliver releases upon payment of claims. The cost of all insurance policies purchased by the Board as allowed or required by this Declaration or required by Legal Requirements is a Common Expense. Neither the Board, nor a property manager, nor Declarant, shall be liable for failure to obtain any insurance required by this Article VII, or for any loss or damage that could have been paid by such insurance, if such insurance is not reasonably available. With respect to any insurance required by Legal Requirements, either by hand delivery, or United States Mail, postage prepaid, or by other method allowed by Legal Requirements, the Association promptly shall notify the Owners if such insurance is not reasonably available.

(b) All policies of insurance obtained by the Association shall be written by reputable companies licensed or qualified to do business in North Carolina.

(c) The deductible or retained limit (if any) on any insurance policy obtained by the Association shall be in a reasonable amount as determined by the Board and shall be a Common Expense.

(d) To the extent such policy provisions are reasonably available, as determined by the Board, Association policies shall provide for the following:

(i) policies shall be written in the name of the Association as trustee for the benefitted Persons. Policies on the Common Elements shall be for the benefit of the Association and its Members;

(ii) no policy obtained by the Association shall be canceled, invalidated or suspended due to the conduct of any Owner, or such Owner's tenant or such Owner's (or tenant's) household members, guests, employees or agents, or of any director, officer or employee of the Board, or the property manager, without a prior demand in writing that the Association or the property manager cure the defect and a period of not less than thirty (30) days within which to cure such defect;

(iii) policies shall not be brought into contribution with insurance purchased by Owners, occupants, tenants, or their Mortgagees individually;

(iv) each Owner is an insured person under the policy to the extent of such Owner's insurable interest;

(v) the insurer waives its right to subrogation under the policy against any Owner or member of that Owner's household;

(vi) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will preclude recovery under the policy;

(vii) if, at the time of a loss under the policy, there is other insurance policy in the name of an Owner covering the same risk covered by the Association's policy, the Association's policy provides primary insurance coverage; and

(viii) any other provisions determined by the Board to be necessary or desirable.

(e) To the extent reasonably possible, the Association shall require that an insurer who has issued an insurance policy to the Association for property insurance on the Common Elements or for liability insurance issue certificates or memoranda of insurance to the Association and, upon written request, to any Owner or Mortgagee. If such agreement is reasonably available from the insurer, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and each Owner and Mortgagee to whom certificates or memoranda of insurance have been issued, to their respective last known addresses.

(f) The Association may procure such fidelity bonds as the Board determines are reasonable or necessary, including such bonds as may be necessary to comply with Legal Requirements and to satisfy the applicable requirements of FHA, VA, FNMA, Office of Interstate Land Sales Registration of the Department of Housing and Urban Development or other Secondary Mortgage Market Agency or Governmental Authority.

(g) During the Development Period (i) Declarant shall be named as an additional insured party under any one or more policies of insurance maintained by the Association, and (ii) any one or more Builders, as requested by Declarant, shall be named as additional insured parties under any one or more policies of insurance maintained by the Association; provided, however, any Builder named as an additional insured under any policy of insurance maintained by the Association shall pay to the Association any additional premium charged by the insurer for including the Builder as an additional insured, and the

Association shall not be required to have any such Builder who does not timely pay such additional premium named as an additional insured.

Section 7.02 Association Property Insurance.

(a) The Association, to the extent that it is reasonably available, shall obtain and maintain property insurance on all improvements on all real property owned by the Association and on all improvements owned by the Association and located on real property owned by Persons other than the Association, insuring against all risks of direct physical loss commonly insured against, including fire damage and extended coverage perils. The total amount of such insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the improvements at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. The foregoing property insurance shall be obtained by the Association as it becomes the owner of the improvements to be insured. As and when determined to be necessary by the Board, the Association also may obtain and maintain insurance policies on any personal property owned by the Association.

(b) To the extent reasonably possible, the Association shall require the insurer to deliver to each Institutional Lender who requests the same in writing with copies of certificates of insurance on the Common Elements and all improvements owned by the Association.

Section 7.03 Association Liability Insurance. The Association, to the extent that it is reasonably available, shall obtain and maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership or maintenance of all Common Elements and of all improvements owned by the Association and located on real property not owned by the Association. The foregoing liability insurance shall be obtained by the Association as it becomes the owner of the real property or becomes the owner of improvements, as the case may be, but in any event not later than the first conveyance of a lot to a Class A Member of the Association who is not a Builder. “Umbrella” liability insurance in excess of the primary limits may be obtained in reasonable amounts as determined by the Board in its sole discretion.

Section 7.04 Other Insurance or Bonds for the Association. The Association may obtain and maintain other insurance or bonds as follows:

(a) adequate fidelity coverage to protect against dishonest acts on the part of directors, officers, trustees, agents and employees of the Association and all others who handle or are responsible for handling funds of the Association, including any property manager and volunteers. If the Association has delegated some or all of the responsibility for handling funds to a property manager, such property manager shall be covered by its own fidelity insurance in such amounts as required by the Board; however, the Association may purchase additional fidelity coverage for the property manager as well. Such fidelity insurance (except for fidelity insurance obtained by the property manager for its own personnel) shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-fourth of the total annual assessment for Common Expenses or the amount required by the Institutional Lenders, the FNMA or the FHLMC, whichever is greatest; and (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of “employee” or similar expression;

(b) if required by a majority of the Institutional Lenders or any applicable Legal Requirement, flood insurance on the real property owned by the Association in accordance with the then applicable regulations for such coverage;

(c) workers’ compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an “all states” endorsement);

(d) directors and officers liability insurance; and

(e) such other insurance or bonds as the Board may determine in the exercise of its reasonable discretion, or as may be requested by the affirmative vote of a majority of the Members present at a meeting of the Association.

Section 7.05 Owners' Insurance. In addition to any insurance policy issued to the Association, each Owner shall have the right to acquire and maintain insurance on Common Elements for such Owner's benefit, at such Owner's expense. Provided, however, no Owner shall acquire or maintain insurance coverage on the Common Elements so as to: (i) decrease the amount which the Association may realize under any insurance policy maintained by the Association; or (ii) cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage acquired or maintained by an Owner.

Except only to the extent expressly provided otherwise Article XX, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of Lots or any improvements thereon (other than any such improvements owned or maintained by the Association) or for the personal property of any Owner, occupant, tenant, or guest. Each Owner covenants and agrees with all other Owners and the Association that each Owner at all times shall carry all-risk casualty insurance (including fire and other hazards commonly insured) on all improvements located on such Owner's Lot (except for any improvements owned or maintained by the Association) sufficient to cover the full replacement cost of any repair or replacement of such improvements, and a liability policy covering damage or injury occurring on the Owner's Lot.

ARTICLE VIII

REPAIR AND RESTORATION OF THE PROPERTIES

Section 8.01 When Required.

(a) Common Elements. If all or any part of the Common Elements or improvements on other real property for which the Association has maintenance responsibility is damaged or destroyed, the Association promptly shall repair or replace same unless (i) the Declaration is terminated, (ii) repair or replacement would be illegal under any Legal Requirement, or (iii) the Members decide not to repair, restore or replace by a vote of eighty percent (80%) or more of the votes cast by the Members present at a meeting of the Association (which vote, with respect to any Limited Common Elements, must have the approval of one hundred percent (100%) of the Members to which such Limited Common Elements is allocated). The cost of repair or replacement in excess of insurance proceeds and applicable reserves is a Common Expense, for which there may be a special assessment against the applicable Members. This Section 8.01 shall not be construed as any limitation on the rights of the Association under the Act against an Owner who is responsible for the damage to the Common Elements or the rights of the Association to seek damages or other relief against any other Person who is responsible for the damage to the Common Elements.

If the damage is not repaired or replaced, then (i) the Association, first using the insurance proceeds attributable to the damaged property, shall remove all remnants of the damaged improvements and restore the damaged area to a condition compatible with the remainder of the Properties, (ii) the insurance proceeds attributable to Limited Common Elements which are not repaired or replaced shall be distributed to the Members to whom such Limited Common Elements was allocated, or to lienholders, as their interests may appear, and (iii) the remainder of the insurance proceeds shall be distributed to all of the Members or lienholders, as their interests may appear, in proportion to the Common Expense liabilities of all of the Lots. Provided, however, and notwithstanding the foregoing, if the Declaration is terminated, the distribution of insurance proceeds shall be in compliance with the applicable requirements of the Act. Further provided,

the Association may deduct and retain from any distribution owed to a Member, the amount of any unpaid liability of such Member to the Association at the time of the distribution.

(b) Lots. If a Dwelling or other improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either: (i) by repairing or replacing such Dwelling or other improvement; or (ii) by clearing away the debris and restoring the Lot to a condition compatible with the remainder of the Properties as determined by the Architectural Review Committee. Unless the Architectural Review Committee permits a longer time period, such work must be commenced within six months and substantially completed within twelve months after the occurrence of the damage or destruction. Any repair or replacement that differs in any material respect from the previously Approved Plans for the Dwelling or other improvement that was damaged or destroyed first must be approved by the Architectural Review Committee in the manner required herein.

If the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the work and that the Association should undertake to perform the work, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to perform the work at the Owner's sole cost and expense if the work is not completed by the Owner within the time period specified in the notice. If any Owner does not complete the work as required in this subsection, or there is an emergency situation that in the sole discretion of the Board requires immediate action, the Association may perform the work and all costs thereof shall be assessed against the Owner and the Owner's Lot as a special individual assessment.

Section 8.02 Eminent Domain.

(a) Definitions. For the purposes of this Section 8.02, "***Taking***" means an acquisition of all or any part of the affected portion of the Properties or of any interest therein or right accruing thereto as a result of, in lieu of, or in anticipation of, the exercise of the right of condemnation or eminent domain, or a change of grade caused by the action of a Governmental Authority affecting the value of the applicable portion of the Properties or any part thereof so severely as to amount to condemnation.

(b) Taking of Lot. If there is a Taking of all of a Lot, or a Taking of part of a Lot leaving the Owner with a remnant which may not practically or lawfully be used for a Dwelling, the award shall compensate the Owner for the Lot and the Owner's interest in the Common Elements. Upon such Taking, there shall be no votes in the Association allocated to such Lot, or remnant thereof, nor shall such Lot or remnant thereof, be subject to any further assessments under the Declaration; the Lot's "allocated interests" (as defined in the Act) automatically are to be reallocated as provided in the Act, and the remnant remaining following such Taking shall be Common Elements. If any reallocation occurs under this subsection, the Board promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocation of the votes and assessments.

If there is a Taking of part of a Lot that either does not take any of the Dwelling on the Lot or that does not affect the portion of the Lot on which it is anticipated that the Dwelling will be constructed: (i) the award shall compensate the Owner for the reduction in value of the Lot; and (ii) with respect to determining the award and the allocated interests of the Lot in the Association following the Taking, there shall be no reduction in the vote allocated to that Lot nor in the assessments assessed against such Lot.

(c) Taking of Common Elements. If there is a Taking of all or any part of the Common Elements, then the Association shall notify the Owners, but the Board shall act on behalf of the Association in connection with the Taking and no Owner shall have any right to participate in the proceedings incident thereto as an Owner. The award made for such Taking shall be paid to the Association. If the Taking involves a portion of the Common Elements on which there are improvements, then the Association, to the extent reasonably practicable and in accordance with plans reasonably adopted by the Board, shall restore

or replace such Common Elements improvements, unless a contrary determination is made by Declarant, during the Development Period, or, following the end of the Development Period, by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association.

If any portion of any award for a Taking of the Common Elements is attributable to any Limited Common Elements and there are no improvements thereon, such portion of the award shall be distributed among the Owners to whose Lots the Limited Common Elements were allocated at the time of the Taking. If there are improvements on the affected Limited Common Area, a determination shall be made, in the same manner as the determination with respect to Common Element improvements, but with any vote by Members being limited to those Members who own the Lots to which the Limited Common Elements are allocated, whether or not to restore or replace any affected Limited Common Elements improvements. If a determination is made not to restore or replace such Limited Common Elements improvements, or if there are proceeds remaining after such repair or restoration is completed, such portion of the award or remaining portion of the award shall be apportioned among the Lots to which the Limited Common Elements were allocated at the time of the Taking. With respect to the foregoing, the amount of the award or remaining amount of the award shall be divided by the number of Lots associated with the Limited Common Elements subject to the Taking to determine the amount per Lot, which then shall be distributed to the Owners of the applicable Lots.

ARTICLE IX

USE AND CONDUCT

Section 9.01 Use of the Properties. Except as allowed by the exercise of a Special Declarant Right, no portion of the Properties shall be used for other than single-family residential purposes, which under the Declaration means one Dwelling per Lot, and related purposes such as public or private streets, utilities, greenways, open space, recreation, stormwater management, other purposes substantially related to residential use which are allowed by Legal Requirements, unless such substantially related purposes are prohibited by other provisions of the Governing Documents, and for all other purposes specifically required (as contrasted with allowed) by Legal Requirements. Provided, however, and notwithstanding the foregoing sentence, during the Development Period, and subject to Legal Requirements: (i) Declarant, and any Builder or other Person with Declarant's consent, may maintain model homes, sales offices, temporary construction trailers, and other facilities within the Properties for the purpose of conducting business related to the development, improvement, and/or sale or marketing of any part or all of the Properties; and (ii) Declarant, and any Builder or other Person with Declarant's consent, may conduct such activities within the Properties as may be necessary or desirable in connection with the development, improvement, and/or sales or marketing of any part or all of the Properties.

Section 9.02 Leases. Every lease for any Lot or Dwelling shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and other Governing Documents, and that each lessee shall comply with the terms of such documents. Provided; all such leases are subject to the Declaration and other Governing Documents, whether or not specifically stated in the lease. Nothing in this Declaration shall be construed to prohibit the leasing of a Lot or Dwelling, but any such lease shall (a) have a term of at least six (6) months and (b) be subject to the terms and conditions of this Declaration.

Section 9.03 Legal Requirements. Nothing herein contained shall be deemed to constitute a waiver of any Legal Requirement applicable to any portion of the Properties, and all Legal Requirements relative to the construction of improvements on, and/or use and utilization of, any portion of the Properties shall be complied with by the Owners and occupants of such portions of the Properties, whether or not the Approved Plans for same are in compliance with such Legal Requirements. Provided, that in any instance in which the Governing Documents contain a provision that requires something more than or in addition to, or prohibits something otherwise allowed under, a Legal Requirement (for example, prohibition of a use allowed under a Legal Requirement or requirement

of a greater distance or size than required under a Legal Requirement), the provisions of the Governing Documents shall control unless such requirement or provision is prohibited by a Legal Requirement.

Section 9.04 New Construction. Unless otherwise allowed by Declarant during the Development Period, construction of new Dwellings only shall be permitted on Lots (as contrasted with the moving of any existing building or structure onto any Lot and remodeling or converting same into a Dwelling). Provided, however, the foregoing shall not be construed as prohibiting maintenance of, remodeling of, or construction of additions to, existing Dwellings that previously have been constructed in compliance with the Declaration, provided that such maintenance, remodeling or addition is performed in accordance with the Approved Plans therefor (or Architectural Guidelines not requiring Approved Plans) and other requirements of the Declaration.

The Architectural Review Committee has the right (but is not required) to implement and enforce requirements for the location and screening of construction materials, the use, type and location of fencing, the use, location and screening of portable toilets, the use, location and screening of receptacles for the collection of construction debris and excess materials, and the use, location and screening of other materials and devices used in connection with construction or maintenance of improvements on Lots.

Section 9.05 Obstructions. No Owner shall obstruct any of the Common Elements, streets, City or County greenways or greenway easements, or any easement providing access to Common Elements or City or County greenways or greenway easements, nor shall anything be kept, stored, altered, constructed or planted in or on the Common Elements or removed therefrom (except as necessary to prevent injury to person or property or to comply with a Legal Requirement), without the prior consent of Declarant, during the Development Period, and, thereafter, the Board, or except in the exercise of any valid easement over any portion of the Common Elements. Provided, however, the Association, and, during the Development Period Declarant and Builders (with Declarant's consent), shall have the right to maintain signs in and on the Common Elements, and to maintain in the Common Elements such materials, equipment and other apparatus, as may be reasonably necessary to enable the Association to perform its functions and provide the services under the Declaration, or to enable Declarant or such Builders to develop, improve, sell, and market the Properties. Following the end of the Development Period each Builder shall have the right, subject to the reasonable review and approval of the Board (or Architectural Review Committee if directed by the Board), to maintain signs in the Common Elements as such Builder determines is reasonably necessary or desirable for marketing and selling all portions of the Properties owned by such Builder. The rights of use and enjoyment of the Common Elements conferred upon Owners by the Declaration do not include the right to interfere with the use or maintenance of the Common Elements by Declarant, any Builder, or the Association.

Section 9.06 Owner Liability. If any Owner is legally responsible for damaging any Common Elements or other property or improvements for which the Association has maintenance responsibility, the Association may direct such Owner to repair such damage, or the Association itself may cause the repairs to be made and recover damages from the responsible Owner, including costs incurred in seeking and enforcing such recovery or other applicable legal remedies, including reasonable attorneys' fees. In addition to or as an alternative to the foregoing, the Association may impose a special individual assessment against any such Owner.

Section 9.07 Prohibition on Use for Streets. Without the written consent of Declarant during the Development Period (and, thereafter, by the Board), which consent may be given or denied in the sole discretion of the party having the right to give the consent, and which consent may be given and evidenced only by the execution by the consenting party of a plat or document recorded in the Registry, unless otherwise required by a Legal Requirement, no Lot or portion thereof may be used, established or dedicated as a public or private street, driveway, or access easement, where one of the purposes therefor or results thereof is to provide pedestrian or vehicular access to any property that is not part of the Properties or Proposed Properties as shown on the Development Plan, except for such vehicular and/or pedestrian access easements as are described or shown in documents or on plats of the Properties recorded in the Registry and are established to provide access to City parks, City greenways, or City greenway easements.

Section 9.08 Recreational Areas, Equipment, and Facilities. The Association may adopt and enforce Restrictions and Rules relating to the location, type, number, and use of recreational areas, equipment and facilities on Lots and other portions of the Properties, including requirements for screening from view.

Section 9.09 Restricted Actions by Owners. No Owner shall do or permit anything to be done or kept within the Properties or on the Common Elements which will result in the cancellation of or increase in the cost of any insurance carried by the Association, or which would be in violation of any Legal Requirement or any Restriction or Rule established by the Association. No waste shall be committed on the Common Elements, except as may be necessary to enable Declarant, a Builder, the Association, an Owner, or the holder of an easement to construct or maintain improvements (in accordance with Approved Plans when applicable), or to exercise any rights reserved or afforded to them hereunder or provided in an applicable easement, or except as may be necessary to enable the Association to perform its functions and provide services under the Declaration. Each Owner shall comply with all Legal Requirements applicable to any part or all of the Properties, including applicable zoning ordinances and building codes.

Section 9.10 Soil Erosion Control. During all periods of construction on any portion of the Properties, the Owner thereof, or the Person exercising easement rights thereon, shall maintain proper and adequate soil erosion control to protect other portions of the Properties from accumulated silt and other soil erosion.

Section 9.11 Temporary Structures Prohibited. No structure of a temporary character shall be used on any portion of the Properties at any time as a Dwelling.

Section 9.12 Wetlands; Conservation Areas; Buffers.

(a) Wetlands. Legal Requirements of the United States of America may result in portions of the Properties being designated as “wetlands”. Notwithstanding anything to the contrary that may appear herein or in any other restrictive covenants applicable to such portions of the Properties, and whether or not the Approved Plans for any improvements on the portion of the Properties on which such wetlands are located are in compliance with Legal Requirements applicable to wetlands, any subsequent fill or alteration of any such wetlands shall conform to the Legal Requirements in force at the time of the proposed fill or alteration. The intent of this subsection is to prevent filling or alteration of such wetlands except as allowed under Legal Requirements; accordingly, the Owner of any such portion of the Properties should not assume that any application for fill or alteration of wetlands will be approved. The Owner of the applicable portion of the Properties shall report the name of the Subdivision, together with the name of the particular phase, section or subdivision within the Properties, if any, in any application pertaining to filling or alteration of wetlands. These provisions are intended to ensure continued compliance with wetlands rules under Legal Requirements and these provisions may be enforced by the United States of America or any other Governmental Authority having jurisdiction over wetlands. Notwithstanding anything to the contrary herein, the provisions of this paragraph may not be amended without the written consent of the U.S. Army Corps of Engineers.

(b) Conservation Areas. Legal Requirements may result in portions of the Properties being designated as “conservation areas”. Notwithstanding anything to the contrary that may appear herein or in any other restrictive covenants applicable to such portions of the Properties, and whether or not the Approved Plans for any improvements on the portion of the Properties on which such conservation areas are located are in compliance with Legal Requirements applicable to conservation areas, all such conservation areas shall be maintained in perpetuity in their natural or mitigated condition. No Person shall perform any of the following activities on any such conservation areas:

- (i) fill, grade, excavate, or perform any other land disturbing activities;
- (ii) cut, mow, burn, remove, or harm any vegetation;

- (iii) construct or place any roads, trails, walkways, buildings, mobile homes, signs, utility poles or towers, or any other permanent or temporary structures;
- (iv) drain or otherwise disrupt or alter the hydrology or drainage ways of any conservation area;
- (v) dump or store soil, trash, or other waste; or
- (vi) graze or water animals, or use for any agricultural or horticultural purpose.

The intent of this Subsection 9.12 (b) is to ensure continued compliance with the mitigation condition of any Clean Water Act authorization for the Properties or any part thereof issued by the United States of America. The U.S. Army Corps of Engineers, for the district in which the Properties is located, and may be enforced by the United States of America or any other Governmental Authority having jurisdiction over conservation areas. Notwithstanding anything to the contrary herein, the provisions of this Subsection 9.12(b) may not be amended without the written consent of the U. S. Army Corps of Engineers if such consent is required by applicable law, regulation, rule, permit or approval.

(c) Buffers. Portions of the Properties may be subject to river or stream buffer requirements in connection with such river or stream and its tributaries. Owners of all portions of the Properties subject to applicable buffer requirements shall at all times comply with same, whether or not the Approved Plans for any improvements are in compliance therewith.

Without limiting the applicability and enforceability of the Declaration generally, the provisions of this Section 9.12, including all of its subsections, shall run with the Properties and be binding on all Owners of any part or all of the Properties and all Persons claiming rights under them.

Section 9.13 Exclusion for Declarant. Notwithstanding any other provision of the Declaration or any other Governing Documents, Declarant, during the Development Period (and thereafter, the Board) has the right, permanently or temporarily (as determined in the discretion of Declarant or the Board, as applicable) to waive any one or more of the provisions of this Article IX with respect to construction or maintenance of any improvements in the Properties, except that there shall be no waivers with respect to soil erosion controls and Legal Requirements. Any such waiver granted by the Declarant to a Builder or other Person during the Development Period shall be binding on the Board after the Development Period has ended.

Section 9.14 Animals. No animals of any kind (including livestock, reptiles or poultry) shall be kept on any portion of the Property or in any Dwelling except for dogs, cats and other domestic household animals (not to exceed four (4) per Dwelling) which are not used for breeding or other commercial purposes, and provided that they do not create a nuisance (in the judgment of the Board), by number or type of animals, noise, odor, damage or destruction of property, animal waste, or any other reason, and further provided that they are kept in compliance with all Legal Requirements and such Rules and Regulations and Board Policies pertaining thereto as the Association may adopt, which Rules and Regulations or Board Policies may include requirements that animals be kept on a leash or otherwise restrained or confined whenever they are anywhere on the Property other than on the Lot of the Person who owns the animals, on other Lots with the permission of the Owners of those Lots, or on other areas specifically designated for animals not on leashes, that animals be restrained or confined inside a fence or other restraint when on a Lot outside of the Dwelling, and which may prohibit the keeping of animals on the Property that are excluded from coverage or subject to reduced coverage under insurance policies generally available for the Property. The Board may require any Owner to furnish the Board with evidence that a particular animal is not excluded or subject to reduced coverage under the liability insurance policy maintained by such Owner for that Owner's portion of the Property, and the Owner shall furnish the Board with the required evidence (in the form of a copy of the applicable policy or such other evidence reasonably satisfactory to the Board) within ten (10) days following the date on which the Board gives a notice to the Owner that it is requiring same. Provided, however, no

Board member shall have any liability for any failure of the Board to adopt a Board Policy, restriction, or other rule or regulation that prohibits the keeping of a particular type or breed of animal. The Owner responsible for an animal being on the Property promptly shall clean up or remove from any portion of the Property not owned by such Owner all solid bodily wastes from that animal.

Each Owner who keeps any animal on any portion of the Property shall be deemed to have indemnified and agreed to hold harmless the Association, Declarant and all other Owners, from and against any loss, claim for damages to person or property, cause of action, or liability of any kind, including all costs of defending against same (including reasonable attorneys' fees), arising out of or resulting from such animal, including any actions of the animal. An easement over and upon the Property hereby is reserved for the applicable Governmental Authority to exercise and enforce Legal Requirements relating to animal control.

Section 9.15 Harmful Discharges. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances from any portion of the Property into the atmosphere (other than those resulting from construction or maintenance of improvements, installation of landscaping or maintenance of yards or landscaping, cleaning, or reasonable residential chimney or outdoor grill emissions), there shall be no production, storage or discharge of hazardous wastes from or on any portion of the Property, and there shall be no discharges of liquid or solid wastes or other harmful matter into the ground, sewer or any body of water within the Property, if such emission, production, storage or discharge may adversely affect the use of any portion of the Property, or may adversely affect the health, safety or comfort of the occupants of the Property, or violates any Legal Requirement. Provided, however, the foregoing prohibitions shall not prevent or interfere with the reasonable development or maintenance of any portion of the Property or improvements thereon by Declarant, any Builder, a Governmental Authority, a utility provider, or any other Person in compliance with Legal Requirements, nor shall they prevent, as incident to the residential use of the Property, the reasonable use, handling, storage and disposal of medically related hazardous substances and wastes in compliance with all Legal Requirements.

Section 9.16. Home Businesses. An Owner may maintain an office or home business on such Owner's Dwelling or other improvement in the Property only if: (i) such office or home business is operated by the Owner or a member of the Owner's household residing in the Dwelling, or by the Owner's residential tenant residing in the Dwelling; (ii) there are no displays or signs indicating that the Dwelling or improvement or portion of the Properties on which it is located is being used other than as a residence; (iii) such office or business does not generate significant traffic or parking usage by the business itself or by clients, customers or other Persons, it being in the discretion of the Board to determine compliance with this requirement; (iv) no vehicles, equipment or other items related to the office or business are stored, parked or otherwise kept on the streets in the Subdivision or on the portion of the Property on which such Dwelling is located outside of the Dwelling or other enclosure approved by the Architectural Review Committee; (v) such Owner has obtained from the applicable Governmental Authority, and maintains in effect, all required approvals and permits for such use; (vi) the activity is consistent with the residential nature of the Property and complies with all Legal Requirements and other provisions of this Declaration; and (vii) no person is employed in such office or home business except for the Owner or the members of the Owner's household residing in the Dwelling or the Owner's tenant or the tenant's household members residing in the Dwelling. As a condition to such use, the Association may require the Owner to pay any increase in the rate of insurance, trash removal, utilities or other costs for the Association or other Owners which result or reasonably may be anticipated to result from such use. Garage sales, yard sales and similar activities shall be conducted only in accordance with all Legal Requirements and the Rules and Regulations.

Section 9.17. Hunting; Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows and/or other weapons within the Property is prohibited, unless required for safety or personal protection reasons and in compliance with Legal Requirements.

Section 9.18 Vehicles; Parking; Storage. The term "vehicles" as used herein, shall include, without limitation, automobiles, trucks, bicycles, sport utility vehicles, motor homes, boats, recreational vehicles, trailers,

motorcycles, minibikes, scooters, go-carts, golf carts, lawn mowers, campers, buses, vans, limousines, and other apparatus moved by use of wheels or otherwise designed or used for movement over and upon streets or highways or off of streets and highways (whether motorized or whether or not self-propelled), including trailers and carts. Except as authorized by Declarant during the Development Period, and thereafter by the Board, or as otherwise provided herein, vehicles shall not be parked on the Common Elements or on any other portion of the Property, other than in a garage or driveway (if allowed by the Board) or screened area (if allowed by the Board). Unless and except to the extent that the occupants of a Dwelling shall have more vehicles than the number of garage parking spaces serving their Dwelling, all vehicles of such occupants shall be parked within such garage parking spaces. Vehicles of the occupants of Dwellings may be parked in the driveway and additional parking spots, if any serving a Dwelling only after all of the garage parking spaces serving such Dwelling have vehicles of occupants parked in them. All parking, including the number and types of vehicles that may or may not be allowed to park in driveways, is subject to Rules and Regulations.

Disabled vehicles, stored vehicles, boats, trailers, campers, buses, vans (except mini-vans or utility vehicles used as non-commercial passenger vehicles), trucks (except pick-up trucks and sport utility vehicles), recreational vehicles (for example, without limitation, RVs and motor homes), vehicles used primarily for commercial purposes and vehicles with commercial writing on their exteriors are prohibited from being parked in the Property, except in garages. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writing on their exteriors shall be allowed to park temporarily in the Property for the purpose of serving any Dwelling or the Common Elements; provided, however, without the prior written consent of the Board or the Declarant (during the Development Period), no such vehicle shall be authorized to remain in the Property overnight or for any purpose except serving a Dwelling or the Common Elements, unless parked in a garage. For purposes of this paragraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is inoperable, and a vehicle shall be considered "stored" if it remains in the Property for three (3) consecutive days or longer without the prior written permission of the Declarant or the Board, as applicable.

If any vehicle is parked on any portion of the Property in violation of this Section or in violation of the Rules and Regulations, the Board and the Declarant (during the Development Period) may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the Person which will do the towing and the name and telephone number of a Person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle. If a vehicle is parked in a fire lane, is blocking another vehicle or access to a Lot owned by any Owner other than the Owner of the vehicle, is obstructing the flow of traffic, is parked in any unpaved area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this Section, neither the Declarant, the Association nor any member, manager, director, officer or agent of the Declarant or the Association shall be liable to any person for any claim of damage or otherwise as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

All motorized vehicles operating within the Property must have proper and adequate mufflers. In addition to and supplemental to, but not inconsistent with, this Section, the Association may adopt and enforce Restrictions and Rules relating to the parking of vehicles on the streets within or adjoining the Property, including allowing temporary on street parking for special events related to the Subdivision. In addition to and supplemental to, but not inconsistent with, the foregoing, the Association also may adopt and enforce Rules and Regulations relating to the parking of vehicles on Lots or any other portion of the Property outside of garages or screened areas approved for such parking by the Architectural Review Committee.

No trade materials or inventories (other than materials used for construction of Dwellings or other approved structures or improvements) shall be stored upon any portion of the Property and no tractors, inoperable motor

vehicles, boats, boat trailers, rubbish, trash, or unsightly materials of any kind shall be stored, regularly placed, or allowed to remain on any portion of the Property unless adequately screened or contained as approved by the Architectural Review Committee, except that trash, leaves, tree limbs, materials for trash or recycling pick-up and similar items may be kept or placed temporarily and only for such time as is reasonably necessary to enable the applicable Governmental Authority or appropriate private entity to remove same, and inoperable motor vehicles, boats, and boat trailers may be stored only if the same are kept entirely in an enclosed garage or other building. The Restrictions and Rules may further regulate the parking of vehicles and boats in the Property.

Notwithstanding anything to the contrary herein, (i) as approved by Declarant during the Development Period, trucks and/or other construction vehicles, materials and equipment may be allowed to remain on the Property temporarily during construction of roads, utilities, Dwellings and other improvements in the Property, and (ii) such vehicles, materials and equipment also may be allowed to remain on the Property during construction or maintenance on the Property of Dwellings and/or other improvements which have been approved by the Architectural Review Committee. Notwithstanding the foregoing, no vehicle of any type or size which transports inflammatory or explosive cargo or which stores or transports materials or substances defined as hazardous or toxic by any Legal Requirements shall be kept or stored or allowed to remain in or on the Property at any time, except as may be required to effectuate transportation or removal of such prohibited materials and substances through or from the Property, or, with respect to explosive materials, as may be reasonably required in connection with the construction or maintenance of streets, utilities or other improvements in the Property, or as may be allowed by Declarant, during the Development Period, and thereafter, the Board, when reasonably required for the construction or maintenance of improvements within the Property.

Section 9.19. Generators & Power Cells. Without limiting the generality of Article X or Article XI below, exterior generators and power cells are subject to restriction and regulation pursuant to Rules and Regulations and Architectural Guidelines.

Section 9.20. Antennae and Dishes. Without limiting the generality of Article X or Article XI below, antennae and dishes are subject to restriction and regulation pursuant to Rules and Regulations and Architectural Guidelines.

Section 9.21 Solar Panels. The installation of solar panels or other “green energy” improvements (“*Green Energy Improvements*”) to the roof or exterior of a dwelling located on a Dwelling shall be permitted in accordance with N.C. Gen. Stat. § 22B-20 after approval by the Association. To the maximum extent permitted by applicable law, the Association will have the right to approve the nature, design, size, appearance, configuration, manner of attachment and location of Green Energy Improvements. Upon any such approval for the installation of Green Energy Improvements, the Owner of such Dwelling, its successors and assigns, shall thereafter be responsible for the installation, maintenance and repair of the Green Energy Improvements and any and all damage caused to the dwelling on the Lot or to adjacent dwellings, if applicable, during the installation, maintenance or repair of such Green Energy Improvements, and, as a condition to such approval, Declarant and/or the Association may require the Owner of the subject Dwelling to enter into a license or other agreement relative to same. The Association shall not be responsible for the installation, maintenance or repair of Green Energy Improvements installed by an Owner.

ARTICLE X

RESTRICTIONS AND RULES

Section 10.01 Framework for Regulation. As part of the general plan of development for the Properties, the Governing Documents establish a framework of affirmative and negative covenants, easements, and restrictions. Within that framework, the Declarant, Board, and Members need the ability to be more specific and to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article X discusses Restrictions and Rules and procedures for modifying and expanding Restrictions and Rules. This Article X does not apply to Rules and Regulations relating to use and operation of the Common Elements

adopted by the Board, unless the Board in its discretion chooses to submit to such procedures. Except for the provisions requiring compliance with Restrictions and Rules and enforcing such compliance, this Article X does not apply to administrative policies which the Board adopts to interpret, define or implement the Restrictions and Rules, nor does it apply to Architectural Guidelines.

Section 10.02 Restrictions and Rules. All Owners and occupants of Lots and Dwellings and their guests and invitees shall abide by the Restrictions and Rules. The Declarant and the Association shall have the power to enforce compliance with the Restrictions and Rules in the same manner and to the same extent that the Declaration provides for enforcement of the Declaration, and any Person determined by judicial action to have violated the Restrictions and Rules shall be liable to the Declarant or Association for all damages and fines, including all costs incurred in seeking and enforcing applicable legal and equitable remedies, including reasonable attorneys' fees.

Section 10.03 Rule Making Authority.

Subject to the terms of this Article X and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt, amend, modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice to all Owners (notice to any one Owner of a Lot being sufficient) concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Owners shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. During the Development Period, no action taken by the Board with respect to Restrictions and Rules shall be effective unless approved in writing by the Declarant.

Prior to any such action taken by the Board becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner (notice to any one Owner of a Lot being sufficient), which notice shall state the effective date of the action, which shall be not less than thirty (30) days following the date on which the notice is given by the Board. The Association shall provide to any requesting Owner (but not to more than one Owner of a Lot), without cost, one (1) copy of the Restrictions and Rules then in effect, together with the action taken by the Board. Additional copies may be provided by the Association upon payment of a reasonable charge as established by the Board. The action taken by the Board shall become effective on the later of the thirty-first (31st) day after the Board gives the notice of the action to the Owners or such effective date specified in the notice, unless, prior to the effective date, Members representing more than fifty percent (50%) of the total number of votes in the Association disapprove such action at a meeting or in writing to the Board. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt, prior to the effective date of the action taken by the Board, of a petition of the Members as required by the Governing Documents for special meetings of the Association or a written request from the Declarant. Upon such petition of the Members or written request from the Declarant prior to the effective date of any Board action under this Section, the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

Alternatively, when they have a right to vote under this Declaration, Class A Members representing more than fifty percent (50%) of the total number of votes in the Association, at an Association meeting called for such purpose, may vote to adopt rules that modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Provided, however, during the Development Period no such action shall be effective without the written approval of the Declarant. Restrictions and Rules adopted by the Class A Members are effective upon adoption or such later date specified by the vote to adopt.

No action taken by the Board or Class A Members under this Article X shall have the effect of modifying, repealing or expanding the Architectural Guidelines or any provision of the Declaration or other Governing Documents. Prior to the end of the Development Period, no such action shall be effective unless approved in writing by the Declarant. In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

Notwithstanding the foregoing procedures for amending the Restrictions and Rules, and notwithstanding anything to the contrary elsewhere in this Article X or the Declaration, during the Development Period the Declarant, in its sole discretion and without any prior notice to any Person, may adopt, amend, modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules, and all such Restrictions and Rules shall control over any contrary Restrictions and Rules adopted, amended, modified, canceled, limited, excepted, or expanded in any other manner during the Development Period. Commencing with the time that there are any Class A Members of the Association other than Builders, prior to any action taken by the Declarant under this subsection becoming effective, the Declarant, or the Board at the direction of the Declarant, shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner (notice to any one Owner of a Lot being sufficient), which notice shall state action taken and the effective date of the action, which date may be any time on or after the date on which the notice is given to the Owners.

Restrictions and Rules may, among other things, govern parking of vehicles and other objects in the Common Elements, and may assign certain parking spaces for the exclusive use of the Owners of one or more Dwellings or groups of Dwellings.

Section 10.04 Owners' Acknowledgment and Notice to Purchasers. Owners are given notice that use of their Lots, Dwellings, and the Common Elements is subject to the Restrictions and Rules, if any. By acceptance of a deed, each Owner acknowledges and agrees that the use and enjoyment and marketability of such Owner's Lot and Dwelling can be affected by this provision and that the Restrictions and Rules may change at any time. All purchasers of Lots and Dwellings are notified that, as provided for herein, the Declarant, or the Board, or Members of the Association may adopt Restrictions and Rules or changes to any Restrictions and Rules in effect at any particular time.

Section 10.05 Protection of Owners and Others. Subject to the other terms and conditions of this Declaration, Restrictions and Rules shall comply with the following provisions:

(a) **Similar Treatment.** Similarly situated Owners shall be treated similarly, the determination of which Owners are similarly situated being in the reasonable judgment of the Declarant or Board or Members, as applicable.

(b) **Displays.** The rights of Owners to display religious and holiday signs (the word "sign or "display" as used in the Declaration includes signs, banners, flags (including a flag of the United States of America, an American flag, a United States flag, or a North Carolina flag), symbols, decorations, and other displays) inside Dwellings shall not be abridged, except that there may be rules regulating the number, size, time, place and manner of posting or displaying such signs that are located outside of or visible from outside of the Dwelling, including regulation or specification of design criteria (for example, color, style, materials), all in accordance with the Legal Requirements. No rules shall regulate the content of political signs; however, rules may regulate the number, size, time, place and manner of posting or displaying, such political signs that are located outside of or visible from outside of the Dwelling, including regulation or specification of design criteria (for example, color, style, materials), all in accordance with the Legal Requirements. Signs required by Legal Requirements or prohibited by Legal Requirements from being excluded or prohibited shall be allowed (for example, a street number sign for a Dwelling required by the City). However, to the extent that it would not violate the Legal Requirements, rules may regulate the number, size, time, place and manner of posting or displaying, such signs, including regulation or specification of design criteria (for example, color, style, materials). A "For Rent", "For Lease" or any such similar sign indicating that a Dwelling is available or will be available for lease is prohibited on the Properties. A "For Sale" sign or any such similar sign indicating that a Dwelling is available for purchase or will be available for purchase may be displayed in a window inside a Dwelling, but is prohibited from being displayed anywhere on the Properties outside a Dwelling.

(c) Household Composition. No rule shall otherwise interfere with the Owners' freedom to determine the composition of their households, except that rules may require that all occupants be members of a single housekeeping unit and may limit the total number of occupants permitted in each Dwelling on the basis of the size and facilities of the Dwelling and/or its fair use of the Common Elements.

(d) Activities Within Dwellings. Except as otherwise provided herein (for instance in Article IX generally or Section 9.16 specifically with respect to home businesses), no rule shall otherwise interfere with the activities carried on within the confines of Dwellings, except that rules may prohibit activities not normally associated with property restricted to residential use, and may restrict or prohibit any activities that may result in financial obligations for the Association or other Owners, that create a danger to the health or safety of occupants of other Dwellings, that generate excessive noise or traffic, that create unsightly conditions visible outside the Dwelling, that constitute a nuisance, that create an unreasonable source of annoyance, or that violate this Declaration or Legal Requirements.

(e) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Lots or rights to use the Common Elements to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this subsection shall prevent the Association from changing the Common Elements available, from adopting generally applicable rules for use of Common Elements, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Elements, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided herein.

(f) Alienation. No rule shall prohibit the sale or leasing of any Dwelling, or require consent of the Association or Board for the sale or leasing of any Dwelling.

(g) RESTRICTIONS ON INVESTORS. DECLARANT RESERVES THE RIGHT TO LIMIT OR OTHERWISE RESTRICT SALES OF LOTS OR DWELLINGS TO INVESTORS WHO INTEND TO PURCHASE A LOT OR DWELLING NOT FOR OWNERSHIP AS A PRIMARY RESIDENCE OR SECONDARY RESIDENCE, BUT FOR THE PURPOSE OF LEASING OR RENTING THE SAME TO A THIRD PARTY.

(h) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in a Dwelling or on a Lot prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

(i) Declarant Rights. Without the written consent of Declarant, no rule or action by the Board or Members shall restrict, impair, prohibit, exclude, impede, interfere with, or in any way adversely affect any Special Declarant Right or other right of Declarant.

The foregoing limitations shall limit only the rule-making authority exercised under this Section 10.05 and shall not apply to amendments to the Declaration adopted as provided in the Declaration.

ARTICLE XI

ARCHITECTURAL APPROVAL

Section 11.01 Architectural Review Committee – Jurisdiction and Purpose. Except for ordinary and routine maintenance to an existing Dwelling or other improvement on a Lot, and excluding planting and maintenance of flowers, bushes, grass and trees that do not result in any material change in the landscaping for a Lot approved as part of the Approved Plans ("material" being as determined by the Architectural Review

Committee) or allowed by Architectural Guidelines, and except as otherwise provided herein: no site preparation of a Lot, no change in grade or slope, no construction of, alteration of, additions to, or changes to any improvement on a Lot (including a Dwelling or other building or improvement on a Lot, and including any conversion of a garage or carport into living space) shall be commenced, nor shall any of the same be placed, altered or allowed to remain, until the Architectural Review Committee has approved in writing the Plans therefor or the Architectural Guidelines allow the improvement without obtaining Approved Plans. The Architectural Review Committee is established to assure, insofar as is reasonable and practicable, that improvements are constructed and maintained in a manner that provides for harmony of external design and location in relation to Dwellings and other improvements in the Properties and to natural features and topography, that avoids improvements deleterious to the aesthetic or property values of any portion of the Properties, and that promotes the general welfare of the Owners. Notwithstanding anything to the contrary expressed or implied herein: (i) all Approved Plans and other architectural approvals approved or given by the Declarant during the Development Period, all improvements constructed or maintained by Declarant or the Association within the Properties, all portions of the Properties owned by Declarant or the Association, all Common Elements and improvements therein maintained by the Association, and all portions of the Properties owned by or subject to easements in favor of a Governmental Authority or public utility providers (except for any such portions of the Properties that contain or are proposed to contain Dwellings or other buildings and associated improvements), are specifically excluded from the requirements of this Article XI; and (ii) during the Development Period (a) the Declarant has the right to exercise all rights of the Architectural Review Committee and the Board that are described in this Article XI, including whether to utilize an Architectural Review Committee or to serve as the Architectural Review Committee itself, (b) the Declarant determines the matters, if any, to be reviewed by the Architectural Review Committee, and (c) any decision of the Declarant made during the Development Period with respect to any matter subject to this Article XI controls over any contrary decision of the Architectural Review Committee or the Board. Declarant, in its sole discretion, may require applicants for approvals being considered by Declarant to follow the procedural requirements of this Article XI or waive any part or all of such procedural requirements, or may impose procedural requirements that are different from those contained in this Article XI.

Section 11.02 Composition. During the Development Period, Declarant, in its sole discretion, may serve as the Architectural Review Committee. To the extent that the Architectural Review Committee does not consist solely of Declarant, the Architectural Review Committee, if utilized by Declarant, may consist of such number of Persons as determined by Declarant. Declarant, in its sole discretion, has the right to remove and replace the Persons appointed by it to the Architectural Review Committee. Following the end of the Development Period, the Architectural Review Committee shall consist of not less than three (3) Persons, who shall be appointed by, and shall be subject to removal with or without cause by, the Board (or the Board may serve as the Architectural Review Committee if it is unable to obtain 3 or more Persons to serve). Persons who serve on the Architectural Review Committee are not required to be Members of the Association.

Section 11.03 Procedure. Unless otherwise permitted by the Architectural Review Committee, in its sole discretion, prior to the commencement of any construction, alteration, addition, or placement of any improvement requiring approval by the Architectural Review Committee, Plans for the proposed improvement shall be submitted to the Architectural Review Committee, in such format and in such numbers or sets (not to exceed three) as the Architectural Review Committee may require. The Architectural Review Committee shall have the right to refuse to approve any Plans for improvements which are not, in its sole discretion, suitable or desirable for the Properties, including for any of the following: (i) lack of harmony of external design with surrounding structures and environment; and (ii) aesthetic reasons. Each Owner acknowledges that determinations as to such matters may be subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. Unless a written response is given by the Architectural Review Committee within sixty (60) days following its receipt of the required number of complete sets of Plans and payment by the applicant of any applicable processing fee and consulting fees due and payable at the time request for approval of Plans is submitted by the applicant, the Plans shall be deemed approved. At any time that the Architectural Review Committee consists of more than one individual, decisions of the Architectural Review Committee shall be by majority vote of its members present at a

meeting thereof (or by the written consent of a majority of all the members of the Architectural Review Committee). The written response of the Architectural Review Committee may be an approval, a denial of approval, a conditional approval, or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was incomplete or inadequate, and the sixty (60) day time period for further Architectural Review Committee response shall commence only upon receipt of the requested additional information. If conditional approval is granted, and construction, alteration, addition or placement of the improvement thereafter commences, the conditions imposed shall become fully a part of the Approved Plans. Any material modification or change in the Approved Plans must again be submitted to the Architectural Review Committee for its review in accordance with the foregoing requirements or such other procedures as adopted by the Architectural Review Committee. If the Plans are approved, or conditional approval is given, at least one set of Approved Plans shall be retained by the Architectural Review Committee and at least one set of Approved Plans shall be returned to the applicant. The Architectural Review Committee shall keep such other records of its activities as it is instructed to keep by either the Declarant or the Board, whichever is applicable.

The Declarant or the Board, as applicable, may adopt procedures for the Architectural Review Committee to conduct the architectural reviews and its other duties, provided that such procedures do not conflict with the specific requirements of the Declaration. Such procedures may include reasonable fees for processing requests for approval, and also may include fees for the services of an architect or other consultant to assist the Architectural Review Committee in its review of any Plans, the costs of all such fees being the responsibility of the applicant. Processing fees shall be due and payable to the Association at the time the Plans are submitted to the Architectural Review Committee, and the fees of the architect or consultant shall be due and payable to the Association either at the time the Plans are submitted to it or immediately upon its receipt of an invoice therefor, as determined by the Declarant or Board, as applicable. Prior to incurring any architect or consultant fees not due and payable at the time Plans are submitted, the Architectural Review Committee shall afford the applicant a reasonable opportunity either to agree to pay such fees or to withdraw the request for approval. The sixty (60) day time period within which the Architectural Review Committee is required to respond to a request for approval does not commence until all processing fees and architect or consultant fees due and payable at the time of submission of the request for approval have been paid. Notwithstanding anything to the contrary in this Article XI, in no event shall approval of Plans by the Architectural Review Committee be deemed to have been given until all such processing fees and architect or consultant fees have been paid by the applicant. The payment of such fees and costs, as well as other expenses of the Architectural Review Committee required to be paid, whether or not the applicant's Plans are approved, is deemed to be a special individual assessment, enforceable against any applicant in the same manner provided herein for enforcement of other assessments.

Declarant, during the Development Period and, thereafter, the Board, and the Architectural Review Committee as authorized by the Declarant or the Board, as applicable, may establish, amend, revise and/or delete Architectural Guidelines for one or more types of improvements to be constructed or maintained on any portion of the Properties, which Architectural Guidelines shall not conflict with the specific terms of the Declaration or any applicable Supplemental Declaration or Subdivision Declaration, shall be fair and reasonable, and shall carry forward the spirit and intention of the Declaration. Architectural Guidelines may be enforced in the same manner and to the same extent as the provisions of the Declaration may be enforced. If there is any conflict between Approved Plans and Architectural Guidelines, the Approved Plans control, it being within the discretion of the Architectural Review Committee to approve Plans that differ in one or more respects from the then existing Architectural Guidelines. Compliance with Architectural Guidelines does not guarantee approval by the Architectural Review Committee of Plans for improvements that must be submitted for approval. With respect to improvements other than initial construction of a Dwelling, the Architectural Guidelines may, but shall not be required to, allow construction or maintenance of one or more types of improvements in accordance with the Architectural Guidelines without submitting the Plans therefor to the Architectural Review Committee and going through the formal approval process provided for herein, and subject to such conditions and requirements as specified in the Architectural Guidelines. Architectural Guidelines may include any or all of the following: types of improvements allowed; types of materials allowed; permitted colors; architectural styles; minimum and/or

maximum square footage for Dwellings, garages, and other buildings or structures; minimum distances that Dwellings and other improvements must be located from Lot boundary lines; landscaping requirements; and screening requirements. Unless a waiver or variance is granted by the Declarant or the Architectural Review Committee, as applicable, the Architectural Guidelines in effect at the time construction of an improvement is commenced or, if no construction is required, the time that the improvement is first placed or used on the Lot, govern as to whether or not that improvement complies with the Architectural Guidelines.

The Declarant or the Board, as applicable, in its sole discretion, may appoint more than one Architectural Review Committee, with the specific division of authority between or among such Architectural Review Committees to be as specified by the Declarant or Board, as applicable. Each such Architectural Review Committee separately shall be subject to and shall comply with the provisions of the Declaration applicable to the Architectural Review Committee, including the appointment, removal and replacement of its members and the review of Plans by the Architectural Review Committee. The members of each Architectural Review Committee may consist of one or more of the same Persons.

Approval by the Architectural Review Committee of any Plans shall not relieve the owner of the applicable Lot from any obligation to obtain all required Governmental Authority approvals and permits, and shall not relieve such Owner of the obligation and responsibility to comply with all Legal Requirements with respect to such improvements. An Owner also must comply with all applicable Legal Requirements with respect to improvements constructed, placed, or used on a Lot in compliance with Architectural Guidelines.

Approval of any particular Plans does not waive the right of the Architectural Review Committee to disapprove the same or substantially similar Plans subsequently submitted, nor does such approval relieve an applicant of the requirement to resubmit such Plans for approval in connection with any portion of the Properties other than the portion for which the Plans were approved. Each Owner acknowledges that the Persons reviewing Plans, as well as compliance with Approved Plans and Architectural Guidelines, may change at any time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Architectural Review Committee may refuse to approve similar proposals in the future and may revise Architectural Guidelines with respect to such improvements.

Notwithstanding anything to the contrary herein, architectural approvals given prior to the end of the Development Period by the Declarant or by an Architectural Review Committee appointed by the Declarant shall remain in effect following the end of the Development Period, but subject to expiration if the construction or installation of the approved improvements is not completed within any applicable time limits required by any Governing Documents or the Approved Plans. Approved Plans may not be revoked or withdrawn by the Architectural Review Committee without the written consent of the Person who owns the portion of the Properties to which the Approved Plans are applicable.

The Architectural Review Committee shall have the right, but not the obligation, to inspect improvements that are being constructed or maintained on any portion of the Properties to monitor compliance with the provisions of the Governing Documents, with the Approved Plans for such improvements, and with the Architectural Guidelines, such right to include entry onto such portion of the Properties at reasonable times to inspect the improvements. Provided, however, without the consent of an Owner or occupant of the Dwelling, which shall not be unreasonably withheld, delayed, or conditioned, no member of the Architectural Review Committee shall have the right to enter an occupied Dwelling, or a Dwelling for which a certificate of occupancy has been issued, or a Dwelling in which doors and windows capable of being locked have been installed and are locked. With respect to such improvements, the Architectural Review Committee has the right and authority to require the Owner on whose portion of the Properties the improvements are being constructed or maintained to take such actions as may be

required, in the sole discretion of the Architectural Review Committee, to comply with this Article XI, the Approved Plans, or the Architectural Guidelines, as applicable.

Except for matters with respect to which the Declarant or Board is serving as the Architectural Review Committee, or with respect to which the Architectural Review Committee is serving only in an advisory capacity to the Board, an applicant Owner who disagrees with any decision of the Architectural Review Committee may appeal the decision to the Board by giving written notice of appeal within fifteen (15) days following receipt of notice of disapproval or of approval with conditions not agreeable to the applicant Owner. The Board then shall review the Plans and any additional information requested by the Board and shall give the applicant Owner and the Architectural Review Committee a reasonable opportunity, at one or more meetings of the Board, to present evidence and arguments as to why the decision should be affirmed or overruled. Following the last such meeting the Board, by majority vote, either shall affirm or overrule, in whole or in part, the decision of the Architectural Review Committee, and shall notify the Architectural Review Committee and the applicant Owner of its decision within thirty (30) days following its decision. The decision of the Board is final, subject to the rights of Declarant during the Development Period to overrule any such decision of the Board.

Section 11.04 Landscaping; Utility Lines. No fence, wall, sign, tree, hedge, shrub, or other vegetation or other improvement which obstructs sight lines for vehicular traffic on public or private streets in the Property shall be placed or permitted to remain on any portion of the Property. Pavement, fences, walls, signs, trees, hedges, shrubs, and other vegetation shall not be placed or permitted to remain on any portion of the Property: (i) if such materials may damage or unreasonably interfere with any easement for the installation or maintenance of utilities; or (ii) in violation of the requirements of such easements; or (iii) unless in conformity with applicable standards of the holder of the easement; or (iv) if such materials may unreasonably change, obstruct or retard direction or flow of any stormwater drainage. Otherwise, the installation and maintenance of such materials within utility easements shall be permitted as allowed by Approved Plans or Architectural Guidelines.

Except for hoses, gauges and controls for well pumps, temporary lines and other equipment reasonably necessary in connection with construction or maintenance activities or normal landscape or yard maintenance, no water pipe, sewer pipe, gas pipe, stormwater drainage pipe, television or telephone cable, electric line or other, similar transmission line shall be installed or maintained on any Lot above the surface of the ground, except (i) as allowed by Declarant, or (ii) those located in easements maintained by a Governmental Authority or applicable utility provider or otherwise required by a Governmental Authority or applicable utility provider, or (iii) as necessary for such pipes, lines and other facilities to function properly, unless the same are adequately screened, as determined by the Architectural Review Committee, or the same are approved by Approved Plans or allowed by Architectural Guidelines.

Section 11.05 Tree Cutting. Architectural Guidelines also may address the cutting or removal of trees and other vegetation. No trees planted by Declarant or any other Person to comply with Legal Requirements shall be cut without the prior written approval of the applicable Governmental Authority and Declarant, during the Development Period, and thereafter, the Architectural Review Committee.

Section 11.06 Commencement and Completion of Construction. Unless the time period is extended by the Architectural Review Committee, Approved Plans for a Dwelling or other improvement expire unless construction or installation of the Dwelling or other improvement commences within twenty-four (24) months after the date of the approval. Provided, however, and notwithstanding the foregoing, the Declarant may allow Approved Plans that have been approved by Declarant to continue in effect for longer than twenty-four (24) months after the date of approval. Construction or installation of all such improvements shall be completed not later than twelve (12) months immediately after construction or installation is commenced, or shall commence and be completed by such later dates as specified in the Approved Plans. For the purposes of this Section, construction or installation is “commenced” when a building permit has been issued by the City (or if no building permit is required, when work commences or materials for the improvement are delivered to the applicable portion of the Properties), and

construction or installation is “completed” when it has been completed in compliance with Approved Plans or Architectural Guidelines and the City has issued a certificate of occupancy or completion for the improvement (or if no certificate of occupancy is required, when the improvement has been substantially completed as determined by the Architectural Review Committee). The Architectural Review Committee, in its sole discretion, may grant waivers or extensions of the foregoing time period for completion of construction or installation of improvements, and, when requested and upon reasonable evidence of the existence thereof, shall grant reasonable waivers or extensions for events of Force Majeure that delay or prevent a Person from completing construction or installation within the foregoing time periods. Each Owner is responsible for diligently pursuing completion of improvements.

Section 11.07 Compensation. No member of the Architectural Review Committee shall be compensated for service as a member of the Architectural Review Committee. However, the Association may reimburse members of the Architectural Review Committee for reasonable out-of-pocket expenses incurred in serving on the Architectural Review Committee.

Section 11.08 Limitation of Liability. Neither the Architectural Review Committee nor the members thereof, nor Declarant, nor the Association, nor any shareholders, directors, officers, partners, members, managers, agents or employees of Declarant or the Association, shall be liable in damages or otherwise to any Person by reason of: (i) mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of Plans, or the failure to approve or disapprove any Plans, except where the foregoing results from gross negligence or willful misconduct; or (ii) any failure of Approved Plans to comply with any Legal Requirements, including zoning and building codes; or (iii) any defect in, or lack of structural soundness or integrity of, any improvements constructed, placed, or maintained on any portion of the Properties.

Section 11.09 Violation; Enforcement. Each failure of an Owner or any other Person to construct or maintain any improvement in accordance with the Approved Plans or applicable Architectural Guidelines shall be a violation of the Declaration. Declarant, each Owner and the Association each shall have the right, but not the obligation, to enforce the provisions of this Article XI against an Owner or any other Person who violates or attempts to violate same, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure to enforce this Article XI of the Declaration or seek any applicable remedy with respect to any specific violation hereof shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce this Article XI or the Declaration at any other time with respect to the same or substantially similar matter. All such rights, remedies and privileges granted in this Section are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

ARTICLE XII

EASEMENTS AND OTHER RIGHTS

Section 12.01 Exercise of Easement Rights. Each easement described in this Article XII includes the following rights as reasonably necessary for the full exercise of the easement: vehicular and pedestrian ingress, egress, and regress (together referred to as “access”) over other portions of the Properties as reasonably necessary to go to and from the easement area (the “easement area” being defined as the portion of the Properties subject to the easement) and to transport equipment and materials to and from the easement area; the right to maintain equipment, structures, facilities and soil and water impoundments in the easement area; the right to remove any obstruction within the easement area that constitutes interference with the use of the easement or with the maintenance of any equipment or structures or facilities or soil or water impoundments located therein; and the right to use as temporary work space such portions of the Properties immediately adjacent to and outside of the easement areas as may be reasonably necessary for the full exercise of such easements, including the temporary storage of materials. Provided, with respect to any portion of the Properties outside of the applicable easement area damaged as a result of the exercise of such access or temporary work space rights, the Person who exercises the access or temporary work space rights, as soon as practicable after completion of the work (and during the

performance of the work if such restoration is necessary to prevent injury or death to any Person or damage to any other property), shall restore all such portions of the Properties to substantially the same condition as they were in immediately prior to the occurrence of the damage.

The easements established in this Article XII may be exercised in the discretion of the Declarant, the Association, or other Person for whom they are established, but this Article XII does not impose any obligation on the Declarant, the Association, or other Person to exercise any such easements or rights. Except in an emergency, all easements described in this Article XII shall be exercised in a reasonable manner and at reasonable times.

Section 12.02 Easements Reserved by Declarant. Declarant, for itself, and its successors and assigns (which may include the Association, the Governmental Authorities and public utility providers), reserves the following easements and rights in, over, under, across and through the Properties, which may be exercised by Declarant or its successors or assigns in its sole discretion, in whole or in part, without any obligation to exercise any of same. These easements specifically include the right to connect to and use and maintain new and existing wires, poles, lines, pipes, conduits, meters, equipment, structures, facilities, and soil and water impoundments and other Stormwater Control Measures in the Properties, without payment of any charge or fee to the Association or any Owner of any part or all of the Properties, and during the Development Period the right (without obligation) to exercise all of the easements reserved for the Association in this Article XII:

(a) The right to grant and/or dedicate perpetual, exclusive or non-exclusive, and alienable easements for development, as determined by Declarant, of the Properties, or any real property adjoining any part of the Properties, including development required by any Legal Requirement or contractual obligation of Declarant, including the exercise of any right reserved by or granted to the Declarant under the Governing Documents, and including the maintenance of streets (both publicly dedicated and private streets), water, sanitary sewer and other utilities and related appurtenances and equipment, soil and water impoundments, and Stormwater Control Measures, including wires, poles, lines, pipes, conduits, meters, equipment, structures, and facilities related thereto, in, over, under, across, and through all of the following: (i) easement areas that have been identified as easements on plats or in documents that have been executed by the Declarant or other Owner of such portions of the Properties and recorded in the Registry; (ii) all streets in the Properties, including both publicly dedicated and private streets; (iii) an area on each Lot that is five (5) feet in width and adjacent to each side boundary line thereof (except for the portions of Lots on which common party walls are located), an area ten (10) feet in width adjacent to each side boundary line of a Lot that does not adjoin another Lot or Common Elements, and an area on each Lot that is ten (10) feet in width adjacent to each front and rear boundary line thereof; and (iv) the Common Elements. Provided, however, neither the foregoing reservation of easement rights nor any similar reservation of easement rights contained in the Declaration shall create or impose any obligation upon Declarant, or its successors and assigns, to provide or maintain any such street, wire, pole, line, pipe, conduit, meter, equipment, structure, facilities, or soil and water impoundment or other Stormwater Control Measure. Declarant's rights under this Section 12.02 include the right to assign its rights under the easements and/or to grant easements to other Persons in, over, under, across and through those portions of the Properties described in this subsection.

(b) The non-exclusive right and power, with respect to any portion of the Properties, to grant and record in the Registry such specific easements as may be necessary, in Declarant's sole discretion, for the complete and orderly development of the Properties, or any real property adjoining any part of the Properties. The Owner of any Lot to be burdened by any such easement granted by Declarant shall be given written notice in advance of the grant. The location of any such easement on the Lot of an Owner, except for those portions along the boundaries of such Lot as described in the immediately preceding subsection, shall be subject to the written approval of the Owner of the Lot to be burdened by the easement (written consent of any one of multiple Owners of the Lot being deemed sufficient), which approval shall not be unreasonably withheld, delayed, or conditioned.

(c) The right to subject the Properties and/or the Association to a contract with a utility provider for the installation and maintenance of above ground or underground electric cables and lines and/or the installation and maintenance of street lighting (including poles and light fixtures), either or both of which may require an initial payment and/or a continuing monthly payment by each Owner and/or by the Association as part of the Common Expenses. The Association shall accept assignment from Declarant of contracts entered into by the Declarant with a utility provider for such electrical and/or lighting services.

(d) A perpetual, non-exclusive, and alienable easement to maintain all vegetation required or allowed under any planting, landscaping, or replanting plan required or approved for any part or all of the Properties pursuant to a Development Plan or Legal Requirements.

Section 12.03 Agreements with Other Persons. In connection with its exercise of any easements or rights reserved in this Article XII, Declarant reserves the additional right, which may be exercised by Declarant or its successors or assigns in its sole discretion, in whole or in part, without any obligation to exercise such right, to enter into agreements on behalf of and binding on the Association with other Persons (including other associations of property owners) for any one or more of the following: (i) use and maintenance of any easements and associated improvements and facilities therein located in the Properties or in the properties owned or used by such other Persons, which agreements may provide for financial and/or management responsibilities for the Association and/or for such Persons; and (ii) use and maintenance of Stormwater Control Facilities in the Properties and/or on the properties owned or used by such Persons.

Section 12.04 Easements Reserved for the Association. Easements are reserved for the Association as follows, which may be exercised by the Association in its sole discretion, without any obligation to exercise any of same. These easements specifically include the right to connect to and use and maintain new and existing wires, poles, lines, pipes, conduits, meters, equipment, structures, facilities, and soil and water impoundments and other Stormwater Control Measures in the Properties, without payment of any charge or fee to any Owner of any part or all of the Properties:

(a) A perpetual, non-exclusive and alienable easement in, over, under, across and through all portions of the Properties to enable the Association to perform its functions and provide the services under the Declaration. Provided, however that any such entry by the Association upon any portion of the Properties shall be made with as minimum inconvenience to the Owner of such portion of the Properties as reasonably practicable, and any damage caused by or resulting from the gross negligence or willful misconduct of the Association's employees, contractors or agents shall be repaired by the Association at the expense of the Association.

(b) In addition to the foregoing, and in order to implement effective and adequate soil erosion controls and/or stormwater management, a perpetual, non-exclusive easement to enter upon any portion of the Properties, before and after improvements have been constructed or placed thereon, to maintain or cause to be maintained soil erosion control and/or stormwater management; provided, however, the Association shall not at any time be required to exercise this easement, and no exercise of the easement shall interfere unreasonably with any permanent improvements constricted on any such portion of the Properties (which improvements have been approved by the Architectural Review Committee as required herein). If the need for stormwater management or soil erosion controls results from the construction of improvements on any portion of the Properties or any excavation, grading, removal, reduction, addition or clearing of any portion of the Properties, unless such activities are performed by a Governmental Entity or utility provider, the cost of any such work performed by the Association for the purpose of implementing effective and adequate stormwater management or soil erosion control shall be assessed as a special individual assessment against the Owner, as determined by the Association, whose actions (including the actions of such Owner's contractors, subcontractors, and agents) caused the situation that was addressed by the work performed by the Association. Provided, however, if the Association determines that appropriate corrective action is

necessary on any portion of the Properties, prior to exercising this easement the Association shall give the responsible Owner, as determined by the Association, written notice of the proposed corrective action and a reasonable opportunity to take the corrective action specified in such notice. If such Owner fails to complete the corrective action by the date specified in the notice, the Association then may exercise this easement, take the necessary action, and assess the special individual assessment against the Owner.

(c) A perpetual, non-exclusive, and alienable easement to maintain all vegetation required or allowed under any planting, landscaping, or replanting plan required or approved for any part or all of the Properties pursuant to any Development Plan or Legal Requirements.

The Association has the right to assign and/or dedicate its rights under its easements as it deems reasonable in the best interests of the Properties.

Section 12.05 Easement Reserved for Governmental Entities and Public Utilities. Perpetual, non-exclusive and alienable easements are hereby reserved and established over all portions of the Properties for the governmental entities and for all public utility providers serving the Properties, and their agents, employees and contractors, for the purposes, as applicable to the Governmental Authority or utility provider, of setting, removing and reading utility meters, maintaining Stormwater Control Measures, maintaining utility equipment, facilities and connections, and acting for other purposes consistent with the public safety and welfare, including garbage removal, police protection, fire protection (including access to any and all fire hydrants located outside of public street rights of way or easements dedicated to a Governmental Authority) and delivery of mail. Any pedestrian access easement established by Declarant or the Association over any portion of the Properties for the purpose of providing pedestrian access to and from Governmental Authority greenways or Governmental Authority greenway easements are established for the benefit of the applicable Governmental Authority and the public in general, and the Association has the responsibility with respect to such pedestrian access easements that the Code or other Legal Requirements impose on owners of properties over which such pedestrian access easements are located and on property owner associations that serve properties over which such pedestrian access easements are located.

Section 12.06 Easements Shown on Recorded Plats. Declarant, for itself and its successors and assigns (which may include the Association, the applicable Governmental Authority, and public utility providers), and in addition to all other easements reserved in the Declaration, hereby reserves perpetual, non-exclusive and alienable easements in the locations and for the purposes shown and indicated on all plats of the Properties recorded in the Registry recorded by or on behalf of Declarant, the Association or both. These easements specifically include the right to maintain in the easement areas identified on such plats all improvements deemed necessary, in the reasonable discretion of the Person who exercises the easement rights, for the full exercise of such easements. Except as otherwise required by the Governing Documents or Legal Requirements, the Persons who have the foregoing easement rights shall have no obligation to exercise any part or all of the same.

Section 12.07 Intentionally Omitted.

Section 12.08 Intentionally Omitted.

Section 12.09 Easement for Encroachments. If, in accordance with Approved Plans, any Dwelling is closer than five (5) feet to any boundary line of the Lot on which that Dwelling is located (for the purposes of this Section, the “subject Lot”), then the Owner of the Dwelling, and such Owner’s tenants and contractors, shall have a perpetual, non-exclusive access easement over the adjoining Lot or other portion of the Property as reasonably necessary to facilitate maintenance of the Dwelling on the subject Lot. All such maintenance shall be done expeditiously and the exercise of this easement shall in all respects be reasonable and, upon completion of the maintenance, as reasonably practicable the Owner of the subject Lot shall restore the Lot or other portion of the Property on which the easement has been exercised, including all improvements thereon that are damaged by the exercise of this easement, to substantially the same or better condition as it was in prior to the maintenance. When the foregoing easement exists, except in accordance with Approved Plans, no fence, wall, storage shed, or similar

structure or any other kind of obstruction to the exercise of the easement shall be permitted on the adjoining Lot or other portion of the Property. Provided, however, the easement established by this Section shall not restrict or impair any other easements established herein in favor of the Declarant, the Association, an Owner, a Governmental Authority, or any utility provider.

Section 12.10 Restriction on Entry. Notwithstanding anything to the contrary contained in this Article XII, no right or easement granted, reserved or established in the Declaration shall be construed to give Declarant, the Association, an Owner, a Governmental Authority or any other Person the right to enter any Dwelling or other building located on any portion of the Properties, except as otherwise specifically stated in the provision of the Declaration relating to the particular right or easement or as reasonably and necessarily implied in order for the right or easement to be exercised (for example, maintenance of a party wall), or as allowed by the Owner of the applicable portion of the Properties. Provided, however, each Owner hereby is given notice that Legal Requirements may allow such entry by a Governmental Authority or other Persons, even though the particular easement granted, reserved or established in the Declaration does not allow such entry.

Section 12.11 Dedication and Transfer of Easements for Roadways. Declarant shall have the right and power (i) to convey or dedicate all or any part of any of the easements reserved and established by this Declaration, to public use and benefit, (ii) to grant easements over and across any of the private roads, streets and drives that are developed, constructed and installed by Declarant for access, ingress and egress to and from any portion of the Subdivision, (iii) to grant easements on, in, under, over, through and across any of the private roads, streets and drives that are developed, constructed and installed by Declarant for the purpose of installing, replacing, repairing, maintaining and using master television antenna systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and electrical, cablevision, gas, telephone, water and sanitary sewer lines, and (iv) to permit any Governmental Authority or utility to exercise any of the rights and easements reserved and established in this Declaration. Prior to their acceptance for public maintenance, any roads, streets, entranceways and cul-de-sacs in the Subdivision shall be maintained by the Association. Such maintenance shall include repair and reconstruction, when necessary, and shall conform to the standard of maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or other Governmental Entity before it would accept such roads, streets, entranceways and cul-de-sacs for maintenance. Declarant has the right to convey private roads, streets, entranceways and cul-de-sacs to the Association, and the Association has the right, but not the obligation, to offer for dedication the private roads, streets, entranceways and cul-de-sacs for public use, subject to acceptance by the applicable Governmental Authority.

ARTICLE XIII

OWNER MAINTENANCE RESPONSIBILITIES

Section 13.01 Duty to Maintain. Except for those items for which the Association has maintenance responsibility under the Governing Documents, each Owner, at such Owner's sole cost and expense, at all times shall maintain such Owner's Lot, including all improvements thereon, in a safe, clean and attractive condition, and in a good state of repair, subject to and in a manner consistent with the Governing Documents and Community Wide Standard, including all of the following:

- (a) Prompt removal of all litter, trash, refuse and wastes;
- (b) The Dwelling located on such Owner's Lot;
- (c) Maintenance of exterior lighting and mechanical facilities;
- (d) Maintenance of parking areas and driveways;
- (e) Compliance with all Legal Requirements; and

(f) Maintenance of Stormwater Control Measures as required by the Declaration, the Code and the Stormwater Agreement.

The foregoing responsibilities shall be performed in a manner that does not unreasonably disturb or interfere with the reasonable enjoyment of the Properties by Persons entitled thereto. Provided, however, and notwithstanding anything to the contrary appearing herein, Declarant is exempt from the required maintenance provisions of this Article XIII with respect to all portions of the Properties it owns, except for any of same on which Dwellings are located.

Section 13.02 Enforcement. If any Owner fails to perform any of the foregoing maintenance responsibilities, then the Association may give such Owner written notice of the failure and such Owner must, within thirty (30) days after such notice is given by the Association, perform the required maintenance or commence performing the required maintenance. All such maintenance shall be pursued diligently and completed within a reasonable time after it is commenced. If any such Owner fails to perform or commence performing the required maintenance within the allotted time period, then the Association, acting through its authorized agent or agents, shall have the right and power, but not the obligation, to enter such Owner's Lot and perform such maintenance without any liability for damages for wrongful entry or trespass. Such Owner shall be liable to the Association for the expenses incurred by the Association in performing the required maintenance, and shall reimburse the Association for such expenses within thirty (30) days after the Association mails or delivers to such Person an invoice therefor. If any Owner fails to reimburse the Association as required, the Association may impose a special individual assessment against the Owner and such Owner's Lot for the amount owed and the Association shall have the same rights and remedies against such Owner and such Owner's Lot as the Association has with respect to the enforcement and collection of assessments. Notwithstanding the foregoing, if maintenance is required as a result of an emergency situation (as determined by the Board), notice to an Owner to perform the required maintenance shall be such notice as is reasonable under the circumstances (which may include no notice at all).

Section 13.03 Unimproved Portions of the Properties. Notwithstanding the foregoing provisions of this Article XIII, but subject to the other applicable provisions of the Declaration, Owners of unimproved Lots or other unimproved portions of the Properties shall be required to maintain the same only in accordance with such maintenance standards, if any, as are established by the Declarant, during the Development Period, and thereafter, in accordance with such reasonable maintenance standards established by the Board.

ARTICLE XIV

INSTITUTIONAL LENDERS; MORTGAGEES

Section 14.01 Notice to Board. Upon request from the Board, any Owner who mortgages such Owner's Lot shall notify the Association of the name and address of the Mortgagee. No Institutional Lender shall be entitled to any rights under the Declaration unless it has notified the Association as required in this Article XIV and has requested Institutional Lender rights under the Declaration.

Section 14.02 Requirements of Institutional Lender. Whenever any Institutional Lender desires to avail itself of the rights afforded Institutional Lenders under the Governing Documents, it shall furnish written notice thereof to the Association by certified or registered mail, or by overnight delivery service, identifying the Lot upon which such Institutional Lender holds a first lien mortgage or deed of trust (and the recording information for such security instrument(s)), specifying which rights it wishes to exercise, specifying notices or other information it wishes to receive, and designating the name of the person and mailing address to which notices, reports or information are to be sent by the Association. The Institutional Lender shall be responsible for updating the information required by this Section 14.02, and the Association is obligated to give the required notices only to the most current name and address it has received from the Institutional Lender. Such notice shall be deemed to have been received by the Association only upon actual delivery thereof, as evidenced by the return registry receipt or records of the overnight delivery service.

Upon assignment or other transfer, or payment in full of the indebtedness secured by the lien of the mortgage subject to the notice given to the Association by the Institutional Lender, the Institutional Lender promptly shall notify the Association that it no longer wishes to exercise the rights requested in the previously given written notice, such new notice to be given in the same manner as the previously given notice. To avail itself of the rights of Institutional Lenders under the Governing Documents, any such assignee or transferee must first notify the Association in the manner provided for in this Article XIV of the Declaration.

Section 14.03 Obligation of Association to Institutional Lenders. From and after giving the required notice to the Association and continuing as long as the Institutional Lender is the holder of the indebtedness secured by the mortgage on the applicable Lot, such Institutional Lender shall have each of the following rights that are specifically requested in the notice to the Association:

(a) To inspect and receive copies of Governing Documents and other Association documents and records on the same terms as the Members of the Association. The Association has the right to charge a reasonable amount to Members and Institutional Lenders for production and delivery of copies of such Governing Documents and other Association documents and records;

(b) To receive a financial statement of the Association for the immediately preceding fiscal year of the Association;

(c) To be notified of any proposed amendments to the Declaration directly affecting this Article XIV and any meetings of the Association at which such proposed amendments are to be voted on or, with respect to amendments pursuant to written approval, the date on which such written approval will be adopted;

(d) To be notified of any proposed action of the Association that requires the consent of a specified percentage of Institutional Lenders;

(e) To be notified of any condemnation or casualty loss affecting either a material portion of the Common Elements or the Lot securing its Mortgage;

(f) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(g) With respect to the Lot that secures its mortgage, to be notified of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days), and to be notified of any other default of the provisions of the Declaration by the Owner of such Lot. Provided, however, any failure of the Association to notify the Institutional Lender of the delinquency or default shall not affect the validity of any Association lien, or any other Association rights and remedies, against the defaulting Owner or such Owner's Lot; and

(h) To be notified of any other matters for which applicable Institutional Lender rules and regulations or other Governmental Entity rules or regulations or Legal Requirements require the Association to give notice to Institutional Lenders, and the Institutional Lender desiring to be notified of such matters shall described the matters and applicable rules and regulations in the notice it gives to the Association.

Section 14.04 Institutional Lenders Not Obligated to Collect Assessments. No Institutional Lender shall have any obligation to collect any assessment under the Declaration.

ARTICLE XV

AMENDMENT OF DECLARATION

Section 15.01 Amendment by Declarant. In addition to specific amendment rights, if any, granted or reserved elsewhere in the Declaration, during the Development Period Declarant may unilaterally, and in its sole discretion, without the consent, joinder or approval of the Association, any Member, or any other Person (except to the extent that Legal Requirements require the consent or joinder of a Governmental Authority or a vote of the Members), and without the necessity of a meeting of the Association, amend the Declaration for any purpose that is not prohibited by the Act or other Legal Requirement, and may record any such amendment or may record an amended and restated version of the Declaration that incorporates any such amendment. Any amendment to the Declaration adopted by the Declarant shall be effective upon the later of the effective date contained therein or the date of its recording in the Registry.

Section 15.02 Amendment by the Members. Unless amended as allowed under Section 15.01 above, the Declaration may be amended only as follows:

(a) Unless a higher percentage or different voting requirement is specified herein or by Legal Requirements, the Declaration may be amended only by the written agreement or consent of those Members, or the affirmative vote at a meeting of the Association of those Members, to whom are allocated sixty-seven percent (67%) or more of the total number of votes in the Association, and with the consent or joinder or any applicable Governmental Authority if Legal Requirements require the consent or joinder of a Governmental Authority and, during the Development Period, with the written consent of Declarant.

(b) Written notice of an annual or special meeting of the Association at which any proposed amendment to the Declaration is to be voted on, together with at least a summary description of the proposed amendment, shall be given to all Members not less than ten (10) days nor more than sixty (60) days in advance of the date of such meeting.

(c) When any amendment to the Declaration is approved by Members of the Association (and Declarant, when applicable) as provided in this Section 15.02, the appropriate officers of the Association (and Declarant, when applicable) shall execute in the same manner as a deed and record in the Registry, a document setting forth the following: (i) the amendment; (ii) the effective date of the amendment (if no effective date is stated the amendment shall be effective upon the recording of same in the Registry); and (iii) if applicable, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes required to constitute a quorum at such meeting, the total number of votes present at such meeting, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of such amendment and the total number of votes cast against the amendment. The document shall be recorded in the Registry within thirty (30) days following the date of the meeting at which the amendment was adopted or the written agreement for the amendment is completed. Provided, however, and notwithstanding the foregoing or anything to the contrary appearing herein, no amendment to the Declaration duly adopted by the Members of the Association shall be void or invalid solely because the document describing the amendment is not recorded in the Registry within said thirty (30) day period, and any such duly adopted amendment to the Declaration recorded following the end of said thirty (30) day period shall become effective on the later of the effective date specified therein, if any, or on the date it is recorded in the Registry.

Section 15.03 Consent of Mortgagees. Unless required by a Legal Requirement, no consent, joinder or approval of any Mortgagee to any amendment of the Declaration is required with respect to any amendment by the Declarant pursuant to the unilateral right of Declarant to amend the Declaration during the Development Period. No consent of any Mortgagee to any amendment of the Declaration by the Members is required unless (i) the amendment adversely affects the rights of Mortgagees under the Declaration, or (ii) a Legal Requirement requires

the consent of Mortgagees or a percentage of Mortgagees, or (iii) the mortgage held by such Mortgagee specifically requires the Mortgagee's consent with respect to the portion of the Properties subject to the mortgage, and if either (ii) or (iii) is applicable, the Mortgagee has notified the Association of its rights regarding consent to amendments in the same manner required for an Institutional Lender to notify the Association in Article XIV of the Declaration dealing with Institutional Lenders. Provided, however, if the amendment is adopted by the required percentage of Members exclusive of the Member or Members who own portions of the Properties for which consent of a Mortgagee is required under this Section 15.03, then the amendment is valid whether or not the necessary Mortgagees have consented to the amendment.

Section 15.04 Prohibited Effects of Amendment. No amendment to the Declaration, whether adopted by the Declarant, by the Association, or by the Members or any applicable group of Members of the Association, shall do or result in any of the following:

- (a) increase the financial obligations of an Owner in a discriminatory manner;
- (b) further restrict development on any portion of the Properties in a discriminatory manner;
- (c) diminish, impair, or in any way affect the rights or protections of Declarant under this Declaration without the written consent of Declarant;
- (d) impose obligations upon Declarant without the written consent of Declarant;
- (e) diminish or impair the express rights of Institutional Lenders under the Declaration without the prior written approval of a majority of the Institutional Lenders who have requested the exercise of such rights as provided herein;
- (f) terminate or revise any easement established by the Declaration, without the written consent of the Person benefitted by the easement;
- (g) without the consent of the applicable Governmental Authority, terminate, reduce, amend, revise, or alter any obligation of the Association or the Members of the Association under any Legal Requirement or under any Stormwater Agreement, encroachment agreement, or other agreement entered into with a Governmental Authority by the Association or, as allowed by the Declaration, by the Declarant on behalf of the Association; or
- (h) alter or remove or attempt to alter or remove any Legal Requirement, other than Legal Requirements that are alterable or removable by their nature (for instance, provisions of the Act that may be modified, superseded or amended by a declaration);

ARTICLE XVI

DURATION OF DECLARATION; DISSOLUTION OF ASSOCIATION

Section 16.01 Duration. Unless sooner terminated as required by Legal Requirements, the Declaration shall run with and bind the Properties and each Owner, and shall inure to the benefit of the Association and each Owner of any portion of the Properties, and their respective heirs, successors, and assigns, from and after the recording of the Declaration in the Registry until such time as it is terminated by a written termination agreement, executed or ratified in the same manner as a deed, by those Members to whom eighty percent (80%) or more of the total number of votes in the Association are allocated, and also with the written consent of Declarant during the Development Period. Execution or ratification by any one of multiple Owners of a Lot is sufficient for that Lot unless, prior to the time the termination agreement is recorded in the Registry, any other Owner of that Lot files with the Association a written objection to the termination of the Declaration (in which event the vote allocated to

that Lot shall be considered as not having been exercised). The termination agreement shall specify a date after which it will be void unless it is recorded in the Registry before that date. The termination agreement may not be recorded in the Registry unless and until the requisite number of signatures have been obtained as provided herein, and it shall be effective only upon recording. If, pursuant to the termination agreement, any real estate in the Properties is to be sold following termination of the Declaration, the minimum terms of the sale shall be set forth therein.

The Declaration shall be deemed incorporated in all deeds and conveyances hereinafter made by Declarant or any other Owner whether or not specifically referenced or cited therein. Every Person, including a Mortgagee, acquiring or holding any interest or estate in any portion of the Properties shall take or hold such interest or estate, or the security interest with respect thereto, with notice of the terms and provisions of this Declaration; and in accepting such interest or estate in, or a security interest with respect to, any portion of the Properties, such Person shall be deemed to have assented to this Declaration and all of the terms and provisions hereof.

Section 16.02 Dissolution of the Association. The Association shall be dissolved upon the termination of the Declaration. Provided, however, until any sale of the Common Elements authorized by the termination agreement or approved by at least eighty percent (80%) of the Owners in the same manner as required for approval of the termination agreement is completed and the sale proceeds distributed, the Association shall continue in existence with all of the powers it had before termination. The Association, on behalf of the Owners, may contract for the sale of the Common Elements, but the contract is not binding unless such sale has been authorized in the termination agreement or it has been approved by the Owners in the same manner as required for approval of the termination agreement. Proceeds of the sale of Common Elements shall be distributed to the Owners and lienholders as their interests may appear, as provided in the termination agreement or other agreement approved by the Owners in the same manner as required for approval of the termination agreement. If the Common Elements are not to be sold following termination of the Declaration, title to the Common Elements vests in the Owners upon termination, as tenants in common in proportion to their respective interests as provided in the termination agreement. Assets of the Association other than Common Elements may be liquidated in accordance with Legal Requirements.

Upon dissolution of the Association or upon loss of ownership of all of the Common Elements by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Elements as allowed by the Declaration, or by reason of merger and/or consolidation with any other association as allowed by the Declaration), except as otherwise provided in the termination agreement, other agreement approved by the Owners in the same manner as required for approval of the termination agreement, or Legal Requirements (in particular, Section 47F-2-118 of the Act, or any successor section of the Act), any portion of the Common Elements not under the jurisdiction of and being maintained by another association substantially similar to the Association, together with all other assets of the Association, first shall be offered to the City (or, if the City refuses such offer, then to some other appropriate Governmental Entity or public agency as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Elements and such assets were required to be devoted by the Association. If the City or such other appropriate Governmental Entity or public agency accepts the offer of dedication, such portion of the Common Elements and assets shall be conveyed by the Association to the City or such other appropriate Governmental Entity or public agency, subject to the superior right of an Owner to an easement (if necessary) for reasonable ingress and egress to and from such Owner's Lot and the public or private street(s) on which that Lot is located, subject to all other applicable rights of way and easements, and subject to *ad valorem* property taxes subsequent to the date of such conveyance.

If the City or such other appropriate Governmental Entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Elements to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Elements were required to be devoted by the Declaration, such transfer and conveyance to be made subject to the rights of Owners and the other matters set forth in the immediately preceding paragraph of this Section. If there is no nonprofit corporation, association, trust or other entity who will

accept such transfer and conveyance of the Common Elements, then the Common Elements shall be distributed as provided in the plan of termination/dissolution adopted by the Association.

ARTICLE XVII

DISCLOSURES, WAIVERS AND SPECIAL PROVISIONS

The following are in addition to any other disclosures, waivers and special provisions in the Declaration. To the maximum extent permitted by Legal Requirements, Declarant shall have no liability for any matter disclaimed in this Article XVII.

Section 17.01 Construction Activities. All Owners and other Persons who use the Properties are notified that Declarant and/or its agents, Builders, the Association, Governmental Entities, utility providers, and other Persons, and their respective agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, may conduct “construction activities” (including clearing, grading, blasting, excavation, and other activities in or near the Property) in connection with construction and maintenance of improvements in or near the Properties. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and by using any portion of a Lot or the Properties generally, such Owners and such other Persons acknowledge, stipulate, and agree: (i) such construction activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or Legal Requirements; (ii) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise) any property within or in proximity to the portion of the Properties where such construction activities are being conducted (even if not being actively conducted at the time of entry. such as at night or otherwise during non-working hours); (iii) that Declarant and its agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shareholders, directors, officers, partners, members, managers, agents and employees shall not be liable but, rather, shall be held harmless for any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities; (iv) that any purchase or use of any portion of the Properties has been and will be made with full knowledge of the foregoing; and (v) this acknowledgment and agreement is a material inducement to Declarant to sell, convey, lease, and/or allow the use of the Properties. To the extent that this Declaration has the authority to control such construction activities (which it may not in the case of construction activities performed by any one or more Governmental Entity or utility provider), except in the event of an emergency, or as otherwise allowed by the Declarant, during the Development Period, and thereafter, by the Board, construction activities within the Properties shall be conducted at reasonable times.

Section 17.02 Conveyance of Common Elements. Declarant may convey or transfer all Common Elements and other assets, including all improvements thereon, to the Association in an “AS IS, WHERE IS” condition, and in such conveyances may reserve such easements as Declarant, in its sole discretion, deems necessary or advisable for completion or maintenance of any improvements in the Common Elements and any development of the Subdivision. Declarant hereby disclaims and makes no representations, warranties or other agreements, express or implied, by law or fact, with respect to such Common Elements and other assets, including all improvements thereon, including, without limitation, representations or warranties of merchantability regarding the condition, construction, accuracy, completeness, design, adequacy of size or capacity thereof in relation to the utilization, date of completion, or the future economic performance or operations of, or the materials, furniture, or equipment used therein. Neither the Association nor any Owner or any other Person shall make any claim against Declarant, its successors and assigns, relating to the condition, operation, use, accuracy or completeness of the Common Elements or other assets, or for incidental or consequential damages arising therefrom.

Declarant shall transfer and assign to the Association, without recourse, all warranties received from manufacturers and suppliers relating to any of the Common Elements or other assets, including all improvements thereon, which exist at the time of transfer and are assignable on reasonable terms, but Declarant’s failure to do so

shall not constitute any grounds for any claim, cause of action or other legal recourse against Declarant for failing to do so, other than to compel Declarant to use reasonable efforts transfer or assign same.

Section 17.03 Liability for Association Operations. The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant, its successors and assigns, and its shareholders, directors, officers, partners, members, managers, agents and employees from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and costs at all tribunal levels and whether or not suit is instituted, including those incurred in establishing the right to be indemnified, defended, and held harmless pursuant hereto), which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of Common Elements and the collection of assessments.

Section 17.04 Public Facilities and Services. Each Owner hereby is notified that certain facilities and areas within or adjoining the Properties may be open for use and/or enjoyment of the public and/or Persons other than Owners. Such facilities and areas may include, by way of example: greenways, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, streets, sidewalks, and medians. In addition to any such facilities and areas that are open for use and enjoyment of the public pursuant to Legal Requirements, Declarant may designate facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Common Elements or the Board may so designate at any time thereafter.

Section 17.05 Safety and Security. EACH OWNER AND OCCUPANT OF A DWELLING, AND THEIR RESPECTIVE GUESTS AND INVITEES, TENANTS, AND GUESTS AND INVITEES OF TENANTS, SHALL BE RESPONSIBLE FOR THEIR OWN PERSONAL SAFETY AND THE SECURITY OF THEIR PROPERTY IN THE PROPERTIES. THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE PROPERTIES DESIGNED TO ENHANCE THE LEVEL OF SAFETY OR SECURITY WHICH EACH PERSON PROVIDES FOR HIMSELF, HERSELF OR ITSELF AND HIS, HER OR ITS PROPERTY. NEITHER THE ASSOCIATION NOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SAFETY OR SECURITY WITHIN THE PROPERTIES, NOR SHALL EITHER BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.

NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SYSTEMS OR MEASURES, INCLUDING ANY MECHANISM OR SYSTEM FOR LIMITING ACCESS TO THE PROPERTIES, CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS, AND SHALL BE RESPONSIBLE FOR INFORMING SUCH OWNER'S TENANTS AND ALL OCCUPANTS OF ITS DWELLING THAT THE ASSOCIATION, ITS BOARD AND COMMITTEES, AND DECLARANT ARE NOT INSURERS OR GUARANTORS OF SECURITY OR SAFETY AND THAT EACH PERSON WITHIN THE PROPERTIES ASSUMES ALL RISKS OF PERSONAL INJURY AND LOSS OR DAMAGE TO PROPERTY, INCLUDING DWELLINGS AND THE CONTENTS OF DWELLINGS, RESULTING FROM ACTS OF THIRD PARTIES.

Section 17.06 View Impairment. Neither Declarant nor the Association guarantee or represent that any view from, over, or across any portion of the Properties will be preserved without impairment or change. Neither Declarant nor the Association shall be obligated to relocate, prune, or thin trees or other landscaping, or to install or maintain any landscaping or screening, except as otherwise required under Legal Requirements or a separate covenant or agreement, if any. The Association has the right to add or remove trees and other landscaping to and from the Common Elements, subject to Legal Requirements. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

Section 17.07 Water Management. Each Owner and any other Person who uses any portion of the Properties acknowledges and agrees that any or all bodies of water (including lakes, ponds, creeks, streams, and wetlands in the Properties), together with any dams or other facilities or devices that contain, control, or direct such waters, may be designed as water management areas (including stormwater management) and not designed solely as aesthetic features, and that, with respect to those that are water management areas, due to fluctuations in ground water elevations within the immediate area and/or the receipt or discharge of stormwater, the water level of such lakes, ponds, and wetlands may rise and fall. Each Owner and other such Person further acknowledges and agrees that Declarant has no control over such elevations. Therefore, each Owner and other such Person releases and discharges Declarant, and its successors, assigns, contractors, subcontractors, shareholders, directors, officers, partners, members, managers, agents and employees from and against any and all losses, claims, demands, damages, costs, and expenses of whatever nature or kind, including reasonable attorneys' fees and costs at all tribunal levels, related to or arising out of any claim relating to such fluctuations in water elevations.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the perpetual, non-exclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within or adjoining the Property to do any or all of the following: (i) install, operate, maintain, and replace pumps to supply irrigation water to the Common Elements; (ii) construct, maintain, and repair structures and equipment used for retaining water; and (iii) maintain such areas in a manner consistent with the Community Wide Standard.

Declarant further reserves for itself, the Association, and their successors, assigns, and designees, a perpetual, non-exclusive right and easement of access and encroachment over the Common Elements and Lots (but not the Dwellings thereon) adjacent to or within fifty feet (50') of bodies of water within or adjoining the Property, in order to do any or all of the following: (i) temporarily flood and back water upon and maintain water over such portions of the Property; (ii) alter in any manner and generally maintain the bodies of water within and adjoining the Property; and (iii) maintain and landscape the slopes and banks pertaining to such areas. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage to a Lot resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

Owners and other Persons who use any portions of the Property shall not alter, modify, expand, or fill any lakes, ponds, or wetlands located in the Property without the prior written approval of the Governmental Entities having jurisdiction over such matters, including the U. S. Army Corps of Engineers, if applicable, and the Declarant, during the Development Period, and the Association thereafter. Without limiting the generality of the foregoing, Owners and other Persons who use any portions of the Property shall comply with any applicable stormwater management permit for the Community, specifically including the Post-Construction Stormwater Management Permit No. SW8 230909 issued December 23, 2023 (as amended, extended and/or restated from time to time) and the maximum built-upon area of 6,000 square feet per Lot as set forth therein (subject to adjustment and reallocation as contemplated by Section 21.08 below or otherwise permitted by Legal Requirements).

Section 17.08 Easement to Inspect and Right to Correct. Declarant reserves for itself, any applicable Builders and others it may designate, the right to inspect, monitor, test, redesign and correct any structure, improvement or condition that may exist on any portion of the Properties, including on the Lots, and a perpetual, non-exclusive easement of access throughout the Properties to the extent reasonably necessary to exercise that right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner, and no entry into a Dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at that Person's own expense, any damage resulting from such exercise.

Section 17.09 Common Mailbox Structures. For purposes of this Section 17.09, the term "***Mail Provider***" is defined as the United States Postal Service, any successor or other governmental entity or authority, or any private entity or authority responsible for providing mail service. Any mailbox structure that serves more than one Lot is referred to herein as a "***common mailbox structure***". The portion of the Property on which a common

mailbox structure is installed, including such additional area as may be reasonably necessary, as determined by the Declarant (during the Development Period), the Association, or the Mail Provider, for exercise of the easements provided for in this Section, is referred to herein as the “***associated area***”. One or more common mailbox structures may be installed at such locations within the Property, including any one or more of the Common Elements, easements reserved for common mailbox structures, and public street rights of way or other property owned by or under the control of a Governmental Authority (as allowed by the applicable Governmental Authority), as Declarant or the Association and the Mail Provider determine to be appropriate. The Mail Provider, each occupant of a Dwelling that is served by a common mailbox structure, the Declarant (during the Development Period), and the Association shall have a non-exclusive easement in, on, over, and upon the associated area on which a common mailbox structure is located as reasonably necessary for access to and use of the common mailbox structure. Such easement for the Mail Provider, the Declarant (during the Development Period), and the Association shall include the right to construct, install, use, maintain, replace, enlarge, reduce and/or remove any common mailbox structure and to maintain the associated area. Following discontinuance of the use of a common mailbox structure and associated area by a Mail Provider, the easements established in this Section shall terminate with respect to the applicable associated area.

Section 17.10 Future Development. The Owner or prospective purchaser of a Lot may have seen proposed or contemplated residential and other developments which may have been illustrated in a Development Plan or sales literature in or from Declarant’s sales office, and/or may have been advised of the same in discussions with sales personnel; however, notwithstanding such Development Plans, sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct, and has made no representations or warranties that it will construct, such future or planned developments or Lots, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. An Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions.

Section 17.11 Wild Animals. The Property or portions thereof may be located adjacent or nearby to certain undeveloped areas which may contain various species of wild animals or insects that may from time to time stray onto the Property and that may otherwise pose a nuisance or hazard.

Section 17.12 Construction Nuisances. Residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, traffic, and other construction-related “nuisances.” Each Owner acknowledges and agrees that it is purchasing or has purchased a Lot which is within a residential subdivision currently being developed, and that the Owner will experience and accepts substantial levels of construction-related “nuisances” until the Property (and other neighboring portions of land being developed) have been completed and sold out.

Section 17.13 Model Homes. Model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver any Dwelling in conformity with any model home, and any representation or inference to the contrary by any Person is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded carpet, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to a purchaser unless an authorized officer of Declarant has specifically agreed in a written addendum to the purchase agreement to make specific items a part of the purchase agreement.

ARTICLE XVIII

ALTERNATIVE DISPUTE RESOLUTION

Section 18.01 Agreement to Encourage Resolution of Disputes Without Litigation.

Declarant, the Association and its officers, directors, and committee members, all Owners and other Persons subject to the Declaration, and any other Person not subject to the Declaration who agrees to submit to this Article XVIII (each of which is a “**Bound Party**”), agree that it is in the best interests of all concerned to encourage the amicable resolution of disputes involving the Properties without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a “Claim” described in the immediately succeeding subsection, unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in this Article XVIII in a good faith effort to resolve such Claim.

As used in this Article XVIII, except as otherwise provided herein, the term “**Claim**” shall refer to any claim, cause of action, grievance, or dispute arising out of or relating to any of the following:

- (a) the interpretation, application, or enforcement of the Governing Documents;
- (b) the rights, obligations, and duties of any Bound Party under the Governing Documents;
- (c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party or any failure of a Bound Party to make disclosures of known facts to any other Bound Party; or
- (d) the design or construction of improvements within the Community, other than matters of aesthetic judgment, which shall not be subject to review.

Provided, however, that the following “**Exempt Claims**” shall not be considered “**Claims**” unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in this Article XVIII (the word “action” includes any legal or equitable action or procedure filed in any court, as well as any other procedure):

- (e) any action by the Association to collect assessments or other charges due from any Owner or to foreclose a lien securing any portion of the same;
- (f) any action to enforce any financial or monetary obligation of any Person under the Governing Documents or to foreclose a lien securing any portion of the same;
- (g) any action by the Declarant or the Association to obtain a temporary restraining order or other emergency equitable relief and such ancillary relief as the court may deem necessary in order to maintain the status quo and/or to preserve the Declarant’s or the Association’s ability to enforce the provisions of the Declaration relating to any one or more of the following: exercise of Special Declarant Rights; architectural review and approval; use restrictions; maintenance of the Properties; or creation and maintenance of the Community Wide Standard;
- (h) any action between Owners, which does not include Declarant, a Builder, or the Association as a party, if such action or matter asserts a Claim which would constitute a cause of action independent of the Governing Documents;
- (i) any action in which any indispensable party is not a Bound Party; and
- (j) any action as to which any applicable statute of limitations or statute of repose would expire within 180 days of date of the filing of the action, unless the party or parties against whom the Claim is

made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article XVIII.

Section 18.02 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim (“***Claimant***”) against another Bound Party (“***Respondent***”) shall give written notice (the “***Notice***”) to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent’s role in the Claim;
- (ii) the legal basis of the Claim (*i.e.* the specific authority out of which the Claim arises);
- (iii) the Claimant’s proposed resolution or remedy; and
- (iv) the Claimant’s desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

Within thirty (30) days of receipt of the Notice, the Respondent, subject to all of the foregoing requirements for the giving of the Notice, shall give the Claimant a Notice of any Claim the Respondent has against the Claimant.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of settling the Claim by good faith negotiation. If requested in writing by either the Claimant or the Respondent, the Board may appoint a representative to assist the parties in negotiating a settlement of the Claim.

(c) Mediation. If the Bound Parties have not settled the Claim through negotiation within thirty (30) days of the date of the Notice, or within such other period as the Bound Parties may agree upon, they may agree to submit the matter to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the County.

(i) If the Claim is not submitted to mediation within such time, or if the Bound Party who submitted the Claim to mediation does not appear for the mediation when scheduled, that Bound Party shall be deemed to have waived the Claim, and the other Bound Party shall be relieved of any and all liability to the Bound Party who submitted the Claim to mediation (but not third parties) on account of such Claim.

(ii) If a Claim is submitted to mediation and is not settled within thirty (30) days after submission of the Claim to mediation, or within such longer time, not to exceed ninety (90) days after submission of the Claim to mediation, as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. Any Bound Party thereafter shall be entitled to file an action with respect to the Claim.

(iii) Each Bound Party shall bear its own costs of the mediation, including attorneys’ fees, and each Bound Party shall share equally all fees charged by the mediator.

(d) Right to File Action. Notwithstanding anything to the contrary herein, a Bound Party may file an action with respect to any matter subject to a pending negotiation or a pending mediation, if the

applicable statute of limitations or statute of repose would expire within ninety (90) days or less of the date of the filing of the action.

(e) Final and Binding Arbitration. To the extent permitted under applicable law, any and all claims, disputes and controversies by and between the Declarant, Association and/or Owners or any combination thereof arising from or related to the Property (including Lots and Common Elements), the sale of any portion of the Property, including, without limitation, any claim of breach of contract or warranty, negligence, negligent or intentional misrepresentation or nondisclosure in the inducement, execution or performance of any contract, including this Article XVIII, and breach of any alleged duty of good faith and fair dealings, shall be submitted to arbitration by and pursuant to the rules of the American Arbitration Association in effect at the time of the request for arbitration or by such other arbitration service as the Declarant (during the Development Period) or Association (after the Development Period) shall, in its sole discretion select, and pursuant to the rules of that arbitration service in effect at the time of the request for arbitration. This arbitration agreement shall inure to the benefit of, and be enforceable by, all successors and assigns of the parties. Any party shall be entitled to recover reasonable attorneys' fees and costs incurred in enforcing this arbitration agreement, and the arbitrator shall have sole authority to award such fees and costs. The decision of the arbitrator shall be final and binding and may be entered as a judgment in any state or federal court of competent jurisdiction. This arbitration agreement shall be deemed to be a self-executing arbitration agreement. Any disputes concerning interpretation or the enforceability of this arbitration agreement, including without limitation, its revocability or voidability for any cause, the scope of arbitrable issues, and any defense based on waiver, estoppel or laches shall be decided by the arbitrator. The initiation of or participation by any party in any judicial proceedings concerning this arbitration agreement or any matter arbitrable hereunder shall not be deemed a waiver of the right to enforce this arbitration agreement and, notwithstanding provision of law to the contrary, shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this arbitration agreement. Any party who shall commence a judicial proceeding concerning a dispute that is arbitrable, however, shall also be deemed a party requesting arbitration within the meaning of this arbitration agreement. The arbitrator's compensation shall be borne equally by the arbitrating parties. Any additional fees may be assessed in accordance with the arbitration rules and fees. The parties expressly agree that this arbitration agreement involves and concerns interstate commerce and is governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1 *et seq.*) now in effect as the same may from time to time be amended, supplanted or replaced, to the exclusion of any different or inconsistent state or local law, ordinance or judicial rule; and to the extent that any local law, ordinance or judicial rule may be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rule shall govern the conduct of the proceedings. If any provision of this Article XVIII shall be determined by arbitrator or by any court to be (i) non-enforceable or (ii) have been waived, the remaining provision shall be deemed to be severable therefrom and enforceable according to their terms.

(f) Settlement. Any resolution or settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Claimant and Respondent. If either of such Bound Parties thereafter fails to abide by the terms of any negotiated or mediated settlement, or if any Bound Party fails to comply with the terms of any award following arbitration, then the other Bound Party may file an action to enforce the settlement without the need to again comply with the procedures set forth in this Section 18.02. In such event, the Bound Party taking action to enforce any settlement, upon prevailing, is entitled to recover from the non-complying Bound Party (or if more than one non-complying Bound Party, from all such Bound Parties in equal proportions) all costs incurred in enforcing such settlement, including, without limitation, attorneys' fees and court costs.

Section 18.03 Litigation. To the extent permitted under applicable law, (a) any litigation by the Association other than the Exempt Claims set out above, or (b) any arbitration against the Declarant or its parents, subsidiaries or affiliates or their respective shareholders, partners, members, managers, directors, officers,

employees, agents, contractors and attorneys shall both require an affirmative vote of eighty-five percent (85%) of the members of the Association prior to the institution of such litigation. If and to the extent allowed by applicable law, no lawsuit shall be permitted against the Declarant or its parents, subsidiaries or affiliates or their respective shareholders, partners, members, managers, directors, officers, employees, agents, contractors and attorneys.

ARTICLE XIX

RETAINING WALLS

Section 19.01 Retaining Walls. All retaining walls installed in the Property by or on behalf of Declarant that are located on more than one (1) Lot or that are located partially on a Lot and partially on Common Elements, are Common Elements and are the property of the Association. With respect to initial construction or installation and subsequent maintenance of retaining walls, Declarant and the Association shall have all of the easements reserved for Declarant and the Association in Article XII of this Declaration. Declarant, during the Development Period, and thereafter the Association, has the right to determine what constitutes a retaining wall and to resolve all issues and other matters related to retaining walls. Any retaining wall located on a Lot that is not physically connected to a retaining wall located on an adjoining Lot or adjoining Common Elements are the maintenance responsibility of the Owner of that Lot.

ARTICLE XX

INTENTIONALLY OMITTED

ARTICLE XXI

GENERAL PROVISIONS

Section 21.01 Enforcement. Subject to applicable alternative dispute resolution provisions of the Declaration, and subject to any rights of enforcement provided for any Governmental Authority by the Declaration or any Legal Requirement, the Declarant and the Association shall have the right, but not the obligation, to enforce the provisions of the Declaration and other Governing Documents relating to the collection of assessments and other charges payable to the Association, and the Declarant, the Association, each Owner, and, when enforcement rights are granted by the Declaration, an Institutional Lender or other Secondary Mortgage Market Agency, shall have the right, but not the obligation, to enforce the other provisions of the Declaration and other Governing Documents, by any proceeding at law or in equity (or otherwise, as provided in the Declaration) against any Person who has violated, is violating, or is attempting to violate, any part of the Declaration or other Governing Documents, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure by the Declarant, the Association, an Owner, or any other Person to enforce the Declaration or seek any applicable remedy with respect to any specific violation or lien shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce the Declaration at any other time with respect to the same or substantially similar matter. All rights, remedies and privileges granted to the Declarant, the Association, any Owner, or any other Person herein are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

Section 21.02 Severability of Provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of the Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent and final jurisdiction to be illegal, null or void, the remaining articles, sections, subsections, paragraphs, sentences, clauses and phrases of the Declaration shall continue in full force and effect and shall not be affected thereby. To the extent that any provision of the Governing Documents is determined to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision without destroying its intent, then the narrower or partially enforceable provision shall be applied and, to the extent lawful, shall be enforced. It is hereby declared that said remaining articles, sections, subsections, paragraphs, sentences,

clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 21.03 Notice. Except as otherwise provided herein, whenever written notice to any Person (including Owners and Members) is required hereunder, such notice may be hand delivered to such Person, or given by first class United States mail, postage prepaid, or given in such other manner specifically allowed or required by Legal Requirements, or given in such other manner determined by the Board to be proper and which does not violate any Legal Requirements, addressed to the address of such Person appearing on the records of the Association or to the address for such Person appearing in the records of the County tax records. Properly addressed notice shall be deemed to have been given by the Association as follows: (i) in the absence of any delays in delivery by the United States Postal Service resulting from acts of war or terrorism, on the third day following the date the notice was deposited in the United States mail, first class postage prepaid; or (ii) on the date of personal delivery to the Person or an adult residing with the Person, as evidenced by a receipt signed by the Person or such other Person; or (iii) on the delivery date indicated on a return certified or registered mail receipt, or (iv) on the date indicated by the records of a national, regional or local same day or overnight courier service, or (v) on the date acknowledged in writing by the recipient Person or other adult residing with such Person, or (vi) upon execution of a written waiver of such notice by the Person. Notice to the Association may be given and shall be deemed to have been given in the same manner as notice to a Person, when addressed to the principal business office of the Association or its property manager. It shall be the duty of each Owner and Member to keep the Association informed of such Owner's or Member's current mailing address and telephone number. If an Owner or Member has not provided the Association with such current mailing address the Association may use as the mailing address the street address of the Lot owned by such Owner or Member or the address for such Owner or Member in the tax records of the County. If no address for an Owner or Member is reasonably available to the Association, the Association shall not be required to give notice to such Owner or Member. Notice given to any one of multiple Owners of any portion of the Properties shall be deemed to have been given to all of such Owners. When an Owner requests that communications from the Association be given by electronic mail, then notices under the Declaration also may be given to that Owner by electronic mail by an officer, director, or agent of the Association (which may include a property manager) and shall be deemed to have been given on the date that it is sent by the sending Person to the Owner to the electronic mail address of the Owner most recently given to the Association.

Section 21.04 Titles. The titles, headings and captions which have been used throughout the Declaration are for convenience only and are not to be used in construing the Declaration or any part thereof, except as necessary with respect to any cross-referencing of any provisions of the Declaration.

Section 21.05 Number and Gender. Whenever the context of the Declaration requires, the singular shall include the plural and one gender shall include all.

Section 21.06 No Exemption. No Owner may become exempt from any obligations imposed hereby by non-use or abandonment of the Common Elements or any Lot owned by such Owner or any other portion of the Properties.

Section 21.07 Consent. Except as otherwise may be specifically required by the Governing Documents or Legal Requirements, where the consent of the Owner of a Lot is necessary, and such Lot is owned by more than one Person, the consent of any one of such Owners is sufficient. Whenever the written consent of Declarant is required for the effectiveness of some action under the Declaration in addition to any required vote of the Members of the Association, the votes in the Association allocated to Declarant shall be counted in determining the vote of the Members, the written consent requirement being in addition to the voting requirement, whether or not Declarant actually participates in the voting.

Section 21.08 Subdivision, Combination of Lots; Plat Re-recording. A Lot may be subdivided, and the boundaries of a Lot may be altered, only with the written consent of the Owner thereof and the Declarant, during the Development Period (and, thereafter, the Board), and with any prior approval required of the applicable

Governmental Authority. Provided, however, and notwithstanding the foregoing sentence, such written consent of the Declarant is not required for leases, deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments, or deeds or other instruments granting any easement, right-of-way or license to Declarant, the Association, the City or other Governmental Authority, or a public utility provider, provided that the number of then existing Lots in the Properties is not changed by any such action.

Two or more Lots may be combined into a single Lot, and one Lot may be subdivided into two or more Lots, only and in compliance with Legal Requirements and with the written consent of the Owner thereof and the Declarant during the Development Period and, when the Development Period is not in existence, only with the written consent of such Owner and the Board. Unless consented to in writing by the Declarant or the Board, as applicable, when two or more such Lots are combined into one Lot, the resulting Lot shall continue to be assessed and have voting rights in the Association based on the number of Lots that existed prior to the combination into one Lot. When one Lot is subdivided into two or more Lots, the resulting Lots each shall be considered as a separate Lot and each shall be subject to assessments and have voting rights in the Association in accordance with the assessments and voting rights then applicable to a Lot. When the boundaries of two or more such Lots are changed but the resulting number of Lots is the same as the original number of Lots, the assessments and voting rights in the Association for those resulting Lots shall continue as they were immediately prior to the change. When two or more such Lots are combined into one Lot, the easements reserved by the Declaration around the boundaries of the former Lots shall continue in effect, except that any such easements reserved along the former common boundary line(s) between the combined parcels and not actually being exercised or used by any Person shall terminate. Provided, however, it shall be the responsibility of the Owner of such resulting Lot to obtain any documentation that is necessary or required to confirm such termination and to obtain termination or relocation of any such easements that are actually being exercised or used at the time of the combination of Lots. When a Lot is subdivided into two or more Lots, the easements established herein adjacent to the boundaries of a Lot shall apply to all of the resulting Lots.

Nothing contained herein shall prohibit or restrict the right of Declarant, during the Development Period to (i) subdivide, combine, re-subdivide or recombine, or to record or re-record maps relating to, any portion of the Properties owned by Declarant, or (ii) to approve or disapprove such activities with respect to portions of the Properties owned by other Owners or (iii) sell or assign to a third party builder any right related to an Impervious Surface on any portion of the Properties owned by Declarant or the Common Elements or (iv) sell or assign to the Association any right related to an Impervious Surface on any portion of the Properties owned by Declarant or the Common Elements.

Section 21.09 No Timesharing. No Dwelling shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to use or occupancy of the Dwelling rotates among participants in the program on a fixed or floating time schedule over any period of time.

Section 21.10 Rights to Use Name of Subdivision. During the Development Period, no Person shall use the name “Waters at Southport” or any derivative of such name in any logo or depiction in any printed or promotional material without Declarant’s prior written consent. However, Owners may use the name “Waters at Southport” in printed or promotional matter where such term is used solely to specify that a particular Lot or Proposed Lot is located within the Subdivision, and the Association shall be entitled to use the words “Waters at Southport” in its name and for other purposes related to the functions of the Association under the Declaration.

Section 21.11 Termination of Declarant’s Contracts and Leases. All Association contracts and leases which affect or relate to the Properties or any part thereof and which (i) are entered into prior to the time that the first Board elected by the Members takes office, and (ii) are not bona fide or were unconscionable to the Owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the Association at any time after the first Board elected by the Members takes office, upon not less than ninety (90) days written notice to the other parties to the contract or lease (or any different minimum time period provided for in the Act),

and all such contracts and leases are terminable as provided in this Section, whether or not the right of the Association to terminate is stated therein.

Section 21.12 Conflicts. Whenever there exists a conflict among the Governing Documents of the Association, the provisions of the Declaration and thereafter, any applicable Supplemental Declaration or Subdivision Declaration shall control, except as to matters of compliance with the Nonprofit Corporation Act, in which event the Articles shall control. Whenever there is a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control. The provisions of the Bylaws shall control over any conflicting provision of any Restrictions and Rules, Board resolutions, or Architectural Guidelines. With respect to the foregoing, specific provisions shall control general provisions, except that a construction consistent with the Act, the Nonprofit Corporation Act and Legal Requirements shall in all cases control over any construction inconsistent therewith. The provisions of the Act and Nonprofit Corporation Act shall in all cases control over any conflicting provisions of the Code. The Governing Documents shall be construed together with the construction that avoids, insofar as possible, conflicts among them.

The provisions of the Code control over any conflicting provisions of the Declaration and any other Governing Documents. As applicable provisions of the Code are amended, modified, revised, deleted, or moved to different sections, the Declaration is deemed to be amended so as to conform to the current provisions of the Code that are applicable to the Properties or any part thereof.

Whenever the Act, the Nonprofit Corporation Act, or the Code provides for limitations on any amount of assessments, fines, late payment fees, charges, or attorney fees that may be assessed, fined, charged, imposed, or collected by the Association, and the amount of any such assessment, fine, late payment fee, charge, or attorney fee allowed or authorized by the Declaration or other Governing Documents (including any assessment, fine, late payment fee, charge, or attorney fee amount established by the Board as allowed by the Declaration or other Governing Documents) exceeds the applicable limitation of the Act, the Nonprofit Corporation Act, or the Code, unless the applicable limitation specified by the Act, the Nonprofit Corporation Act, or the Code is a mandatory limitation that cannot be exceeded by provisions in the Declaration or other Governing Documents allowing or providing for the possibility of a greater amount than the applicable limitation otherwise allows, the provisions of the Declaration or other Governing Documents control and are deemed to constitute an express provision contrary to the limitation contained in the Act, the Nonprofit Corporation Act, or the Code. The provisions of the Act and Nonprofit Corporation Act shall in all cases control over any conflicting provisions of the Code. The Governing Documents shall be construed together with the construction that avoids, insofar as possible, conflicts among them.

For the purposes of this Article XXI and any other references in the Declaration to conflicts, a “conflict” is a situation in which the provisions in question cannot be reconciled or where enforcement of one provision necessarily would prohibit enforcement of another provision – for example, where one provision allows a certain action and the other provision prohibits the same action. Two provisions that are different, but not mutually exclusive or prohibitive of each other do not constitute a conflict for the purposes of this Article XXI.

Section 21.13 Assignment. Declarant specifically reserves the right, in Declarant’s sole discretion, to assign temporarily or permanently any or all of its rights, privileges, powers and/or obligations under the Declaration or under any Supplemental Declaration or Subdivision Declaration, including assignment of any or all of same as security for any obligation of Declarant to one or more Persons. Except as otherwise provided in this Section, no such assignment shall be effective unless (i) it is in writing, (ii) it is executed by the assignee, (iii) it is recorded in the Registry or other Governmental Entity office required under Legal Requirements, with the date of recording or such later effective date stated in the assignment being the effective date thereof (and the terms of the recorded assignment shall be conclusive and binding as to the matters assigned), and (iv) if it purports to assign any obligations of the Declarant to complete initial capital improvements within the Subdivision required by a Development Plan or other Legal Requirements, it describes the specific obligations assigned.

Upon Declarant's request, the Association shall execute any such assignment by Declarant to the Association, but, to the extent prohibited by Legal Requirements, Declarant may not assign to the Association any obligation to complete initial capital improvements within the Subdivision required by a Development Plan or other Legal Requirements. With respect to assignments described in any instrument under which Declarant rights specifically or impliedly are given as security for an obligation of Declarant, the terms of such instrument shall control over the provisions of this Section, including execution and recording requirements and the matters assigned thereby. Upon any completed foreclosure sale pursuant to any instrument under which the Declarant rights become security for an obligation, or the recording or filing of a deed or other instrument in lieu of foreclosure, the purchaser at the foreclosure sale, or the grantee under any deed or other instrument in lieu of foreclosure, shall receive the rights, privileges, powers and/or obligations that were assigned as security for the Declarant's obligation, unless the foreclosure documents or conveying document specifically exclude such rights, privileges, powers and/or obligations.

Notwithstanding anything to the contrary in this Section, with respect to Common Property, Stormwater Control Measures and utilities in the Subdivision, Declarant may assign to the Association, and the Association shall accept assignment of and execute the assignment document with respect to, any or all of the following in whole or in part, including the costs thereof: all rights, duties, liabilities, obligations and indemnities of the Declarant under all permits issued by a Governmental Entity or any provider of utilities to any part or all of the Subdivision, and/or under all agreements between the Declarant and a Governmental Entity or any provider of utilities to any part or all of the Subdivision, with respect to maintenance of Common Property, Stormwater Control Measures and/or utilities in the Subdivision. Provided, however, and notwithstanding the foregoing, to the extent prohibited by Legal Requirements, Declarant may not assign to the Association any of its obligations or liabilities or indemnities directly related to the improvements for the initial installation of Common Property, Stormwater Control Measures and/or utilities and/or publicly dedicated street in the Subdivision as required by a Governmental Entity or a utility provider for development of the Properties in accordance with a Development Plan, including warranties for construction of such improvements, if any, required by any Governmental Entity or utility provider prior to its acceptance of maintenance responsibility, if any, for such improvements (it being recognized that one or more of such improvements may not be of a type that are accepted for maintenance by a Governmental Entity or utility provider). Declarant shall have the authority to resolve any dispute as to what rights, duties, liabilities, obligations and/or indemnities can be assigned to the Association pursuant to this paragraph.

During the Development Period the Declarant has the authority to execute the following documents on behalf of and to bind the Association with respect thereto: assignments from Declarant to the Association allowed by the Declaration; and agreements with Governmental Entities allowed by the Declaration.

If Declarant has not assigned all of its rights under the Declaration by the end of the Development Period, all such rights not previously assigned and then possessed by the Declarant shall be deemed to have been assigned to the Association, whether or not an assignment thereof is recorded in the Registry.

Section 21.14 Costs and Reasonable Attorneys' Fees. In any action to enforce the provisions of any Governing Documents, the court may award reasonable attorneys' fees to the prevailing party, even if such action is settled prior to any trial, judgment or appeal. It also is the specific intent of this Section that it constitute the allowance of the award of reasonable attorneys' fees as required under Section 47F-3-120 of the Act. To the extent permitted by Legal Requirements, all references in this Declaration to attorneys' fees, however qualified, shall be deemed to mean reasonable and actually incurred attorneys' fees, notwithstanding N.C. Gen. Stat. § 6-21.2 or other statutory presumptions as to the amount of attorneys' fees.

Section 21.15 Actions Against Declarant. The affirmative vote or consent of the Members that is equal to or greater than sixty-seven percent (67%) of the total number of votes in the Association first shall be required prior to the Association doing any or all of the following with respect to the Declarant or any successor Declarant, regardless of whether such Person is the Declarant at the time the Association takes the action or obtains the

necessary vote or consent required to take such action: (i) file a complaint, on account of any act or omission of Declarant, with any Governmental Entity which has regulatory or judicial authority over the Properties or any part thereof; or (ii) assert a claim or cause of action against Declarant or sue Declarant or request legal or equitable relief against Declarant in any court, before any Governmental Authority board, or otherwise.

Section 21.16 Rule Against Perpetuities. As provided in Section 47F-2-103(b) of the Act, the Rule Against Perpetuities may not be applied to defeat any provision of the Declaration, or the Bylaws, rules, or regulations adopted pursuant to Section 47F-3-102(1) of the Act. In the event of the absence of the protection of Section 47F-2-103(b) of the Act, if the Declaration or any provision thereof violates any applicable Rule Against Perpetuities, the Declaration or such provisions shall be deemed reformed to continue in effect for the maximum period of time that the Declaration or such provision could exist without violating such applicable Rule Against Perpetuities.

Section 21.17 Reserved Rights. Whenever the Declaration reserves a right for, or requires or authorizes a consent, approval, variance or waiver by, Declarant during the Development Period, and thereafter confers such right upon, or requires or authorizes such approval or waiver by the Association or Board, the applicable right may be exercised, or the applicable approval or variance or waiver may be given, only by Declarant (or its assigns, which may include the Board) during the applicable period, and, thereafter, only by the Board or its authorized designee (unless a vote or consent of the Members of the Association also is required or alone is required).

All rights of the Declarant and the Association under the Declaration, unless otherwise specifically provided or limited, may be exercised at any time and from time to time.

Section 21.18 Legal Requirements. All Governing Documents shall be subject to and construed in accordance with all Legal Requirements, including all applicable provisions of the Code. It shall be the responsibility of each Owner to comply with all Legal Requirements, whether or not any approval, disapproval, waiver or variance of the terms of any Governing Documents has been given by Declarant, the Association or the Architectural Review Committee. It is the express intention of the Governing Documents to comply with the Act, and any provisions of the Governing Documents that are not in compliance with the Act shall be deemed reformed to comply therewith. Provided, however, it also is the intention of the Governing Documents that, unless their provisions violate the Act, such provisions shall control, and, insofar as reasonably possible, the provisions of the Governing Documents shall be construed in such manner as to be consistent with, and not in violation of, the Act.

Section 21.19 Marketable Title Act. It is the intention of the Declarant that the Declaration exist and continue until terminated as provided herein, and that it constitute an exception to any automatic termination or expiration provision that might be applicable under the Real Property Marketable Title Act as contained in Chapter 47B of the North Carolina General Statutes, or under any successor or replacement statute or any other Legal Requirement that would or could terminate the Declaration other than in the manner provided for termination herein. Accordingly, the Association, in its discretion, may re-record in the Registry the Declaration or some memorandum or other notice hereof in order to continue the Declaration in full force and effect and/or to qualify the Declaration as an exception to any such automatic termination or expiration provision of the Real Property Marketable Title Act or any other Legal Requirement.

Section 21.20 Determination of Class of Membership. If at any time during the Development Period there is a question or dispute as to what class of membership is applicable to the Owner of a particular portion of the Properties, the Declarant has the right and authority to resolve such question or dispute. Following the end of the Development Period, the Board has the right to resolve any such question or dispute.

Section 21.21 Duration of Special Declarant Rights. Unless otherwise specifically provided in the Governing Documents, or unless waived or released in writing by the Declarant or other Person possessing such rights, all Special Declarant Rights under this Declaration shall exist and continue through the end of the Development Period.

Section 21.22 Effective Date. The Declaration is effective as of the date and time of its recording in the Registry.

[Signature page follows.]

IN WITNESS WHEREOF, Stanley Martin Homes, LLC, as the Declarant hereunder, has caused this instrument to be executed by its duly authorized manager, officer, agent or representative, all by order and authority duly granted by its member(s), as of the day and year first above written.

Stanley Martin Homes, LLC

a Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that (s)he is a/the _____ of Stanley Martin Homes, LLC, a Delaware limited liability company and acknowledged the due execution of the foregoing instrument as the act of said company.

Witness my hand and official stamp or seal, this ____ day of _____, 20__.

_____, Notary Public

Print Name: _____

My Commission Expires: _____, 20__

[Affix Seal]

Exhibit A

Legal Description of Properties

[To be inserted]

EXHIBIT B

ADDITIONAL PROPERTY

Any or all of the following real property.

Any real property that either is contiguous to any boundary of the Property or is located within one (1) mile of any boundary of the Property as such boundaries are constituted at the time of the annexation of such real property to this Declaration.



BOARD OF ALDERMEN

AGENDA ITEM SUMMARY

DATE: 3/13/2025

DEPARTMENT: Development Services

PRESENTED BY: Maureen Meehan, Planning Services Director

ITEM SPONSORED BY: Development Services

ITEM/TOPIC: Public Hearing for a Zoning Text Amendment to Section 3.14.C. Minimum Parking Requirements and Section 3.17.D Landscaping on Public Property of the Unified Development Ordinance.

COST: N/A

BUDGET LINE ITEM: N/A

JUSTIFICATION: At their January 16, 2025, meeting, the Planning Board voted to send the Board of Aldermen a recommendation of approval for the Zoning Text Amendments to Section 3.14.C Minimum Parking Requirements and 3.17.D Landscaping on Public Property of the Unified Development Ordinance. A duly advertised public hearing must be held before the Board of Aldermen decides on the proposed amendment.

IMPACT IF NOT APPROVED: This is a legislative decision defined by the NC General Statutes. The Board is not obligated to approve the amendment, although this language mirrors text updates to the City Code of Ordinances adopted in December 2024. A statement of consistency must be adopted in conjunction with a motion to approve or deny the proposal.

DEPARTMENT HEAD COMMENTS: The attached proposed Zoning Text Amendment updates the UDO to mirror the rights-of-way City Code of Ordinance updates adopted by the Board of Aldermen on December 12, 2024.

ATTACHMENTS: Staff Report, Zoning Text Amendment Language

REQUESTED ACTION: Hold a public hearing for Zoning Text Amendments to Section 3.14.C Minimum Parking Requirements and Section 3.17.D Landscaping on Public Property of the Unified Development Ordinance.

PROPOSED MOTION: Motion to open a public hearing for Zoning Text Amendments to Section 3.14.C Minimum Parking Requirements and Section 3.17.D Landscaping on Public Property of the Unified Development Ordinance.



MEMORANDUM

To: Mayor Rich Alt and Board of Aldermen

From: Maureen Meehan, Planning Services Director

Re: Right of Way Text Amendments – Unified Development Ordinance Sections 3.14
Parking and Section 3.17 Landscaping and Buffers

Date: March 13, 2025

At your December 12, 2024, regular meeting, amendments to Section 16, Obstruction of Public Rights of Way, of the Code of Ordinances were adopted. The amendments provide clarification and guidance on allowable encroachments on public rights-of-ways, including parking and landscaping. The Unified Development Ordinance (UDO) has rights-of-way landscaping and parking standards, which mirrors the Code of Ordinances; therefore, the text must be amended to reflect the changes.

The following is an outline of the proposed updated text.

- Clarify parking pad standards including size and surfacing.
- Clarify how vegetation and protective measures can be placed around trees in the ROW.
- Add a provision for private installation of native trees in the rights-of-way when a tree must be removed for construction or if the tree is diseased or dead.

Staff presented the proposed amendments to the Planning Board at their January 16, 2025, regular meeting. Planning Board recommends of APPROVAL of the text amendments to the Board of Aldermen.

The proposed text amendments to the UDO are attached to this memo.

3.14 Parking

C. Minimum Off-Street Parking Requirements

1. The number of exclusive off-street residential parking spaces required by this section shall be provided on the same lot with the principal use, unless otherwise permitted by this ordinance, and the required number of off-street parking spaces specified for each use shall be considered as the absolute minimum.
2. In residentially zoned areas without off-street parking requirements, property owners shall be permitted to improve up to two (2) parking spaces no more than twenty (20) feet in width within the right-of-way in front of their property. These parking spaces shall follow the provisions for driveways as described in the Unified Development Ordinance (Section 3.12.B.1).
 - a. Surfacing materials for these parking spaces shall be limited to one of the following: turf grass, pervious pavers, pervious number 57 driveway slate gravel with wood borders no more than 2 inches above grade. Parking spaces constructed by a property owner within right-of-way shall remain open for public parking and shall not be reserved for the property whose owner constructed the spaces.
 - b. Such parking shall require the review and written approval of the UDO Administrator, Public Services Director, and Fire Marshal. The City reserves the right to remove these parking areas for any reason in accordance with Section 16-10. Parking surfaces existing prior to the adoption date of this ordinance shall be permitted to remain so long as the encroachments do not create a hazardous condition or safety hazard to the public.
3. In the case of mixed uses (an establishment comprised of more than one (1) use; e.g. restaurant and hotel), which may include a principal and accessory use, the total requirements for off-street parking shall be the sum of the requirements of the various uses computed separately and the off-street parking space for one (1) use shall not be considered as providing the required off-street parking for any other use, except as provided for in the shared parking criteria in this article.
4. Handicapped parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act and shall be identified by appropriate signage. The minimum number of spaces shall be provided in accordance with the state building code.
5. Fractional space requirements shall be rounded up to the next whole space.

3.17 LANDSCAPING AND BUFFERS

D. LANDSCAPING ON PUBLIC PROPERTY

1. It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground. The installation of turf grasses on grade is allowed within the right-of-way. In addition it shall be unlawful for any person to take any action whatsoever within any public rights-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with or hinders lawful parking within any public right-of-way.

2. Vegetation or other protective measures consistent with current arboricultural best management practices (ANSI A300 standards) and the guidelines outlined in the most recent City of Southport Urban Forest Management Plan shall be permitted to be placed within a ten (10) foot radius of the base of a City tree by an adjoining property owner, or by the City, for the purpose of limiting damage to the tree by nearby parked vehicles. Such action shall require review and written approval by the UDO Administrator, the Public Services Director, and the Fire Marshal.

3. Private installation of native trees within the right-of-way is permitted when city must be removed for construction or when a tree must be removed due to the health of the tree. Canopy and understory installation shall follow standards found in the UDO, current arboricultural best management practices (ANSI A300 standards), and the guidelines outlined in the most recent City of Southport Urban Forest Management Plan. Such action shall require review and written approval by the UDO Administrator in consultation with the Forestry Committee.



**City of Southport Board of Aldermen
Resolution and Statement of Plan Consistency
(As per NC General Statute 160D-605)**

When conducting a review of proposed zoning text or map amendments pursuant to this section, the Board of Aldermen shall approve a statement describing whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable.

AMENDMENT: ZTA 24-02 – Section 3.14.C.2. Minimum Off-Street Parking Requirements and Section 3.17.D. Landscaping on Public Property

STATEMENT OF PLAN CONSISTENCY:

The City of Southport Board of Aldermen, after consideration of the Planning Board recommendation and all relevant portions of the adopted and CRC-certified land use plan, hereby **ADOPT** the proposed text amendments to the Unified Development Ordinance. The amendments are consistent with the City's 2014 CAMA Core Land Use Plan, adopted initially on Nov. 13, 2014, and subsequently amended by the Southport Board of Aldermen in 2020. More specifically, the proposed amendment is consistent with Policy 7.22: The City shall continually maintain all official planning documents.

NOW THEREFORE, be it resolved by the City of Southport Board of Alderman, that the foregoing statement, having been submitted to a vote by a motion and seconded, received the following vote and was duly adopted this the ____ day of March, 2025.

Ayes: _____

Noes: _____

Absent or Excused: _____

Richard Alt, Mayor

Attest:

Tori Deviney, Deputy Town Clerk



**City of Southport Board of Aldermen
Resolution and Statement of Plan Consistency
(As per NC General Statute 160D-605)**

When conducting a review of proposed zoning text or map amendments pursuant to this section, the Board of Aldermen shall approve a statement describing whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable.

AMENDMENT: ZTA 24-02 – Section 3.14.C.2. Minimum Off-Street Parking Requirements and Section 3.17.D. Landscaping on Public Property

STATEMENT OF PLAN CONSISTENCY:

The City of Southport Board of Aldermen, after consideration of the Planning Board recommendation and all relevant portions of the adopted and CRC-certified land use plan, hereby **DENY** the proposed text amendments to the Unified Development Ordinance. The amendments are inconsistent with the City's 2014 CAMA Core Land Use Plan, adopted initially on Nov. 13, 2014, and subsequently amended by the Southport Board of Aldermen in 2020.

NOW THEREFORE, be it resolved by the City of Southport Board of Alderman, that the foregoing statement, having been submitted to a vote by a motion and seconded, received the following vote and was duly adopted this the ____ day of March, 2025.

Ayes: _____

Noes: _____

Absent or Excused: _____

Richard Alt, Mayor

Attest:

Tori Deviney, Deputy Town Clerk



BOARD OF ALDERMEN

AGENDA ITEM SUMMARY

DATE: 03/13/2025

DEPARTMENT: Development Services

PRESENTED BY: Maureen Meehan, Planning Services Director

ITEM SPONSORED BY: Development Services

ITEM/TOPIC: North Howe Street Overlay District Update and Discussion

COST: N/A

BUDGET LINE ITEM: N/A

JUSTIFICATION: Upon the removal of the City's ETJ and planning and zoning authority within that area, the city entered into a contract with the Cape Fear Council of Governments (CFCOG) to help craft a zoning overlay district for North Howe Street to present to the Brunswick County Planning Department. The goal of the proposed overlay is to provide a cohesive transition from North Howe Street into the historic downtown area.

Brunswick County nonresidential zoning districts differ in dimensional standards and allow more residential uses than Southport's Business District (BD) zoning. The jigsaw pattern of City and County properties co-existing side-by-side along North Howe Street potentially undermines Southport's appeal to visitors. The establishment of an overlay will protect the entrance into the City of Southport by keeping the buildings' maximum height limits, proportion, uses, and landscaping and design elements similar to what exists.

IMPACT IF NOT APPROVED: N/A

DEPARTMENT HEAD COMMENTS: In November, city staff and Wes MacLeod met with Brunswick County planning staff to present the City's request for a North Howe Street corridor overlay. The overlay proposal is a zoning text and map amendment that was to be sponsored by the Brunswick County Planning Department. Upon our follow-up meeting in January, Brunswick County discussed the overlay sections updates they support. Further, their staff is receptive and working on language to be included in the county's new unified development ordinance, which is underway. County staff gave the enactment of SB 382, limiting downzoning, and the update to the UDO as reasons they cannot sponsor a text amendment at this time. The attached memo from Wes MacLeod includes the proposed updated language and draft timeline for completion of the county's UDO.

CITY MANAGER COMMENTS:

The Howe Street overlay will provide a better transition between the county zoning standards and the city's. The board should review the proposed overlay and let staff know if there are any language changes that you would like to see as we work with the county to implement it.

ATTACHMENTS: Memo with updated language.

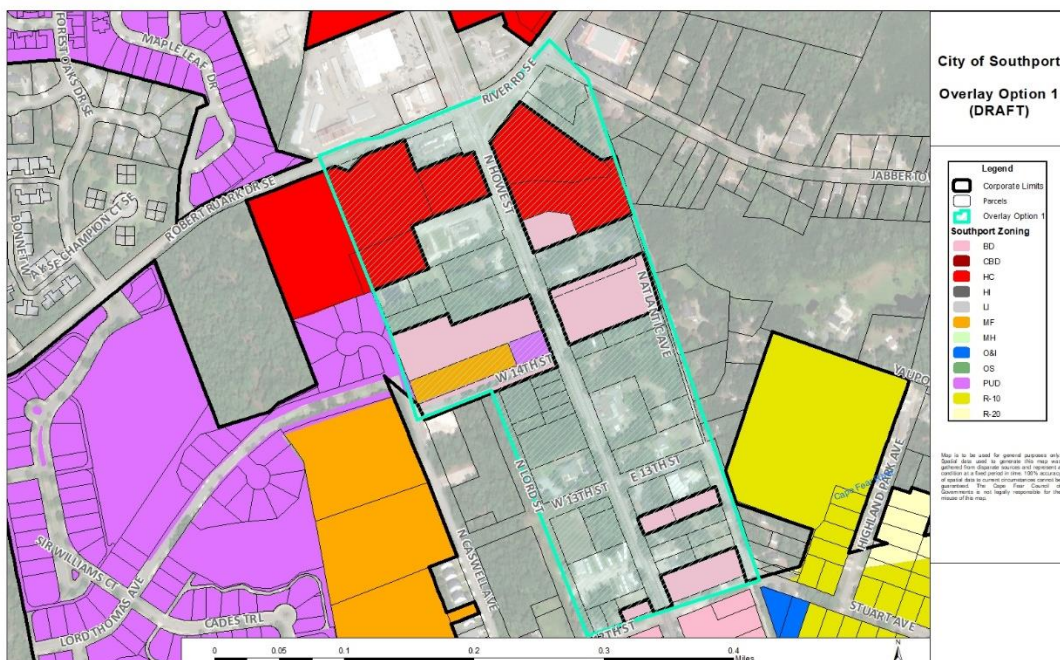
REQUESTED ACTION: Board Discussion and Direction for Staff

PROPOSED MOTION: N/A - Board decision and consensus on the direction for staff to move forward with the North Howe Corridor Overlay.

To: City of Southport, NC
From: Cape Fear Council of Governments: Wes MacLeod, AICP, ASLA
Date: February 3, 2025
Re: Overlay District Update

Given the recent removal of the City's Extra-territorial jurisdiction (ETJ) and subsequent relinquishment of planning and zoning authority within this area, the City has prepared a proposed overlay district to provide a more cohesive transition to the historic downtown area. As a result of the ETJ removal, Brunswick County zoning classifications have now replaced those of the City of Southport. In accordance with §160D-202 (h), when a relinquishment of jurisdiction occurs, County zoning districts must be applied no less than 60 days following such action. Accordingly, with such a short timeframe, it can be difficult to fully analyze and apply a zoning designation to complement the existing conditions and regulatory framework of the former jurisdiction. This proposed overlay district provisions attempt to provide some additional regulatory parameters that will complement the existing built form of the Howe Street corridor.

The overlay district boundary (shown below) encompasses the Howe Street corridor but terminates at the intersection of Robert Ruark Drive. This portion of the corridor has smaller lot sizes and a development pattern more accommodating to the pedestrian when compared to the built environment north of the Robert Ruark intersection.



City of Southport staff, the consultant, and Brunswick County staff met November 19th and January 30th to discuss the proposed overlay district. The purpose of each meeting was to seek additional feedback from Brunswick County staff regarding the preferred zoning amendment procedure, geographic location of the proposed overlay, and cursory recommendations on draft overlay provisions.

County staff noted the Planning Board's preference for no further standalone text amendment to be considered while the draft Unified Development Ordinance (UDO) is underway. Moreover, the recent enactment of SB 382 will require the consent of affected property owners' prior to enactment. As of the end of January 2025, efforts are underway to repeal the provisions of the new law that limit local government initiation of amendments that may be interpreted as a "down-zoning."

Timelines for potential adoption of the overlay provisions were discussed as part of the January 30th meeting with County staff.

Anticipated Timeline:

- April 2025: UDO draft available for public review.
- July 2025: UDO draft submitted to County Planning Board for review and recommendation.
- October to December 2025: UDO draft provided for review and adoption by the County Board of Commissioners.

A summary of the draft overlay provisions developed for potential incorporation into the County's UDO are provided below:

- Dimensional requirements to reflect those of the City of Southport. The former BD zoning district restricted building height to 30 feet and the HC district 40 feet. In addition, front and side setbacks were not required in the BD district. Height requirements based on County feedback are proposed for 50 feet.
- Prohibition of Outdoor Advertising Structures (billboards) and a freestanding sign height limit similar to that of Southport (10 feet).
- Requirement for residential uses to be incorporated into a mixed commercial-residential development along Howe Street to preserve commercial usage. Standalone residential development (single-family and multi-family) would be permissible along street frontages away from Howe Street.
- Enhanced building design standards.
- Reduced standards for off-street parking requirements to encourage redevelopment and changes of use, similar to Southport's existing regulations.
- Provisions for sidewalks where new construction occurs.

County staff provided input regarding height limitations, residential use restrictions, design standards and the Traffic Impact Analysis (TIA). Additionally, County staff requested provisions for reduced parking standards and sidewalks be included as part of the proposal. The proposed overlay district language has been revised based on feedback and discussion with County staff.

County feedback:

- Howe Street Overlay provisions are anticipated to be incorporated into County UDO.
- County staff does not support a separate, City-initiated, amendment based on feedback from the County Planning Board.
- County staff supports the potential for lower height limits, 50 to 60 feet, rather than 75 feet.
- County staff does not support building footprint limitations.

The draft overlay language is provided below. The proposed amendment is drafted for potential incorporation into the County's draft Unified Development Ordinance (UDO).

HWST: Howe Street Entryway Corridor Overlay

A. Purpose and Intent

1. The purpose of the ~~Southport~~ Howe Street Entryway Corridor Overlay district is to preserve the unique characteristics of the corridor by ensuring a seamless transition into the municipal zoning districts of the City. In doing so, utilizing similar development standards to encourage a cohesive built environment that will continue to attract and retain commercial activity.
2. The intent of the Entryway Corridor Overlay is to protect and enhance the historic character of the City of Southport.

B. Applicability

1. The following standards shall apply to all new construction development within the overlay district and shall also include expansion or modification of an existing Commercial or Office use that increases the total enclosed floor area by at least 50% or 5,000 square feet, whichever is greater. In addition to the standards contained in this Section, all other provisions in this Ordinance and all other applicable laws shall apply. In cases where there is a conflict between provisions found elsewhere in this Ordinance and the standards of this Section, this Section shall supersede unless otherwise noted.
2. The following uses shall be exempt from the requirements of this overlay district: communication towers, religious institutions, government buildings, and public structures.

C. Dimensional Standards.

1. The maximum height limit shall not exceed ~~40~~ 50 feet.
2. No front or side yards are required throughout the overlay district. Where any side yard is provided, though not required, the same shall be not less than four (4) feet.
3. The minimum rear setback shall be 10 feet throughout the SPT overlay district.

~~4. For lots one (1) acre or smaller, no structure shall have a building footprint area that exceeds 5,000 square feet.~~

D. Permitted Uses.

1. All uses shall be permitted in accord with the requirements of the underlying zoning district with the exception of residential uses which are further specified in the following section.

2. Residential Uses

- i Residential uses shall only be permitted as part of a commercial or office project where fronting on Howe Street. ~~The floor area devoted to the dwelling(s) shall not exceed twice the floor area devoted to any permitted nonresidential use(s) as part of a vertical mixed commercial residential project.~~
- ~~ii Each dwelling shall have a direct means of access to the exterior of the building so that no access to the dwelling is provided through the use located on the lower floor(s) of the commercial building.~~
- ii Dwellings may be located on the ground level or as standalone structures if situated entirely behind the principal structure, with the principal structure serving as the primary street frontage. Dwellings may be permitted as standalone structures when not fronting on Howe Street.
- iii Dwellings may be located on the upper floors of any vertical mixed commercial-residential building even if abutting a street lot line. Dwellings shall not be located on the first floor where abutting any a street lot line on Howe Street.
- ~~iv Proposed curb cuts and driveways for required off-street parking lots that eliminate existing on-street parking spaces shall replace the number of on-street parking spaces eliminated by said curb cut(s) and driveway(s) within the parking lot being created, in addition to the number of parking spaces otherwise required by this ordinance.~~

E. Parking Requirements.

1. For nonresidential uses, where on-street or public parking facilities are located within 500 linear feet of a proposed use, measured as a straight-line distance from the entrance of the building, the minimum off-street parking requirement may be reduced by 50%.

Minimum Off-Street Parking Requirements for Change of Use or Redevelopment in the Overlay District	
A change of use or redevelopment whereby the floor area of the building or parcel is not expanded by greater than 25%.	No parking required.
Change of use or redevelopment whereby the floor area of the building or parcel is expanded by greater than 25%.	Additional parking required shall be calculated based on the increase in square footage in floor area, above the 25% threshold, of the expanded building. All other applicable requirements of this section shall apply.
Change of use from a residential to nonresidential use.	50% of the required parking shall be provided. All other applicable requirements of this section shall apply.
Change of use from a nonresidential to residential use or the addition of residential uses.	Full compliance with residential off-street parking space minimum and all other requirements.

F. Sidewalk Requirements and Pedestrian Facilities

1. Sidewalks shall be required for all new multi-family developments and new construction nonresidential development of a principal use. Redevelopment or change of use of existing nonresidential or multi-family structures does not require the installation of sidewalks.
2. Sidewalks shall be installed within the right-of-way and connect to adjacent facilities where applicable. Where right-of-way widths adjacent to the edge of pavement are in excess of 10 feet, sidewalks shall be separated by a minimum three (3) foot landscaped strip adjacent to the edge of pavement.
3. In all cases, sidewalks shall extend to the property line.
4. Sidewalks shall be at least five (5) feet wide and constructed of concrete at least five (5) inches thick. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings or shall be adequately reinforced otherwise. All sidewalks must meet ADA requirements, including where necessary to serve required cluster mailbox locations within subdivisions or multi-family development.
5. Sidewalks built adjacent to an NCDOT road facility shall be built to meet NCDOT sidewalk standards.
- +6. Pedestrian walkways shall form an on-site circulation system that minimize conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall connect building entrances to one another and from building entrances to public sidewalk connections. Pedestrian walkways shall be provided to any pedestrian access point or any parking space that is more than 50 feet from the building entrance or principal on-site destination. All developments containing more than one (1) building shall provide walkways between the principal entrances of the buildings.

G. Design Standards.

1. ~~Single-family dwellings up to four-unit attached dwellings, shall be exempt from these requirements.~~
2. The primary entrance of the structure shall be ~~architecturally and~~ functionally designed on the front facade facing the primary street.
3. Except for corner lots, the front facade of the principal structure shall be parallel to the front lot line and street.
4. ~~Façade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors. Building trim may feature brighter colors as an accent material. The use of high-intensity, metallic, fluorescent, dayglow, or neon colors shall be prohibited.~~
5. ~~Ground-mounted mechanical equipment, solid waste storage, and recycling storage shall be located to the rear or side yard and screened from view of the street.~~
6. ~~Outparcels shall be designed and integrated with the main project or principal structure.~~
- 7.4. No portion of a building facing a front or side lot line, unless a zero lot line common wall, shall be constructed of unadorned (unfaced) concrete masonry units or corrugated and/or sheet metal.

~~8. No single facade extending unbroken more than 35 feet in a horizontal plane may be visible from a public roadway. Compliance may be obtained through one of the following:~~

~~i. The use of projections or recesses. When used, each projection or recess shall have a projection (or depth) dimension of no less than 18 inches and a width of no less than 36 inches; or~~

~~ii. The use of columns or other architectural detail to provide visual interest. Where used, columns should be harmonious with the general design of the structure.~~

H. Signage

1. Outdoor advertising structures shall be prohibited.
2. No freestanding sign shall exceed a height of 10 feet. All other sign requirements and sizing shall be in accordance with Section 8.2.

~~I. Traffic~~

- ~~1. A Traffic Impact Analysis (TIA) conducted in accord with Section 6.16 shall be required for all projects, which can be anticipated to generate at least 500 vehicle trips per day based on the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.~~

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 338
Mar 6, 2025
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10133-NNx-30

Short Title: City of Southport/Deannexations. (Local)

Sponsors: Representative Miller.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE
LIMITS OF THE CITY OF SOUTHPORT.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property, identified by Brunswick County
Tax Office Parcel Identification Number, is removed from the corporate limits of the City of
Southport:
220NA002; 220NA011; 220NA014; 220NA019; 220NA021; 220NA04401; 220NA053;
220NA082; 220NA101; 220NA104; and 220NA110.

SECTION 2. This act has no effect upon the validity of any liens of the City of
Southport for ad valorem taxes or special assessments outstanding before the effective date of
this act. Such liens may be collected or foreclosed upon after the effective date of this act as
though the property were still within the corporate limits of the City of Southport.

SECTION 3. This act becomes effective June 30, 2025. Property in the territory
described in Section 1 of this act as of January 1, 2025, is no longer subject to municipal taxes
for taxes imposed for taxable years beginning on or after July 1, 2025.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 337
Mar 6, 2025
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40207-NNx-15

Short Title: City of Southport/Deannexations. (Local)

Sponsors: Representative Miller.

Referred to:

A BILL TO BE ENTITLED
AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE
LIMITS OF THE CITY OF SOUTHPORT.

The General Assembly of North Carolina enacts:

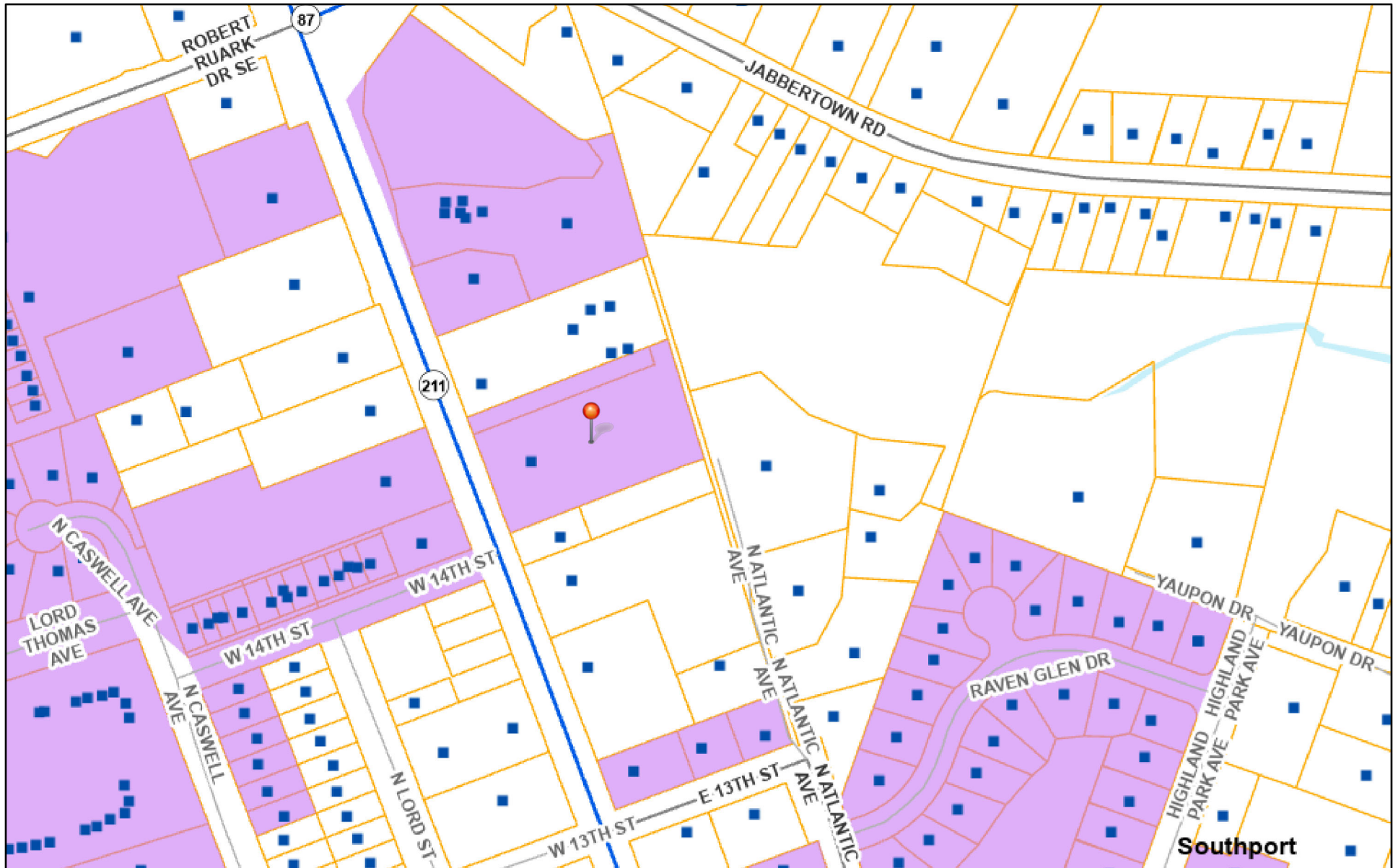
SECTION 1. The following described property, identified by Brunswick County
Tax Office Parcel Identification Number, is removed from the corporate limits of the City of
Southport:

221MB015, 221MB020, and 221MB02001.

SECTION 2. This act has no effect upon the validity of any liens of the City of
Southport for ad valorem taxes or special assessments outstanding before the effective date of
this act. Such liens may be collected or foreclosed upon after the effective date of this act as
though the property were still within the corporate limits of the City of Southport.

SECTION 3. This act becomes effective June 30, 2025. Property in the territory
described in Section 1 of this act as of January 1, 2025, is no longer subject to municipal taxes
for taxes imposed for taxable years beginning on or after July 1, 2025.





3/7/2025, 5:23:52 PM



Address & Parcel



Addresses

Roads

NC Hwy

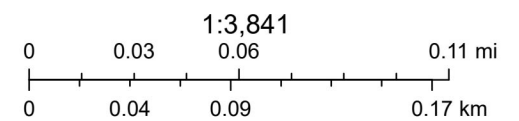
State Road

Minor
Municipalities

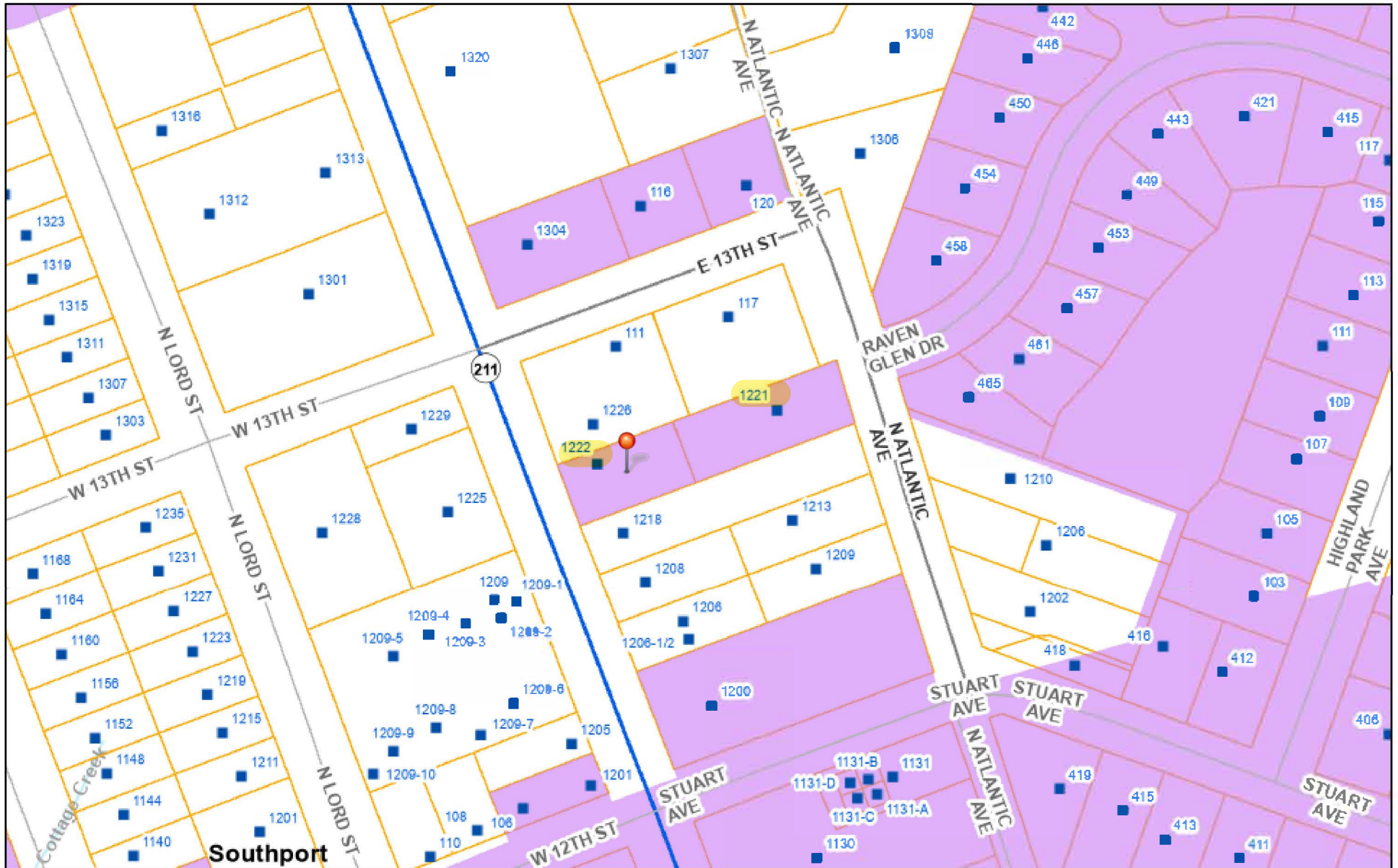
Southport City

Parcels

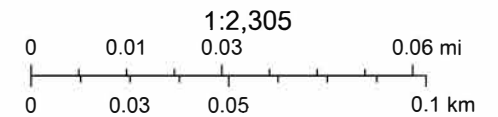
County Boundary

Water Bodies
County

ArcGIS Web Map



3/7/2025, 5:27:32 PM



City of Southport ABC Board Minutes

Date: Jan 8th 2024, Minutes taken by: Harold Todd Dunn

Location: Southport ABC Store

Quorum determined: Meeting called to order by Chairman Davis at: Noon

No Conflict of interest

In Attendance: Board Chairman- William Davis, Board Members – Zach Zuehlke , Adam Steadman, Jim Poppe GM – Harold Todd Dunn , Assistant Manager – Nadine Del Pezzo ABC Liaison - Absent: None

Open Comment and Discussion – None

Approval of 12/11/24 Minutes: Minutes amended, approved by Zach and seconded by Jim

1. Old Business

- A. Delivery Update
- B. Discussed new hires
- C. Discussed wall repair- Will get another quote to compare

2. New Business

- A. Presented memo about SPA Changes and Discussed

3. Business Reports

Presented Monthly Sales Report

4. Employee Issues.

No Employee Issues

Adjourned: Motion was made and seconded to adjourn the meeting

Next Regular meeting: Feb 12th 2025 at 2pm at Southport ABC Store

APPROVED BY AND DATE

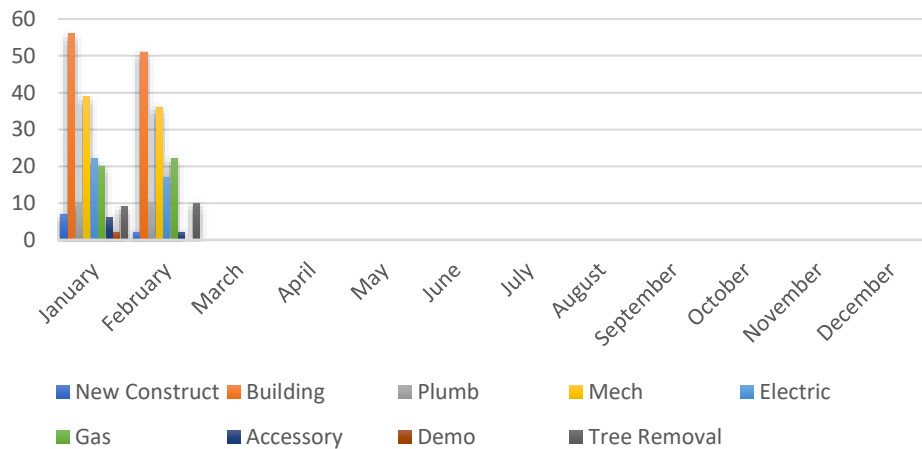
February 2025 SALES DATA COMPARISON AND SAVINGS

SALES TYPE	2024 Sales	2025 Sales	DIFFERENCE	% CHANGE
RETAIL	\$ 318,820.75	\$ 295,188.55	\$ (23,632.20)	-7.41
MXB SALES	\$ 88,820.45	\$ 77,369.20	\$ (11,451.25)	-12.89
TOTAL	\$ 407,641.20	\$ 372,557.75	\$ (35,083.45)	-8.61
Customers	7722	7287	-435	-5.63
Bottles Sold	20,936	20,703	(233)	-1.11
PAYROLL EXPENSES	\$ -	\$ -	0	#DIV/0!
Credit Cards	\$ -	\$ 271,019.92		
TOTAL SALES INC. TAX	\$ -	\$ 314,439.26		
	2019 Sales	2025 Sales	Difference	
Retail 2019	\$ 193,868.05	\$ 295,188.55	101,320.50	52.26
MXB 2019	\$ 37,163.82	\$ 77,369.20	40,205.38	108.18
	\$ 231,031.87	\$ 372,557.75	141,525.88	61.26
SALES TYPE	2020 SALES	2025 Sales	DIFFERENCE	% CHANGE
RETAIL	\$ 221,524.55	\$ 295,188.55	\$ 73,664.00	33.25
MXB SALES	\$ 42,732.00	\$ 77,369.20	\$ 34,637.20	81.06
TOTAL	\$ 264,256.55	\$ 372,557.75	\$ 108,301.20	40.98
SALES TYPE	2021 Sales	2025 Sales	DIFFERENCE	% CHANGE
RETAIL	\$ 267,350.50	\$ 295,188.55	\$ 27,838.05	10.41
MXB SALES	\$ 39,163.81	\$ 77,369.20	\$ 38,205.39	97.55
TOTAL	\$ 306,514.31	\$ 372,557.75	\$ 66,043.44	21.55
SALES TYPE	2022 Sales	2025 Sales	DIFFERENCE	% CHANGE
RETAIL	\$ 297,268.10	\$ 295,188.55	\$ (2,079.55)	-0.70
MXB SALES	\$ 71,613.68	\$ 77,369.20	\$ 5,755.52	8.04
TOTAL	\$ 368,881.78	\$ 372,557.75	\$ 3,675.97	1.00
SALES TYPE	2023 Sales	2025 Sales	DIFFERENCE	% CHANGE
RETAIL	\$ 315,598.90	\$ 295,188.55	\$ (20,410.35)	-6.47
MXB SALES	\$ 71,172.36	\$ 77,369.20	\$ 6,196.84	8.71
TOTAL	\$ 386,771.26	\$ 372,557.75	\$ (14,213.51)	-3.67

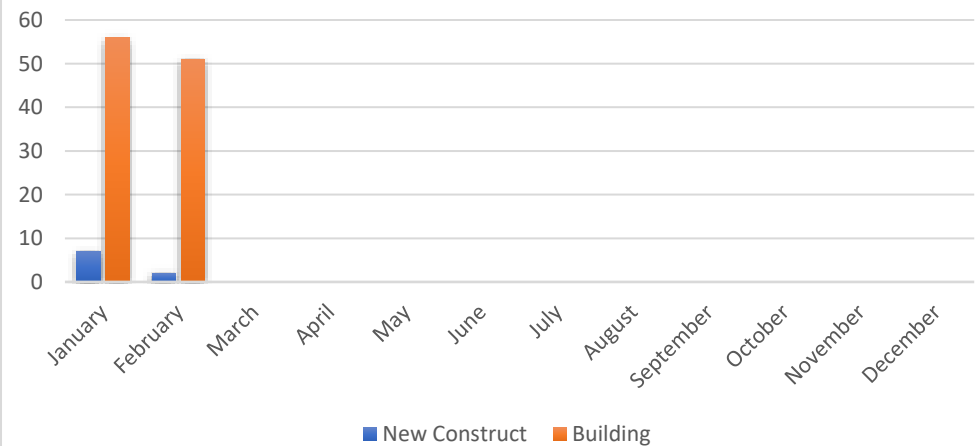
Permits and Inspections 2025

Month	New Construct	Building	Plumb	Mech	Electric	Gas	Accessory	Demo	Tree Removal	Inspections	Permits Issued
January	7	56	10	39	22	20	6	2	9	393	178
February	2	51	10	36	17	22	2	0	10	389	186
March											
April											
May											
June											
July											
August											
September											
October											
November											
December											

Permit Types Issued by Month



Building Permits and New Construction



JANUARY	Request Date	Description	Status	Assigned To	Location	Actual Completion Date
22298	12/30/2024	PUT MESSAGE BOARD BACK ON MOORE ST TO DETER ILLEGAL 18-WHEELER TRAFFIC	Complete	Mike Spicer	Streets	12/30/2024
22299	12/30/2024	215 N CASWELL STORM DRAIN IS CLOGGED, TOM SAYS IT IS THE DRAIN THAT GOES NO WHERE.	Complete	Mike Spicer	Streets	12/31/2024
22300	12/30/2024	FOUNTAIN IN GYM IS LEAKING	Complete	Jeremy Kennedy	Parks and Rec Building	12/30/2024
22301	12/31/2024	PLEASE CLEAN THE STORM DRAIN IN FRONT OF BOB'S STORE	Complete	Mike Spicer	Streets	12/31/2024
22302	1/3/2025	DAMAGED GARAGE DOOR, HAMMERED TOP SECTION FRAME AND WHEEL MOUNT ON BOTH SIDES. DRILL AND RE-ATTACH WITH EW SCREWS.	Complete	Jeremy Kennedy	Public Services	1/3/2025
22303	1/2/2025	CLOSER ON WOMENS BATHROOM DOOR IS LEAKING FLUID	Complete	Jeremy Kennedy	Community Building	1/2/2025
22304	1/7/2025	WOMENS HANDICAP TOILET AT GARRISON ISN'T FLUSHING	Complete	Jeremy Kennedy	Fort Johnston	1/3/2025
22305	1/7/2025	AFTER HOURS: PULL TRASH CANS BACK FROM STREET. KR	Complete	Mike Spicer	Public Services	12/24/2024
22306	12/25/2024	HOLIDAY HOURS - BATHROOM AND TRASH DUTY	Complete	Mike Spicer	Downtown	12/26/2024
22307	12/25/2024	HOLIDAY - BATHROOM AND TRASH DUTY	Complete	Mike Spicer	Downtown	12/25/2024
22308	12/25/2024	HOLIDAY COVERAGE - EMPTY TRASH AND OPEN PUBLIC RESTROOMS	Complete	Mike Spicer	Downtown	
22309	1/14/2025	LOCK ON WOMENS SINK IN BATHROOM AT CITY GYM	Complete	Jeremy Kennedy	City Gym	1/14/2025

FEBRUARY WO'S	BLDG.	WORK ORDER DESCRIPTION	Status	Assigned To	Actual Completion Date
	STREETS	N LORD & FIRE DEPT; LOCATE UTILITIES FOR STORM DRAIN PROJECT	Complete	Mike Spicer & Crew	1/6/2025
	STREETS	RIVERMIST; CLEAN DRAIN BASINS IN RIVERMIST	Complete	Mike Spicer & Crew	1/6/2025
	STREETS	FIRE DEPT; INSTALL NEW SOTRMDRAIN FROM FIRE DEPT TO W 11TH ST	Complete	Mike Spicer & Crew	1/7/2025 TO 1/31/25
	STREETS	W ST GEORGE/CASWELL; FIX SWELL SO WATER WILL DRAIN PROPERLY - RE-SEED	Complete	Mike Spicer & Crew	1/7/2025
	STREETS	FIRE DEPT/W LORD; FIX CATCH BASIN AT FIRE DEPT, REBUILD BOX.	Complete	Mike Spicer & Crew	1/27/2025
	STREETS	N LORD & FIRE DEPT; CLEAN UP AREA FROM STORM DRAIN INSTALLATION	Complete	Mike Spicer & Crew	1/30/2025
	PW	ICE MACHINE IN GARAGE IS BROKEN, MOUNTED SHIELD BACK ON WITH SCREWS/NUTS INSTEAD OF RIVETS.	Complete	Jeremy Kennedy	2/1/2025
	COMMUNITY BLDG	HANG WEDDING BANNER ON COMMUNITY BLDG DECK WATER SIDE.	Complete	Jeremy Kennedy	2/2/2025
	STREETS	N LORD; DUG OUT SIDEWALK TO REFORM	Complete	Mike Spicer & Crew	2/3/2025
	JAIL ANNEX	PLEASE GRAB THE 15 DEBRIS BAGS IN FRONT OF THE FENCE	Complete	David Kelly	2/3/2025
	STREETS	N LORD @ W 11TH; REPAIRE TURN RADIUS AT LORD/11TH	Complete	Mike Spicer & Crew	2/4/2025
	STREETS	N LORD @ W 11TH; POUR CONCRETE FOR SIDEWALK REPLACEMENT	Complete	Mike Spicer & Crew	2/4/2025

CITY HALL	PLEASE MOVE BROWN EXECUTIVE DESK INTO PATTI'S OLD OFFICE	Complete	Jeremy Kennedy	2/4/2025
P&R	LADIES RESTROOM AT 209 N ATLANTIC IS STOPPED UP - SNAKED OUT LINES, HEAVY BLOCKAGE.	Complete	Jeremy Kennedy	2/4/2025
STREETS	N LORD; FIX ASPHALT CUT	Complete	Mike Spicer & Crew	2/5/2025
STREETS	N LORD; REPATCH CUTS FROM STORM DRAIN INSTALLATION	Complete	Mike Spicer & Crew	2/5/2025
STREETS	702 ATLANTIC; FIX RIGHT OF WAY STORM DRAIN GRATE; SEED AREA	Complete	Mike Spicer & Crew	2/6/2025
POLICE	MOVE CAMERAS FROM INSIDE CITY HALL TO COVER THE AREA OF CONEX BOXES OUT BACK.	Complete	Jeremy Kennedy	2/6/2025
STREETS	HOLES FORMING AROUND STORM DRAIN AT 702 N ATLANTIC DUE TO WASH OUT. RE-GRADED/SEED	Complete	Mike Spicer & Crew	2/7/2025
VARIOUS BLDGS	CHANGING AIR FILTERS THROUGHOUT THE CITY	Complete	Al Cochran	2/7/2025
STREETS	6217 NAVIGATOR WAY SINK HOLES, MILLED OUT AND PAVED	Complete	Mike Spicer & Crew	2/7/2025
STREETS	DALE/STUART; REPLACE STORM DRAIN ACCESS; TORE OUT OLD BOX INSTALLED NEW ONE	Complete	Mike Spicer & Crew	2/10/2025
STREETS	INSTALL NEW CATCH BASIN FOR 24" HDPE PIPE	Complete	Mike Spicer & Crew	2/11/2025
PW	ICE MACHINE AT SHOP NEEDS CLEANING, DISASSEMBLED, SCRUBBED AND CLEANED PARTS.	Complete	Jeremy Kennedy	2/12/2025
GARRISON	WOMENS TOILET, HANDICAP STALL IS RUNNING. ADJUSTED VALVE.	Complete	Jeremy Kennedy	2/12/2025
STREETS	INSTALL 30" HDPC PIPE ACROSS RD @ DALE & PARK EXT	Complete	Mike Spicer & Crew	2/12/2025

STREETS	INSTALL 4X4 CATCH BASIN ON DALE ST FOR 30" ACROSS ROAD.	Complete	Mike Spicer & Crew	2/12/2025
STREETS	REPLACE SECTION OF 18' GALVINIZED PIPE ADD BOX	Complete	Mike Spicer & Crew	2/13/2024
COMMUNITY BLDG	LIGHTS OUT ON PORCH, REPLACED 4 BULBS, CLEANED HOUSINGS	Complete	Jeremy Kennedy	2/13/2025
P&R	REPLACE A BULB IN THE CITY GYM	Complete	Jeremy Kennedy	2/17/2025
STREETS	DALE/PARK AVE EXT; REMOVE TREE OFF STORM DRAIN FOR REPAIR	Complete	Mike Spicer & Crew	2/17/2025
STREETS	FIXED STORM DRAIN AT PARK AVE EXT WITH 18' GALVINZIED PIPE	Complete	Mike Spicer & Crew	2/17/2025
STREETS	2 SINKHOLES ON BEECH RD IN NORTHWOOD CEMETERY	Complete	Mike Spicer & Crew	2/18/2025
STREETS	DALE ST; CONCRETE AROUND PIPES IN CATCH BASIN	Complete	Mike Spicer & Crew	2/18/2025
CITY HALL	RE-PROGRAM LOCKS AT CITY HALL UPSTAIRS	Complete	Jeremy Kennedy	2/18/2025
CITY HALL	RE-PROGRAM LOCKS AT CITY HALL UPSTAIRS	Complete	Jeremy Kennedy	2/18/2025
CITY HALL	INSTALL NEW PROGRAMMABLE LOCK ON NEW MNAGERS DOOR	Complete	Jeremy Kennedy	2/18/2025
CITY GYM	DOOR TO MENS STALL WILL NOT OPEN. DOOR WAS KICKED IN.	Complete	Jeremy Kennedy	2/18/2025
GARRISON	FRONT DOOR HANDLE AT GARRISON NEEDS FIXED	Complete	Jeremy Kennedy	2/19/2025
CITY HALL	REPLACED CODED DOOR KNOB ON ADMIN SIDE ENTRANCE	Complete	Jeremy Kennedy	2/19/2025

CITY HALL	A DESK AT CITY HALL IS COMING OFF THE WALL, FIXED BRACKETS	Complete	Jeremy Kennedy	2/19/2025
GARRISON	NEW "NO PARKING" SIGN IS IN FOR GARRISON	Complete	Jeremy Kennedy	2/20/2025
COMMUNITY BLDG	TAKE DOWN BANNER ON DECK	Complete	Jeremy Kennedy	2/20/2025
PW	HUNG A SHELF AT PW ADMIN OFFICE	Complete	Jeremy Kennedy	2/19/2025
COMMUNITY BLDG	HYDRAULIC DOOR CLOSING MECHANISIM IS BROKEN	Complete	Jeremy Kennedy	2/24/2025
GARRISON	WOMENS RESTROOM TOILET IS LEAKING, REPLACED FITTING	Complete	Jeremy Kennedy	2/24/2025
CITY HALL	RESTROOM AT CITY HALL IS BUBBLING, MAJOR BLOCKAGE IN SEWER LINES. JET CLEAN OUT.	Complete	Jeremy Kennedy	2/21/2025
COMMUNITY BLDG	REPLACED 5 LIGHT BULBS AND ONE V BULB	Complete	Jeremy Kennedy	2/25/2025
CITY HALL	ANOTHER TOILET ISSUE, FIXED	Complete	Jeremy Kennedy	2/25/2025
STREETS	309 CLARENTON AVE, FIXED POT HOLE	Complete	Mike Spicer & Crew	2/26/2025
STREETS	411 N LORD ST, FIXED POT HOLE	Complete	Mike Spicer & Crew	2/26/2025
STREETS	HOLLY DRIVE, ASPHALT REPAIR PATCHES	Complete	Mike Spicer & Crew	2/19/2025
STREETS	FROM HOWE TO LEONARD ST REPAIR ASPHALT SPOTS	Complete	Mike Spicer & Crew	2/25/2025

STREETS	YOU PON DR, PATCH BROKEN AREAS	Complete	Mike Spicer & Crew	2/26/2025
COMMUNITY BLDG	2 WINDOWS HAVE ROT AND NEED REPLACED. REMOVED AND REPLACED.	Complete	Jeremy Kennedy	2/26/2025
GARRISON	SMALL STALL WOMENS RESTROOM DOOR WON'T LATCH	Complete	Jeremy Kennedy	2/27/2025

MARCH	Request Date	Description	Status	Assigned To	Location
	1/22/2025	PUT MESSAGE BOARD BACK ON MOORE ST TO DETER ILLEGAL 18-WHEELER TRAFFIC	Complete	Mike Spicer	Streets

**Actual
Completion
Date**

12/30/2024

**COLLECTIONS MONTHLY TOTALS REPORT
BRUNSWICK COUNTY
2025 02 February MonthEnd Run Date: Mar 1 2025 12:34PM**

CI21ADVL TAX - SOUTHPORT MOTOR VEHICLE TAX REPORT

TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2010	\$39,986.22		\$0.00	\$39,986.22	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2011	\$56,588.70		\$0.00	\$56,588.70	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2012	\$66,577.93		\$135.31	\$66,713.24	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2013	\$39,000.09		\$281.30	\$39,281.39	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2014	\$0.00		\$199.02	\$199.02	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2015	\$0.00		\$339.73	\$339.73	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2016	\$0.00		\$115.42	\$115.42	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2022	\$0.00		\$33.23	\$33.23	\$0.00	\$0.00	\$0.00	\$0.00	100.00
TOTAL	\$202,152.94		\$1,104.01	\$203,256.95	\$0.00	\$0.00	\$0.00	\$0.00	100.00
TOTAL INTEREST COLLECTED									

CI21ADVL TAX - SOUTHPORT PROPERTY TAX REPORT

TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2011	\$1,774,724.46	\$853.88	\$0.00	\$1,775,578.34	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2012	\$1,688,037.74	\$1,118.81	\$5,634.34	\$1,694,790.89	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2013	\$1,696,968.97	\$663.08	\$5,642.58	\$1,703,274.63	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2014	\$1,741,170.53	\$974.86	\$15,048.68	\$1,757,194.07	\$0.00	\$0.00	\$0.00	\$1,411.16	99.92
2015	\$1,725,593.21	\$1,606.70	\$8,008.53	\$1,735,208.44	\$0.00	\$0.00	\$0.00	\$801.90	99.95
2016	\$1,820,832.09	\$2,730.04	\$18,965.09	\$1,842,527.22	\$0.00	\$0.00	\$0.00	\$1,002.71	99.95
2017	\$2,319,187.36	\$2,803.03	\$11,820.85	\$2,333,811.24	\$0.00	\$0.00	\$0.00	\$1,424.97	99.94
2018	\$2,360,474.90	\$1,746.79	\$1,906.02	\$2,364,127.71	\$0.00	\$0.00	\$0.00	\$884.80	99.96
2019	\$2,902,214.84	\$2,330.39	\$4,575.41	\$2,909,120.64	\$0.00	\$0.00	\$0.00	\$1,973.06	99.93
2020	\$3,013,421.42	\$5,692.80	\$22,461.51	\$3,041,575.73	\$0.00	\$0.00	\$0.00	\$1,205.36	99.96
2021	\$3,103,177.33	\$3,492.77	\$23,431.70	\$3,130,101.80	\$0.00	\$0.00	\$0.00	\$1,910.91	99.94
2022	\$4,265,852.43	\$6,274.90	\$49,272.76	\$4,321,400.09	\$0.00	\$0.00	\$0.00	\$4,830.90	99.89
2023	\$4,195,158.38	\$4,289.27	\$22,607.57	\$4,222,055.22	\$0.00	\$0.00	\$0.00	\$11,015.26	99.74
2024	\$4,946,760.43	\$6,648.42	\$6,774.85	\$4,960,183.70	\$0.00	\$0.00	\$0.00	\$189,472.89	96.18
TOTAL	\$37,553,574.09	\$41,225.74	\$196,149.89	\$37,790,949.72	\$0.00	\$0.00	\$0.00	\$215,933.92	99.43
TOTAL INTEREST COLLECTED									
GRAND TOTAL	\$37,755,727.03	\$41,225.74	\$197,253.90	\$37,994,206.67	\$0.00	\$0.00	\$0.00	\$215,933.92	99.43
GRAND TOTAL INTEREST COLLECTED									

**COLLECTIONS MONTHLY TOTALS REPORT
BRUNSWICK COUNTY
2025 02 February MonthEnd Run Date: Mar 1 2025 12:34PM**

FR14FFEEFEE - SOUTHPORT FIRE PROPERTY TAX REPORT

TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2010	\$617,230.00		\$0.00	\$617,230.00	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2011	\$624,470.00		\$0.00	\$624,470.00	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2012	\$630,950.00		\$290.00	\$631,240.00	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2013	\$639,550.00		\$0.00	\$639,550.00	\$0.00	\$0.00	\$0.00	\$0.00	100.00
2014	\$652,650.00		\$0.00	\$652,650.00	\$0.00	\$0.00	\$0.00	\$90.00	99.99
2015	\$674,560.00		\$0.00	\$674,560.00	\$0.00	\$0.00	\$0.00	\$100.00	99.99
2016	\$702,680.00		\$0.00	\$702,680.00	\$0.00	\$0.00	\$0.00	\$100.00	99.99
2017	\$897,246.88		\$290.00	\$897,536.88	\$0.00	\$0.00	\$0.00	\$137.50	99.98
2018	\$1,006,111.57		\$0.00	\$1,006,111.57	\$0.00	\$0.00	\$0.00	\$279.04	99.97
2019	\$1,027,492.82		\$0.00	\$1,027,492.82	\$0.00	\$0.00	\$0.00	\$426.25	99.96
2020	\$1,059,241.57		\$55.00	\$1,059,296.57	\$0.00	\$0.00	\$0.00	\$481.09	99.95
2021	\$1,082,561.57		\$0.00	\$1,082,561.57	\$0.00	\$0.00	\$0.00	\$920.66	99.91
2022	\$1,602,106.25		\$420.00	\$1,602,526.25	\$0.00	\$0.00	\$0.00	\$2,578.89	99.84
2023	\$1,645,695.00		\$0.00	\$1,645,695.00	\$0.00	\$0.00	\$0.00	\$9,661.46	99.41
2024	\$1,696,555.00		\$0.00	\$1,696,555.00	\$0.00	\$0.00	\$0.00	\$90,933.19	94.64
TOTAL	\$14,559,100.66		\$1,055.00	\$14,560,155.66	\$0.00	\$0.00	\$0.00	\$105,708.08	99.27
TOTAL INTEREST COLLECTED									
GRAND TOTAL	\$14,559,100.66		\$1,055.00	\$14,560,155.66	\$0.00	\$0.00	\$0.00	\$105,708.08	99.27
GRAND TOTAL INTEREST COLLECTED									

CI21LIENFEE - CI21LIENFEE SOUTHPORT PROPERTY TAX REPORT									
TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2020	\$0.00		\$1,750.00	\$1,750.00	\$0.00	\$0.00	\$0.00	\$0.00	100.00
TOTAL	\$0.00		\$1,750.00	\$1,750.00	\$0.00	\$0.00	\$0.00	\$0.00	100.00
TOTAL INTEREST COLLECTED									
GRAND TOTAL	\$0.00		\$1,750.00	\$1,750.00	\$0.00	\$0.00	\$0.00	\$0.00	100.00
GRAND TOTAL INTEREST COLLECTED									

**COLLECTIONS MONTHLY TOTALS REPORT
BRUNSWICK COUNTY
2025 02 February YTDMonthEnd Run Date: Mar 1 2025 5:07PM**

CI21ADVL TAX - SOUTHPORT MOTOR VEHICLE TAX REPORT

TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2010	\$39,986.22		\$0.00	\$39,986.22	\$359.75	\$801.93	\$38,824.54	\$0.00	100.00
2011	\$56,588.70		\$0.00	\$56,588.70	\$1,100.98	\$1,089.50	\$54,398.22	\$0.00	100.00
2012	\$66,577.93		\$135.31	\$66,713.24	\$1,307.35	\$1,104.48	\$64,301.41	\$0.00	100.00
2013	\$39,000.09		\$281.30	\$39,281.39	\$627.45	\$833.06	\$37,820.88	\$0.00	100.00
2014	\$0.00		\$199.02	\$199.02	\$0.00	\$51.44	\$147.58	\$0.00	100.00
2015	\$0.00		\$339.73	\$339.73	\$0.00	\$0.00	\$339.73	\$0.00	100.00
2016	\$0.00		\$115.42	\$115.42	\$0.00	\$0.00	\$115.42	\$0.00	100.00
2022	\$0.00		\$33.23	\$33.23	\$0.00	\$0.00	\$33.23	\$0.00	100.00
TOTAL	\$202,152.94		\$1,104.01	\$203,256.95	\$3,395.53	\$3,880.41	\$195,981.01	\$0.00	100.00
TOTAL INTEREST COLLECTED				\$7,214.97					

CI21ADVL TAX - SOUTHPORT PROPERTY TAX REPORT

TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2011	\$1,774,724.46	\$853.88	\$0.00	\$1,775,578.34	\$130,557.11	\$1,984.77	\$1,643,036.46	\$0.00	100.00
2012	\$1,688,037.74	\$1,118.81	\$5,634.34	\$1,694,790.89	\$11,714.66	\$1,873.28	\$1,681,202.95	\$0.00	100.00
2013	\$1,696,968.97	\$663.08	\$5,642.58	\$1,703,274.63	\$7,143.40	\$1,942.16	\$1,694,189.07	\$0.00	100.00
2014	\$1,741,170.53	\$974.86	\$15,048.68	\$1,757,194.07	\$4,226.49	\$221.85	\$1,751,334.57	\$1,411.16	99.92
2015	\$1,725,593.21	\$1,606.70	\$8,008.53	\$1,735,208.44	\$4,672.15	\$281.93	\$1,729,452.46	\$801.90	99.95
2016	\$1,820,832.09	\$2,730.04	\$18,965.09	\$1,842,527.22	\$1,005.08	\$473.94	\$1,840,045.49	\$1,002.71	99.95
2017	\$2,319,187.36	\$2,803.03	\$11,820.85	\$2,333,811.24	\$2,076.09	\$1,510.18	\$2,328,800.00	\$1,424.97	99.94
2018	\$2,360,474.90	\$1,746.79	\$1,906.02	\$2,364,127.71	\$2,584.47	\$58.38	\$2,360,619.57	\$865.29	99.96
2019	\$2,902,214.84	\$2,330.39	\$4,575.41	\$2,909,120.64	\$3,807.39	\$56.84	\$2,903,283.35	\$1,973.06	99.93
2020	\$3,013,421.42	\$5,692.80	\$22,461.51	\$3,041,575.73	\$5,061.49	\$47.85	\$3,035,265.31	\$1,201.08	99.96
2021	\$3,103,177.33	\$3,492.77	\$23,431.70	\$3,130,101.80	\$3,144.38	\$60.66	\$3,125,174.15	\$1,722.61	99.94
2022	\$4,265,852.43	\$6,274.90	\$49,272.76	\$4,321,400.09	\$3,218.49	\$44.48	\$4,313,745.90	\$4,391.22	99.90
2023	\$4,195,158.38	\$4,289.27	\$22,607.57	\$4,222,055.22	\$909.41	\$90.16	\$4,211,281.85	\$9,773.80	99.77
2024	\$4,946,760.43	\$6,648.42	\$6,774.85	\$4,960,183.70	\$799.84	\$70.14	\$4,845,019.99	\$114,293.73	97.70
2025	\$0.00	\$44.50	\$397.79	\$442.29	\$0.00	\$0.00	\$442.29	\$0.00	100.00
TOTAL	\$37,553,574.09	\$41,270.24	\$196,547.68	\$37,791,392.01	\$180,920.45	\$8,716.62	\$37,462,893.41	\$138,861.53	99.63
TOTAL INTEREST COLLECTED				\$171,415.43					
GRAND TOTAL	\$37,755,727.03	\$41,270.24	\$197,651.69	\$37,994,648.96	\$184,315.98	\$12,597.03	\$37,658,874.42	\$138,861.53	99.63
GRAND TOTAL INTEREST COLLECTED				\$178,630.40					

COLLECTIONS MONTHLY TOTALS REPORT
BRUNSWICK COUNTY
2025 02 February YTDMonthEnd Run Date: Mar 1 2025 5:07PM

FR14FFEEFEE - SOUTHPORT FIRE PROPERTY TAX REPORT									
TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2010	\$617,230.00		\$0.00	\$617,230.00	\$910.00	\$338.88	\$615,981.12	\$0.00	100.00
2011	\$624,470.00		\$0.00	\$624,470.00	\$720.00	\$130.85	\$623,619.15	\$0.00	100.00
2012	\$630,950.00		\$290.00	\$631,240.00	\$120.00	\$100.00	\$631,020.00	\$0.00	100.00
2013	\$639,550.00		\$0.00	\$639,550.00	\$210.00	\$110.00	\$639,230.00	\$0.00	100.00
2014	\$652,650.00		\$0.00	\$652,650.00	\$210.00	\$0.00	\$652,350.00	\$90.00	99.99
2015	\$674,560.00		\$0.00	\$674,560.00	\$160.00	\$0.00	\$674,300.00	\$100.00	99.99
2016	\$702,680.00		\$0.00	\$702,680.00	\$110.00	\$0.00	\$702,470.00	\$100.00	99.99
2017	\$897,246.88		\$290.00	\$897,536.88	\$137.50	\$0.00	\$897,261.88	\$137.50	99.98
2018	\$1,006,111.57		\$0.00	\$1,006,111.57	\$27.50	\$0.08	\$1,005,804.95	\$279.04	99.97
2019	\$1,027,492.82		\$0.00	\$1,027,492.82	\$192.50	\$0.00	\$1,026,874.07	\$426.25	99.96
2020	\$1,059,241.57		\$55.00	\$1,059,296.57	\$0.00	\$0.00	\$1,058,815.48	\$481.09	99.95
2021	\$1,082,561.57		\$0.00	\$1,082,561.57	\$123.75	\$0.00	\$1,081,517.16	\$920.66	99.91
2022	\$1,602,106.25		\$420.00	\$1,602,526.25	\$1,162.50	\$0.00	\$1,598,963.29	\$2,400.46	99.85
2023	\$1,645,695.00		\$0.00	\$1,645,695.00	\$8,000.00	\$40.00	\$1,629,299.90	\$8,355.10	99.49
2024	\$1,696,555.00		\$0.00	\$1,696,555.00	\$0.00	\$0.44	\$1,641,265.86	\$55,288.70	96.74
TOTAL	\$14,559,100.66		\$1,055.00	\$14,560,155.66	\$12,083.75	\$720.25	\$14,478,772.86	\$68,578.80	99.53
TOTAL INTEREST COLLECTED									
GRAND TOTAL	\$14,559,100.66		\$1,055.00	\$14,560,155.66	\$12,083.75	\$720.25	\$14,478,772.86	\$68,578.80	99.53
GRAND TOTAL INTEREST COLLECTED									

CI21LIENFEE - CI21LIENFEE SOUTHPORT PROPERTY TAX REPORT									
TAX YEAR	ORIGINAL LEVY	+LATE LIST	+DISCOVERIES	=CURRENT LEVY	-RELEASES	-WRITE-OFFS	-PRINCIPAL	=BALANCE	% COLL
2020	\$0.00		\$1,750.00	\$1,750.00	\$0.00	\$0.00	\$1,750.00	\$0.00	100.00
TOTAL	\$0.00		\$1,750.00	\$1,750.00	\$0.00	\$0.00	\$1,750.00	\$0.00	100.00
TOTAL INTEREST COLLECTED									
GRAND TOTAL	\$0.00		\$1,750.00	\$1,750.00	\$0.00	\$0.00	\$1,750.00	\$0.00	100.00
GRAND TOTAL INTEREST COLLECTED									



Development Services Highlights – March 2025

Planning Board: The Southport Planning Board met for their regularly scheduled meeting on February 20, 2025.

Items covered included:

- Major Site Plan – application for 101 E Moore Street was conditionally approved, deed restrictions will be recorded to ensure parking on the adjacent lot remains with the approved dwelling units in perpetuity.
- Staff initiated zoning text amendment for special events was sent to the Board of Aldermen with a recommendation of Approval.
- A Unified Development Ordinance (UDO) review committee was formed. The first meeting of the committee was held on Thursday, March 6 to review Board of Aldermen and Staff recommendations from June 2024 and outline other areas of the UDO that are ripe for updates.

The next meeting of the Planning Board is scheduled for March 20, 2025. No new development applications are scheduled for the Planning Board's agenda. To date, the agenda will include staff initiated text amendments for updates to the UDO for 1) consistency with State Statutes and 2) an amendment to the stormwater ordinance, and Old City Hall/Courthouse Discussion and Recommendation.

Zoning Board of Adjustment: The Board of Adjustment met for their regularly scheduled meeting on February 25, 2025. Items covered included:

- Appeal of Determination of the Floodplain Administrator by property owners at 406 Brunswick Street. Staff determination was reversed based on the calculation of costs that should not be included.

The next meeting of the Board of Adjustment is February 28, 2025. The agenda for this meeting includes a variance for a hotel location and height limit per the standards for hotels, motels, or inns in Section 3.8.R of the UDO, a special use permit for an accessory dwelling unit, and board training.

Historic Preservation Commission: The HPC met on March 5 to review the last round of comments and finalize the updated Local Historic District Design Standards. The Commission voted to adopt the Local Historic Design Standards with the proposed updates from the meeting. The document will be shared with the Board of Aldermen and the public once the comments from the meeting are incorporated into the document.

The local historic district inventory report is in the final stages and the consultant anticipates that a draft will be available in the coming week.

There will be a formal adoption of the Local Historic Design Standards by the Board of Aldermen. Upon review and approval of the proposed local historic district boundary survey by the State Historic Preservation Office, the local historic district overlay will be forwarded to the Planning Board for a recommendation to the Board of Aldermen.

The next meeting of the Historic Preservation Commission is April 2, 2025.

Forestry Committee:

The Forestry Committee continues to distribute tree protection door hangers throughout the city. The annual tree planting started on February 21, 2025, with 13 new trees planted throughout the city.

The Annual Arbor Day Celebration will be held on April 25, 2025, at Franklin Square Park. Details will be advertised after the March 11, 2025 meeting.

The next meeting of the Forestry Committee is April 8, 2025.

Code Enforcement:

Rights-of-way hardened structure courtesy letters were sent the last week of January. Code enforcement staff are fielding calls with questions and meeting with concerned citizens. No violations have been issued, and property owners have until June 12, 2025 (6 months from the day of adoption) to remove identified structures. Landscape companies have been sent the press release and ordinance language to ensure information and resources are available.

Code enforcement officers continue to proactively correct violations prior to sending formal notices of violation. In an effort to assist, literature and other courtesy notifications outlining code references for issues observed on properties throughout the city are distributed to citizens. These notifications are not violations. If issues are not remedied after initial contact, a case is opened and a formal notice of violation is issued to the property owner.

Code Enforcement monthly report is provided.

Other Notes:

The developer started installation of the sidewalks at the Preserve at Fisher Landing on February 5, 2025. The existing streetlights need to be relocated, and the developer is scheduling the process with BEMC. The project will be completed this month.

Staff continue to assist citizens with questions regarding signs, zoning, minor subdivisions, minor and major site plans, CAMA Minor Permits, tree permits, special flood hazard areas, and any other items that come to the Department.



PROTECTING QUALITY OF LIFE

Alliance Code
Enforcement LLC

Monthly Report for February
City of Southport

Updated
March 3, 2025

ADDRESS	VIOLATION	STATUS
416 E Bay St	ZV	OPEN
711 Cottage Ln	MH	ABATED
320 College St	JV	ABATED
732 N Lord St	MH/OL	OPEN
730 N Lord St	MH/JP	OPEN
724 N Lord St	MH/JP	OPEN
712 N Lord St	JV	OPEN
806 Clarendon Ave	MH/JV/JP	OPEN
803 Clarendon Ave	JV	OPEN
813 Clarendon Ave	MH	OPEN
801 N Caswell Ave	MH	OPEN
PID 237DF018 W 9 th St	MH/OL	OPEN
926 Hankinsville Rd	MH/JP/OL	OPEN
913 Hankinsville Rd	MH	OPEN
PID 237CA00901 W 11 th St	JV	OPEN
1065 Downrigger Trl	OL	OPEN
1067 Downrigger Trl	OL	OPEN
1105 N Caswell Ave	JV	OPEN
301 W 11 th St	MH	OPEN
1105 N Howe St	MH	OPEN
712 Clarendon Ave	JV	OPEN
409 N Lord St	MH	OPEN
410 N Lord St	MH	OPEN
1501 N Howe St	MH/OL	ABATED
214 N Fodale Ave	OL/MH	OPEN
812 N Caswell Ave	ZV/OL	ON HOLD
PID 237EA013 N Caswell Ave	JV/JP/OL	ON HOLD
910 N Lord St	JV	OPEN
410 E Bay St	ZV	OPEN
305 Yaupon Dr Ext	JP/OL	OPEN
202 W 8 th St	JV	OPEN
204 Herring Dr	MH/OL	OPEN
306 Stuart Ave	JV	OPEN
316 N Rhett St	JV	ABATED
502 N Atlantic Ave	JV	ABATED
503 Clarendon Ave	JP	OPEN
401 N Fodale Ave	OL	OPEN



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906 E Moore St	JV	ABATED
202 N Fodale Ave	JV	OPEN
605 Clarendon Ave	MH/JP	OPEN
418 Clarendon Ave	JP	OPEN
417 Mitchell St	JV	ABATED
713 E Leonard St	OL	OPEN
129 Park Ave	JV	OPEN
111 Park Ave	JP	OPEN
603 N Fodale Ave	JP	OPEN
PID 237EC004 Burrington Ave	JP	ABATED
608 Burrington Ave	JP	ABATED
713 Cottage Ln	JP	OPEN
727 Clarendon Ave	JP	ABATED
315 W 8 th St	JV/JP	OPEN
825 N Caswell Ave	OL/JP/MH	OPEN
PID 237EA009 N Caswell Ave	OL	OPEN
829 N Caswell Ave	MH/OL	OPEN
228 W 9 th St	JP	OPEN
918 N Caswell Ave	JP	ABATED
913 N Caswell Ave	JV	OPEN
303 W 10 th St	JP/JV	ABATED
1003 N Caswell Ave	JP	OPEN
313 W 11 th St	JV	OPEN
1101 N Caswell Ave	JP	ABATED
504 W 11 th St	MH	OPEN
201 W 11 th St	JP	ABATED
215 W 11 th St	JP	ABATED
110 W 12 th St	JV	OPEN
511 W 11 th St	JP	OPEN
609 W 11 th St	ZV	OPEN
514 W 11 th St	JV/JP	OPEN
PID 237DF01412	OL	OPEN
1012 N Caswell Ave	JP	OPEN
211 E Leonard St	OL	OPEN
412 E Leonard St	JP	OPEN
414 E Leonard St	JP	OPEN
202 W 8 th St	JP	OPEN
PID 221MD016	JV	OPEN



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210 N Fodale Ave	JP	OPEN
1118 N Howe St	JP	ABATED
210 E Brown St	JV	OPEN

HIGHLIGHTS

- During the month of February, we opened 13 new cases. We also focused on previously opened cases and after contacting property owners, we successfully ABATED and CLOSED 16 cases.
- **416 E Bay St** – Case was opened in reference to a Zoning Violation of a fence installed in the City Right of Way. This property is no longer on hold and awaiting Abatement from the city.
- **711 Cottage Ln** – Case was opened in reference to Minimum Housing Violations. There was no response from the property owner and an Ordinance was submitted and the dwelling was demolished. Case is ABATED and CLOSED.
- **1118 N Howe St** – Case was opened in reference to a Nuisance/Junk Pile stored on the property. After contacting the owner, the junk pile was removed. Case is ABATED and CLOSED.
- **320 College St** – Case was opened in reference to a Nuisance/Junk vehicle stored in the Right of Way. After contacting the new property owner, the vehicle was removed. Case is ABATED and CLOSED.
- **417 Mitchell St** – Case was opened in reference to a Nuisance/Junk Vehicle stored on the property. After contacting the owner, the vehicle was removed. Case is ABATED and CLOSED.
- **316 N Rhett St** – Case was opened in reference to a Nuisance/Junk vehicle. After contacting the property owner, a fitted vehicle cover was placed over Vehicle. Case is ABATED and CLOSED.



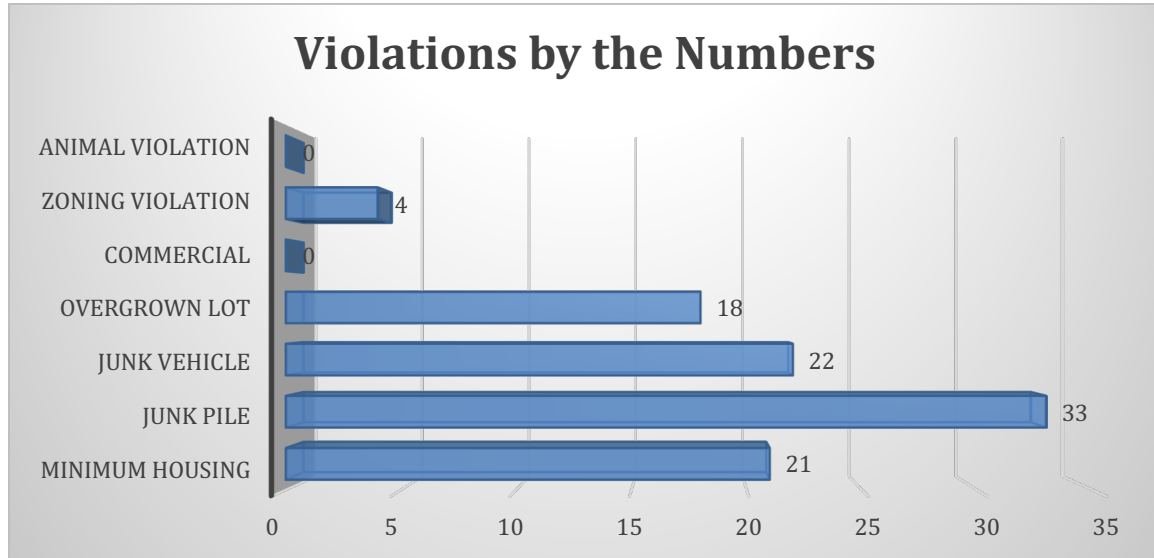
PROTECTING QUALITY OF LIFE

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Violations by the Numbers



Case Status To Date

