

19168



FOR REGISTRATION REGISTER OF DEEDS  
REBECCA T CHRISTIAN  
NEW HANOVER COUNTY, NC  
2003 OCT 23 02:33:35 PM  
BK 4065 PG 823-842 FEE \$68 00

INSTRUMENT # 2003068767

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
HIDDEN POINTE ON THE LAKE,  
SECTION ONE

THIS DECLARATION, made on the date hereinafter set forth by  
COASTAL CAROLINA DEVELOPERS, INC., hereinafter referred to as  
"Declarant" or "Developer".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in New  
Hanover County, North Carolina, which is more particularly  
described as HIDDEN POINTE ON THE LAKE, SECTION ONE, as shown on  
map of same recorded in Map Book 44 at Page 331 in the New Hanover  
County Registry (hereinafter sometimes referred to as "HIDDEN  
POINTE").

NOW, THEREFORE, Declarant hereby declares that all of the  
properties, including all lots, described above shall be held, sold  
and conveyed subject to the following easements, restrictions,  
covenants and conditions, which are for the purpose of protecting  
the value and desirability of, and which shall run with, the real  
property and be binding on all parties having any right, title or  
interest in the described properties or any part thereof, their  
heirs, successors and assigns, and shall inure to the benefit of  
each owner thereof.

#### ARTICLE I

##### DEFINITIONS

Section 1. "Association" shall mean and refer to HIDDEN  
POINTE HOME OWNERS ASSOCIATION, or its successors and assigns, a  
non-profit corporation formed or to be formed by the Declarant  
primarily as an association for the lot owners of HIDDEN POINTE,  
all sections.

Section 2. "Owner" shall mean and refer to the record owner,  
whether one or more persons or entities, of a fee simple title to  
any Lot which is a part of the Properties, including contract  
sellers, but excluding those having such interest merely as  
security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain  
real property hereinbefore described, known as HIDDEN POINTE and  
such additional property thereto as may hereafter be brought within  
the jurisdiction of the Association.

DRAWN BY JACKSON MILLS & CARTER RETURNED TO JACKSON, MILLS & CARTER

Section 4. "Additional Property" shall mean and refer to any lands which are now owned or may be hereafter acquired or developed by Declarant, in addition to the above described Property, and annexed to and made a part of the HIDDEN POINTE (as hereinafter defined).

Section 5. "Common Area" shall mean all real property or interests in real property, to include, but not limited to, private roads, pool and pool house access gate to be constructed prior to completion of all homes, and any other amenities owned or maintained (subject to the authority of the Declarant) by the Association for the common use, benefit and enjoyment of the owners. The Common Area to be owned or maintained by the Association may be shown on a recorded plat recorded in the New Hanover County Registry.

Section 6. "Lot" shall mean and refer to those enumerated parcels of land upon which single family residences may be built as shown upon that map recorded in Map Book 44 at Page 331 in the New Hanover County Registry and any other recorded subdivision map of the Properties. As used herein, "Lot" does not include "common areas".

Section 7. "Declarant" shall be used interchangeably with "Developer" (which designations shall include singular, plural, masculine and other neuter as required by the context) and shall mean and refer to COASTAL CAROLINA DEVELOPERS, INC., its successors and assigns, if such successors or assigns should acquire undeveloped property from the Declarant or a Lot not previously disposed of for the purpose of development and reserves or succeeds to any Special Declarant Right. "Undeveloped Lot" shall mean a lot which has not been subdivided or platted for sale or building purposes.

Section 8. "Declaration" shall mean this instrument as it may be from time to time amended or supplemented.

Section 9. "Special Declarant Rights" means rights reserved for the benefit of a Declarant including without limitation the right (i) to complete improvements indicated on plats and plans filed with or referred to in this Declaration; (ii) to exercise any development right reserved to the Declarant by this Declaration or otherwise; (iii) to maintain sales offices, management offices; signs advertising HIDDEN POINTE and models; (iv) to use easements through the common elements for the purpose of making improvements within the HIDDEN POINTE or within real estate which may be added to the HIDDEN POINTE; (v) to make HIDDEN POINTE part of a larger planned community or group of planned communities; (vi) to make the HIDDEN POINTE subject to a Master Association; or (vii) to appoint or remove any officer or Executive Board or Board of Director member of the Association or any Master Association up to the time the Declarant turns over control of the Association to the Owners.

Section 10. "The Act" shall mean and refer to the North Carolina Planned Community Act, N.C.G.S. 47-F.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area (if any) which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use of the Common Areas by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3rds) vote of the members of the Association has been recorded;

(c) due to noise concerns, safety, liability and property damage reasons, no motorized or gas, including dirt bikes and all terrain vehicles (ATV's) are permitted on the common areas or grounds of the properties. Only maintenance equipment needed to maintain the grounds are exempt from this rule.

(d) the rights of the Declarant as set forth herein.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area the members of his family, his tenants, or contract purchasers who reside on the property.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B member may appoint a majority of the Board of Directors during the Class B control period. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total vote outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or
- (b) on December 31, 2013.
- (c) when, in its discretion, the Class B members so determine and voluntarily relinquishes such right.

Section 3. Management of the affairs of the Association shall be the right and responsibility of its Board of Directors in accordance with this Declaration and the By-Laws, PROVIDED, HOWEVER, that any powers and duties exercised by the Board of Directors shall not affect, reduce or impair the authority or power of the Declarant to exercise its rights as developer, including, but not limited to, matters pertaining to planning, drainage, grading and subdivision plans or any Special Declarant Rights as defined above.

#### ARTICLE IV

##### COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; (3) insurance assessments and ad valorem tax assessments; and (4) working capital assessments; and (5) such other assessments or charges as the Declarant or the Board of Directors shall determine, including penalties for late payments. The annual and special assessments, together with fines, penalties, interest, costs and reasonable attorney's fees as determined by the Declarant or Association, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Properties and for the improvement and maintenance of all common areas, amenities,

easements, and utilities, specifically including, but not limited to, the maintenance, repair and replacement of utility easements, stormwater drainage facilities and easements, delegated to the Association by the Declarant, and maintenance and repair of all other utility facilities and utility equipment not otherwise maintained and repaired by municipal, public or private utility authorities or by the Declarant. The assessments shall also be used for the maintenance and operation of all lighting facilities, if any, maintenance and repair of any amenities located upon the common areas, if any, maintenance of the entrance area and subdivision sign, maintenance and repair of private streets and roads, access gate at entrance to be installed and operational prior to the completion of all homes, pool and club house, the costs of enforcing this Declaration, and the payment of all other expenses associated with the Common Areas, including the prompt and full payment of all ad valorem property taxes and insurance for said common area(s). In addition, the assessments shall also be used for doing any other thing(s) necessary or desirable in the opinion of the Association to keep the property in neat and good order, and to provide for the health, welfare and safety of the Owners and residents of HIDDEN POINT. The assessments provided for hereunder shall also be used to fund the necessary expenses for drainage and stormwater management (as well as other common areas) in conjunction with adjacent and/or neighboring subdivisions which are part of the same drainage network or system as determined by the Declarant to be necessary or appropriate. Necessary expenses shall be determined and assessed equally on a per lot basis unless otherwise agreed to by the subdivisions in the drainage network.

Section 3. Annual Assessment. A lot shall not be subject to annual assessments until the lot is sold by the Declarant to an Owner other than the Declarant.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be determined by the Declarant.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(c) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% only by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum as desired.

(e) The Annual Assessment for each Lot shall be established based on the annual budget thus adopted provided, however, that the first Annual Assessment shall be set by the Declarant prior to the conveyance of the first Lot to an Owner. The due date for payment shall be established by the Executive Board. The Executive Board

shall have the authority to require the assessments to be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 4. Commencement of Assessments. Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant. There shall be two classes of Assessment Commencement as follows:

- (a) Fifty percent (50%) assessments for homeowners for up to eight (8) months; and
- (b) upon certificate of occupancy by a lot owner, 100% of assessment.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Insurance. The Board of Directors, on behalf of the Association, as a common expense, shall at all times keep the property, if any, of the Association insured against loss or damage by fire or other hazards and other such risks, including, but not limited to, directors' liability and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the Properties and Common Area, which insurance shall be payable in case of loss to the Association for all members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by members or their mortgagees. An individual lot owner's liability for damage to the common areas shall not be absolute, but rather only that determined in accordance with North Carolina law.

Section 6. Insurance Assessments. All insurance policy premiums on the Common Areas for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense, and the Association shall levy against the Owners equally as an additional annual assessment, (herein called "Insurance Assessment") which shall be in addition to the amounts provided for under Section 3 above, an amount sufficient to pay the annual cost of all such insurance premiums.

Section 7. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the

purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. No provision in this Section 7 shall operate to prevent the Declarant from enjoying and exercising the rights set forth in Article III above.

Section 8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate in effect when due along with such other penalties, fines, costs, expenses and attorney's fees as determined by the Declarant or Board of Directors. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Failure to pay assessments does not constitute a default under any insured mortgage owed by an Owner.

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

Section 11. Working Capital Assessment. At the time title to a lot is conveyed from Declarant to the initial owner other than the Declarant, said owner shall contribute to the Association as a working capital fund the amount of Two Hundred Dollars (\$200.00). Such funds shall be used solely for initial operating and capital expenses of the association, including but not limited to insurance, supplies, furnishings and equipment. Amounts paid into the working capital fund are not to be considered as advance payments of regular assessments. Any working capital funds remaining at the end of the first full operating year may be transferred to and become part of the general funds of the Association in the discretion of the Declarant or Board of Directors, as appropriate.

Section 12. The Association formed pursuant to this Declaration shall become responsible for the stormwater management of the properties at such time as the Declarant/Developer turns

over control of said Association to the owners or buyers of lots. At such time the Association shall sign such documentation as may be required by the State of North Carolina Department of Environmental and Natural Resources, Division of Water Quality, including but not limited to a stormwater management permit application, a Curb Outlet System Supplement, Permit Name/Ownership Change Form. In addition, the Association shall enter into any other agreements or documentation required by the State of North Carolina or any agency or department thereunder as well as any agency or department of the County of New Hanover. Any person or entity purchasing a lot in this subdivision shall be subject to and shall be deemed to have agreed to comply with and cooperate with the requirements herein. By way of explanation and not limitation,

A. General. After completion of construction of any facilities required to be constructed by Declarant pursuant to permits, agreements and easements for the Development, all duties, obligations, rights and privileges of the Declarant under any water, sewer, stormwater and utility agreements, easements and permits for the HIDDEN POINTE with municipal or governmental agencies or public or private utility companies, shall be the duties, rights, obligations, privileges and the responsibility of the Association, notwithstanding that such agreements, easements or permits have not been assigned or the responsibilities thereunder specifically assumed by the Association.

B. The Developer shall not be responsible for damages to stormwater retention ponds and related facilities caused by construction of residences or other activities by Owners, their agents and contractors, upon their Lots. If the Association fails to sign the documents required by this paragraph, the Developer shall be entitled to specific performance in the courts of North Carolina requiring that the appropriate Association officers sign all documents necessary for the stormwater permit(s) to be transferred to the Association. Failure of the officers to sign as provided herein shall not relieve the Association of its obligations under this section. In addition, each Owner for the Owner, the Owner's heirs, successors and assigns, by acceptance of a deed from the Declarant, for a Lot hereby irrevocably appoints Robin G. Tinney as the Owner's attorney in fact, on behalf of the Owner and the Association, to sign all documents required by DENR necessary for the stormwater permit(s) to be transferred to the Association; provided, however, that the Declarant shall first have requested as provided above that an officer of the Association execute such documents and any officer has failed to do so within the time provided.

## ARTICLE V

### ARCHITECTURAL CONTROL

Section 1. No dwelling, residence, building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding



structures and topography by the Declarant, or its designee, or if applicable, the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within ninety (90) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with provided that such addition, construction or alteration is in conformity with the overall plan, design and appearance of HIDDEN POINTE in general. Non-approval of any such plans, location or specification may be based upon any reasonable ground that in the discretion of the Declarant or Architectural Control Committee shall be deemed as inconsistent with the general development and the standards of quality of said subdivision and is materially detrimental to the value of the subdivided lots in said subdivision. One copy of all plans and related data shall be furnished to the Declarant or Architectural Control Committee, as the case may be, for its records. Neither the Declarant nor the Architectural Control Committee shall be responsible for any structural or other defects in plans and specifications submitted to it or any structure erected according to such plans and specifications.

Section 2. Developer's Rights. All duties and responsibilities conferred upon the Board of the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any lot in the Properties or any additions annexed thereto by Supplemental Declaration or Amendment to this Declaration. Declarant reserves all rights as to planning, installation and construction of all matters concerning grading and drainage and all matters involving or pertaining to engineering and architectural matters. In addition, the Declarant shall have sole authority as to matters requiring compliance or adherence to state or county planning, land use, drainage and stormwater requirements or regulations.

Section 3. Approval of Plans:

A. No house plans will be approved unless the proposed house shall have a minimum of 1500 square feet of finished (heated) area as defined by the National Association of Home Builders Accredited Standard Committee's Proposed Standards Approved Sept. 30, 1995. The term "enclosed dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling; provided, however, that such term does not include garages, terraces, decks, open porches and like areas.

B. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder, due to strikes, fires, national emergency, or natural calamities.

C. No improvement shall be erected, altered, placed upon, or permitted to remain on any lot other than one single family dwelling and two (2) car or passenger vehicles attached garage (or

garages). The construction or maintenance of so-called "garage-apartments" on any lot is expressly prohibited. Detached garages or other outbuildings shall not be allowed.

D. All service utilities, fuel tanks and wood piles are to be enclosed within a wall or plant screen of a type and size approved by the Declarant, the Board or the Architectural Control Committee, so as to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision. Design for mail and newspaper boxes shall be furnished by Declarant. Fences shall be permitted on any Lot; provided, however, that the design, placement and materials of any fence are approved by the Declarant, the Board or the Architectural Control Committee, as the case may be. Clothes lines are not permitted on any Lot

## ARTICLE VI

### EASEMENTS

Section 1. Easements are reserved and may be granted by Declarant (or the Association, once the Declarant has assigned or transferred management and control of the Association to the owners) as necessary in the Common Areas for installation and maintenance of underground utilities and drainage facilities.

Section 2. An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services to enter upon the lots and Common Area in the performance of their duties.

Section 3. In case of an emergency originating in or threatening any lot or the common areas and facilities, regardless of whether any Lot Owner is present at the time of such emergency, the Board of Directors, or any other person authorized by it, shall have the right to enter upon any lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners, and such right of entry shall be immediate.

Section 4. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in, or over each lot and such other areas as are shown on the plat of the Properties recorded or to be recorded in the office of the Register of Deeds of New Hanover County; provided further, that the Declarant may cut drain ways for surface water whenever such action may appear to the Developer to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. It further

reserves the right to locate wells, pumping stations, and tanks within residential areas, or on any residential lot now or subsequently designated for such use or to locate same upon any lot with the permission of the owner of such lot. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 5. The Declarant reserves unto itself, its successors and assigns, the right to subject the real property in this Subdivision to a contract with Progress Energy for the installation of street lighting, which contract requires a continuing monthly payment to Progress Energy by the Association for street lighting service.

Section 6. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

#### ARTICLE VII

##### UTILITIES

Section 1. Water Service. Water service for HIDDEN POINTE shall be provided by New Hanover County. No lot owner may drill or otherwise construct a water well on any lot in HIDDEN POINTE or use any other source of water supply for household use, except for irrigation purposes, and then only with the consent of New Hanover County and declarant. All charges for water service will be the responsibility of each individual lot owner.

Section 2. Sewer Service. Sewer service for HIDDEN POINTE shall be provided by New Hanover County. No lot owner may construct or install a sewage disposal system on any lot in HIDDEN POINTE, without the express consent of the appropriate agency of New Hanover County. All charges for sewer service will be the responsibility of each individual lot owner.

Section 3. Utility Service. Separate water systems for outside irrigation and other outdoor uses shall not be permitted without the consent of the Declarant or the Association.

#### ARTICLE VIII

##### FIDELITY BONDS

Section 1. General. The Association shall maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association. If the Association shall delegate some or all of the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its

officers, employees and agents handling or responsible for funds of or administered on behalf of the Association.

Section 2. Amount of Coverage. The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all lots plus reserve funds.

Section 3. Other Requirements. Fidelity bonds required herein must meet the following requirements:

- a. Fidelity bonds shall name the Association as an obligee
- b. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.
- c. The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.
- d. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to the Association, to any insurance trustee and each Eligible Mortgage Holder.

## ARTICLE IX

### GENERAL RESTRICTIONS

Section 1. Since the establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines shall be established by this Declaration. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any lot shall be controlled by and must be approved absolutely by the Declarant, the Board or the Architectural Control Committee, as the case may be; provided, however, that no structure shall be constructed closer to an adjoining property line that is permitted by applicable governmental regulations.

Section 2. The Developer reserves a 10-foot easement along the front lot line and a 5-foot easement along each side lot line and rear lot line of all lots in the subdivision for the purpose of the installation and maintenance of water, sewer, gas, electric, cable, telephone or other lines, cables, conduits, poles, pipes,

and other equipment necessary or useful for furnishing electric power, gas, telephone service or other utilities, including water and sewer service, and for drainage. The 10-foot easement shall apply to all street frontages on lots having multiple street frontages. The Developer reserves the right to grant encroachment on these easements to utility companies to serve the subdivision.

Section 3. No culvert or pipe shall be placed in any street or road, ditch or drain unless it in all respects meets the standards set by the governmental authority having jurisdiction over the same. No drainways along any lot within the subdivision shall be filled or modified except by the Developer or at the request of State, Federal or local agencies.

All driveways shall be paved with raised aggregate concrete.

Off street parking for not less than two (2) passenger automobiles must be provided on each Lot prior to the occupancy of any dwelling constructed on said Lot which parking areas and the driveways thereto shall be constructed of concrete, brick, asphalt or turf stone, or any other material approved by Declarant, the Board or Architectural Control Committee.

All light bulbs or other lights installed in any fixture located on the exterior of any building or any lot for the purpose of illumination shall be clear, white or non-frost lights or bulbs.

Section 4. No commercial trade or activity, or any noxious trade or activity whatsoever, shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to other lot owners. In the event yards in the subdivision are not properly maintained they may be cleaned by the Developer or Association at the owner's expense. Unsightly, inoperative junk cars and like eyesores cannot be maintained on any lot or on any street in the subdivision either prior to or after the dwelling has been erected and any such automobiles may be removed by the Developer at the lot owner's expense. This paragraph shall not be deemed to prohibit or limit in any way, the Developer or any person, company or firm approved by the Developer, from building houses or other improvements on the subject property and selling same.

Section 5. There shall not be placed or used on any lot any of the following structures: manufactured, modular or prefabricated home, trailer, mobile home (including double-wide mobile home), tent, shack, garage apartment, barn, any other out building or any such structure of a permanent or temporary character. Provided that this shall not prevent the Declarant, its designees or assigns from maintaining a construction trailer or office on any part of the property (or Lot) until the construction of dwellings on all Lots and Common Elements improvements are completed. It is the express intention of the Developer that no manufactured home or prefabricated home or trailer or mobile home (including a double-wide mobile home) shall be allowed on said property.

Section 6. All buildings, structures and their appurtenances shall be maintained in a suitable state of repair, and in the event of destruction by fire or other casualty, premises are to be cleared and debris removed within ninety (90) days from date of such casualty.

Section 7. No animals, other than domesticated dogs, cats or other household pets, may be kept or housed on any lot. No dogs, cats or other household pets may be kept, bred or maintained for any commercial purposes, nor may they be kept in such numbers or of such nature as to be or become a nuisance to adjoining property owners or any residents of the subdivision. Any housing or shelter constructed for said domesticated dogs or cats shall be screened with fencing (or otherwise) that shall be approved by Declarant. Animals when not housed shall be on a leash at all times.

Section 8. Statuary, TV Satellite Dishes and Outside Antennas. No yard statuary or TV satellite signal receiving dishes are permitted on any lot and no outside radio or television antennas shall be erected on any lot or dwelling unit unless and until permission for the same has been granted by the Board of Directors of the Association or its Architectural Control Committee; provided, however, satellite dishes not over 18" in diameter which cannot be seen from the street are permitted.

Section 9 No lot area shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, and such materials may not be kept on any lots, except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Upon completion of construction of a dwelling, and as a part of the construction, the owner thereof shall generally landscape his lot so as to be in keeping with the yards of his neighbors. The front yard areas of all dwellings shall be generally smoothed and sodded at all street fronts. There shall be no mass clearing or stripping of trees from any lot without the written consent of the Developer. The covenant contained in this Section 8 shall not be construed to prohibit or prevent a contractor from constructing a residence or other approved improvements so long as said contractor shall dispose of all debris, unused materials or any other matter in a timely fashion.

Section 10. No lot as shown on the maps of the subdivision above referred to shall be re-subdivided unless each part of the subdivided lot becomes a part of another whole lot, except, that Developer may subdivide any lot, so long as each portion of any such re-subdivided lot meets the requirements for said lots established by the New Hanover Zoning Ordinance.

Section 11. No fencing shall be allowed without written approval of Developer. No fence shall be erected on any lot nearer the front property or lot line than the rear corners of the house erected on said lot, and all fences erected shall not exceed five (5) feet in height and shall be constructed only of wood as per approved architectural guidelines. No fence or structure of any kind shall be placed on utility and drainage easements shown on the recorded map of HIDDEN POINTE, recorded in Map Book \_\_\_\_ at Page \_\_\_\_ of the New Hanover County Registry.

Section 12. No signs of any type or description shall be placed on or displayed on any residential lot or common elements (including signs "For Rent" or "For Sale") without permission of the Board of Directors. Model homes, including unrestricted signage, may remain in use as models as long as there are lots available for sale in said subdivision.

Section 13. No boat, motor boat, camper, trailer, school bus, motor home, mobile home, truck rated over one (1) ton, or other vehicle similar to any of the same shall be permitted to remain on any lot, or on any street or in any parking space on or adjacent to any lot, unless written permission for the same is first obtained from the Declarant.

Section 14. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Lots by the Owners thereof. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on the Owner's Lot which would tend to decrease the beauty of the neighborhood as a whole or the specific area. No inoperable vehicle or vehicle without current registration and insurance, will be permitted on any Lot, street or Common Elements. The Association shall have the right to have all such vehicles towed away at the owner's expense. No repairs to any vehicle may be made on streets or in driveways but only in garages or other areas and not visible from the street.

Section 15. In accordance with the requirements of the State of North Carolina, a system for the drainage of storm water from all of the lots of HIDDEN POINTE has been established including (a) the establishment of drainage easements along some of the side and rear lot lines of the lots in said Section, (b) the establishment of various drainage ponds within said Section, as well as (c) the use of the streets and roads of said Section for drainage purposes, all of which are shown upon the map of said Section, recorded as referenced above. The design of said system allows all such storm water to drain from said Section into the area storm water drainage system. The operation and integrity of said area-wide storm water drainage system requires the owners of lots within said Section to take various preventive maintenance steps to prevent any sand, silt or other unwanted erosion materials from entering the system from the lots in said Section and to allow for the necessary maintenance of all drainage easements and other areas designated as a part of the storm water drainage system. Therefore, all owners of lots in HIDDEN POINTE, by accepting a deed for their lot or lots from the Declarant, do hereby covenant and agree to be bound by the following restrictions:

a. Nothing other than grass shall be allowed or permitted to be placed within any drainage, water or sewer easement that is established on any lot by the map of said Section referenced above. Not by way of limitation, but by way of example, shrubs, trees and other vegetation, fences, walls, storage

buildings and all other structures and improvements, of whatever nature or kind, are prohibited from being located within any such easement area; and

b. For any lot bounded on any one or more sides by either a drainage ditch, pond or other open drainage easement area, as shown on said recorded map, no sheet flow or surface flow of storm water shall be permitted from said lot into any ditch of two and one-half (2 1/2) feet in depth or greater, any pond or other open drainage easement area of two and one-half (2 1/2) feet or greater. The owner of said lot shall not alter the grade along the entire length of the common boundary or boundaries of said lot and any such drainage area.

c. The Declarant, its successors and assigns, shall have the absolute authority and right to design, construct and implement drainage and grading plans without the consent or approval of the Association.

d. Any and all other terms, conditions or restrictions contained within the Declaration which conflict with any of the provisions of this Section 13 are to be deemed and interpreted in strict accord and harmony with the provisions of this Section 13.

Section 16 No more than 4200 square feet of any lot, including that portion of the right-of-way between the edge of pavement and the front lot line, shall be covered by impervious structures, including asphalt, gravel, concrete, brick, stone, slate or similar material, not including wood decking or the water surface of swimming pools. This covenant is intended to ensure continued compliance with the stormwater permit issued by the State of North Carolina. This covenant may not be changed or deleted without the consent of the State.

Section 17. Developer shall have no responsibility for maintaining any drainage easements located on any lot. All maintenance for all easements located on any lot shall be the responsibility of the owner of said lot, his successors and/or assigns. Within all utility and drainage easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may change the direction or flow of drainage channels in the easements.

Section 18. Notwithstanding any provision, covenant or language contained in the Declaration of Restrictions or any Declaration of Restrictions for any section of HIDDEN POINTE, the undersigned hereby reserves for itself and for others as it may designate, the right to erect and use an office for construction, development and sales purposes with unrestricted signage.

Section 19. Notwithstanding any provision, covenant, restriction or other language contained in this Declaration of Covenants, Conditions and Restrictions, the Declarant or Developer reserves for itself the right to construct and install a road or street across any Lot which in the sole discretion of the Declarant is determined to be necessary, advantageous or appropriate for the development of this subdivision or adjacent properties.



Section 20. All mail and newspaper boxes shall be furnished by the Developer and uniform in design and appearance.

Section 21. Short Term Rental Prohibited. No Owner shall enter into a lease of the Owner's Lot for a period less than one year. All leases for Lots and residences thereon shall be in writing and shall contain the following provision:

Tenant acknowledges receipt of a copy of the Covenants, Conditions and Restrictions for HIDDEN POINTE and any rules and regulations adopted by HIDDEN POINTE OWNERS ASSOCIATION. Violation of said covenants or rules and regulations by the tenant, the tenant's agents, guests and invitees, shall, after the expiration of any applicable cure period, constitute a default under the terms of this lease.

Each Owner shall be liable to the Association for (i) any violation of this Declaration or Association rules and regulations and (ii) for any damage to the Common Elements, committed or caused by the Owner's tenants, the tenant's agents, guests and invitees. All amounts due the Association by an Owner pursuant to the terms of this paragraph shall be added to the Owner's Annual Assessment and become a part thereof, collectible and subject to being a lien against the Owner's Lot, as provided for in this Declaration.

Section 22. The installation, construction or erection of a basketball goal, soccer goal or other sports or recreational apparatus or equipment shall not be allowed.

Section 23. Window treatments or coverings shall be light and neutral in color and uniform in appearance from the exterior of the home. No verticle blinds are allowed on the fron of the house.

Section 24. The installation or display of holiday lights and decorations shall be limited to a reasonable period of time not to exceed three weeks prior to or subsequent to any holiday and shall be of style, color or arrangement appropriate to the holiday and subject to the approval of the Association.

Section 25. The display of a flag or flags shall be allowed so long as it does not materially diminish the value of adjoining lots and does not exceed two and one-half (2 1/2) by four (4) fee in size. Flagpoles are prohibited.

Section 26. The installation, construction or erection of a swing set, jungle gym or similar children's apparatus shall be subject to the approval of the Association, constructed only of wood and shall be allowed inside fenced yards.

## ARTICLE XI

### ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. The Developer hereby reserves the right to annex additional land located adjacent to HIDDEN POINTE which may be owned or hereafter acquired by the Declarant, without the consent of the Class A members within ten (10) years of the date of this

instrument provided that HUD, the FHA, or VA determines that the annexation is in accord with the general plan hereto approved by them. Any property annexed for such purpose will be subject to and under the jurisdiction of the Association and shall be designated as consecutively numbered phases or such other similar designations for any additional phase added.

Section 2. The rights reserved by the Developer also include the power to amend this Declaration of Restrictions to subject any property described above to the jurisdiction of the Association and to the rights and obligations of this Declaration of Restrictions without the consent of Class A members, subject, however, to prior approval by the Department of HUD or the Veterans Administration.

## ARTICLE XII

Section 1. Notwithstanding any provision in this Declaration of Covenants, Conditions and Restrictions the Developer has no duty or obligation to annex additional properties or develop or create additional sections to HIDDEN POINTE or develop or create other subdivisions.

Section 2. In the event that the Developer does annex additional properties or create new section(s) of HIDDEN POINTE then in that event the Developer reserves the right in its sole discretion to vary or alter the covenants contained in this Declaration as to the new sections, new subdivisions or additional properties.

## ARTICLE XIII

### GENERAL PROVISIONS

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

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Notwithstanding any language to the contrary, the Declarant shall be authorized to amend this Declaration in its sole discretion, without the consent of any owner, at any time for a period of twenty-four (24) months next following the date of recording this instrument. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than sixty-seven percent (67%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five

percent (75%) of the Lot Owners. Any amendment must be recorded in the New Hanover County Register of Deeds.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

#### ARTICLE XIV

##### SCOPE OF RESTRICTIONS

THESE RESTRICTIONS APPLY ONLY TO HIDDEN POINTE, AS THE SAME IS SHOWN ON THE MAP REFERENCED ABOVE, AND NOTHING HEREIN IS INTENDED, NOR SHALL BE DEEMED, TO BE A REPRESENTATION, WARRANTY, COVENANT OR PROMISE THAT THESE RESTRICTIONS APPLY OR SHALL APPLY TO ANY OTHER REAL PROPERTY OWNED BY DEVELOPER. DEVELOPER FOR ITSELF, ITS SUCCESSORS AND/OR ASSIGNS, DECLARES THAT HIDDEN POINTE, IS NOT PART OF ANY OVERALL PLAN FOR THE DEVELOPMENT OF ANY REAL PROPERTY OWNED BY DEVELOPER.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this the 23rd day of October, 2003.

COASTAL CAROLINA DEVELOPERS, INC.

ATTEST:

Robin G. Tinney  
Secretary

BY: B. Leon Skinner  
President

(AFFIX CORPORATE SEAL)

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

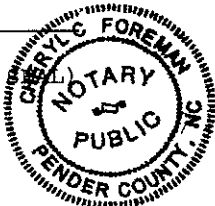
I, Cheryl C. Foreman, a Notary Public of the County of Pender, and State aforesaid, do hereby certify that ROBIN G. TINNEY personally came before me this day and acknowledged that he is Secretary of COASTAL CAROLINA DEVELOPERS, INC., and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

WITNESS my hand and notarial seal, this the 23rd day of October, 2003.

Cheryl C. Foreman  
Notary Public

My Commission Expires: September 11, 2005

(AFFIX NOTARIAL SEAL)





REBECCA T. CHRISTIAN  
REGISTER OF DEEDS, NEW HANOVER  
216 NORTH SECOND STREET

WILMINGTON, NC 28401

\*\*\*\*\*  
Filed For Registration      10/23/2003 02:33:35 PM  
Book.      RE    4065    Page    823-842  
Document No.      2003068767  
DECL    20 PGS    \$68.00

Recorder:      KIMBERLY K CARDER

\*\*\*\*\*  
State of North Carolina, County of New Hanover

The foregoing certificate of CHERYL C FOREMAN Notary is certified to be correct. This 23 RD of October 2003  
REBECCA T CHRISTIAN , REGISTER OF DEEDS

By: Kimberly K. Carder  
Deputy/Assistant Register of Deeds

\*\*\*\*\*  
YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.  
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.

**\*2003068767\***

2003068767