

PREPARED BY: Thomas R. Lenfestey, III
MAIL TO: Smith Debnam, PO Box 26268, Raleigh, NC 27611

STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR PORTOFINO
SUBDIVISION

THIS FIRST AMENDMENT to Declaration of Covenants, Conditions, and Restrictions for Portofino Subdivision (hereinafter referred to as "First Amendment") is made by Walthom Group, a North Carolina general partnership (hereinafter referred to as "the Declarant"), which hereby consents to declare and establish this First Amendment.

WITNESSETH:

WHEREAS, the parties hereto previously agreed to and recorded the original Declaration of Covenants, Conditions, and Restriction for Portofino Subdivision, said plan being recorded in Book 3427, Pages 908 in the office of Register of Deeds, Johnston County, North Carolina (hereinafter referred to as "the Declaration");

WHEREAS, the real property made subject to the provisions and restrictions of the Declaration is shown by a map and survey as recorded in Book of Maps 71, Page(s) 748 in the office of Register of Deeds, Johnston County, North Carolina (hereinafter referred to as the "Map");

WHEREAS, due to a change of circumstances or mistake this First Amendment to the Declaration is required to define the existence and use of certain lots as "pasture lots" in order to permit and regulate any horses kept on such lots;

WHEREAS, the Declaration permits such amendment to be made by Declarant acting under the powers and terms of Section 17.2;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant under the powers given under Section 17.2 of the Declaration hereby agrees to amend the Declaration as follows:

1. Article II of the Declaration entitled "Concepts and Definitions" shall be amended by adding the following:

"Pasture Lots" A Lot, which shall be designated on any recorded maps with an "h" or as otherwise specifically, designated within these covenants. Specifically, Lots 39, 40, and 41 of Phase I of the subdivision shall be classified as Pasture Lots with all rights and regulations applicable herein to such category. The Pasture Lots shall be any Lots which are three (3) acres or more in total area and classification as a Pasture Lot shall permit horses to be kept in accordance with the standards and restrictions set forth in this Declaration. Any assessments applicable to any Pasture Lot shall be equivalent to any other Lots of the Portofino Subdivision.

2. Exhibit C of the Declaration entitled "Use Restrictions" shall be amended by adding the following provision as 3(n):

Any Lots defined as Pasture Lots shall be excluded from any restrictions or prohibitions set forth in this Section 3 to the extent such restrictions or prohibitions interfere or conflict with the permitted use of Pasture Lots as expressed in Section 5 of this Exhibit C or otherwise in the Declaration. Should any such conflict of language arise then the terms of Section 5 shall control.

3. Exhibit C of the Declaration entitled "Use Restrictions" shall be further amended by adding the following as Section 5 of Exhibit C:

5. Designation and Regulation of Pasture Lots. For any Lot properly designation as a Pasture Lot the following regulations for use shall apply:

(a) The maximum number of horses permitted on any Pasture Lot which is 3.0 acres to 3.5 acres or less in area shall be two (2). For each Pasture Lot in excess of 3.5 acres an additional one (1) horse shall be permissible for every 1.0 acre above the 3.5 acres.

(b) Horses may not be pasture boarded or any similar type of boarding on any Pasture Lot.

(c) Violation of any such rule or regulation applicable to the Pasture Lot under the Declaration shall allow the Association and/or Declarant where applicable to cancel and rescind any such privilege to the Lot Owner of having his or her Lot designated as a Pasture Lot. Any such complaints for actions resulting

from the keeping of horses on the Pasture Lots shall be filed and addressed in accordance with the provisions applicable to all other complaints to regarding Lots in Portofino Subdivision.

(d) Pasture Lots must have a separate barn to be approved in accordance with the Architectural Guidelines which barn shall include food storage, stalls and equipment.

(e) Any such horse waste and bedding must be stored in sealed containers and disposed of at a minimum of every three (3) days by a Pasture Lot Owner.

(f) All barns constructed and maintained on any Pasture Lot must have sufficiently operating automatic fly control systems at all times.

(g) All areas of any Pasture Lot to be used for pasturing any horses must be double fenced in a method approved by the Architectural Committee. All such fencing used must be of the same quality, type, and materials as all other fencing used in Portofino.

(h) Additional landscaping deemed necessary by Declarant or the Association in their sole discretion may be required of such Pasture Lot Owner to permit such privilege of maintaining horses or to keep such privilege in place.

(i) The Declarant and/or the Association where applicable shall expressly have any and all rights to notify any animal control authority or humane society, including veterinarians, in regards to any horse which appears to be in substandard condition. The determination of the horse's condition shall be in the sole discretion of the Declarant or Association and the Owner waives all rights to oppose such events.

(j) Any and all nuisance or other regulations provided herein including any odors, flies or other nuisances will be strictly enforced on all Pasture Lots and failure of any Pasture Lot Owner to correct shall cause forfeiture of such pasturing privileges.

(k) Each Pasture Lot Owner who desires to keep horses on such Lots shall be required to carry liability insurance protecting general public and residents of Portofino Subdivision in amounts and terms acceptable to the Association and/or Declarant where applicable. Proof of such insurance policies shall be produced to the Association upon request and failure to provide shall allow for termination of the pasturing privilege.

4. Except as herein amended, said Declaration shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN TESTIMONY WHEREOF, the parties named herein have caused this First Amendment to be executed this the 30 day of January, ~~2008~~ 2009.

WALTHOM GROUP, a North Carolina general partnership

By: [Signature]
Name:
Title: General Partner

STATE OF NORTH CAROLINA
COUNTY OF Johnston

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated: F. Norwood Thompson, General Partner of Walthom Group, a North Carolina general partnership.

Date: January 30, 2009

By: Celeste M. Lopez, Notary Public
Celeste M. Lopez

(Official Seal)

My commission expires: October 22, 2011

