

2010013772

INSTRUMENT # 2010013772

THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 30th day of April, 2010, by BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation ("Association") for the purposes herein stated.

WITNESSETH:

WHEREAS, the Association owns and controls certain real property situated in New Hanover County, North Carolina and being known as the Common Areas of BELLE MEADE PLANTATION SUBDIVISION ("Development"), Sections 1, 2 and 3, said Common Areas and Development being delineated on original and revised maps and plats recorded in Map Book 47 at Page 387, Map Book 48 at Page 146, Map Book 48 at Page 243, and Map Book 48 at Page 357, all of the New Hanover County Registry, to which reference is hereby made for a more particular description; and

WHEREAS, the Association further desires to update and amend its DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS FOR BELLE MEADE PLANTATION SUBDIVISION ("original Declaration") in order to create consistency within the Association's governing documents and make the same in keeping with the North Carolina Planned Community Act codified in Chapter 47F of the North Carolina General Statutes ("Act"), in order to further reflect the desires of its Members to preserve the character and charm of their neighborhood and the fact that the original Declarants, GALARDE DEVELOPMENT, LLC and ATLANTIS HOLDINGS, LLC, are no longer involved in the Development; and

WHEREAS, the original Declaration is recorded in Deed Book 4790 at Page 919 of the New Hanover County Registry.

NOW, THEREFORE, the Association hereby declares that the Common Areas will be held, maintained, and controlled for the benefit of all of the Lot Owners making up the Association; and further, that the Association has established certain use restrictions, architectural controls, covenants and conditions that will govern and bind all Lots in the Development, as the same are also delineated in the aforesaid maps and plats, and which use restrictions, architectural controls, covenants and conditions are designed to protect the character, charm, value and desirability of the Development, the marketability of and value of the Lots, and which use restrictions, architectural controls, covenants and conditions will run with the land and bind all parties having any right, title or interest in any Lot in the Development or in the Common Areas of the Development (or any part thereof), their members, shareholders, directors, officers, managers, employees, agents, heirs, successors and assigns, and which restrictions, covenants and conditions will inure to the benefit of each Lot Owner in the Development.

ARTICLE I
DEFINITIONS:

For purposes of this Declaration, the following definitions apply:

A. Act: The North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes.

B. Allocated Interests: The common expense liability and votes in the Association allocated to each Lot.

C. Assessments: The Annual, Special, Insurance, and *Ad Valorem* Assessments defined further herein.

D. Association: BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation, the original Articles of Incorporation for which were filed with the North Carolina Secretary of State on November 21, 2003. All Lot Owners are Members of the Association by virtue of their Lot ownership, and such membership runs with each Lot; therefore, membership cannot be separated from the ownership of any Lot.

E. Board of Directors: The body, regardless of name, designated herein to act on behalf of the Association.

F. Built Upon Area: That portion of each Lot that is covered by impervious or partially impervious material, including but not being limited to structures, asphalt, concrete, gravel, brick, stone, slate, coquina, and parking areas. Built upon area does not include raised, open wood decking or the water surface of swimming pools. Built upon area is specifically subject to the restrictions on impervious surfaces contained elsewhere in this Declaration.

G. Common Areas: Any and all property, whether real or personal, which is owned by the Association for the common use and enjoyment of Lot Owners, as well as any and all property, whether real or personal, whether owned by the Association or not, which the Lot Owners have a mutual or common right or privilege to use and enjoy as provided by this Declaration and any future amendment hereof. Common Areas include but may not be limited to streets and street rights-of-way, alleys, easements, walkways, gazebos, parks, islands, cul-de-sacs, street gates, ponds, medians, signs, mailboxes, open spaces, and any other areas designated as "Common Areas" on any recorded map or plat of the Development.

H. Common Expense: Expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

I. Common Expense Liability: The liability for common expenses allocated to each Lot as permitted by this Declaration or applicable law.

J. Declaration: This instrument as it may be from time to time amended or supplemented.

K. Development: All of that real property, including individually owned Lots and Association owned Common Areas, described in the introductory paragraphs hereof, as depicted on the original and revised plats and maps referenced herein, and generally known as BELLE MEADE PLANTATION SUBDIVISION. A true and exact

copy of the updated plat map of the Development is attached to this Declaration as "Exhibit A" and is incorporated herein by reference as if set out fully verbatim.

L. Lessee: The party entitled to present possession of a leased Lot whether lessee, sublessee or assignee.

M. Lot: Any one subdivided and numbered parcel of real property located in the Development which is intended for single-family residential purposes only.

N. Lot Owner: The record owner (by purchase, devise, inheritance, decree or otherwise), whether one or more persons or entities, of a fee simple title to or interest in any Lot in the Development, but excluding tenants and those persons or entities having such interest merely as security for the performance of an obligation or the payment of an indebtedness.

O. Member: Each and every Lot Owner in the Development. The terms, "Member" and "Lot Owner" may be used interchangeably in this Declaration. Members who own Lots with residences are known as "Class A" Members and Members who own Lots without residences are known as "Class B" Members.

P. Membership: The rights, privileges, benefits, duties and obligations inuring to the benefit of and burdening each Member of the Association.

Q. Private Right of Way: Any street or alley marked as such on any map or plat of the Development which is designated as such and which was previously designated as "Public Right of Way". Said private right of way will remain private and will not be dedicated to the State of North Carolina, County of New Hanover or City of Wilmington for any purpose, public or otherwise, whatsoever. The private right of way will include all paved portions of streets, adjoining curbs and gutters, irrigation systems, all storm drains, sanitary sewer lines and other utility facilities installed therein or thereunder, all landscaped medians therein, and adjoining landscaped areas within the full widths of any rights of way easements as shown on any map or plat of the Development or as recorded as an easement with the New Hanover County Registry.

R. Reasonable Attorney Fees: Attorney fees reasonably incurred without regard to any limitations on attorney fees which may otherwise be allowed by law. The minimum amount of "reasonable attorney fees" is equal to 15% of any amount sought to be recovered. Due to the case-by-case nature of any legal matter, however, "reasonable attorney fees" may be deemed to exceed said 15% of any such amount.

S. Use Restrictions: The restrictions and covenants set forth in this Declaration, which said use restrictions apply to all Lots in the Development.

ARTICLE II
APPLICABILITY OF ACT:

In accordance with North Carolina General Statutes §47F-1-102(a) the Development is subject to the provisions of the Act, as the same may be amended from time to time.

ARTICLE III
PROPERTY RIGHTS, EASEMENTS OF ENJOYMENT, EASEMENTS IN FAVOR OF
THE ASSOCIATION, EASEMENTS TO OTHERS:

A. Owners' Easements of Enjoyment. Every Lot Owner has and is hereby granted a right and easement of enjoyment in and to the Common Areas which will be appurtenant to and will pass with the title to every Lot, subject to provisions set out elsewhere in this Declaration.

B. Streets and Alleys. By way of specific inclusion and not by way of limitation, the Association hereby specifically establishes, grants, gives and conveys to each and every Lot Owner an easement of ingress, egress and regress over and across all of the private streets and alleys and other Common Areas of the Development, all as shown on the maps and plats thereof which are described elsewhere herein. The Association shall maintain said private streets and alleys, including but not being limited to the re-surfacing, repairing and regrading thereof. The costs of said maintenance will henceforth be a Common Expense, and each Member of the Association will be assessed its *pro rata* share of said costs as part of its annual assessment and any special assessments deemed necessary by the Association from time to time, as the same are defined elsewhere herein.

C. Easements Run with the Land. These grants of easement are hereby deemed an appurtenance to each and every Lot within the Development, and any conveyance or transfer of title to any such Lot will be deemed to include these easements, whether or not expressly stated in said conveyance or transfer.

D. No Assignment of Easements. The privileges of these easements may not be assigned by any Owner to any person other than members of the Owner's family, guests or duly authorized tenants.

E. Limitations on Easements. The easements of enjoyment specified herein are hereby made expressly subject to the following:

1. The right of the Association to suspend the voting rights and privileges of any Owner for any period of time during which any assessment against the Owner's Lot remains unpaid and for any period during which any violation of any use restriction, architectural control provision, the Bylaws of the Association, or any published rule or regulation remains uncured.

2. The right of the Association to impose regulations for the use and enjoyment of the Common Areas and improvements thereon, which regulations may further restrict the use of the Common Areas.

F. Easements in Favor of Association. The following easements are reserved to the Association and run in favor of the Association, its agents, employees, successors and assigns:

1. Easements as are necessary in Lots for the maintenance of utilities and drainage facilities, including the right of the Association to enter Lots with workers and equipment to erect, maintain, inspect, repair and use electric and telephone lines, light poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, safety, telephone equipment, cable television, gas, sewer, water or other public conveniences or utilities on, in or over each Lot and such other areas as shown on the original and revised maps and plats of the Development recorded in the New Hanover County Registry; the right to cut drain ways for surface water whenever such action may appear to the Association to be necessary in order to maintain reasonable standards of health, safety and appearance; the right to cut any trees, bushes or shrubbery, and grass; the right to make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance; and the right to subject the Development to a contract with an appropriate utility for the installation and maintenance of street lighting. This reservation will not be construed as an obligation of the Association to provide or maintain any such utility or service.
2. Easements over all private streets and alleys, access easements, and Common Areas of the Development as necessary to provide access, ingress, egress and regress, to the Development.
3. An easement over each Lot for the purpose of providing Lot maintenance in accordance with other terms of this Declaration.

G. Easements to Others. The following easements are granted by the Association to others:

1. An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all Lots and Common Areas in the performance of their duties.
2. In case of any emergency originating in or threatening any Lot or the Common Areas, regardless of whether any Lot Owner is present at the time of such emergency, the Association or any other person authorized by it will have the right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary

repairs not performed by the Lot Owners, and such right of entry will be immediate.

3. Easements as are necessary in Lots for the maintenance of utilities and drainage facilities, including the right to enter Lots to erect, maintain, inspect, repair and use electric and telephone lines, light poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, safety, telephone equipment, cable television, gas, sewer, water or other public conveniences or utilities on, in or over each Lot and such other areas as shown on the original and revised maps and plats of the Development recorded in the New Hanover County Registry; the right to cut drain ways for surface water whenever such action may appear to the Association to be necessary in order to maintain reasonable standards of health, safety and appearance; the right to cut any trees, bushes or shrubbery, and grass; the right to make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance.

In addition to any easements recorded on any maps or plats, the Association has a permanent easement in and right at any time in the future to grant a permanent right of way over, under and along an area uniformly ten feet in width along the front lines of each Lot for the installation of poles, lines, conduits, pipes and other equipment necessary or useful for furnishing electrical power, gas, water, sewer, telephone service and other utilities and drainage facilities. Within such areas no structures, plantings, fences or other materials may be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage channels in such areas. The area of each Lot containing the easement and all improvements thereon will be maintained continuously by the Lot Owner except for those improvements for which a public authority or utility company is responsible.

In addition to any easements recorded on any maps or plats, the Association has a permanent easement in and right at any time in the future to grant a permanent right of way over, under and along an area uniformly thirty feet in width along the rear lines of each Lot and ten feet in width along the side line of each Lot for the installation of conduits, pipes and other equipment necessary or useful for furnishing drainage facilities. Within such areas no structures, plantings, fences or other materials may be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage channels in such areas. The area of each Lot containing the easement and all improvements thereon will be maintained continuously by the Lot Owner except for those

improvements for which a public authority or utility company is responsible.

H. General Nature of Easements. All easements and rights described herein are perpetual easements appurtenant to and running with the land, and inure to the benefit of and bind the Association, its successors and assigns, and any Lot Owner, purchaser, mortgagee and other person having an interest in the Development, any Lot, or any party or portion thereof, regardless of whether reference is made in the respective deeds of conveyance, or in any mortgage or deed of trust or other evidence of obligation, to the easements and rights described in this Declaration.

ARTICLE IV UTILITIES:

Water, sewer and electrical services are provided through New Hanover County, the City of Wilmington and various private contractors. Lot Owners must use the water and sewer service supplied by the provider of such service. Owners may not drill or construct a well on their Lots. Owners are individually responsible for the payment of these utilities as well as private electricity, cable or satellite television, telephone and any other utility. The Association may subject the Development to a contract with Progress Energy Carolinas, Inc., and may make such monthly payments and deposits as are required by Progress Energy Carolinas, Inc., for the instigation and continuation of such service.

ARTICLE V ASSOCIATION AND COVENANTS FOR ASSESSMENTS:

A. Formation of Association. The Association, a North Carolina non-profit corporation, was formed on November 21, 2003, by the filing of its Articles of Incorporation with the North Carolina Secretary of State. All Lot Owners are Members of the Association by virtue of their Lot ownership, and such membership runs with each Lot; therefore, membership cannot be separated from the ownership of any Lot.

B. Membership and Voting Rights. The qualifications for membership in the Association, the manner of admission to membership in the Association, the manner of termination of such membership, and the voting rights of the Members of the Association are as follows:

1. All Lot Owners within the Development are Members of the Association. This membership specifically excludes, however, tenants and persons or entities holding an interest in a Lot merely as security for the performance of an obligation or the payment of indebtedness. Provided that, notwithstanding the foregoing, any bank, mortgage company or other lender which has acquired title to a Lot by virtue of a foreclosure, short sale or similar distress sale will be in all aspects considered a Member of the Association, and will have all the rights, privileges, duties and obligations pertaining to such membership.

2. Membership is established by the acquisition of fee simple title to a Lot within the Development, or by the acquisition of a fee simple ownership interest therein, whether by conveyance, devise, inheritance, judicial decree or otherwise, and the membership of any Member will be automatically terminated upon its being divested of all title to its fee simple ownership interest in the Lot upon which the membership is based.

3. Neither membership in the Association nor the interest of any Member in or to any of all of the funds and/or assets of the Association, including all property, whether real or personal, can be assigned, pledged, hypothecated, or transferred in any manner, except as an appurtenance to a Lot. The funds and assets of the Association, including all property, whether real or personal, will belong solely to the Association subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Articles of Incorporation of the Association and in the Amended and Restated Bylaws of the Association. Since assessments become assets of the Association upon the payment thereof, no Lot Owner has the right to be reimbursed any portion of such assessment upon selling its Lot.

4. On all matters upon which the full membership is entitled to vote, Lot Owners are entitled to cast one vote for each Lot owned by the Lot Owner at the time of the vote. When more than one person holds an interest in any Lot, all such persons must be Members. The vote for such Lot will be exercised as they among themselves determine, but in no event will more than one vote be cast with respect to any Lot. Methods of determination are set out more fully in the Amended and Restated Bylaws of the Association. On matters upon which only Class A Members or only Class B Members – as defined elsewhere herein – are entitled to vote, such matters are subject to the following restrictions as set forth in North Carolina General Statutes §§47F-3-110(e) and (f):

a) Issues affecting Class A Members only may be subject to a vote of Class A Members only, provided that all except *de minimis* cost that will be incurred based on the vote taken will be assessed solely against Class A Members.

b) Issues affecting Class B Members only may be subject to a vote of Class B Members only, provided that all except *de minimis* cost that will be incurred based on the vote taken will be assessed solely against Class B Members.

For purposes of the class voting procedure set out above, an issue to be voted on is not of special interest solely to one class if it substantially affects the overall appearance of the Development or substantially affects living conditions of Members not included in the class.

C. Management and Control. Management and control of the affairs of the Association are the right and responsibility of its Board of Directors, duly elected in accordance with this Declaration and the Amended and Restated Bylaws of the Association.

D. Powers, Privileges, Rights and Obligations. In addition to the rights and powers regarding assessments as set forth further herein, the Association through its duly elected Board of Directors has and possesses and shall perform and exercise the following powers, privileges, rights and duties:

1. The power to adopt and amend reasonable regulations governing the use of the Common Areas and Lots by Owners.
2. The power to adopt and amend Bylaws and Rules and Regulations for the Association and the Development.
3. The power to adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Lot Owners.
4. The power to hire and discharge managing agents and other employees, agents and independent contractors including but not being limited to attorneys and accounting professionals.
5. The power to make contracts and incur liabilities, including borrowing money.
6. The duty to operate, maintain, protect, preserve, repair, reconstruct and/or replace the Common Areas and cause additional improvements thereto. If, however, any of the above is necessitated by the willful act or active or passive negligence of any Owner, its family, guests, invitees or tenants, or is caused by fire, wind, rain, blowing water, lightning, smoke or other hazard, casualty or act of God and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors, the cost of the same will be the personal obligation of the Owner and if not paid to the Association upon demand, may be added to the annual assessment levied against said Owner's Lot.
7. The power to acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, provided that Common Areas may be conveyed or subjected to a security interest only pursuant to North Carolina General Statutes §47F-3-112.
8. The power to dedicate or transfer all or part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon unanimously by the Members.

9. The duty to, as a common expense, at all times keep the Common Areas and other property of the Association insured against loss or damage by fire or other hazards and other such risks, including, but not being limited to directors' liability, errors and omissions, and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect such property, which insurance must be payable in case of loss to the Association for all Members. The Board of Directors has the sole authority to deal with the insurer in the settlement of claims. Such insurance must be obtained without prejudice to the rights of Members to insure their own property for their benefit at their expense. In no event may the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their mortgagees.
10. The privilege to institute, defend or intervene in litigation or administrative proceedings on matters affecting the Development.
11. The power to grant easements, leases, licenses and concessions through or over the Common Areas.
12. The power to assign its right to future income, including the right to receive assessments.
13. The power to impose reasonable charges in connection with the preparation and recording of documents, including, without limitation, amendments to this Declaration and statements for unpaid assessments.
14. The power to impose reasonable charges for late payment of assessments, not to exceed the greater of \$20.00 per month or ten percent (10%) of any assessment installment unpaid and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association during any period that assessments, fines or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer.
15. The power to, after notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the Association for reasonable periods for violations of the Declaration, Bylaws, and Rules and Regulations of the Association pursuant to the procedure outlined in North Carolina General Statutes §47F-3-107.1.
16. The privilege to provide for the indemnification of and maintain liability insurance for its officers, directors, employees, and agents.
17. The privilege to engage in such other activities as are authorized by a majority of the Members from time to time.

18. The privilege to exercise any and all other powers that may be exercised in this State by legal entities of the same type as the Association.
19. The privilege to exercise any and all other powers necessary and proper for the governance and operation of the Association.
20. The power to make architectural approval decisions in accordance with this Declaration.

E. Assessments, Liability, Lien and Enforcement. The Association has heretofore been granted the power and authority to administer the operation and management of the Common Areas of the Development, it being recognized that the delegation of such duties to one entity is in the best interests of the Lot Owners. In order to properly administer the operation and management of the Common Areas, the Association will incur, for the mutual benefit of all the owners of residential lots, costs and expenses known as "common expenses". In order to provide the funds necessary for such proper operation, management and capital improvement, the Association has heretofore been granted the power and authority to make, levy and collect assessments against the Members of the Association in accordance with their Lot Ownership. In furtherance of this grant of power and authority to the Association, the following provisions will operate upon and bind the Lot Owners:

1. Creation of Lien and Personal Obligation of Assessments. Each Lot Owner, by acceptance of the deed for its Lot, whether or not so expressed in such deed, hereby covenants with and agrees to pay to the Association the following:
 - a) Annual assessments or charges which may be payable in the form of quarterly or monthly dues to the Association;
 - b) Special assessments for capital improvements or special assessments as established by the Association, such special assessments to be established and collected as hereinafter provided;
 - c) Insurance assessments for Common Areas;
 - d) A *pro rata* share of *ad valorem* taxes levied against the Common Areas by any appropriate governing taxing authority; and
 - e) Fees, charges, late charges, fines, interest, and other charges imposed pursuant to North Carolina General Statutes §§47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115.

Assessments, together with costs, interest and reasonable attorney fees, constitute a continuing lien on any Lot against which the assessment is made. If an assessment levied against a Lot remains unpaid for a period of thirty (30) days or longer, then the Association will send the owner a

fifteen (15) day notice pursuant to North Carolina General Statutes §47F-3-116(e1) of its intent to seek payment of attorney fees and court costs incurred by the Association in its collection efforts. The Association may, fifteen (15) days after the aforesaid notice, file a Claim of Lien against the Lot with the New Hanover County Clerk of Superior Court, said Claim of Lien to conform with the requirements set out in North Carolina General Statutes §47F-3-116(g). The Association may foreclose the Claim of Lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. Each assessment, together with interest at the highest rate allowable under applicable law, costs and reasonable attorney fees, will also be the personal obligation of the person or entity who is the Lot Owner at the time the assessment fell due. The personal obligation for delinquent assessments will not pass to any successor in title unless expressly assumed by said successor in title.

2. Purpose of Assessments. The assessments levied by the Association will be used exclusively to promote the recreation, health, safety and welfare of the Lot Owners and for the maintenance, repair and replacement of any and all improvements made to the Common Areas of the Development and including, but not being limited to, the costs of repairs, resurfacing, replacements and additions, labor, equipment, materials, management and supervision, *ad valorem* taxes, utility services, mowing and other maintenance, street lighting, fences, gates, roads and drives, enforcing this Declaration and other governing documents of the Association, and any such insurance, including but not limited to errors and omissions insurance, as may be deemed necessary by the Association from time to time.

3. Annual Assessments. Annual assessments will be fixed from year to year by the Board of Directors which may establish different rates as may be deemed necessary from time to time. Assessment amounts must be fixed at least thirty (30) days prior to the applicable period. Due dates will be established by the Board of Directors and the Board will have the authority to establish payment plans. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by one of its officers setting forth whether assessments levied against a specified Lot have been paid.

a) Annual assessments may be increased each year not more than five percent (5%) above the annual assessment for the previous year without a vote of the Members, except as herein provided.

b) The annual assessment may be increased at a rate above said five percent (5%) only by a vote of at least sixty-seven percent (67%)

of the Members who are voting in person or by proxy at a special meeting duly called for this purpose.

4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part, the costs of any construction, reconstruction, repair, replacement or resurfacing of a capital improvement to the private streets and alleys of the Development or to any other Common Area of the Development, including fixtures and personal property related thereto. Special assessments may also be made to cover the installation and periodic maintenance of a gate to be installed at the Carolina Beach Road entrance to the Development, the purpose of which is to ensure the health, safety and welfare of the Members and to preserve the character and charm of the Development.

Written notice of any meeting called for the purpose of taking any action authorized under this section must be sent to all Members not less than thirty nor more than sixty days in advance of the meeting.

5. Insurance Assessments. All insurance policy premiums on the Common Areas for the benefit of the Association purchased by the Board of Directors as provided elsewhere herein and any deductible payable by the Association upon loss will become a common expense and the Association shall levy against the Lot Owners equally as an additional annual assessment an amount sufficient to pay the annual cost of such insurance premiums and deductibles.

6. Rate of Assessments – Class Structure. Assessments must be fixed at a uniform rate for all Lots of each class and may be collected on an annual, semi-annual, quarterly or monthly basis as may be determined by the Board of Directors from time to time. The books and records of the Association will be kept in such a manner that it is possible to determine and ascertain such sums as are expended by the Association for the Development, improvement, maintenance and upkeep of all Common Areas of the Association.

7. Date and Commencement of Assessments. Assessments provided for herein will commence as to Lots immediately upon the conveyance of a Lot to a new Lot Owner. Assessments may be pro-rated as between the seller and purchaser at the closing for any such Lot.

8. Effect of Nonpayment of Assessments/Remedies of Association. Any assessment not paid within thirty days after the due date will bear interest from the due date at the rate of eighteen percent (18%) *per annum*. The Association may enforce the payment of such assessments in any manner provided herein. Additionally, and after notice and an

opportunity to be heard, no delinquent Lot Owner may vote at any meeting of the Association, and the Secretary of the Association shall ensure that no votes are recorded at any meeting from Members who are ineligible to vote at such meeting due to this or any other violation. No Lot Owner may waive or otherwise escape liability for the assessment by non-use of any of the Common Areas or abandonment of its Lot. No exception to the application of this rule will be granted without the consent of the full membership of the Association.

9. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by the Association. Upon default by the Association in the payment to any governmental authority entitled to any *ad valorem* taxes levied against any of the Common Areas owned by the Association or assessments for public improvements to the Common Areas, which default continues for a period of six (6) months, each Lot Owner in the Development will become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the Development. If such sum is not paid by the Lot Owner within thirty (30) days following the receipt of notice of the amount due, then said sum will become a continuing lien on the Lot of the then Owner, its heirs, devisees, personal representatives, successors and assigns, and the taxing or assessing governmental authority may bring either an action at law or may elect to foreclose the lien against the Owner's Lot.

10. Priority of Lien. The lien described herein is prior to all liens and encumbrances on a Lot except the following: 1) liens and encumbrances (including, but not being limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the Claim of Lien; 2) liens for real estate taxes and other governmental assessments and charges against the Lot; and 3) mechanics' or materials suppliers' liens. The sale or transfer of a Lot will not affect the assessment lien.

11. Extinguishment of Lien. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the Claim of Lien.

12. Other Action Not Prohibited. This Section does not prohibit other actions, including actions personally against a Lot Owner, to recover the assessments herein described. Additionally, this Section does not prohibit the Association from taking a deed in lieu of foreclosure.

13. Costs and Fees. A judgment, decree or order in any action brought under this Section must include costs and reasonable attorney fees to the prevailing party.

14. Other Foreclosure. Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot, obtains title to the Lot as a result of a foreclosure of a first mortgage or deed of trust, such purchaser and its heirs, successors and assigns will not be liable for the assessments against such Lot which became due prior to the acquisition of title to such Lot by said purchaser. Such unpaid assessments will thereafter be deemed common expenses collectible from all the Lot Owners including such purchaser, its heirs, successors and assigns.

15. Contents of Claim of Lien. A Claim of Lien filed pursuant to this Section must set forth the name and address of the Association, the name of the record Owner of the Lot at the time the Claim of Lien is filed, a description of the Lot, the amount of the lien claimed, and must be in the form set out by North Carolina General Statutes §47F-3-116(g). The first page of the Claim of Lien must contain the following statement in print that is in boldface, capital letters and no smaller than the largest print used elsewhere in the document: **THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW.**

F. Availability of Documents. The Association shall maintain current copies of the Declaration, Bylaws and rules and regulations for the Development as well as its own books, records and financial statements, available for inspection by all Owners and their mortgagees, insurers and mortgage guarantors, upon reasonable notice during normal business hours.

ARTICLE VI DESIGN AND ARCHITECTURAL CONTROL:

The following design and architectural control restrictions apply to all Lots:

A. Perpetual Control by Association. The Association shall retain the right of architectural control perpetually beginning as of the date this Declaration is recorded. The original Declarants have, in accordance with Article III, Section 1 of the original declaration, have voluntarily surrendered the right of architectural control to the Association through a duly recorded instrument transferring the same. Additionally, the Association hereby designates its Board of Directors to act in the capacity of "Architectural Review Board" and as such, the Board of Directors is hereby specifically authorized and directed to enforce the provisions of this Article.

B. Structures, Additions and Alterations. In addition to the single-family dwellings presently existing on any Lot, no dwelling, garage, accessory building, fence, wall, sidewalk, hedge, mass planting, side preparation, swimming pool, tree house, children's play house, sign, exterior illumination, monument or marker, driveway, utility facility, mail receptacle, well, tennis court, patio, deck, dock or pier, or any other

structure or improvement may be commenced, erected or maintained on any Lot. Shrubbery and landscaping may be added as long as it is in keeping with the general character of the neighborhood.

No exterior addition, change or alteration may be made until written plans and specifications showing the proposed location, nature, kind, shape, height, orientation, drives, parking areas, proposed alterations to the materials, colors, and construction schedule have been submitted and approved in writing by the Board of Director, said approval to be made in the Board's sole discretion so as to preserve the harmony of external design and location in relation to surrounding structures and topography. All driveways must be constructed of concrete.

Houses may not contain less than 1,600 square feet of heated living area. Once a lot has been purchased by an individual owner, construction on a house thereon must be commenced so as to be completed within twelve months unless otherwise approved by the Board of Directors. Houses may not exceed two-and-one-half stories in height. Placement, front, rear and side elevations, together with specifications on the exterior siding, square footage, windows, doors, roofing and exterior colors must first be submitted to the Board of Directors for review and approval prior to commencing construction, including site work. All buildings must be stick-built and have a crawl space or raised slab foundation. Mobile homes, modular homes and any other structure that is not stick-built are absolutely prohibited. The Association retains sole discretion over the precise site and location of any house, dwelling or other structure proposed to be situated on any Lot.

Construction must be supervised in such a manner so as to ensure that the site is not left vacant for extended periods of time, the site remains clean and free of refuse, unsightly or dangerous conditions, and that the site is appropriately restricted to prevent the same from becoming an attractive nuisance to children.

C. Restrictions Concerning Built Upon Area. In compliance with applicable state and local storm water runoff regulations, the following restrictions apply concerning impervious surfaces, defined as "built upon area" elsewhere herein: Lots 1-13, 22, 23, and 34-52: 3,200 square feet per Lot; and Lots 14-21 and 24-33: 3,700 square feet per Lot. This allotted amount includes any built upon area constructed within the Lot boundaries and that portion of the right-of-way between the front Lot line and the edge of the pavement. Built upon area includes but may not be limited to structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking or the water surface of swimming pools. The Association reserves the right to recalculate maximum allowable built upon area in accordance with the stormwater runoff rules and regulations of the State of North Carolina with the approval of the North Carolina Division of Water Quality ("NCDWQ").

All runoff from the built upon area must drain into the Development's approved stormwater runoff system. This may be accomplished through the placement of roof drain gutters to drain into the street, Lot grading toward the street, or grading perimeter

swales to collect Lot runoff and directing them into the stormwater system or into the street. Lots which naturally drain into the system are not required to take these additional measures.

Drainage swales or drainage patterns used to treat stormwater runoff as required by state rules and regulations may not be filled in, piped or changed without the consent of the Association or the NCDWQ and must be maintained as provided herein. For curb and gutter projects, no one may pipe, fill in, or alter any lot line swale used to meet state stormwater management permit requirements.

NCDWQ is hereby made a beneficiary of this Declaration to the extent necessary to maintain compliance with the stormwater management permit. This covenant will run with the land and be binding on all persons and parties claiming under it. This covenant may not be altered or rescinded without the express written consent of NCDWQ. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of NCDWQ. This covenant is intended to ensure ongoing compliance with the state stormwater management permit issued by NCDWQ under North Carolina Administrative Code §2H.1000.

D. Outbuildings, Temporary Structures, Existing Structures and Further Development of Lot 36R. No garage, barn, shack, tent or other similar structure, whether temporary or permanent, may be placed or stored upon any Lot at any time unless the same is completely screened from view from any street or other Lot and the same is approved in writing by the Board of Directors. Provided that, notwithstanding the foregoing, the house and outbuildings presently existing on Lot 36R (commonly known as the McGinnis house and lot) will be permitted as a matter of right, and further provided that, should Lot 36R at some point in the future be subdivided or developed, then any such development or subdivision must be in complete compliance with this Declaration and subject to approval of the Board of Directors. 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 Board of Directors, so as to preclude the same from causing and unsightly view from any street, alley, Lot or Common Area within the Development. No fences may be placed or permitted to remain on any Lot without approval of the Board.

This restriction is specifically subject to the rights and exemptions retained by Atlantis Holdings, LLC, in that document recorded in Deed Book 5483 at Page 1955 of the New Hanover County Registry.

E. Grading, Trees and Vegetation. Lot Owners may not alter the grade, elevation or other physical characteristics of any Lot, or any portion thereof, in any way whatsoever, until a proposed site and grading plan and schedule have been approved in writing by the Board of Directors. Disapproval of said proposed site and grading plan may be based on any ground, including purely aesthetic and environmental considerations that the Board of Directors, in its sole and absolute discretion, deems sufficient. The Association has control over the removal or any tree or vegetation from any Lot and no Owner may remove or alter the same without prior written approval of the Board of Directors.

Additionally, all mass landscaping, tree cutting and site preparation work to be performed must be approved by the Association prior to commencement of such work. Plans submitted for approval must include a site plan with lot lines, building outlines, driveways and parking areas. Identification of trees for which removal is requested is required. Specifically, hardwoods with a caliper of five inches or more may not be cut or removed without the express written consent of the Board of Directors. All dead trees on a Lot must be removed and replaced with trees comparable in size and type. The large oak tree presently existing on Lot 24 must not be removed, and any home built on that Lot must accommodate the tree. If any Member removes a tree without abiding by the procedure herein outlined, then the Member will be noticed of a violation and fined in accordance with this Declaration and applicable law.

F. Procedure for Approval. Any Owner seeking approval of any proposed improvements or alterations to any Lot as stated above shall submit to the Board of Directors plans and specifications showing in such detail as the Board may require the nature, shape, height, color, material and location of any such improvements or alterations. The Board may require a formal survey plat for any improvements on a Lot. The Board's approval or disapproval will be made in its sole discretion and in keeping with the harmony and character of the neighborhood, and must be made in writing within thirty (30) days of the Owner's submission. If the Board fails to issue a written decision within said period, then the request will be deemed to have been approved. The Owner may not vary any improvement or alteration from the approved plan without first seeking Board approval in the manner stated herein. Board approval, if given, will not be construed as a representation or warranty by the Board as to structural integrity, design or quality of the proposed improvement or alteration.

If the Owner fails to comply with the requirements outlined herein, then the Association may issue a notice of violation and if the same is not cured within thirty (30) days of said notice, then the Association will be entitled to enter upon the offending Lot and cure the defect, which cure may include the removal of any improvements or alterations built in violation hereof, all at the Owner's expense. This entry by the Association or its duly authorized agents will not be deemed a trespass. Should the Owner fail to reimburse the Association of these expenses upon presentment of the Association's bill, then the expenses will become an assessment against the Lot which is enforceable as a continuing lien as provided elsewhere herein.

G. Common Area and Lot Maintenance by Association. The Association must maintain, repair and replace the streets, planting easement areas including islands and cul-de-sacs, gate, storm water drainage and retention pond system (after such time as the same has been transferred to the Association by Galarde Development, LLC), lines, pipes and ditches in the Common Areas and Lots (except those belonging to individual Lots), and any premiums associated with general liability insurance insuring the Association from liability arising from the ownership and operation of the Common Areas.

The Association and its authorized agents have the right to enter Lots at reasonable times for such purposes, and each Owner hereby expressly grants said right

on entry in the Association, perpetually, for such purposes. The cost of such maintenance, repair or replacement is a common expense of the Association. If, however, the need for such maintenance, repair or replacement is caused through the willful, wanton or negligent act of any Lot Owner, its tenants, family, guests or invitees, then the cost of such maintenance, repair or replacement will be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VII USE RESTRICTIONS:

The following use restrictions apply to each Lot in the Development:

A. Rules and Regulations. The Board of Directors will have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Areas. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board, will be recorded in written form and maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

B. Single-Family Residence Only. All Lots will be single-family residential lots, and will be used for single-family residential purposes only. This includes both owner-occupied and tenant-occupied properties. No business, trade, vocation or occupation will be permitted to be conducted at or pursued from any office, formal or informal, on any Lot. Lot Owners may, however, operate a "home office" used for the conduct of an internet-based or similar type of business, as long as said "home office" does not otherwise violate any provision hereof or any zoning or similar ordinance enacted by New Hanover County or the City of Wilmington. Any building erected, altered, placed or permitted to remain on any Lot will be subject to all provisions contained herein relating to architectural control.

C. No Unsightly and Unkempt Conditions on Lots. Each Lot Owner shall prevent the development of any unclean, unsightly or unkempt conditions of any buildings or grounds on its Lot which would tend to constitute a nuisance or otherwise decrease the beauty of the Lot, or diminish or destroy the enjoyment of other Lots by other Lot Owners. This restriction includes, but may not be limited to, the prohibition of the storage on any lot of anything unclean, noxious, unsightly or unkempt. Whether a given condition or thing is "unclean, noxious, unsightly or unkempt" rests in the sole and absolute discretion of the Board of Directors.

D. Building Maintenance. Each Lot Owner shall keep all structures in a clean, neat and sightly condition. Failure to do so will give rise to a cause of action in accordance with provisions contained elsewhere herein.

E. Lot Maintenance by Owners. Each Lot Owner shall keep its Lot in an orderly condition and shall keep the improvements thereon in a first class and suitable state of repair, promptly repairing any damage thereto by fire or other casualty,

including vandalism and theft. Owners of vacant residences are required to keep and maintain the same in a manner consistent with occupied residences.

No clotheslines may be maintained on any Lot, and no Lot may be used for the storage of trash and rubbish, or anything that may cause a disturbance of the peace in the neighborhood.

If a Lot Owner fails to maintain its property, keeping it free of weeds, underbrush, refuse piles and other unsightly growth or objects, then after five days' notice from the Board of Directors, the Association may enter said property and perform maintenance at the Lot Owner's expense. The Association's entry under this provision may not be deemed a trespass by the Lot Owner. The cost of the maintenance performed will give rise to a lien in the Association's favor. If the Lot Owner does not make payment within thirty days of being billed, then the Association may enforce its lien by court proceedings and otherwise as provided by applicable laws relating to lien enforcement as stated elsewhere herein. The provisions of this paragraph will not be construed as an obligation on the part of the Association to undertake any of the foregoing.

F. No Noxious, Illegal or Offensive Activity or Nuisance. No noxious, illegal or offensive activity may be carried on upon any Lot, and nothing may be done on any Lot that may tend to cause embarrassment, discomfort, annoyance or nuisance to any other Lot Owners. Whether a given activity is "noxious" or "offensive" rests in the sole and absolute discretion of the Board of Directors. Whether an activity is "illegal" is determined in accordance with the North Carolina General Statutes, and whether an activity constitutes a "nuisance" is determined in accordance with North Carolina common law. The Association will consider complaints of Lot Owners relating to, *inter alia*, barking dogs, vehicles parked in the streets or on lawns, animals roaming free, and loud music.

G. Restrictions on Animals. No animals, livestock or poultry of any kind may be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets ("companion animals") may be kept or maintained, provided that they are not kept or maintained for commercial purposes and provided further that they do not become a nuisance to the neighborhood. All companion animal owners are responsible for policing any litter left by their companion animal.

H. Restrictions on Signs. Except as may be required by legal proceedings, no sign of any character may be displayed on any lot, except as follows: a temporary "For Sale" sign (by a realtor or "For Sale by Owner") which may not exceed in size a total of six square feet; a Lot or Owner identification sign which may not exceed in size a total of two square feet; or a general contractor's sign (not a subcontractor's sign) during a period of construction. Signs allowed under this provision must nevertheless be in good taste and in character with the neighborhood, and must be approved in writing by the Board of Directors, and no sign may be affixed to a tree.

I. No Re-subdivision of Lots. No Lot may be re-subdivided, or its boundary lines changed, by any Lot Owner. Provided that, notwithstanding the foregoing, Lot 36R may be subdivided into three residential lots, each said lot and any construction thereon to be subject to this Declaration in its entirety.

J. Satellite Dishes and Antennae. The Federal Communications Commission ("FCC") adopted a rule effective October 14, 1996, preempting certain association restrictions on satellite dishes that are one meter (39.37 inches) or less in diameter. This type of satellite dish cannot be prohibited, but reasonable restrictions on location and installation requirements are permitted as long as these restrictions do not cause unreasonable expense or delay. Therefore, satellite dishes that are one meter or less in diameter may be installed in accordance with the following restrictions:

1. Placement must be in the backyard, below the fence level, if reception is available at that location. If not, then placement should be on the back or side of the house below the roof line, if reception is available at that location. If not, then placement can be above the roof line or in the front of the house. Any front-of-house or front yard installation must be screened from view.
2. Owners shall secure written approval by the Board of Directors before any such installation, but in order to avoid undue delay, Owners may notify the Board in writing within ten (10) days after such installation. If it is found that an installation did not follow the placement priority listed herein, then the satellite dish may have to be relocated.
3. The placement or installation of a satellite dish larger than one meter in diameter requires that the highest point of the dish's structure does not extend above the top of the fence on the Lot on which the satellite dish is installed and the structure is not visible from ground level at any point outside of the Lot. Outdoor television antennae may not be erected on any Lot or building.

K. Boats, Trailers, Recreational and Other Vehicles. No boat or trailer may be stored on any Lot unless inside a garage. Otherwise, no camper, trailer, mobile or motor home, or similar type of vehicle will be allowed to remain on any Lot or street at any time, without the express prior written consent of the Board of Directors. No inoperable vehicle or vehicle without current registration and insurance, and no tractor-trailer will be allowed on any Lot or street. The Association may, at the Lot Owner's expense, have any such vehicles towed.

L. Trash and Garbage Collection. Lots must be served by such trash and garbage collection services as the same may be selected and approved by the Board of Directors from time to time.

M. Exterior Lights. All light bulbs or other lights installed in any fixture located on the exterior of any building or on any Lot shall be clear, white or non-frost

lights or bulbs, and shall be low-level (i.e., not fluorescent, neon, xenon, etc.). No street lights or high-intensity lights are permitted unless agreed upon as a capital improvement by the Association.

N. Mailboxes. Each Lot will have one mailbox and one paperbox mounted on a single post, all to be approved by the Board of Directors. Such boxes may be provided by the Association or the individual Lot Owner, must remain with the Lot, and will be maintained by the Association. Mailboxes damaged beyond repair will be replaced by the Association at the Lot Owner's expense.

O. Leases of Homes. No dwelling on any Lot may be leased for transient or hotel purposes, nor may any Owner lease less than an entire dwelling, nor may any lease be for any time period less than six months. All leases must be in writing and provide in their terms that tenants will be subject to the provisions of this Declaration, the Bylaws and any Rules and Regulations of the Association and that any failure by the tenant to comply with the same will constitute a default under the lease entitling the Owner to immediately institute eviction proceedings. An Owner must, within one week of signing a lease of its property, provide a copy of the same to the Secretary of the Association, and must keep the Board of Directors informed as to any amendment, termination or renewal of any lease.

P. Common Area Alterations. No person may undertake, cause or allow any alteration or construction in or on any portion of the Common Areas except at the direction or with the express consent of the Board of Directors.

Q. Parking Rights and Restrictions. Adequate off-street parking will be provided by the Owner of each Lot for automobiles and other vehicles owned and controlled by such Owner, members of the Owner's family or guests of the Owner. Parking on sidewalks or vacant lots is absolutely prohibited. Owners and guests may park in the streets in front of and adjacent to homes.

ARTICLE VIII GENERAL PROVISIONS:

A. Lots Subject to Declaration. All present and future Owners, tenants and occupants of Lots and their guests or invitees, will be subject to and shall comply with the provisions of this Declaration, as the same may be amended from time to time. The acceptance of a deed of conveyance or the entering into a lease or the entering into occupancy of any Lot will constitute an agreement that the provisions of the Declaration are accepted and ratified by an Owner, tenant or occupant. The covenants and restrictions of this Declaration will inure to the benefit of and be enforceable by the Association, or the Owner of any Lot, its respective legal representatives, heirs, successors and assigns, and will run with and bind the land and bind any person having at any time any interest or estate in any Lot, as though such provisions were made a part of each and every deed of conveyance or lease.

B. Association's Remedies for Unauthorized Actions. If any Lot Owner undertakes any action, directly or indirectly, for which pre-approval of the Board of Directors is required, and said Lot Owner fails to secure the necessary pre-approval, then the Board may, in addition to the notice, hearing, fines and other remedies available under the Act as outlined herein, apply to a court of competent jurisdiction for preliminary and permanent prohibitory injunctions, which said injunctions may be pursued without bond or other security, enjoining and restraining such unauthorized action or threatened unauthorized action. The remedies stated herein will be in addition to all other remedies which may be available to the Association or Board of Directors at law or in equity, which remedies will be cumulative. This provision is necessary in order to protect the Association and other Lot Owners from suffering irreparable damages, including the inability to identify specific money damages, and the inability to monitor closely or determine the nature and extent of such violations.

C. Interpretation. In the event of a conflict between this Declaration and the Bylaws of the Association, this Declaration prevails except to the extent it is inconsistent with applicable law.

D. Procedures for Fines and Suspension of Privileges and Services. In the event of a violation, a hearing must be held before the Board of Directors to determine if the offending Lot Owner should be fined or if Association privileges and services should be suspended pursuant to the Declaration. The Lot Owner charged must be given written notice of the charge and nature of the violation, an opportunity to cure and be heard and to present evidence, and written notice of the decision. If it is decided that a fine should be imposed, then a fine not exceeding \$100.00 may be imposed for each day the violation remains or continues to occur, beginning on the sixth day following the Board's written decision on the hearing. Such fines will become assessments secured by liens under North Carolina General Statutes §47F-3-116. If it is decided that a suspension of Association privileges and services should be imposed, then the suspension may be continued without further hearing until the violation is cured, or in the case of a delinquency in assessments, until the same has been paid.

E. Enforcement of Covenants. The Association retains 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 to enforce any covenant or restriction herein contained will in no event be deemed a waiver of the right to do so thereafter. The Board of Directors retains the right and obligation to establish fines for violations of the restrictions, conditions, and covenants as are herein contained. Reasonable attorney fees may be awarded to the prevailing party in any action to enforce the provisions of this Declaration, the Articles of Incorporation of the Association, the Amended and Restated Bylaws of the Association, or any Rules and Regulations adopted by the Association.

F. Enforcement of Storm Water Runoff Regulations. The State of North Carolina and New Hanover County are hereby made beneficiaries of this Declaration to

the extent necessary to enforce its storm water runoff regulations as the same may be enacted and amended from time to time.

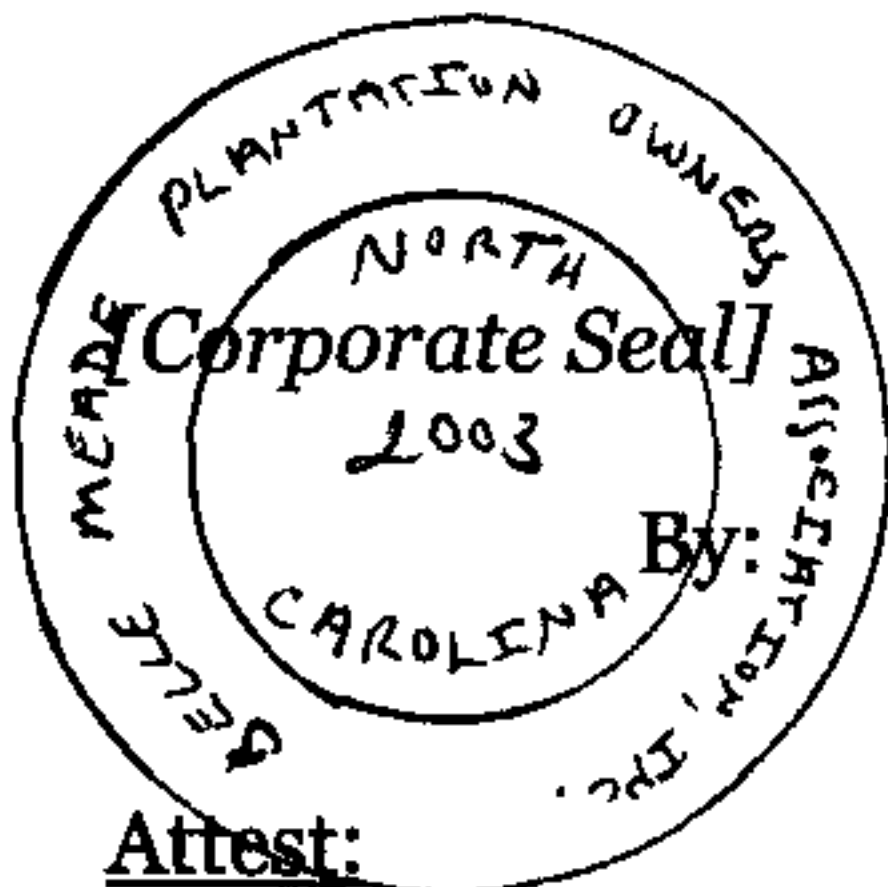
G. Severability. Invalidation of any one of these covenants or of the restrictions by judgment or court order will in no way affect any other provisions, which will remain in full force and effect.

H. Amendment of Declaration. The amendments effected by this Declaration have been made in accordance with Article VIII, Section 3 of the original declaration, upon approval and execution by the original Declarants and seventy percent (70%) of the Lot Owners in the Development.

The covenants and restrictions of this Declaration may be further amended only by an instrument duly recorded in the New Hanover County Registry, executed by not less than eighty percent (80%) of the Lot Owners, provided that no amendment will alter any obligation to pay *ad valorem* taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein.

I. No Public Dedication. Nothing in this Declaration, nor in the recording of any plat or deed pursuant hereto, will dedicate (or be deemed to dedicate) to public use any of the property hereby affected.

IN WITNESS WHEREOF, the Association has caused this Declaration to be executed in its corporate name by its duly authorized officers, by the original Declarants, and by seventy percent (70%) of the Lot Owners this 3rd day of April, 2010.



BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC.



John G. Hayes, President



William H. Hatcher, Secretary

LOT OWNERS

For First Troy SPE, LLC. John Hayes 26 lots + house (SEAL)

Chad + Julie Biggers (SEAL)

David + Linda Thompson (SEAL)

Elizabeth D. Hickmon (SEAL)

Jason + Amy Westbrook (SEAL)

Dannell + Ann Freeman (SEAL)

Kevin Martin (SEAL)

Serkan YILMAZ (SEAL)

Calvin + Danyal Velt (SEAL)

John A. + Gretchen Hooks (SEAL)

Martha D. Shogi (SEAL)

Ollie Sykes by Wm H. Hatcher (SEAL)

New Bridge Bank aka Marcus Smith (SEAL)
by Wm H. Hatcher

My Commission Expires March 24, 2014

**AMENDED AND RESTATED BYLAWS
OF
BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC.**

**A CORPORATION NOT FOR PROFIT UNDER THE
LAWS OF THE STATE OF NORTH CAROLINA**

ARTICLE I
INTRODUCTION:

These are the Bylaws of BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC. ("Association"), a non-profit corporation formed under the laws of the State of North Carolina, the Articles of Incorporation of which were filed in the Office of the Secretary of State on the 21st day of November, 2003. The Association has been organized for the purpose of administering the operation and management of an association of owners of residential lots located within the development in Wilmington, New Hanover County, North Carolina, and known as BELLE MEADE PLANTATION subdivision ("Development"), original and revised maps and plats of which are recorded in Map Book 47 at Page 387, Map Book 48 at Page 146, Map Book 48 at Page 243, and Map Book 48 at Page 357, all of the New Hanover County Registry, to which reference is hereby made for a more particular description.

A. The provisions of these Bylaws are applicable to the Association and the terms and provisions hereof are expressly subject to the terms, provisions, conditions and authorizations contained in the Articles of Incorporation ("Articles") and which may be contained in the Amended Declaration of Covenants, Conditions and Restrictions for Belle Meade Plantation Subdivision ("Declaration"), which is recorded in Deed Book _____ at Page _____ of the New Hanover County Registry, the terms and provisions of said Articles and Declaration to be controlling wherever the same may be in conflict herewith.

B. All members of the Association, together with their tenants, families, guests and invitees are subject to these Bylaws, the Articles, the Declaration and any Rules and Regulations as may be promulgated by the Association from time to time.

C. The principal office of the Association is located at 615 Princess Street, Wilmington, New Hanover County, North Carolina, 28401, or such other place as the Board of Directors designates from time to time.

D. The fiscal year of the Association will be the calendar year.

ARTICLE II
DEFINITIONS:

For purposes of these Bylaws, the following definitions apply:

A. **Act:** The North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes.

B. **Allocated Interests:** The common expense liability and votes in the Association allocated to each Lot.

C. **Assessments:** The Annual, Special, Insurance, and *Ad Valorem* Assessments defined further herein.

D. **Association:** BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation, the original Articles of Incorporation for which were filed with the North Carolina Secretary of State on November 21, 2003. All Lot Owners are Members of the Association by virtue of their Lot ownership, and such membership runs with each Lot; therefore, membership cannot be separated from the ownership of any Lot.

E. **Board of Directors:** The body, regardless of name, designated herein to act on behalf of the Association.

F. **Built Upon Area:** That portion of each Lot that is covered by impervious or partially impervious material, including but not being limited to structures, asphalt, concrete, gravel, brick, stone, slate, coquina, and parking areas. Built upon area does not include raised, open wood decking or the water surface of swimming pools. Built upon area is specifically subject to the restrictions on impervious surfaces contained elsewhere in this Declaration.

G. **Common Areas:** Any and all property, whether real or personal, which is owned by the Association for the common use and enjoyment of Lot Owners, as well as any and all property, whether real or personal, whether owned by the Association or not, which the Lot Owners have a mutual or common right or privilege to use and enjoy as provided by this Declaration and any future amendment hereof. Common Areas include but may not be limited to streets and street rights-of-way, alleys, easements, walkways, gazebos, parks, islands, cul-de-sacs, street gates, ponds, medians, signs, mailboxes, open spaces, and any other areas designated as "Common Areas" on any recorded map or plat of the Development.

H. **Common Expense:** Expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

I. **Common Expense Liability:** The liability for common expenses allocated to each Lot as permitted by this Declaration or applicable law.

J. Declaration: This instrument as it may be from time to time amended or supplemented.

K. Development: All of that real property, including individually owned Lots and Association owned Common Areas, described in the introductory paragraphs hereof, as depicted on the original and revised plats and maps referenced herein, and generally known as BELLE MEADE PLANTATION SUBDIVISION. A true and exact copy of the updated plat map of the Development is attached to this Declaration as "Exhibit A" and is incorporated herein by reference as if set out fully verbatim.

L. Lessee: The party entitled to present possession of a leased Lot whether lessee, sublessee or assignee.

M. Lot: Any one subdivided and numbered parcel of real property located in the Development which is intended for single-family residential purposes only.

N. Lot Owner: The record owner (by purchase, devise, inheritance, decree or otherwise), whether one or more persons or entities, of a fee simple title to or interest in any Lot in the Development, but excluding tenants and those persons or entities having such interest merely as security for the performance of an obligation or the payment of an indebtedness.

O. Member: Each and every Lot Owner in the Development. The terms, "Member" and "Lot Owner" may be used interchangeably in this Declaration. Members who own Lots with residences are known as "Class A" Members and Members who own Lots without residences are known as "Class B" Members.

P. Membership: The rights, privileges, benefits, duties and obligations inuring to the benefit of and burdening each Member of the Association.

Q. Private Right of Way: Any street or alley marked as such on any map or plat of the Development which is designated as such and which was previously designated as "Public Right of Way". Said private right of way will remain private and will not be dedicated to the State of North Carolina, County of New Hanover or City of Wilmington for any purpose, public or otherwise, whatsoever. The private right of way will include all paved portions of streets, adjoining curbs and gutters, irrigation systems, all storm drains, sanitary sewer lines and other utility facilities installed therein or thereunder, all landscaped medians therein, and adjoining landscaped areas within the full widths of any rights of way easements as shown on any map or plat of the Development or as recorded as an easement with the New Hanover County Registry.

R. Reasonable Attorney Fees: Attorney fees reasonably incurred without regard to any limitations on attorney fees which may otherwise be allowed by law. The minimum amount of "reasonable attorney fees" is equal to 15% of any amount sought to be recovered. Due to the case-by-case nature of any legal matter, however, "reasonable attorney fees" may be deemed to exceed said 15% of any such amount.

S. Use Restrictions: The restrictions and covenants set forth in this Declaration, which said use restrictions apply to all Lots in the Development.

ARTICLE III
MEMBERSHIP, MEETINGS, VOTING, QUORUM, PROXIES:

A. Membership and Voting Rights. The qualifications for membership in the Association, the manner of admission to membership in the Association, the manner of termination of such membership, and the voting rights of the Members of the Association are as follows:

1. All Lot Owners within the Development are Members of the Association. This membership specifically excludes, however, tenants and persons or entities holding an interest in a Lot merely as security for the performance of an obligation or the payment of indebtedness. Provided that, notwithstanding the foregoing, any bank, mortgage company or other lender which has acquired title to a Lot by virtue of a foreclosure, short sale or similar distress sale will be in all aspects considered a Member of the Association, and will have all the rights, privileges, duties and obligations pertaining to such membership.
2. Membership is established by the acquisition of fee simple title to a Lot within the Development, or by the acquisition of a fee simple ownership interest therein, whether by conveyance, devise, inheritance, judicial decree or otherwise, and the membership of any Member will be automatically terminated upon its being divested of all title to its fee simple ownership interest in the Lot upon which the membership is based.
3. Neither membership in the Association nor the interest of any Member in or to any of all of the funds and/or assets of the Association, including all property, whether real or personal, can be assigned, pledged, hypothecated, or transferred in any manner, except as an appurtenance to a Lot. The funds and assets of the Association, including all property, whether real or personal, will belong solely to the Association subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Articles or in the Declaration. Since assessments become assets of the Association upon the payment thereof, no Lot Owner has the right to be reimbursed any portion of such assessment upon selling its Lot.
4. On all matters upon which the full membership is entitled to vote, Lot Owners are entitled to cast one vote for each Lot owned by the Lot Owner at the time of the vote. When more than one person holds an interest in any Lot, all such persons must be Members. The vote for such Lot will be exercised as they among themselves determine, but in no event will more than one vote be cast with respect to any Lot. Methods of determination are set out more fully in the Amended and Restated Bylaws

of the Association. On matters upon which only Class A Members or only Class B Members – as defined elsewhere herein – are entitled to vote, such matters are subject to the following restrictions as set forth in North Carolina General Statutes §§47F-3-110(e) and (f):

- a) Issues affecting Class A Members only may be subject to a vote of Class A Members only, provided that all except *de minimis* cost that will be incurred based on the vote taken will be assessed solely against Class A Members.
- b) Issues affecting Class B Members only may be subject to a vote of Class B Members only, provided that all except *de minimis* cost that will be incurred based on the vote taken will be assessed solely against Class B Members.

For purposes of the class voting procedure set out above, an issue to be voted on is not of special interest solely to one class if it substantially affects the overall appearance of the Development or substantially affects living conditions of Members not included in the class.

B. Annual Meetings. Annual meetings of Members must be held on the date specified in the notice of such meetings given pursuant to this Article. Annual meetings will be held at an hour and place designated by the Board of Directors on the first Thursday in January of each year. At annual meetings, Directors will be elected by ballot of the Members in accordance with applicable provisions of these Bylaws. The Members may also transact such other and further business at annual meetings as may properly come before said meetings.

C. Special Meetings. Special meetings of Members may be called by the President, by a majority of the Board of Directors, or -- upon written request -- by Members holding a 25% voting interest in the Association. No business may be transacted at a special meeting except as stated in the notice thereof.

D. Notice of Meetings. Except to the extent otherwise provided in the Declaration, not less than ten nor more than twenty days in advance of a meeting, the Secretary or other Officer specified in the Bylaws shall cause written notice to be hand delivered, sent prepaid via United States mail to the mailing address designated in writing by the Member, or sent via electronic mail to the electronic mail address so designated by the Member. In the case of a special meeting, the notice must state the time, place and purpose of the meeting. Notice is deemed given when actually received by a Member (in the case of hand delivery), when deposited in the United States mail, or when sent (in the case of electronic mail delivery).

E. Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing, and such waiver will be deemed equivalent to the receipt of such notice. A Member's attendance at a meeting operates as a waiver of notice thereof.

F. Adjournment of Meeting in Absence of Quorum. At any meeting of Members at which a quorum or higher required percentage of Members is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting until such time as said quorum or required percentage is present.

G. Other Voting and Proxy Rules.

1. If only one multiple Owner of an individual Lot is present at a meeting of the Association, then the Owner present is entitled to cast the vote allocated to the Lot. If more than one of such multiple Owners is present, then the vote allocated to the Lot may be cast only in accordance with the agreement of a majority of its Owners who are present. Majority agreement is conclusively presumed if any one such Owner casts a vote without protest being made promptly by another such Owner to the person presiding over the meeting. If protest is made, then the vote allocated to the Lot will not be cast or considered at the meeting.

2. The vote allocated to a Lot may be cast under a proxy duly executed by a Lot Owner. If a Lot is owned by more than one person, then the Owners may vote collectively or register protest to the casting of a vote by the other Owners through a duly executed proxy. If a protest is registered by proxy, then the vote allocated to the Lot will not be cast or considered at the meeting. A Lot Owner may revoke a proxy given under this section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it specifies a shorter term. Proxies must list all issues on the agenda and require each Member voting by proxy to vote on each issue specifically, by indicating directly on the proxy said Member's vote on the issue. Any proxy not properly completed by a Member will not be valid.

3. The vote of a corporation, limited liability company, partnership, bank, business trust or other entity may be cast by any officer, manager, general partner or other duly authorized agent of such corporation, limited liability company, partnership, business trust or other entity in the absence of express notice of the designation of a specific person by the board of directors, membership, a general partner, or corresponding governing body, or bylaws, operating agreement, partnership agreement or corresponding governing documentation of the owning corporation, limited liability company, partnership, business trust or other entity, or by proxy. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, limited liability company, partnership, bank, business trust or other entity owner is authorized to bind the entity and otherwise qualified so to vote.

4. Votes allocated to a Lot owned by the Association may not be cast.

H. Quorum. Except as otherwise provided in these Bylaws, or in the Declaration, a majority of the Lot Owners within the Development must be present in person or by proxy at any meeting of Lot Owners in order to constitute a quorum at such meeting.

I. Majority Vote. The vote of a majority of the Members present in person or by proxy at a meeting at which a quorum is present will be binding upon all Lot Owners for all purposes except where a higher percentage vote is required in the Declaration, these Bylaws, or the laws of the State of North Carolina.

J. Conduct of Meetings. Meetings must be conducted in accordance with the parliamentary rules set out in the latest edition of *Robert's Rules of Order*, as the same may be revised from time to time, in substantially the following order: 1) roll call; 2) proof of notice of meeting; 3) reading of minutes of preceding meeting; 4) reports of officers; 5) reports of directors; 6) reports of committees; 7) election of directors; 8) old business; 9) new business; and 10) adjournment.

K. Action by the Association. Except where otherwise required under the provisions of the Articles, these Bylaws, the Declaration or by law, the affirmative vote of the persons entitled to cast a majority of the votes at any duly called Members' meeting at which a quorum is present will be binding upon the Members of the Association.

ARTICLE IV BOARD OF DIRECTORS:

A. Number and Qualification. The administration of the Property and the Association will be governed by a Board of Directors, consisting of not less than three persons, each of whom must be a member of the Association in good standing as well as a Lot Owner. Directors will be elected by Lot Owners only. If any Lot is owned by a partnership, limited liability company, corporation, bank, business trust or other entity, then any one officer, partner, member, employee or other authorized agent of that Lot Owner will be deemed to be a Lot Owner for the purposes of electing Directors.

B. Election and Term. Directors are to be elected at annual meetings. Members may, by resolution, adopt specific procedures for conducting the elections, which procedures are not inconsistent with these Bylaws. Nominations may be made from the membership or existing board of directors and directors will be elected by majority vote. Directors will serve one-year terms.

C. Powers and Duties. The Board of Directors may act in all instances on behalf of the Association, except as provided in the Declaration, these Bylaws or the laws of the State of North Carolina. The Board of Directors will have the powers and duties necessary for the administration of the affairs of the Association in accordance with its Articles of Incorporation, the Declaration and these Bylaws, which include, but may not be limited to, the following powers and duties:

1. The power to adopt and amend reasonable regulations governing the use of the Common Areas and Lots by Owners.
2. The power to adopt and amend Bylaws and Rules and Regulations for the Association and the Development.
3. The power to adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Lot Owners.
4. The power to hire and discharge managing agents and other employees, agents and independent contractors including but not being limited to attorneys and accounting professionals.
5. The power to make contracts and incur liabilities, including borrowing money.
6. The duty to operate, maintain, protect, preserve, repair, reconstruct and/or replace the Common Areas and cause additional improvements thereto. If, however, any of the above is necessitated by the willful act or active or passive negligence of any Owner, its family, guests, invitees or tenants, or is caused by fire, wind, rain, blowing water, lightning, smoke or other hazard, casualty or act of God and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors, the cost of the same will be the personal obligation of the Owner and if not paid to the Association upon demand, may be added to the annual assessment levied against said Owner's Lot.
7. The power to acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, provided that Common Areas may be conveyed or subjected to a security interest only pursuant to North Carolina General Statutes §47F-3-112.
8. The power to dedicate or transfer all or part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon unanimously by the Members.
9. The duty to, as a common expense, at all times keep the Common Areas and other property of the Association insured against loss or damage by fire or other hazards and other such risks, including, but not being limited to directors' liability, errors and omissions, and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect such property, which insurance must be payable in case of loss to the Association for all Members. The Board of Directors has the sole authority to deal with the insurer in the settlement of claims. Such insurance must be obtained

without prejudice to the rights of Members to insure their own property for their benefit at their expense. In no event may the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their mortgagees.

10. The privilege to institute, defend or intervene in litigation or administrative proceedings on matters affecting the Development.

11. The power to grant easements, leases, licenses and concessions through or over the Common Areas.

12. The power to assign its right to future income, including the right to receive assessments.

13. The power to impose reasonable charges in connection with the preparation and recording of documents, including, without limitation, amendments to this Declaration and statements for unpaid assessments.

14. The power to impose reasonable charges for late payment of assessments, not to exceed the greater of \$20.00 per month or ten percent (10%) of any assessment installment unpaid and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association during any period that assessments, fines or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer.

15. The power to, after notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the Association for reasonable periods for violations of the Declaration, Bylaws, and Rules and Regulations of the Association pursuant to the procedure outlined in North Carolina General Statutes §47F-3-107.1.

16. The privilege to provide for the indemnification of and maintain liability insurance for its officers, directors, employees, and agents.

17. The privilege to engage in such other activities as are authorized by a majority of the Members from time to time.

18. The privilege to exercise any and all other powers that may be exercised in this State by legal entities of the same type as the Association.

19. The privilege to exercise any and all other powers necessary and proper for the governance and operation of the Association.

20. The power to make architectural approval decisions in accordance with this Declaration.

21. The power to -- by resolution -- establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and provide to the Board of Directors and Lot Owners records and written notice of their actions. Unless otherwise specified, actions taken by a committee may be appealed to the Board of Directors by a Lot Owner within 45 days of publication of such notice, and such committee action must be ratified, modified or rejected by the Board of Directors at its next regular meeting.

D. Standard of Care. In the performance of their duties, the Directors are deemed to stand in a fiduciary relationship to the Association and the Lot Owners and shall discharge their duties in good faith, with that diligence and care which ordinarily prudent people would exercise under similar circumstances in like positions.

E. Removal of Directors. The Members, by a 67% vote of all persons present and entitled to vote at any meeting of the Members at which a quorum is present, may remove any Director at any time with or without cause.

F. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members, may be filled at a special meeting of the Board of Directors by a majority vote of the remaining such Directors, held for that purpose at any time after the occurrence of such vacancy, even though the Directors present at such meeting may constitute less than a quorum. In the event a Director ceases to reside in the Development, said Director is said to have automatically resigned from the Board of Directors and the vacancy left thereby will be filled in accordance with this Section.

G. Regular Meetings. The first regular meeting of the Board of Directors following each annual meeting of the Members will be held at such time and place as is fixed by the newly-elected Directors immediately following the annual meeting at which such Directors were elected. No notice will be necessary to the newly-elected Directors in order to legally constitute such meeting, provided a majority of the Directors is present. The Board of Directors may set a schedule of additional regular meetings by resolution and no further notice is necessary to constitute such regular meetings, except such notice as may be required by the Declaration.

H. Special Meetings. Special meetings of the Board of Directors may be called by the President or by a majority of the Directors on at least five business days' notice to each Director. The notice must be hand delivered or mailed and must state the time, place and purpose of the meeting.

I. Location of Meetings. Directors' meetings will take place at any location in New Hanover County, North Carolina at which the Directors can agree to meet.

J. Waiver of Notice. Any Director may waive notice of any meetings in writing. Attendance by a Director at any meeting of the Board of Directors constitutes a waiver of notice. If all the Directors are present at any meeting, no notice will be required and any business may be transacted at such meeting.

K. Quorum of Directors. At all meetings of the Board of Directors, a majority of the Directors constitutes a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present constitutes an action of the Board. If, at any meeting, there is less than a quorum of Directors present, then a majority of those present may adjourn the meeting. At any adjourned meeting at which a quorum is present, any business which may have been transacted at the meeting as originally called may be transacted without further notice. If any Directors' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the Directors required to constitute a quorum for particular purposes has not attended, wherever the later percentage of attendance may be required as set forth in the Articles, these Bylaws or the Declaration, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance is greater than a quorum, is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

L. Consent to Action Without Meeting. If all of the Directors or all of the committee members of a committee established for such purposes, as the case may be, severally or collectively consent in writing to any action taken or to be taken by the Board or committee, such action will be deemed a valid Board or committee action as though it had been authorized at an actual meeting of the Board or the committee, as the case may be. The Secretary shall file such consents with the minutes of the meetings of the Board or committee.

M. Conduct of Meetings. The presiding officer at Directors' meetings will act as Chair of the Board, if such officer has been elected; and if none, then the President of the Association shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside. Meetings must be conducted in accordance with the parliamentary rules set out in the latest edition of *Robert's Rules of Order*, as the same may be revised from time to time, in substantially the following order: 1) roll call; 2) proof of notice of meeting; 3) reading of minutes of preceding meeting; 4) reports of officers and committees; 5) election of officers, if necessary; 6) old business; 7) new business; and 8) adjournment.

N. No Compensation. Directors shall serve without compensation but may be reimbursed by the Association for necessary personal expenses actually incurred in connection with their duties.

ARTICLE V
OFFICERS:

A. **Designation.** The principal Officers of the Association will be the President, Secretary, Treasurer, and any number of Vice Presidents or At-Large Officers, all of whom must be Directors and elected by the newly-elected Board of Directors immediately following the annual meeting at which such Directors are elected. The Board of Directors may appoint such Assistant Officers and other Officers as it, in its discretion, deems necessary. Any two offices may be held by the same person; however, no one person may act in his/her capacity as more than one Officer at the same time.

B. **Terms of Officers.** Officers serve one-year terms.

C. **Removal of Officers.** Upon the affirmative vote of a majority of the Board of Directors, any Officer may be removed, either with or without cause, and his/her successor may be elected at any regular meeting of the Board of Directors called for that purpose.

D. **President.** The President is the chief executive officer of the Association. He/she shall preside at all meetings of the Members and of the Board of Directors. He/she will have all of the general powers and duties which are incident to the office of President of a non-profit corporation organized under the laws of the State of North Carolina, including but not being limited to the power to appoint committees from among the Lot Owners from time to time as he/she may in his/her discretion decide is appropriate to assist in the conduct of the affairs of the Association. He/she may fulfill the role of Treasurer in the absence of the Treasurer. The President, as attested by the Secretary, may cause to be prepared and may execute amendments to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable. The President shall, at each annual meeting of the members of the Association, ensure that the general membership is aware of whether any proposals being voted on at the meeting is a change to the Bylaws, Declaration or any other governing document of the Association. The President shall, at each annual meeting of the members of the Association, ensure that all issues that were before the membership at the prior annual meeting, that were left unresolved, are addressed in the current annual meeting.

E. **Vice President.** The Vice President, if any, shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He/she shall also generally assist the President and exercise such other powers and perform such other duties as may be prescribed by the Board of Directors from time to time.

F. **Secretary.** The Secretary shall keep the minutes of all meetings of the Members and the Board of Directors. He/she retains charge of such books and papers as the Board of Directors may direct and he/she shall, in general, perform all the duties incident to the office of the Secretary of a non-profit corporation organized under the laws of the State of North Carolina. The Secretary shall maintain a register of all current

Owners and Members of the Association. The Secretary may cause to be prepared and may attest to execution by the President of amendments to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

In addition to the above, the Secretary of the Association shall at each annual meeting of the members of the Association make record of the following: 1) the number of Lot Owners present and entitled to vote at the meeting; 2) the number of proxies held by Lot Owners at the meeting, and who submitted those proxies; 3) the number of votes cast for and against each proposal voted on at the meeting; and 4) as to each proposal being voted on, whether it is a proposal to amend the Bylaws, Declaration, or any other governing documents of the Association.

The Secretary shall give notice to all Members before annual meetings that any proxy not properly completed and returned to the Secretary prior to the annual meeting will be deemed invalid.

G. Treasurer. The Treasurer retains responsibility for Association funds and securities and remains 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 data. He/she remains responsible for the deposit of all monies and other valuable effects in such depositories as may from time to time be designated by the Board of Directors, and he/she shall, in general, perform all the duties incident to the office of Treasurer of a non-profit corporation organized under the laws of the State of North Carolina. He/she may indorse on behalf of the Association for collection only, checks, notes and other obligations, and shall deposit the same and all monies in the name of and to the credit of the Association in such bank or banks as the Board of Directors may designate from time to time. He/she may have custody of and retains the power to indorse for transfer on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others.

H. At-Large Officers. At-Large Officers are Board members who do not hold any other Officership in the Association but who, nonetheless, serve as Board members. At-Large Officers have such powers and perform such duties as from time to time may be prescribed by the Board of Directors.

I. Agreements, Contracts, Deeds, Checks and Other Instruments. All agreements, contracts, deeds, leases, checks and other instruments of the Association must be executed by the President of the Association or by such other person or persons as may be designated by the Board of Directors.

J. No Compensation. No Officer of the Association may receive compensation for acting as such but may be reimbursed by the Association for necessary expenses actually incurred in connection with his/her duties.

K. Resale Certificates and Statements for Unpaid Assessments. The Treasurer, Assistant Treasurer, or a member employed by the Association, or, in their absence, any Officer having access to the books and records of the Association, may prepare, certify, and execute statements for unpaid assessments until the same are paid. The Association may charge a reasonable fee for preparing statements for unpaid assessments. The amount of this fee and the time of payment will be established by resolution of the Board of Directors. The Association may refuse to furnish resale certificates and statements for unpaid assessments until the same are paid.

ARTICLE VI
FISCAL MANAGEMENT:

The provisions for fiscal management of the Association set forth in the Declaration and the Articles and are supplemented by the following provisions:

A. An assessment roll will be maintained in a set of accounting books in which there shall be an account for each Lot. Such account will designate the name and address of the Lot Owner or Owners, the amount of each assessment against the Owners, the dates and amounts in which assessments come due, the amounts paid upon the account and the balance due upon assessments.

B. The Board of Directors shall adopt a budget for each calendar year which must contain estimates of the cost of performing the functions of the Association, including, but not being limited to the following:

1. Common expense budget, which may include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of and capital improvements to the Common Areas including landscaping, gate, street and walkways, office expense, utility services, administration and reserves (operating and capital improvements replacements), management fees and costs of maintaining leaseholds, memberships, and other possessory or use interests in lands or facilities whether or not contiguous to the lands of the Development, to provide enjoyment, recreation, or other use or benefit to the lot owners; and

2. Proposed assessments against each Member and its Lot.

C. Copies of the proposed budget and proposed assessments must be transmitted to each member prior to January 1 of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned. Delivery of a copy of any budget or amended budget to each Member will not affect the liability of any Member for any such assessment nor will delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained will be construed as restricting the right of the Board of Directors, at any time in their sole discretion, to levy any

additional assessments in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

D. The depository of the Association will be such bank or banks as are designated from time to time by the Directors and in which the monies of the Association will be deposited. Withdrawal of monies from such accounts will be only by checks signed by such persons as are authorized by the Directors.

E. An audit of the accounts of the Association must be made annually by a certified public accountant, and a copy of the report must be furnished to each Member not later than April 15 of the year following the year for which the report is made.

F. Fidelity bonds may be required by the Board of Directors from all Officers and employees of the Association and from any contractor handling or being responsible for the Association funds. The amount of such funds will be determined by the Directors. The premiums on such bonds will be paid by the Association.

ARTICLE VII ENFORCEMENT:

A. Assessments, Liability, Lien and Enforcement. The Association has heretofore been granted the power and authority to administer the operation and management of the Common Areas of the Development, it being recognized that the delegation of such duties to one entity is in the best interests of the Lot Owners. In order to properly administer the operation and management of the Common Areas, the Association will incur, for the mutual benefit of all the owners of residential lots, costs and expenses known as "common expenses". In order to provide the funds necessary for such proper operation, management and capital improvement, the Association has heretofore been granted the power and authority to make, levy and collect assessments against the Members of the Association in accordance with their Lot Ownership. In furtherance of this grant of power and authority to the Association, the following provisions will operate upon and bind the Lot Owners:

1. Creation of Lien and Personal Obligation of Assessments. Each Lot Owner, by acceptance of the deed for its Lot, whether or not so expressed in such deed, hereby covenants with and agrees to pay to the Association the following:

- a) Annual assessments or charges which may be payable in the form of quarterly or monthly dues to the Association;
- b) Special assessments for capital improvements or special assessments as established by the Association, such special assessments to be established and collected as hereinafter provided;
- c) Insurance assessments for Common Areas;

- d) A *pro rata* share of *ad valorem* taxes levied against the Common Areas by any appropriate governing taxing authority; and
- e) Fees, charges, late charges, fines, interest, and other charges imposed pursuant to North Carolina General Statutes §§47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115.

Assessments, together with costs, interest and reasonable attorney fees, constitute a continuing lien on any Lot against which the assessment is made. If an assessment levied against a Lot remains unpaid for a period of thirty (30) days or longer, then the Association will send the owner a fifteen (15) day notice pursuant to North Carolina General Statutes §47F-3-116(e1) of its intent to seek payment of attorney fees and court costs incurred by the Association in its collection efforts. The Association may, fifteen (15) days after the aforesaid notice, file a Claim of Lien against the Lot with the New Hanover County Clerk of Superior Court, said Claim of Lien to conform with the requirements set out in North Carolina General Statutes §47F-3-116(g). The Association may foreclose the Claim of Lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. Each assessment, together with interest at the highest rate allowable under applicable law, costs and reasonable attorney fees, will also be the personal obligation of the person or entity who is the Lot Owner at the time the assessment fell due. The personal obligation for delinquent assessments will not pass to any successor in title unless expressly assumed by said successor in title.

A Claim of Lien filed pursuant to this Section must set forth the name and address of the Association, the name of the record Owner of the Lot at the time the Claim of Lien is filed, a description of the Lot, the amount of the lien claimed, and must be in the form set out by North Carolina General Statutes §47F-3-116(g). The first page of the Claim of Lien must contain the following statement in print that is in boldface, capital letters and no smaller than the largest print used elsewhere in the document: **THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW.**

Any assessment not paid within thirty days after the due date will bear interest from the due date at the rate of eighteen percent (18%) *per annum*. The Association may enforce the payment of such assessments in any manner provided herein. Additionally, and after notice and an opportunity to be heard, no delinquent Lot Owner may vote at any meeting of the Association, and the Secretary of the Association shall

ensure that no votes are recorded at any meeting from Members who are ineligible to vote at such meeting due to this or any other violation. No Lot Owner may waive or otherwise escape liability for the assessment by non-use of any of the Common Areas or abandonment of its Lot. No exception to the application of this rule will be granted without the consent of the full membership of the Association.

B. Abatement and Injunction of Violations by Lot Owners. The violation of any of the Rules and Regulations adopted by the Board of Directors, or the breach of any provision of the Declaration will give the Board of Directors the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws, the Declaration or applicable law:

1. 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 Lot Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist therein) that is existing and creating a danger to the Development contrary to the intent and meaning of the provisions of the Declaration, and the Board of Directors will not thereby be deemed liable for any manner of trespass; or
2. To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

C. Fine for Violation. By resolution, following notice and hearing, the Board of Directors may levy a fine of up to \$100.00 per day for violations of the Declaration or Rules and Regulations. The procedure for levy of such fine is set out in the Declaration, and must comply with applicable law.

ARTICLE VIII INDEMNIFICATION:

The Directors and Officers of the Association are entitled to indemnification as provided in the North Carolina Nonprofit Corporation Act, Chapter 55A of North Carolina General Statutes, the provisions of which are incorporated herein by reference as if set out fully verbatim.

ARTICLE IX RECORDS:

A. Records and Audits. The Association shall maintain financial records as set forth herein and in the Declaration.

B. Examination. All records maintained by the Association must be available for examination and copying by any Lot Owner, or by any holder of a security interest in a Lot, or by any of their duly authorized agents or attorneys, at the expense of the person examining the records, during normal business hours and after reasonable notice.

C. Records Required. The Association shall keep the following records:

1. An account for each Lot which designates the name and address of each Lot Owner, the name and address of each mortgagee who has given notice to the Association that it holds a mortgage on the Lot, the amount of each assessment, the dates on which each assessment comes due, the amounts paid on the account, and the balance due;
2. An account for each Lot Owner showing any other fees payable by the Lot Owner;
3. A record of any capital expenditures approved by the Board of Directors;
4. A record of the amount, and an accurate account of the current balance of any reserves for capital expenditures, replacement and emergency repairs, together with the amount of those portions of reserves designated by the Association for a project;
5. Balance sheets and income and expense statements of the Association;
6. The current operating budget;
7. A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant;
8. A record of insurance coverage provided for the benefit of Lot Owners and the Association;
9. Tax returns for state and federal income taxation; and
10. Minutes of proceedings of Lot Owners, Directors, committees of the Directors and waivers of notice.

ARTICLE X
MISCELLANEOUS:

A. Notices. All notices must be in writing. All notices to the Association or the Board of Directors must be delivered to the residence address of any Member or Board member, as the case may entail. Except as otherwise provided, all notices to any Lot Owner must be sent to his/her physical or electronic mail address as it appears in the records of the Association. All notices to mortgagees must be sent by registered or certified mail to their respective addresses, as designated by them from time to time, in writing, to the Association. All notices will be deemed to have been given when mailed

except notices of changes of address which will be deemed to have been given when received.

B. Fiscal Year. The fiscal year of the Association is the calendar year.

C. Waiver. No restriction, condition, obligation, or provision contained in these Bylaws will be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

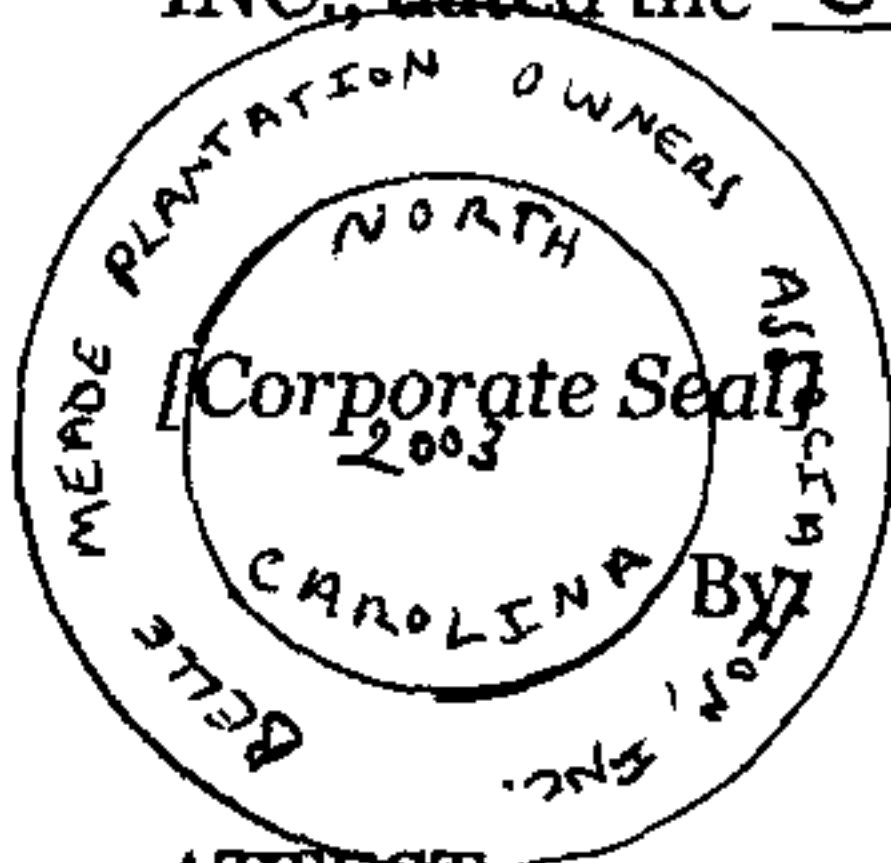
D. Conflict. To the extent there exists any conflict between the provisions of the Declaration and these Bylaws, then the Declaration will control.

E. Amendment of Bylaws. Except as provided elsewhere herein, these Bylaws may be amended only by an instrument executed by the duly authorized Officers of the Association upon the vote of not less than 80% of the Lot Owners.

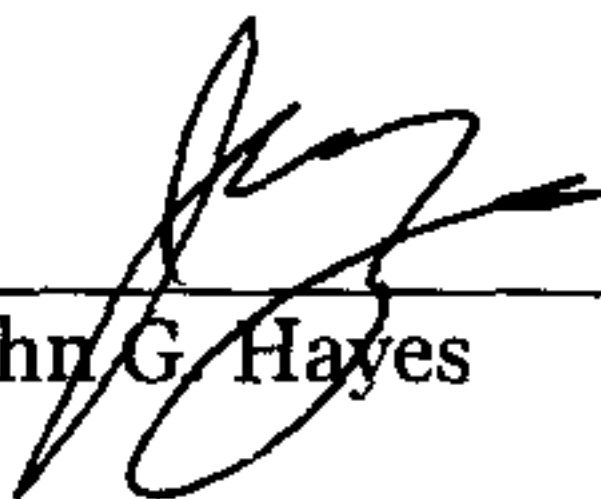
F. Amendment of Declaration. Any amendments made to the Declaration in accordance with its terms must be prepared and executed by the President and must be certified by the Secretary of the Association before they are recorded in the New Hanover County Registry. The President may either make such recording itself, or may authorize and direct an agent of the Association, such as an attorney, to make such recording.

G. Seal. The seal of the Association will be in such form as approved from time to time by the Directors.

The foregoing Amended and Restated Bylaws are certified to be the Bylaws adopted by the Directors of BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC., dated the 3⁰ day of April, 2010.



BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC.



John G. Hayes

President

ATTEST:



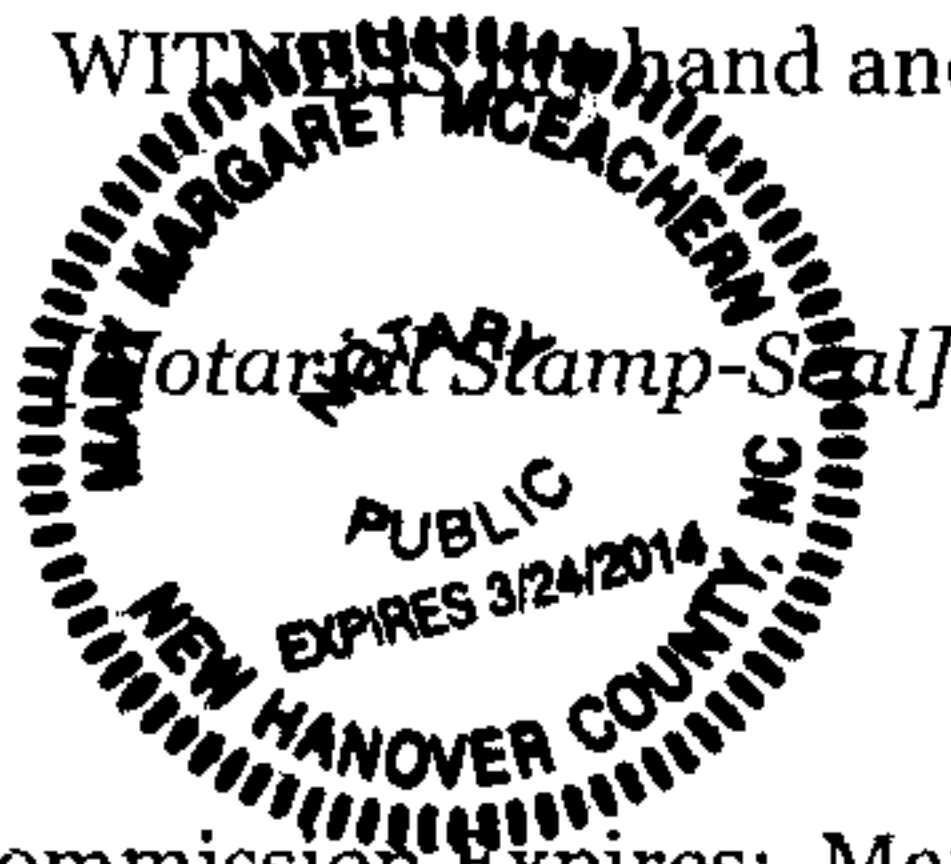
William H. Hatcher


Secretary

STATE OF NORTH CAROLINA)
)
COUNTY OF NEW HANOVER)

I, Mary Margaret McEachern, a Notary Public in and for the County and State aforesaid, do hereby certify that WILLIAM H. HATCHER personally appeared before me this day and acknowledged that he is the Secretary of BELLE MEADE PLANTATION OWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name and by its President, sealed with its corporate seal, and attested by him as its Secretary.

WITNESS my hand and notarial stamp or seal this the 3^o day of April, 2010.




Mary Margaret McEachern
Notary Public

My Commission Expires: March 24, 2014



JENNIFER H. MACNEISH
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

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State of North Carolina, County of New Hanover

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