

ARTICLES OF INCORPORATION

OF

THE DUNE TOP TOWNHOMES PROPERTY OWNERS
ASSOCIATION, INC.

I, the undersigned, natural person of the age of eighteen years or more, do hereby make and acknowledge these Articles of Incorporation for the purpose of forming a Non-Profit Corporation under and by virtue of the laws of the State of North Carolina, as contained in Chapter 55A of the General Statutes of North Carolina, entitled "Non-Profit Corporation Act", and the several amendments thereto, and to that end do hereby set forth:

I

NAME

The name of the corporation is The Dune Top Townhomes Property Owners Association, Inc.

II

DURATION

The period of duration of the corporation shall be perpetual.

III

PURPOSES AND POWERS

The purposes for which this corporation is organized are:

A. The operation and management of townhouse units known as The Dune Top Townhomes which have been established pursuant to the laws of the State of North Carolina, and to that end shall have power and authority;

1. To undertake the performance of, and carry out the acts and duties incident to the administration of the operation and management of The Dune Top Townhomes in accordance with the terms, provisions, conditions and authorization contained in these Articles and the Declaration of Covenants, Conditions and Restrictions which shall be recorded in the Public Records of Dare County, North Carolina, prior to the time the first unit is conveyed;

2. To make, establish and enforce reasonable rules and regulations governing the use of the townhomes, all common properties and those real and personal properties which may be owned by the Association itself;

3. To make, levy and collect assessments against townhome unit owners; to provide the funds to pay for common expenses of the townhomes as provided in the Declaration of Covenants, Conditions and Restrictions, and to use and expend the proceeds of assessments in the exercise of the powers and duties of the Association;

4. To maintain, repair, replace and operate the townhomes property, specifically including all portions of the townhomes property to which the Association has the right and power to maintain, repair, replace and operate in accordance with the Declaration of Covenants, Conditions and Restrictions;

5. To reconstruct improvements within the Association owned property in the event of casualty or other loss;

6. To enforce by any legal means, the provisions of the Declaration of Covenants, Conditions and Restrictions, these Articles, the By-Laws of the Association, and the rules and regulations for the use of the townhomes property adopted by the Association;

7. To contract for the management of the Townhomes and to delegate to such manager or managers all powers and duties of the Association except those powers and duties which are specifically required by the Declaration of Covenants, Conditions and Restrictions to have approval of the Board of Directors or the membership of the Association.

B. The Association shall have all of the common law and statutory powers of a non-profit corporation which are not in conflict with the terms of the Declaration of Covenants, Conditions and Restrictions, including all powers reasonably necessary to implement the purpose of the Association.

IV

MEMBERSHIP

A. The membership of The Dune Top Townhomes Property Owners Association, Inc. shall consist of all of the owners of townhomes units in The Dune Top Townhomes. Membership shall be established by acquisition of fee title to a townhomes unit in The Dune Top Townhomes, whether by conveyance, devise, or judicial decree. A new owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior owner as to the townhomes unit designated shall be terminated. Each new owner shall deliver to the Association a true copy of such deed or instrument of acquisition of title.

B. The share of a member in the funds and assets of the Corporation, and membership in the Corporation cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to a townhomes unit.

C. There shall be one class of membership in The Dune Top Townhomes Property Owners Association, Inc. which shall consist of members owning townhomes units in The Dune Top Townhomes.

V

DIRECTORS

A. The number of Directors and the method of election of the Directors shall be fixed by the By-Laws, however, the number of Directors shall not be less than three. Directors shall be elected at large from the Townhome unit owners.

B. The number of directors constituting the initial Board of Directors shall be three and the names and address of the persons who are to serve as the first Board of Directors are as follows:

NAME	ADDRESS
James F. Perry	P.O. Box 1876, Kill Devil Hills, North Carolina 27948
Thomas L. White, Jr.	P.O. Box 952, Manteo, North Carolina 27954
Starkey Sharp	P.O. Drawer 1027, Kitty Hawk, North Carolina 27949

VI

REGISTERED OFFICE AND REGISTERED AGENT

A. The address of the initial registered office of the Corporation is 3116 Croatan Highway, P.O. Box 1876, Kill Devil Hills, Dare County, NC 27948, and the name of the initial registered agent at such address is James F. Perry.

VII

TAX STATUS

The corporation shall have all the powers granted nonprofit corporations under the laws of the State of North Carolina. Notwithstanding any other provision of these Articles, this corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 528 of the Internal Revenue Code. It is further provided that no distributions of income of the corporation are to be made to members, directors or officers of the corporation provided, however, that members of the corporation may receive a rebate of any excess dues and assessments.

VIII

INCORPORATOR

The name and address of the incorporator is: Thomas L. White, Jr., Kellogg Building, Ananias Dare Street, P.O. Box 189, Manteo, Dare County, North Carolina 27954.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal, this the _____ day of _____, 1986.

Thomas L. White, Jr. (SEAL)

NORTH CAROLINA, DARE COUNTY

This is to certify that on the _____ day of _____, 1986, before me, a Notary Public, personally came THOMAS L. WHITE, JR., who, I am satisfied is the person named in and who executed the foregoing Articles of Incorporation, and I, having first made known to him the contents thereof, he did acknowledge that he signed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this the _____ day of _____, 1986.

MY COMMISSION EXPIRES:

Notary Public

(SEAL)

BYLAWS

OF

THE DUNE TOP TOWNHOMES PROPERTY OWNERS ASSOCIATION, INC.
A NON-PROFIT CORPORATION

ARTICLE I - PURPOSE, APPLICABILITY, OFFICES

Section 1. PURPOSE. This Corporation (hereinafter called the "Association") has been organized to provide for the administration, management, maintenance and care of The Dune Top Townhomes, a townhouse development established or to be established in accordance with the laws of the State of North Carolina upon the property situate, lying and being in the Atlantic Township, Dare County, North Carolina.

Section 2. APPLICABILITY OF BYLAWS. The provisions of these Bylaws are applicable to the Townhouse and to the use and occupancy thereof. All present and future Townhouse Unit Owners, Mortgagees, lessees and occupants of units and their employees, invitees, licensees and guests, and any other persons who may use or occupy the facilities of the Townhouse in any manner, are subject to the Declaration of Covenants, Conditions and Restrictions, these Bylaws and any rules and regulations made pursuant hereto and any amendment to these Bylaws upon the same being passed and duly set forth in an amendment to the Declaration of Covenants, Conditions and Restrictions, duly recorded. The acceptance of a deed of conveyance or the entering into a lease or the act of occupancy of a unit shall constitute an agreement that these Bylaws (and any rules and regulations made pursuant hereto) and the provisions of the Declaration of Covenants, Conditions and Restrictions, as they may be amended from time to time are accepted, ratified and will be complied with.

Section 3. PRINCIPAL OFFICE. The principal office of the Association shall be located in Dare County, North Carolina.

Section 4. REGISTERED OFFICE. The registered office of the Association required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

Section 5. DEFINITIONS. All terms as defined in the Declaration of Covenants, Conditions and Restrictions shall have the same meaning herein except when the context otherwise specifies or requires.

ARTICLE II - TOWNHOUSE UNIT OWNERS

Section 1. MEMBERSHIP. Each Townhouse Unit Owner shall be a member of the Association and no other person or entity shall be entitled to membership, and each such individual shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

Section 2. PLACE OF MEETINGS. All meetings of the Townhouse Unit Owners shall be held at The Dune Top Townhomes or at such other place whether within or without the State of North Carolina as shall be designated in a notice of the meeting.

Section 3. ANNUAL MEETINGS. An annual meeting of the Townhouse Unit Owners shall be held at 7:00 p.m. on the first Monday of February of each year if not a legal holiday, and if a legal holiday, then at the same time on the next day following not a legal holiday for the purpose of electing members of the Board of Directors and for the transaction of such other business as may be properly brought before the meeting.

Section 4. SUBSTITUTE ANNUAL MEETINGS. If the annual meeting shall not be held on the day designated by the Bylaws, a substitute annual meeting may be called in accordance with the provisions of Section 5 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 5. SPECIAL MEETINGS. Special meetings of the Townhouse Unit Owners may be called at any time by the Board of Directors or upon the written request of Townhouse Unit Owners owning in the aggregate at least a 50% undivided interest in the Common areas and facilities.

Section 6. NOTICE OF MEETINGS. Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed not less than ten (10) nor more than fifty (50) days before the date thereof, either personally or be mail at the direction of the Board of Directors or Townhouse Unit Owners calling the meeting, to each person entitled to vote at such meeting.

In case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless it is a matter on which the vote of Townhouse Unit Owners is expressly required by the provisions of North Carolina law. In the case of a special meeting the notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is effective.

Section 7. QUORUM. The presence in person or by proxy at any meeting of the Voting Members (as defined in Section 8 of this Article) having 60% of the total votes shall constitute a quorum. If there is no quorum at the opening of the meeting of Townhouse Unit Owners, such meeting may be adjourned from time to time by the unanimous vote of the Voting Members present, either in person or be proxy; and at any adjourned meeting at which a quorum is present any business may be transacted which might have been transacted at the original meeting.

The Voting Members at the meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than quorum.

Section 8. VOTING RIGHTS. There shall be one person with respect of each Unit who shall be entitled to vote at any meeting of the Townhouse Unit Owners. Such person shall be known and hereafter referred to as a "Voting Member". Such Voting Member may be the Townhouse Unit Owner or may be some other person designated by such Townhouse Unit Owner or Owners to act as proxy on his or their behalf and who need not be a Townhouse Unit Owner. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of death or judicially declared incompetence of any designee, or by written notice to the Board by the Townhouse Unit Owner or Owners. The total number of votes of all Voting Members shall be 15, and each owner or group of owners (including the Board of Directors, if the Board of Directors, or its designee, shall then hold title to one or more Units) shall be entitled to one vote each.

Section 9. VOTING. In all elections for members of the Board of Directors, each Voting Member shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the offices to be filled shall be deemed to be elected.

Section 10. WAIVER OF NOTICE. Any Townhouse Unit Owner may, at any time, waive notice of any meeting of the Townhouse Unit Owners in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Townhouse Unit Owner at any meeting of the Townhouse Unit Owners shall constitute a waiver of notice by him of the time and place thereof except where a Townhouse Unit Owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Townhouse Unit Owners are present at any meeting of the Townhouse Unit Owners, no notice shall be required and any business may be transacted at such meeting.

Section 11. Informal Action by Townhouse Unit Owners. Any action which may be taken at a meeting of the Townhouse Unit Owners may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting, (that is, the Voting Members) and filed with the Secretary of the Association to be kept in the Association's minute book.

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ARTICLE III - BOARD OF DIRECTORS

Section 1. NUMBER. The business and property of the Association shall be managed and directed by the Board of Directors composed of three (3) persons or by such Executive Committees as the Board may establish pursuant to these Bylaws.

Section 2. INITIAL DIRECTORS. The initial Directors are set out in the Articles of Incorporation.

Section 3. ELECTION, TERM AND QUALIFICATION. Except as provided in Section 2 and 5 of this Article, the Directors shall be elected at the first annual meeting (or special meeting called for the purpose of election of Directors) of Townhouse Unit Owners. Such Townhouse Unit Owners shall elect a Board of Directors consisting of three (3) members, one (1) of which shall be elected for three (3) year term, one (1) of which shall be elected for a two (2) year term and one (1) of which shall be elected for a one (1) year term. At each regular meeting of the Voting Members thereafter, such number of Directors shall be elected for three (3) year terms to succeed the Directors whose terms then expire; provided, however, nothing herein shall be construed to prevent the election of a Director to succeed himself. Those persons who receive the highest number of votes shall be deemed to have been elected.

The size of the Board of Directors may be increased or decreased from time to time upon the affirmative vote of Townhouse Unit Owners owning in the aggregate at least 75% undivided interest in the Common areas and facilities, provided that said board shall not be less than three in number nor greater in number than the number of Units in the Townhouse. Each Director shall hold office for his stated term or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualifies. Each member of the Board (after the first annual meeting of the Association and the election and qualification of the successors to the initial Board of Directors) shall be one of the Townhouse Unit Owners or Co-Owners or a spouse of a Townhouse Unit Owner or Co-Owner; provided, however, that in the event a Townhouse Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any officer or director of such corporation, partner in such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board.

Section 4. REMOVAL. Directors may be removed from office with or without cause by affirmative vote of the Townhouse Unit Owners having 75% of the total votes entitled to vote at an election of Directors, if any, Directors are so removed, new Directors may be elected at the same meeting.

Section 5. VACANCIES. A vacancy occurring in the Board of Directors, including directorships not filled by the Townhouse Unit Owners, may be filled by a majority of the remaining Directors, though less than a quorum, or by the sole remaining Director; but a vacancy created by an increase in the authorized number of Directors shall be filled only by election at an annual meeting or a special meeting of Townhouse Unit Owners called for that purpose. Voting Members may elect a Director at any time to fill any vacancy not filled by the Directors.

Section 6. COMPENSATION. The Board of Directors shall receive no compensation for their services unless expressly allowed by the Board at the direction of the Townhouse Unit Owners having 75% of the total votes entitled to vote at an election of Directors.

Section 7. EXECUTIVE COMMITTEES. The Board of Directors may, by resolution adopted by a majority of the number of Directors fixed by these Bylaws, designate two or more Directors to constitute an Executive Committee, which committee to the extent provided in such resolution shall have and may exercise all of the authority of the Board of Directors in the management of the Townhouse.

Section 8. POWERS AND DUTIES. The Board of Directors shall have the power and duties necessary for the administration of the affairs of the Townhouse Development and may do all such acts and things, except such acts as by law or by the Declaration of Covenants, Conditions and Restrictions or by these Bylaws may not be delegated to the Board of Directors, Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep, repair, maintenance and replacement of the Common properties and facilities and payments therefor.
- (b) Determination of the Common Expenses required for the affairs of the Townhomes Development, including without limitation, the operation and maintenance of the Common properties and facilities and properties owned by the Association.
- (c) Collection of the Common Expenses from the Unit Owners.
- (d) Employment and dismissal of the personnel necessary for the maintenance, repair and replacement of the Common areas and facilities.
- (e) The adoption and amendment of such reasonable rules and regulations as it may deem advisable for the maintenance, conservation, and beautification of the Property, and for the health, comfort, safety and general welfare of the Townhouse Unit Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Townhouse Unit Owners and occupants and the entire Property shall at all times be maintained subject to such rules and regulations.
- (f) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Purchasing or leasing or otherwise acquiring in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of the Unit Owners, Units offered for sale or surrendered by their Townhouse Unit Owners to the Board as provided by the Declaration of Covenants, Conditions and Restrictions.
- (h) Purchasing of Townhouse Units at foreclosure or other judicial sales in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of all Townhouse Unit Owners, provided such purchase is duly authorized as set forth in the Declaration of Covenants, Conditions and Restrictions.
- (i) Selling, mortgaging, voting the votes appurtenant to or otherwise dealing with Townhouse Units acquired by the Board of Directors or its designee, corporate or otherwise, on behalf of all Townhouse Unit Owners, subject to the Declaration of Covenants, Conditions and Restrictions and other applicable restrictions, and organizing corporations to act as designees of the Board in acquiring title to Units on behalf of all Townhouse Unit Owners.
- (j) Maintaining and repairing any Unit, if such maintenance or repair is required by the Declaration of Covenants, Conditions and Restrictions or is necessary in the discretion of the Board to protect the Common areas and facilities of any other Unit or if the Townhouse Unit Owner of such Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered or mailed by the Board to said Townhouse Unit Owner, provided that the Board shall levy

a special assessment against such Townhouse Unit Owner for the costs of said maintenance or repair.

(k) Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the Townhouse Unit Owner as practicable and any damage cause thereby shall be repaired by the Board and such expenses shall be treated as a Common Expense; and entering any Townhouse Unit for the purpose of correcting or abating any condition or situation deemed by the Board of Directors to be an emergency.

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

(m) Obtaining of insurance for the Property pursuant to the applicable provisions of the Declaration of Covenants, Conditions and Restrictions.

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

(o) Engaging the services of any person, firm or corporation to act as managing agent of the Townhouse Development at a compensation established by the Board to perform all of the powers and duties of the Association, except those which may be required by the Declaration of Covenants, Conditions and Restrictions or the North Carolina Non-Profit Corporation Act or any other North Carolina law, to have approval of the Board of Directors or the Unit Owners, provided however, the term of any such agreement with a managing agent shall not exceed one (1) year initially, shall only be renewable by agreement of the parties for successive one (1) year periods and shall be terminable by the Association with or without cause upon 30 days' prior written notice to the manager and without payment of a termination fee.

(p) To enforce by any legal means or proceeding the provisions of the Articles of Incorporation of the Association, these Bylaws, the Declaration of Covenants, Conditions and Restrictions or the rules and regulations hereinafter promulgated governing and use of the common areas and facilities in the Townhouse by means of litigation or otherwise.

(q) To pay all taxes and assessments which are or may become liens against any part of the Townhomes common properties, other than the Units, and to assess the same against the Townhouse Unit Owners in the manner herein provided.

(r) To adopt a seal for the Association.

(s) Hiring attorneys and other professionals.

(t) Any other powers and duties reserved to the Board of Directors in the Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation or these Bylaws.

ARTICLE IV - MEETINGS OF DIRECTORS

Section 1. ORGANIZATIONAL MEETINGS. The first meeting of a newly elected Board of Directors shall be held within fifteen (15) days following the meeting of the Townhouse Unit Owners at which the Board is elected. At least two (2) days' notice shall be necessary to the newly

elected members of the Board of Directors in order to legally constitute such meeting, provided a quorum shall be present.

Section 2. REGULAR MEETINGS. A regular meeting of the Board shall be held immediately after, and at the same place as the annual meeting or substitute annual meeting of the Townhouse Unit Owners. In addition, the Board of Directors may provide by resolution the time and place either within or without the State of North Carolina, for the holding of a regular meeting of the Board.

Section 3. SPECIAL MEETINGS Special meetings of the Board of Directors may be called by or with the request of the President or by any two Directors. Such meetings may be held either within or without the State of North Carolina.

Section 4. NOTICE OF MEETINGS. Notice of regular meetings of the Board of Directors shall be given at least two (2) days before the meeting by the usual means of communication. The person or persons calling a special meeting of the Directors shall, at least two days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called.

Section 5. WAIVER OF NOTICE. Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors, in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 6. QUORUM. A majority of the number of Directors fixed by these Bylaws shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 7. MANNER OF ACTING. Except as otherwise provided in this section, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. A vote of a majority of the number of Directors fixed by the Bylaws shall be required to adopt a resolution appointing an Executive Committee. The vote of a majority of the Directors then holding office shall be required to adopt, amend, or repeal a Bylaw. Vacancies in the Board of Directors may be filled as provided in Article III, Section 5, of these Bylaws.

Section 8. ORGANIZATION. Each meeting of the Board of Directors shall be presided over by the President, by any person selected to preside by vote of the majority of the Directors present. The Secretary, or in his absence, an Assistant Secretary, or in the absence of both the Secretary and Assistant Secretary any person designated by the President of the meeting, shall act as Secretary of the meeting.

Section 9. INFORMAL ACTION OF DIRECTORS. Action taken by a majority of the Directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 10. MINUTES. The Board shall keep minutes of its proceedings.

Section 11. FIDELITY BONDS. The Board of Directors shall require all officers, employees, agents or independent contractors of the Association handling or responsible for Association funds to be covered by an adequate fidelity bond. The premiums on such bonds shall constitute a Common Expense.

Section 12. LIABILITY OF THE BOARD. The members of the Board of Directors shall not be liable to the Townhouse Unit Owners for any mistake of judgment, negligence, or otherwise except for their own

individual willful misconduct or bad faith. The Townhouse Unit Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration of Covenants, Conditions and Restrictions or these Bylaws.

It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Townhouse Unit Owner(s). It is also intended that the liability of any Townhouse Unit Owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability thereunder as his interest in the Common areas and facilities bears to the interests of all the Townhouse Unit Owners in the Common areas and facilities. Every agreement made by the Board on behalf of the Association shall provide that the members of the Board of Directors, or the managing agent, as the case may be, are acting only as agents for the Townhouse Unit Owners and shall have no personal liability thereunder (except as Townhouse Unit Owners), and that each Townhouse Unit Owner's liability thereunder shall be limited to such proportion of the total liability as his interest in the Common areas and facilities bears to the interest of all Townhouse Unit Owners in the Common areas and facilities.

ARTICLE V - OFFICERS

Section 1. NUMBER. The principal officers of the Association shall consist of the President, Secretary, Treasurer and such Vice-President, Assistant Secretaries, Assistant Treasurer, and other officers as the Board may from time to time elect. Any two or more offices may be held by the same person except the offices of President and Secretary.

Section 2. ELECTION AND TERM. The officers of the Association shall be elected by and from among the Board of Directors. Such elections may be held at the regular annual meeting of the Board.

Each officer shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 3. REMOVAL. Any officer or agent elected or appointed by the Board of Directors may be removed by the board with or without cause; but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. COMPENSATION. No officer shall receive any compensation from the Association for acting as such.

Section 5. PRESIDENT. The President shall be the principal executive officer of the Association and subject to the control of the Board of Directors, shall supervise and control the management of the Association. The President shall when present, preside at all meetings of the Board and of the Townhouse Unit Owners, and in general shall perform all duties incident to the Office of President, such other duties as may be prescribed from time to time by the Board.

Section 6. VICE-PRESIDENT. The Vice-President elected by the Board of Directors shall, in the absence or disability of the President have the powers and perform the duties of said office. In addition, each Vice-President shall perform such other duties and have such other powers as shall be prescribed by the President.

Section 7. SECRETARY. The Secretary shall keep accurate records of the acts and proceedings of all meetings of Townhouse Unit Owners and Directors. He shall give, or cause to be given, all notices required by law and by these Bylaws. He shall have general charge of the minute books and records of both the Townhouse Unit Owners and the Board. He shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and

such other duties as may be assigned him from time to time by the President by the Board of Directors.

Section 8. TREASURER. The Treasurer shall have custody of all Association funds and securities and shall receive, deposit or disburse the same under the direction of the Board of Directors. He shall keep full and accurate accounts of the finances of the Association. He shall cause a true statement of its assets and liabilities as of the close of each fiscal year, and of the results of its operations and of changes in surplus for each fiscal year, all in reasonable detail, to be prepared and distributed to all Townhouse Unit Owners and members of the Board of Directors within ninety (90) days following the end of each fiscal year. The statement shall be kept available for inspection by any Townhouse Unit Owner for a period of three (3) years. The Treasurer shall also prepare and file all reports and returns required by Federal, State or Local law and shall generally perform all other duties as may be assigned to him from time to time by the President or the Board of Directors.

Section 9. ASSISTANT SECRETARIES AND TREASURERS. The assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary and Treasurer, respectively, have all the powers and perform all the duties of those officers, and they shall in general perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

ARTICLE VI - RECORDS AND AUDITS

The Board of Directors shall keep detailed records of the actions of the board, minutes of the meetings of the Board of Directors, minutes of the meetings of the Townhouse Unit Owners, and financial records and books of account of the Association, including a chronological listing of receipts and expenditures, as well as a separate account for each Townhouse Unit which, among other things, shall contain the amount of each assessment against each Unit, the date when due, the amounts paid thereof, and the balance remaining unpaid. The financial records and books of account shall be available for examination by all Townhouse Unit Owners, their Mortgagees and their duly authorized agents or attorneys at convenient hours. A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board to all Townhouse Unit Owners, and to all Mortgagees of Townhouse Units who have requested the same, within ninety (90) days following the end of each fiscal year.

ARTICLE VII - INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS

The Association shall indemnify any director or officer or former director or officer of the Association or any person whom may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made a party) by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, by law, agreement, vote of members or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be an administrator, officer, employee or agent and shall inure to the benefit of the heirs, executors and Directors of such a person.

The Association shall purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

ARTICLE VIII - ARBITRATION

Any claim which shall be made against one or more members of the Board of Directors shall be settled by arbitration except as otherwise provided herein, in the Declaration of Covenants, Conditions and Restrictions or under any applicable law, and judgment upon the award may be entered in any court having jurisdiction thereof. Such arbitration shall be commenced upon the delivery of such claim, in writing, to one or more members of the Board; and shall be before one disinterested arbitrator if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the Director(s) one by the Townhouse Unit Owner(s), and one by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the laws of North Carolina as applied to the facts found by him or them. If the Director(s) or the Townhouse Unit Owner(s) shall refuse or fail to so name an arbitrator within thirty (30) days after written notice from the other party requiring the naming of an arbitrator, then the arbitrator so named by the party not in default hereunder shall have the power to proceed to arbitrate and determine the matters of controversy as if he were an arbitrator appointed by both parties for that purpose, and his award in writing signed by him shall be final. The rules of procedure for the arbitration hearing may be adopted by the arbitrators. All arbitration proceedings hereunder shall be conducted in Dare County, North Carolina.

ARTICLE IX - AMENDMENT

These Bylaws may be amended by a vote of Townhouse Unit Owners owning in the aggregate at least a 75% undivided interest in the Common areas and facilities, cast in person or by proxy, at a meeting duly held in accordance with the provisions of these Bylaws, together with their respective Mortgagees, provided that such amendment shall be effective only upon the recordation in the Office of the Register of Deeds, Dare County, North Carolina, of an amendment to the Declaration of Covenants, Conditions and Restrictions setting forth such amendment to these Bylaws. Any amendment which amends or alters the percentage of undivided interest of any Townhouse Unit in the Common areas and facilities, or voting rights, other than the change of percentage of undivided interest resulting from the expansion or subdivision of the Townhouse as set out in the Declaration of Covenants, Conditions and Restrictions, shall require the written approval of all Townhouse Unit Owners, together with the consent of their respective Mortgagees. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon. All Townhouse Unit Owners shall be bound to abide by any such amendment upon the same being passed and duly set forth in an amendment to the Declaration of Covenants, Conditions and Restrictions, duly recorded in the Office of the Register of Deeds, Dare County, North Carolina.

NORTH CAROLINA
DARE COUNTY

FILED

DUNETOP TOWNHOMES '86 DEC 30 PM 4 32
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

DORRIS A. FRY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ^{REGISTERED} was made this the 30th day of December 1986, by THE APARTMENT GROUP, C.A North Carolina general partnership, hereinafter referred to as "Declarant";

W I T N E S S E T H :

WHEREAS, the Declarant is the owner of the real property set forth and described on that certain map or plat entitled "Dunetops Townhouse Apartments by W. M. Meekins, Jr. and Associates dated June 27, 1985 and recorded in Plat Cabinet B, Slide 365, Dare County Registry, which property is located in Atlantic Township, Dare County, and which property the Declarant has developed as a residential community of single family attached townhomes named "DUNETOP TOWNHOMES"; and

WHEREAS, the Declarant desires to insure the attractiveness of the development and to prevent any future impairment thereof, to prevent nuisances, to preserve, to protect and enhance the values and amenities of all the properties within the development and to provide for the maintenance and upkeep of the exterior of all townhomes units and the Townhomes Common Areas, as hereafter defined; and to this end, desires to subject the real property shown on the plat referenced in the attached description shown on that certain map or plat entitled "Dunetops Townhouse Apartments by W. M. Meekins, Jr. and Associates dated June 27, 1985 and recorded in Plat Cabinet B, Slide 365, Dare County Registry, together with such additions that may hereafter be made thereto to the covenants, conditions, restrictions, easements, charges and liens hereafter set forth, each and all of which is and are for the benefit of said property and each owner thereof: and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the said development, and to insure the residents enjoyment of the specific rights, privileges and easements in the Townhomes Common Area, as hereafter defined, and to provide for the maintenance and upkeep of the exterior of all townhomes units and the Townhomes Common Areas, to create an organization to which will be delegated and assigned the power of owning, maintaining and administering the Townhomes Common Areas, and maintaining the exterior of the townhomes units, and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereafter created; and

WHEREAS, the Declarant has caused to be incorporated under North Carolina Law, DUNETOP TOWNHOMES ASSOCIATION, INC., a non-profit corporation for the purpose of exercising and performing the aforesaid functions;

NOW, THEREFORE, the Declaration, by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property shown on the description of property contained in Exhibit A to this Declaration, being the description of DUNETOP TOWNHOMES Development is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this declaration which shall run with the real property and be binding upon all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Prepared by:
Thomas L. White, Jr.
Monrovia, NC

Return to S. Stamp

Pg 221
City of Asheville NC

ARTICLE I

DEFINITIONS

Section 1. "Townhomes Association" shall mean and refer to DUNETOP TOWNHOMES ASSOCIATION, INC., a North Carolina non-profit corporation, its successors or assigns.

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

Section 3. "Property" shall mean and refer to the property set forth in Exhibit A.

Section 4. "Townhomes Common Area" shall mean all the real property designated for the common use and enjoyment of the Owners. The Townhomes Common Areas shall be conveyed to the Townhomes Association at the time of the conveyance of the first lot.

It is specifically understood that certain of the Townhomes Common Areas are subject to rights in common with other parties as defined in this Declaration and the rights of other parties set forth and described in this Declaration to the joint and mutual use of such properties.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties with the exception of the Townhomes Common Area.

Section 6. "Declarant" shall mean and refer to The Apartment Group and its successors and assigns.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Townhomes Association.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Townhomes Association is located in Atlantic Township, Dare County, North Carolina, and described fully on that certain map or plat entitled "Dunetops Townhouse Apartments by W. M. Meekins, Jr. and Associates dated June 27, 1985 and recorded in Plat Cabinet B, Slide 365, Dare County Registry, reference to which is hereby made.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Each owner of a townhomes and its associated lot shall be a member of the Townhomes Association. As a member of the Townhomes Association the member shall have all of the rights, privileges, duties and obligations as expressed in these covenants. Membership in the Townhomes Association shall be appurtenant to and may not be separated from ownership of a townhomes unit, and each unit owner shall be entitled to one vote for each unit owned. The declarant shall be entitled to one vote for each unit owned.

Section 2. Each vote shall be expressed by the owner, in person or by proxy, who would cast the vote for each townhomes unit. When any unit is owned as a tenancy in common or as a tenancy by the entirety or another form of multiple ownership, said tenants or owners shall determine between or among them how the vote to which they are entitled shall be cast. However, there shall not be any division of a vote that said owners would otherwise be entitled to cast if the tenants do not unani-

owners would otherwise be entitled to cast if the tenants do not unanimously agree among or between themselves as to how the vote should be cast. In no event shall more than one vote be cast with respect to any single unit.

Section 3. Until the declarant has sold all of the units in the development, neither the association nor any of the individual unit owners nor their use of the common areas shall interfere with the sale of other units. The declarant may make use of the unsold units and common areas as may facilitate completion of the construction thereof and sale, including, but not limited to the maintenance of a sales office, model unit, the showing of the property and the displaying of advertising signs. Any action or vote of the association which attempts to restrict or inhibit the rights of the declarant as stated herein shall be void.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owner's Right of Enjoyment. Every Owner shall have a right of enjoyment in and to the Townhomes Common Areas which right shall be appurtenant to and pass with the title to every lot, subject to the following provisions:

(a) The right of the Townhomes Association to suspend the voting rights and right to use of the recreational facilities of an owner for any period during which any assessment against his lot remain unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations;

(b) The right of the Townhomes Association to dedicate or transfer all or any part of the Townhomes Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least eighty (80%) percent of the vote agree to such dedication or transfer and signify their agreement by a signed and recorded written instrument, provided that this subsection shall not preclude the Board of Directors of the Townhomes Association from granting easements to public authorities or others for the installation and maintenance of sewerage, utilities and drainage facilities, television and other communication services, upon, over, under and across the Townhomes Common Area without the assent of the membership when, in the sole opinion of such Board, such easements do not interfere with the use and enjoyment of the Properties or are necessary for the convenient use and enjoyment of the Properties;

(c) The rights of Owners to the exclusive use of parking spaces as provided in Section 3 of this Article IV;

(d) The right of the Townhomes Association with the written assent of members entitled to at least eighty (80%) percent of the votes, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) The right of the association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common areas and to mortgage said properties to facilitate the borrowing of funds for said purpose, however, the rights of the mortgagee in and to said properties shall be subordinate to the rights of the owners as set out in these covenants, provided, however, that no such borrowing or mortgaging shall be made unless approved by a vote of eighty (80%) percent of the membership present in person or by proxy at a meeting duly called for such purpose;

(f) The right of the association to take such steps as are reasonably necessary to protect the common properties against foreclosure;

(g) The right of the association to charge reasonable admission fees, guest fees and other fees for special uses that might be made of

certain parts of the common areas by members of the association or persons outside the community;

(h) The right of the association to limit the number of guests of owners using the common areas and recreational facilities;

(i) The right of the declarant prior to the conveyance of the common areas to the association, and thereafter of the association, to grant and reserve easements and rights of way through, under, over and across the common areas for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, cable television, communications, security devices, and other utilities;

(j) The right of the Association to make reasonable rules and regulations for the use of the common areas, recreational facilities and units pursuant to Article X Section 10.

Section 2. Delegation of Use. The rights of owners and others in the common areas are as follows:

(a) Family. The right of enjoyment granted to every Owner in Section 1 of this Article IV may be exercised by members of the Owner's family.

(b) Tenants or Contract Purchasers. The right of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy the property during the terms of their lease or contract.

(c) Guests. Recreational facilities situated upon the Properties may be utilized by guests of Owners, tenants or contract purchasers subject to the rules and regulations of the Townhomes Association, as may be established by its Board of Directors, governing said use.

Section 3. Parking Rights.

(a) Parking areas. Each lot owner shall be entitled to the exclusive use of the parking places assigned by the Association for parking purposes both for himself, members of his family and guests. The Association shall be entitled to make parking assignments and reasonable rules and regulations as it may elect with respect to the parking of vehicles.

(b) Recreational Vehicles. No campers, trucks, or recreational vehicles, or off the road vehicles, may be parked or kept within the properties except as may be provided by such reasonable rules and regulations by the association.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant, for each lot owned within the Properties, hereby covenants and each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Townhomes Association: (1) annual assessments or charges and (2) special assessments, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorneys' fees shall be a charge on the lands and shall be a continuing lien upon the property against which each such assessment is made by whomsoever owned. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. However, the personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessment. The assessments levied by the Townhomes Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the maintenance, repair and reconstruction of the exterior of townhomes units and for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Townhomes Common Areas, including but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed against the Townhomes Common Areas, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Townhomes Association when necessary, and such other needs as may arise. In addition, expenditures by the Townhomes Association for the landscaping, planting and maintenance of areas within lots, but lying outside of residence building and enclosed patio areas shall be deemed expenditures for the recreation, health, safety and welfare of the residents of the Properties and are hereby authorized.

Section 3. Annual Assessment. The Annual Assessments provided for herein shall commence as to each unit on the date of the closing and purchase of the unit by an owner and shall be paid from that date to the end of the calendar year. Thereafter, assessments shall be due and payable on a calendar year basis and shall be due beginning the first day of each calendar year, provided, however, the association Board of Directors may adopt a different assessment period if it deems advisable at least 30 days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each unit, and at least fifteen (15) days before January 1 of each year, shall send written notice of each assessment subject thereto. The due dates for the payment of the annual and any special assessments shall be established by the Board of Directors. The Townhomes Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessment in any specified unit has been paid.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Townhomes Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Townhomes Common Areas, including fixtures and personal property related thereto, or to make up deficits in the annual assessments.

Section 5. Notice and Quorum for Any Action Authorized Pursuant to this Article. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast fifty-one (51%) percent or more of the vote shall constitute a Quorum.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Townhomes Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, provided, however, that the interest charged hereunder shall not exceed eighteen (18%) percent per annum. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Townhomes Association to defray the costs of late payment. The Townhomes Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, late payment fee, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Townhomes Common Areas or abandonment of his lot.

Section 7. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage, mortgages, first deed of trust or deeds of trust on a lot. Sale or transfer of any lot shall not affect any assessment lien. However, the sale or transfer of any lot which is subject to any proceeding for the foreclosure thereof, shall extinguish the lien of such assessments against the lot which became due prior to such sale or transfer. Provided, however, the personal obligation of the owner of the lot when the assessment became due shall not be extinguished by such proceeding. No such sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, including the erection of antennas, aerials, awnings, the placement of reflective or other material in the windows of a Townhomes Unit or other exterior attachment, until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Townhomes Association. In the event said Board fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

ARTICLE VII

EXTERIOR MAINTENANCE

In addition to maintenance upon the Townhomes Common Areas, the Townhomes Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: Paint, repair, replace and care of walks, roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, and other exterior improvements, including grass and other vegetation in those portions or each lot lying outside of the residence building and patio. Such exterior maintenance shall not include glass surfaces and each Owner shall be required to maintain his own glass and his own railing and deck. In order to enable the Townhomes Association to accomplish the foregoing, there is hereby reserved to the Townhomes Association the right to unobstructed access over and upon each lot at all reasonable times to perform maintenance as provided in this Article. In the event that the need for maintenance, repair, or replacement is caused through the willful, or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance, replacement, or repairs incurred by the Townhomes Association, shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE VIII

INTERIOR MAINTENANCE

Each Owner shall maintain, repair and replace at his expense all interior portions of the improvements on his lot which shall need repair, including rails, fencing and decks located on the lot, if any, and all bathroom and kitchen fixtures, light fixtures or other electrical, mechanical or plumbing equipment, pipes and fittings serving an Owner's unit including those which are located in a party wall, if any. Further, each Owner shall repair, maintain and replace at his own expense when necessary the heating and air conditioning, sewerage and water systems servicing his dwelling, whether located on his lot or in the Townhomes Common Areas adjacent to the lot.

ARTICLE IX

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall separating units, which is built as a part of the original construction of the homes upon the Properties, and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE X

USE RESTRICTIONS

Section 1. Land Use. All lots shall be used for residential, or vacation second home purposes only. Declarant may maintain a sales office, models and construction office in one or more units until all units to be located on the Properties have been sold.

Section 2. Nuisance. No noxious or offensive activity shall be conducted upon any lot or in any dwelling nor shall anything be done thereof or therein which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided they are not kept or maintained for commercial purposes.

Section 4. Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any lot unless and until permission for the same has been granted by the Townhomes Association, or its designated agent or representative.

Section 5. Use of Townhomes Common Area. The Townhomes Common Areas shall not be used in any manner except as shall be approved or specifically permitted by the Townhomes Association.

Section 6. Access to Lot. The Townhomes Association, its agents or employees shall have access to all lots from time to time during reasonable working hours, upon oral or written notice to the Owner, as may be necessary for the maintenance, repair or replacement of any portion of the Townhomes Common Areas, or facilities situated upon such lot which serve another Owner's lot. The Association or its agent shall also have access to each lot at all times without notice as may be necessary to make emergency repairs to prevent damage to the Townhomes Common Areas or another lot.

Section 7. Clothes Drying. No drying or airing of any clothing or bedding or other items shall be permitted on the grounds or outside of any unit including porches or decks except by and through rules promulgated by the Board of Directors, which rules may exclude such activities completely.

Section 8. Garbage Disposal. All garbage shall be stored within the residence of each Owner or in the storage facilities provided for said residence at the time same is constructed. No Owner may change or supplement the garbage disposal facilities provided for such Owner's residence on the date of completion of construction thereof unless the Board of Directors of the Townhomes Association shall first approve in writing the change of addition to the method of storage. It is provided, however, that if the public health authorities, or other public agency, shall require a specific method of garbage disposal, nothing herein contained shall prevent the compliance by Owners with obligatory public rules and regulations.

Section 9. Antennas and Fences. No masts, towers, poles or antennas included but not limited to antennas used for amateur radios, television, FM Radio or AM Radio, shall be erected or maintained upon the properties except such antennas as are initially installed during the construction of the building and approved by the Board or Architectural Committee or as are there after approved by the Board or Architectural Committee. No fences, hedges, or walls shall be erected or maintained on the properties other than as are initially installed during the construction of the buildings, unless approved by the Architectural Committee.

Section 10. Regulations. Reasonable regulations governing the use of the Townhomes Common Area and external appearance of the Townhomes units may be made and amended from time to time by the Board of Directors of the Townhomes Association. Copies of such regulations and amendments thereto shall be furnished to each Member by the Townhomes Association upon request. Specifically and without limiting the power to make reasonable regulations, the Board of Directors of the Townhomes Association shall have authority to:

- (a) Regulate the use of the common areas,
- (b) Regulate the placement and use of personal property outside of the units,
- (c) Require owners to make repairs to and maintain the decks associated with each owner's unit, including the power to require replacement of a deck if the same becomes unsafe, deteriorated or cannot be reasonably repaired,
- (d) To make assignment of parking spaces to each unit.
- (e) To require the cleaning and maintenance of outside glass surfaces associated with the units,
- (f) To establish maximum occupancy of the units.

In the event of a violation or breach of any of the restrictions contained herein by any owner, or agent of such owner, the owners of other units in the same cluster, or any one of them, jointly or severally shall have the right to proceed at law or in equity to compel a compliance with the terms of these restrictions and any reasonable rules and regulations made pursuant to these restrictions. In addition to the

foregoing the declarant and/or the Association shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of these restrictions and the rules and regulations made pursuant thereto. In addition, the declarant and/or the Association shall have the right, whenever there exists a condition in violation of these restrictions and the rules and regulations adopted pursuant thereto, to enter upon such property where the violation exists and summarily abate or remove the same at the expense of the owner, if after 30 days written notice of such violation it shall not have been corrected by the owner. Any person is entitled to file a legal action for the violation of these restrictions and the rules and regulations adopted pursuant thereto, shall be entitled to recover reasonable attorneys fees as permitted by law as a part of such action. Any entry and abatement or removal of a violating condition shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions or conditions contained in this declaration or in the rules and regulations adopted pursuant thereto, however long continued, shall not be deemed a waiver of the right to enforce these covenants or abate a violating condition.

ARTICLE XI

EASEMENTS

Section 1. Perpetual Non-Exclusive Easement in Common Areas. The common elements or areas shall be, and the are hereby declared to be subject to a perpetual non-exclusive easement which easement is hereby created, in favor of all of the Owners in the Townhomes for their use and for the use of their immediate families, guests, invitees, and licensees, and for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended. In addition, this easement shall run in favor of the Developer, the Townhomes Association, and all Owners, and may be used for ingress and egress for the providing of electric power, telephone, sewer, water, and other utility services and lighting facilities, including but not limited to television transmission facilities, security services, and facilities connected therewith. The Declarant, for themselves, their heirs, and assigns, and the Townhomes Association herein described reserve the right to impose upon the common elements henceforth and from time to time such easements and cross-easements for any of the foregoing purposes as they deem to be in the best interest of and necessary and proper for, the Lot Owners.

Section 2. Encroachment Easement. The entire Townhomes Property, including common areas and individual lots or apartments, shall be subject to easements of encroachments which now exist or hereafter may exist, caused by the settlement or movement of the building, or caused by minor inaccuracies in construction or reconstruction, which encroachments shall be permitted to remain undisturbed and which said easement shall run in favor of each individual Lot Owner, the Townhomes Association, and the Developer.

Section 3. Easement for Utilities, Sewerage, Waste Treatment Facilities. There is conveyed hereby an easement of right of way in and to the lands described in Exhibit A of this Declaration, for the benefit of the Lot Owners and the Townhomes Association, for the construction, operation, and maintenance of all utility lines, and pipes, sewerage lines, septic tanks, waste treatment facilities, pumps, drain lines and facilities related thereto, which said easement shall also inure to the benefit of the Declarant.

Section 4. Easement for Pipes, Wires, Flues, Ducts, Cables, Conduits, Public Utility Lines, and Other Common Elements Located Inside of Units. Each Lot Owner will have an easement in common with the Owners of all other lots to use all pipes, wires, ducts, flues, cables, conduits, public utility lines, and other Common Elements located in any of the other lots and serving his lot. Each lot shall be subject to an easement in favor of the Owners of all other units to use the pipes, wires, ducts, flues, a cables, conduits, public utility lines, and other common elements serving such other lots and located on such lot. The

Board of Directors and their authorized agents of the Townhomes Association shall have a right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair, or replace the common elements contained therein, if any, or elsewhere in the building.

Section 5. Easement of Support. Each portion of a lot and each single-family attached Townhomes constructed thereon and contributing to the support of an abutting Townhomes shall be burdened with an Easement of Support for the benefit of such abutting Townhomes.

ARTICLE XII

INSURANCE

Section 1. General. Upon taking title to a lot and unit in the Dunetop Townhomes, the owner shall have in effect, a fully paid fire and extended coverage insurance policy or homeowner's insurance policy, and the owner shall furnish evidence of the insurance as well as the payment of the premium to the Association within 10 days of the title transfer date. Said insurance shall be in the amount of the highest percent of the insurable replacement costs of the unit which can be reasonably obtained. Thereafter, each owner shall obtain and maintain in force such an insurance coverage on his unit as the Board of Directors of the Association may determine or require but not in any amounts which are greater than the replacement costs. Each owner of a unit shall furnish to the Board of Directors of the Association such evidence of insurance coverage as the Board may require from time to time. In the event an owner fails to maintain such coverage or furnish evidence thereof, the Association may obtain policies providing such coverage and pay the premiums therefore, which premiums shall be chargeable against the owner of the unit failing to maintain such coverage or to furnish evidence thereof. The premium shall constitute and continue as a lien on the unit and also shall be a personal obligation of the owner and enforced as provided in Article V of this declaration. In the event a unit is partially or wholly destroyed, the owner covenants and agrees to rebuild, repair or restore the unit to essentially the same condition and appearance, including using the same or similar building materials, as existed prior to the partial or total destruction.

Section 2. Home Owner's Association Insurance. The Homeowner's Association shall maintain insurance policies in such amounts and with such coverages as follows:

- (a) All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value without deduction for depreciation, as determined annually by the Board of Directors of the Association. In the event such insurance is not available then the Association shall obtain insurance in the amount of the highest percent of insurable value which can be reasonably obtained. Such coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, including flood insurance and such other risks as are customarily covered with respect to buildings similar to the buildings on the land, such as vandalism and malicious mischief. The premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.
- (b) Public liability insurance in such amounts and with such coverage as shall be required by the Board of Directors of the Association, and with a cross liability endorsement to cover liabilities of the unit owners as a group to any single unit owner.
- (c) Workmen's compensation as required by law.
- (d) Such other insurance as the Board of Directors of the Association may determine from time to time to be desirable.

Section 3. Insurance Prohibition. The association will not purchase or obtain insurance to cover the personal property of a unit owner, nor will the association purchase or obtain insurance to cover the individual liability of a unit owner for injuries and damages suffered by anyone or anything within a unit if said injuries or damages are not a liability of the association.

ARTICLE XIII

FINANCING PROVISIONS

Section 1. Approval of Owners and Holders of First Deeds of Trust. Unless at least eighty (80%) percent of the Owners and holders of first deeds of trust on lots located within the property described on "Schedule A", have given their prior written approval, the Townhomes Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Townhomes Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause.
- (b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a lot Owner.
- (c) By act or omission change, waive or abandon any plan of regulation, or enforcement thereof pertaining to the architectural design or the exterior appearance of residences located on lots, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the subdivision.
- (d) Fail to maintain fire and extended coverage insurance on insurable improvements in the Townhomes Common Areas on a the most favorable replacement cost basis in an amount of the highest percent of the insurable value which can be reasonably obtained.
- (e) Use the proceeds of any hazard insurance policy covering losses to any part of the Townhomes Common Areas for other than repair, replacement or reconstruction of the damaged improvements.

Section 2. Books and Records. Any Owner and holder of a first deed of trust on any lot will have the right to examine the books and records of the Townhomes Association during any reasonable business hours.

Section 3. Payment of Taxes and Insurance Premiums. The Owners and holders of first deeds of trust on lots may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge or lien against any of the Townhomes Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Townhomes Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefore from the Association.

ARTICLE XIV

GENERAL PROVISIONS

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

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

RULES AND REGULATIONS
GOVERNING THE USE AND OCCUPANCY OF
DUNE TOP APARTMENTS
KITTY HAWK, NORTH CAROLINA

The Below listed Rules and Regulations are promulgated to govern the use and occupancy of the apartments and recreational facilities in the Dune Tops apartments on Kitty Hawk Road in Kitty Hawk, North Carolina, and are incorporated in the lease agreement between each Tenant with the Landlord and are effective upon a copy of said regulations or any amendment thereto, being delivered by Landlord or Landlord's agent to the Tenant, either in person or at the address stated in the Lease. The rules and regulations are as follows:

1. The apartment units shall be used solely for the purpose of a single family residence and are to be occupied by no more than the number of persons permitted in the lease agreement. No commercial, business, home occupation or other nonresidential use shall be made of said apartments. This includes but is not limited to babysitting services, professional services, sales by catalog or mail order, exhibiting, demonstrating or promoting in any way, articles of personal property for sale, and renting of rooms. No apartment shall be used or occupied for the manufacture or sale of any articles or for any commercial purpose of any kind or character whatsoever.
2. No Tenant shall place or caused to be placed any outbuilding, temporary structure, barn, storage house, fence, tent, shack or any outbuilding on the apartment premises.
3. No sign of any kind shall be displayed from any apartment or from the apartment premises except such signs as may be placed on the apartment premises by the Landlord which shall display the name of the apartment complex, advertise apartment for rent or sale, and such signs as deemed necessary by Landlord for information and safety.
4. No noxious offensive, or illegal activity shall be carried on in any apartment nor on the apartment premises, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood and the other tenants.
5. No animals, livestock or poultry of any kind shall be raised, bred or kept in any apartment or on the premises, including dogs, cats or other household pets, except that a tenant may keep an aquarium with goldfish or other aquatic life normally found in an aquarium.
6. No junk, unusable vehicles, trash, discarded personal possessions or unsightly objects shall be permitted on the outside of any apartment or on the apartment premises and all garbage and trash shall be properly disposed of in the garbage disposal dumpster provided by Landlord. Each Tenant shall be responsible for and keep the yard adjacent to each unit free of all refuse, garbage and trash, and further, each tenant upon the use of the recreational amenities and common areas shall keep the same free and clear of all refuse, garbage and trash.
7. No clothes lines shall be permitted on the apartment premises or on the outside of any apartment or on any porch.

8. No loud noises, obnoxious activities nor any activity constituting a nuisance to the Landlord or another Tenant shall be allowed. Specifically, radios, stereo equipment and musical instruments shall be played at a volume which will not disturb any neighbor or Tenant and no outside loud speakers shall be permitted.

9. The Tenant is responsible for the conduct of his family, guests, and invitees. The Tenant, his family, guests and invitees shall exercise all due care and caution for the safety of children and other tenants in the apartment complex. ^{Landlord} All Tenants shall be assigned designated parking spaces ^{to use} by Landlord or Landlord's Agent at the time of execution of the lease agreement. No Tenant, his family, guests or invitees shall use any other parking spaces than those specifically assigned to the Tenant, without the express written consent of a Tenant, with those parking spaces assigned to him. Any violation of this provision may result in vehicles which are parked in parking areas other than those assigned, being towed.

10. The swimming pool shall be used only by Tenants of the apartment complex and no more than two guests of any given tenant, at any one time. Each Tenant using the swimming pool shall be responsible for himself, his family and guests and their conduct in the vicinity of the swimming pool. The swimming pool area shall be kept free and clear of trash, garbage and debris. Further, no one shall be allowed to run, horseplay or conduct any other unsafe activities in the vicinity of the swimming pool. Failure to abide by these provisions ^{may} result in termination of the privilege of using the swimming pool by the Tenant, his family and guests. Continued violation shall be considered a breach of the lease agreement and sufficient grounds for eviction.

11. The tennis courts shall be used only by Tenants of the apartment complex and no more than two guests of any given tenant, at any one time. Each Tenant using the tennis courts shall be responsible for himself, his family and guests in their conduct in the vicinity of the tennis courts. The tennis courts area shall be kept free and clear of trash, garbage and debris. Further, no one shall be allowed to horseplay or conduct any other unsafe activities in the vicinity of the tennis courts. Failure to abide by these provisions may result in termination of the privilege of using the tennis courts by the Tenant, his family and guests. Continued violation shall be considered a breach of the lease agreement and sufficient grounds for eviction.

12. Upon termination of this lease or at any time the Tenant vacates the premises, the Tenant shall be responsible for cleaning and restoring the apartment to a clean and neat condition with all trash and debris removed to the satisfaction of the Landlord. Prior to the refund of any security deposit, the Landlord or his Agent shall make an inspection of the premises and cause any damage to be repaired at the expense of the Tenant. At the Landlord's option the cost of the repairs may be deducted from the security deposit before any refund thereof.

13. These rules and regulations may be amended from time to time by the Landlord or Landlord's agent and shall be effective upon delivery of a written copy of any amendment to the Tenant, either in person or at the address stated in the Lease.

*No guests or invitees
may use
pool unless
accompanied
by tenant.
- Report of
M.H. (?)*

*Landlord
to use
parking
spaces*

14. Tenant does hereby acknowledge the receipt of a copy of these rules and regulations and agrees to abide by the same.

_____(SEAL)

_____(SEAL)

_____(SEAL)