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Return to
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**AMENDMENT NUMBER ONE
TO THE DECLARATION OF PROTECTIVE COVENANTS AND
CONDITIONS FOR FAIRWAY DRIVE HOMEOWNERS ASSOCIATION,
INC.**

WHEREAS, on or about February 4, 1988, Kitty Hawk Land Company, a North Carolina for profit corporation (hereinafter referred to as the "Developer") caused to be prepared and recorded a certain Declaration of Covenants, Conditions and Restrictions in the Office of the Register of Deeds of Dare County, North Carolina, in Deed Book 552, Page 286 (hereinafter referred to as the "Declaration" or the "Covenants") and,

WHEREAS, the Developer was the owner of certain real property located in Southern Shores Township, Dare County, North Carolina, being more particularly shown and described on that certain Map or Plat entitled "Block 119, Southern Shores" recorded in Plat Cabinet C, at Slides 39C and 39D in the office of the Register of Deeds of Dare County, reference to said plat being hereby specifically made; and,

WHEREAS, Article IV of the Declaration/Covenants provides for the formation of the Fairway Drive Homeowners Association, Inc., (hereinafter referred to as the "Association"), a non profit corporation formed under and pursuant to Chapter 55A of the General Statutes of North Carolina, as an association of owners of lots in the Fairway Drive subdivision, (hereinafter referred to as the "Subdivision"); and,

WHEREAS the Association through its lot owner members has the power to own, manage, maintain and operate the common areas and facilities located upon and in the Subdivision and to make assessments for the support thereof; and

WHEREAS, the Developer by deed dated September 6, 1996 and recorded in the Office of the Register of Deeds of Dare County, North Carolina, in Deed Book 1073, Page 0390 conveyed to the Association all of Developer's rights in and to the Subdivision and the Declaration/Covenants; and

WHEREAS, on October 8, 2000, at a duly noticed annual meeting of the members of the Association, the Declaration/Covenants were amended as hereinafter set forth in this Amendment Number One; and

WHEREAS, effective January 1, 1999 the North Carolina General Assembly enacted the North Carolina Planned Community Act (hereinafter the "PCA") which Act, pursuant to 47F-1-102(d) permitted an existing association to make applicable the PCA to all lot owners upon the affirmative vote of sixty-seven (67%) percent of the eligible lot owners; and,

WHEREAS, at a duly noticed and convened meeting of the Association on Saturday, July 15, 2000 those shareholders and lot owners of the Association eligible to vote at such duly convened meeting voted to make immediately applicable the provisions of the PCA to the Fairway Drive Subdivision, the Fairway Drive Lot Owners and the Fairway Drive Homeowners Association; and



WHEREAS, Section 47F-2-117 of the PCA provides that the Declarations/ Covenants of a subdivision subject to the PCA may be amended by a sixty-seven (67%) percent of the votes of association members eligible to participate therein, and

WHEREAS, at the aforesaid meeting of the Association, affirmative votes in excess of sixty-seven (67%) percent of those voters eligible to participate therein voted in favor of amending the Declarations/Covenants as hereinafter set forth.

NOW THEREFORE, the Declaration of Covenants, Conditions and Restrictions of the Fairway Drive Subdivision are hereby amended as follows:

1. Article VIII, of the original Covenants is hereby amended by adding a new Section 6 as follows:

“Section 6. Governing Law: Effective October 8, 2000, the Declarations of Covenants and of the Fairway Drive Subdivision shall be under and subject to the terms, conditions and provisions as appearing in the North Carolina Planned Communities Act and any amendments subsequently made thereto. In the event of any conflict between the North Carolina Planned Communities Act and the Declaration/Covenants the North Carolina Planned Communities Act shall govern.”

2. Article VIII, of the original Covenants is hereby amended by adding a new Section 6 as follows:

“Section 6 Amendment by Lot Owners: “This Declaration may be amended in full or in part at any time by the affirmative vote of sixty-six and two-thirds (66-2/3) of all those voters eligible to vote by virtue of the provisions set forth in Article IV of these Covenants”.

3. Article II, Section 4 of the original Covenants is hereby amended by changing the original wording where applicable to carry out the intent of the following:

“Section 4 : The original wording of Section 4 is hereby amended to (i) increase the minimum size requirements of new construction for heated square footage from 1200 to 2000 square feet, (ii) increase the minimum size of the square footage of the residence from 1700 to 2000 square feet, (iii) change the required number of plans and specifications from three (3) sets to one (1) complete set (iv) change the word ‘building’ or ‘structure’ to read ‘buildings’ or ‘structures’ and(v) require the site plan to shown the proposed foot print of the structure to be built on the lot.”

4. Article II, Section 10 of the original Covenants is hereby amended by adding the following words to the first sentence thereof after the words...’sand dunes’ ...as follows:

Section 10: or trees.....

5. In all other respects not inconsistent with the provisions hereof, the terms and conditions of the Declaration/Covenants are affirmed, ratified and restated.



THIS FIRST AMENDMENT is executed this 30 day of November, 2000.

FAIRWAY DRIVE HOMEOWNERS ASSOCIATION, INC.

BY: Thomas A. Davidson
Thomas Davidson, President

ATTEST:
BY: Frank Klahre
Frank Klahre, Secretary

NORTH CAROLINA
DARE COUNTY

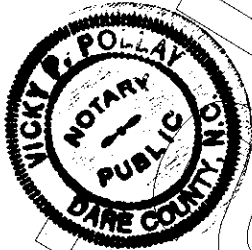
I, a Notary Public of the county and State aforesaid, certify that Frank Klahre, personally came before me this day and acknowledged that he is Secretary of **FAIRWAY DRIVE HOMEOWNERS ASSOCIATION, INC.**, a North Carolina Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its President, ~~sealed with its Corporate Seal~~ and Attested by him, as its Secretary.

Witness my hand and official stamp or seal, this the 30th day of November, 2000.

08/08/05
My commission expires

Vicky P. Pollay
Notary Public

Affix Notary Seal



North Carolina
Dare County

The foregoing certificate of Vicky P. Pollay
A Notary Public of Dare Co., NC
is certified to be correct. This instrument and this certificate are duly registered at the Date and Time in the Book and Page shown on the first page hereof.

Barbara M. Gray, Register of Deeds

By: Andrian Y. Lellett
Deputy Register of Deeds