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NORTH CAROLINA  
DARE COUNTY

DECLARATION OF PROTECTIVE COVENANTS,  
RESTRICTIONS AND CONDITIONS FOR  
THE LONE CEDAR VILLAGE SUBDIVISION

Korbach Family Limited Partnership does hereby covenant and agree to and with all persons, firms and corporations hereafter acquiring any of the real estate hereinafter described that the said real estate is hereby subjected to the restrictions hereinafter set forth as to the use and occupancy thereof by whomsoever owned. The real estate which is hereby subjected to the restrictions hereinafter set forth is described as follows:

Lots 1 through 21, all as shown upon the Plat of The Lone Cedar Village Subdivision by W. M. Meekins, Jr. & Associates, Inc. recorded in Map Book E1, Page 503, Dare County Registry.

The above described lots are hereby subjected to the following restrictions.

ARTICLE I.

Section 1. "Association" shall mean and refer to The Lone Cedar Village Owners Association, its successors and assigns.

Section 2. "The Lone Cedar Village Subdivision" shall mean and refer to that certain real property described on a plat of The Lone Cedar Subdivision by W. M. Meekins, Jr. & Associates, Inc., recorded in Map Book E1, Page 503, Dare County Registry.

Section 3. "Lot" shall mean and refer to all residential building lots as shown upon the recorded subdivision plat of The Lone Cedar Village Subdivision.

Section 4. "Member" shall mean and refer to every person or entity who holds a membership in the Association.,

Section 5. "Developer" and "Declarant" shall mean and refer to Korbach Family Limited Partnership.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot.

Section 7. "Declaration" shall mean and refer to this Declaration of Protective Covenants, Restrictions and Conditions for The Lone Cedar Village Subdivision.

Section 8. "Common Areas" shall mean and refer to the entrance and identification signs to The Lone Cedar Village Subdivision at the entrances to the Subdivision, and Cedar Island Drive. The responsibility for the maintenance and repair of these specific common areas shall be the responsibility of the Association, and to the extent necessary to perform its maintenance and repair obligations the Association is granted an easement across the Lots. In performing the repair and maintenance obligations, the Association shall exercise its best efforts to leave the Lots undisturbed and repair any damage to the Lots caused or resulting from the exercise of its rights hereunder. Common Area shall further mean and include any and all other real or personal property owned, leased or maintained by the Association for the common use and enjoyment of the Owners.

ARTICLE II.

MEMBERSHIP IN ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be



a member of the Association. The foregoing is not intended to include any persons or entitles who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. As evidence of each Owner's membership, each Owner shall deliver to the office of the Association a photocopy of the page(s) of the deed(s) which contains the name of the Member and the Lot(s) owned by such member.

Section 2. Suspension of Membership. During any period in which a Member shall be in default in the payment of any assessment levied by the Association which constitutes a lien upon the Member's Lot(s) the voting rights of such Member may be suspended by the Board of Directors until such assessment has been paid.

Section 3. Voting Rights. All members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest in any Lot, all such persons shall be members. The one vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot, and no fractional vote may be cast with respect to any lot.

#### ARTICLE III. COMMON AREA MAINTENANCE

The Association, acting through its Board of Directors, shall provide maintenance and repairs to the Common Areas, including, but not limited to, Cedar Island Drive.

#### ARTICLE IV. ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Owner of a Lot by acceptance of a deed therefor shall be deemed to covenant and agree to pay the Association annual assessments or charges. The assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due and shall not pass to his successors in title as a personal obligation unless expressly assumed, regardless of the fact it is a lien on the Lot.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of defraying the cost of the Association in performing its duties and exercising its authority as outlined in this Declaration, and its By-Laws, including, but not limited to, payment of premiums for liability insurance, taxes if any, and maintenance and repair of the Common Area and any improvements thereon. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense incurred in the administration of the Association, or to the proper undertaking of all acts and duties imposed upon it or authorized by virtue of this Declaration and the By-Laws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto shall be held for the benefit of the Members, no Member shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a Member by reason of his divestment of ownership of such Lot, by whatever



means, the Association shall not be required to account to such Member for any share of the fund or assets of the Association, or which may have been paid to the Association by such Member, as all monies which any Member has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Association.

Section 3. Basis and Maximum of Annual Assessments. The initial annual assessment for each Lot shall not be in excess of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) per Lot.

(a) From and after December 31, 2002, the annual assessment may be increased effective January 1 of each year without a vote of the membership, by a percentage which may not exceed the percentage increase reflected in the U. S. City Average, Consumer Price Index - United States and selected areas for urban wage earners and clerical workers, all items most recent index and percentage changes from selected dates (published by the U.S. Bureau of Labor Statistics, Washington, D.C.), or such other Index as may succeed the Consumer Price Index, for the Twelve month period ending the preceding September 1.

(b) From and after December 31, 2002, the annual assessment may be increased above that established by the Consumer Price Index formula by an affirmative vote of the Members, whether voted in person or by proxy, at a meeting duly called for this purpose, written notice of which setting forth the purpose of the meeting, shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting.

(c) In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of the same derived by application of the Consumer Price Index formula provided in Subsection (a) without the consent of Members required by Subsection (b) of this Section.

(d) The Board of Directors may decrease the annual assessment from time to time if in its opinion such decrease is prudent.

Section 4. Quorum for Any Action Authorized Under Sections 2 and 3. At the first meeting called, as provided in Sections 2 and 3 hereof, the presence at the meeting of Members or of proxies entitled to cast one-tenth (1/10) of the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 3, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Uniform Rate. Annual assessments must be fixed at a uniform rate for all Lots and shall be collected annually or upon such other basis as the Board of Directors shall deem advisable.

Section 6. Date of Commencement of Annual Assessments Due Dates. The annual assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance to an Owner by the Developer. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The due date shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing, signed by an officer of the Association,



setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect on Non-Payment of Assessments: Remedies of the Association. Any assessments or portions thereof which are not paid when due shall be delinquent. If the assessment or portion is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at fifteen (15.0%) percent per annum, and the Association may (1) accelerate the due dates of all installments of assessments and declare the same due and payable, and (2) bring an action at law against the Owner personally obligated to pay the assessment, and interest, costs, late payment charges and reasonable attorney's fees of any such action shall be added to the amount of such assessment, and/or (3) bring an action to foreclose the lien granted to the Association in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which the Association may at its option advance in order to preserve and protect its lien, and the Association shall further be entitled to interest at fifteen (15.0%) percent per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Lot, or who may be given or require a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Lot expressly subject to such lien rights.

Section 8. Claim of Lien. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Public Records of Dare County, North Carolina, which claim shall state the description of the Lot encumbered thereby, the name of the Owner, the amount due and the date when due. The claim of lien shall be recordable any time after delinquency and the lien shall continue in effect until all sums secured by said lien are paid. The lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. (No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any mortgage or deed of trust duly recorded in the Dare County Registry on such Lot given by the Owner to secure an indebtedness to any bank, savings bank, savings and loan association, or any similar financial institution. Sale or transfer of any Lot shall not affect the assessment lien.

#### ARTICLE V. MISCELLANEOUS PROVISIONS

Section 1. Architectural Control, Land Use and Building Type. To ensure the harmony and quality of design, location, materials and colors, no building, improvement, fence, driveway, satellite dish or exterior antennae, swing/play sets, play/dog houses, decorative statues or other structure shall be begun, altered, added to or constructed on a lot, nor shall the exterior colors of any improvements be changed until the plans have been reviewed and approved in writing by the Architectural Control Committee ("ACC")



appointed by the Association. John W. Korbach, III shall be the sole member of the ACC until such time as he resigns or the Association replaces him with a successor or successors.

No structure shall be erected, altered, placed or permitted to remain on any Lot other than for use as a single-family residential dwelling and only one single-family residential dwelling not to exceed two and one-half (2 1/2) stories in height (excluding above ground closed-in piling areas) containing not less than 1,800 square feet of heated space shall be erected on any Lot. No outbuilding shall be erected upon any Lot unless the same is incidental to the residential use of the Lot. No metal buildings or structures shall be erected or placed on any Lot. All driveways must be paved either in asphalt or concrete or some similar all weather, permanent material approved by the ACC. No open carport or garage shall be erected or placed on any Lot unless the same is located in the rear yard and attached to the dwelling so as not to be generally visible from the street upon which the Lot fronts unless otherwise approved by the ACC. The ACC may, in its discretion, reduce the minimum square footage requirements for heated space of any dwelling placed upon any Lot by as much as ten percent (10%).

It is expressly understood that Lots 1 through 10 in the Subdivision will be limited to a maximum of three (3) bedrooms, and Lots 11 through 21 will be limited to four (4) bedrooms, all in accordance with conditions imposed by the Town of Nags Head in its subdivision approval.

Section 2. Compliance With Governmental Regulations and Setback Lines. No building shall be constructed or located on a Lot otherwise than in compliance with the applicable rules, regulations, laws and ordinances of the Town of Nags Head, North Carolina, or any other governmental agency with jurisdiction thereof, including, without limitations, front, side and rear setback requirements. For the purpose of this covenant, eaves, steps, fireplace chaises and open porches shall not be considered as a part of the building.

Section 3. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become a nuisance or annoyance to the neighborhood. No clothesline shall be permitted in the yard of a Lot. No trade materials or inventory shall be stored visibly on a Lot in the Subdivision and no truck or commercial vehicle in excess of three-quarter (3/4) ton load capacity shall be parked or permitted to remain on a Lot. No vehicles may be parked within the streets shown on the plat of the Subdivision. No wrecked or junked motor vehicle or vehicle without current license plates and registration shall be permitted to remain upon a Lot. No camper or like recreational vehicle shall be permitted to remain upon a Lot unless it is located so as not to be visible from any street or road within the Subdivision.

Section 4. Prohibited Structures. No mobile homes, preconstructed modular unit, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on a Lot in the Subdivision at any time as a residence, either temporarily or permanently.

Section 5. Lawn Maintenance and Refuse Disposal. Each Owner shall keep his Lot free of tall grass and weeds, undergrowth, dead trees, trash and rubbish and properly maintained so as to present a pleasing appearance at all times, including any period of construction on a Lot. All receptacles and other equipment for trash or waste material disposal shall be kept in a clean and sanitary condition. Each Owner shall provide receptacles for garbage located in an area not generally visible from any street.



Section 6. Restriction Against Fences. No fence may be erected on any Lot without the prior written approval of the ACC. Chain link fences may not be erected or located on any Lot and no fence will be approved that would in any way interfere with the view of the water by other property owners.

Section 7. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats and other animals generally considered household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and are not dangerous by nature and are not permitted to run at large beyond the boundaries of their Owner's Lot.

Section 8. Signs. No sign of any kind shall be displayed to the public view on any Lot in the Subdivision except:

(a) One professionally prepared sign of not more than (1) square foot giving the address and occupant's name.

(b) One temporary sign no more than 2 ft. x 2 ft. in size advertising the name of the building contractor, the sale or rental of the property, or advertising garage sales. Any other signs must have the prior written approval of the ACC.

No other signs shall be permitted on any Lot or upon any improvements placed upon the Lots. Developer reserves the right to place signs at the entrance-ways to the subdivision advertising lots and/or homes for sale.

Section 9. Easements. Perpetual easements for installation and maintenance of utilities, clear vision (sight distance easement) and drainage facilities are reserved by the Developer as shown on the plat of the Subdivision. No structure, planting or other materials shall be placed or permitted to remain within these easements which may damage utilities, interfere with clear vision or with drainage or flow. The easement area of each Lot and all improvements thereof except those improvements for which a public authority or utility company is responsible shall be maintained continuously by the Owner of the Lot. Such easements may be released by the Developer to Lot Owners affected when and if it appears to the Developer, its successors or assigns, that any such easement or easements are no longer needed for the purposes for which they were intended.

Any city or governmental agency that provides municipal services to this subdivision shall have an easement across the streets in the subdivision, and shall not be liable to the Owners for any damages to the streets in the Subdivision while performing or providing its normal governmental services.

Section 10. Time. The foregoing restrictions are to run with the land and shall be binding on any applicable to all parties and all persons claiming under them for a period of twenty-five (25) years from the date these restrictions are recorded, after which time said restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the then record Owners of said Lots subject hereto has been recorded in the Dare County Registry, changing, modifying or amending said restrictions in whole or part.

Section 11. Enforcement. Enforcement of these restrictions shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or conditions, either to restrain violation thereof or to recover damages therefore. Injunction shall not issue to compel the removal of or moving of any completed residence for violation of side, rear, or front setback restrictions, the sole remedy of any offended person being a suit for damages.



Section 12. Severability. Invalidation of any one of these covenants or conditions by judgment or order of any court shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 13. Storm Water Permit. Developer has been granted by the State of North Carolina a State Storm Water Management Permit No. SW7001210. To comply with the provisions of said permit, the allowable built-upon area on a Lot shall not exceed the square footage listed on the table attached hereto as Exhibit A, inclusive of that portion of the right of way between the front lot line and the edge of the pavement, structures, pavement, walkways of brick, stone, slate, not including wood decking.

Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with the subdivision except for average driveway crossing is strictly prohibited.

These provisions pertaining to storm water regulations may not be changed or deleted without the concurrence of the State of North Carolina Department of Environment and Natural Resources, Division of Water Quality.

The minimum elevation of the finished grade at the foundation of all homes shall be 6.0 feet above Mean Sea Level (MSL).

IN TESTIMONY WHEREOF, the Korbach Family Limited Partnership has set its hand and seal, this the 30 day of July, 2001.

KORBACH FAMILY LIMITED PARTNERSHIP

BY: Charles D Korbach  
General Partner

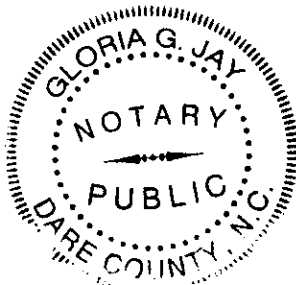
NORTH CAROLINA  
COUNTY OF DARE

I, Gloria G. Jay, Notary Public, do hereby certify that Charles D. Korbach, General Partner in Korbach Family Limited Partnership personally came before me this day and acknowledged the due execution of the foregoing instrument as General Partner in said Partnership.

Witness my hand and notarial seal, this the 29<sup>th</sup> day of August, 2001.

Gloria G. Jay  
Notary Public

My commission expires:  
4-12-02



NORTH CAROLINA  
DARE COUNTY

The foregoing certificate of Gloria G. Jay  
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 Vanzella McMurrian Assistant Register of Deeds



EXHIBIT A

LONE CEDAR SUBDIVISION NAGS HEAD, NC

ALLOWABLE BUILT UPON AREA FOR EACH LOT  
 (Revised 12-18-00)

LOT NO.	LOT SIZE (SF)	LOT SIZE (ACRES)	ALLOWED BUA (SF)	ALLOWED BUA (ACRES)	ALLOWED BUA (PERCENT)	ACTUAL BUA (SF)	ACTUAL BUA (PERCENT)
1	18,420.30	0.42	4,605.08	0.11	25%	3,109.21	17%
2	21,349.31	0.49	5,337.33	0.12	25%	5,021.08	24%
3	19,926.40	0.46	4,981.60	0.11	25%	3,545.53	18%
4	20,077.87	0.46	5,019.47	0.12	25%	3,619.33	18%
5	18,670.62	0.43	4,667.66	0.11	25%	3,769.33	20%
6	19,194.81	0.44	4,798.70	0.11	25%	3,954.42	21%
7	20,113.24	0.46	5,028.31	0.12	25%	3,932.24	20%
8	22,664.95	0.52	5,666.24	0.13	25%	4,922.11	22%
9	25,712.21	0.59	6,428.05	0.15	25%	4,953.86	19%
10	28,673.63	0.66	7,168.41	0.16	25%	5,198.11	18%
11	22,733.28	0.52	5,683.32	0.13	25%	3,828.60	17%
12	21,117.36	0.48	5,279.34	0.12	25%	3,408.34	16%
13	20,450.55	0.47	5,112.64	0.12	25%	3,173.77	16%
14	21,111.83	0.48	5,277.96	0.12	25%	2,943.97	14%
15	25,350.66	0.58	6,337.67	0.15	25%	3,074.13	12%
16	21,036.40	0.48	5,259.10	0.12	25%	3,068.01	15%
17	20,948.44	0.48	5,237.11	0.12	25%	2,549.47	12%
18	38,641.64	0.89	9,660.41	0.22	25%	3,108.57	8%
19	130,417.98	2.99	32,604.50	0.75	25%	2,702.01	2%
20	49,525.03	1.14	12,381.26	0.28	25%	4,980.55	10%
21	33,298.07	0.76	8,324.52	0.19	25%	3,936.11	12%
TOTALS	619,434.58	14.22	154,858.65	3.56	25%	78,798.75	13%

LONE CEDAR COURT ROADWAY AREA: 26,218.07  
 TOTAL PROJECT BUILT UPON AREA: 105,016.82 17%

Unofficial