



ARTICLE VI DESIGN AND ARCHITECTURAL CONTROL

Section 1. Architectural Committee. For purposes of this Article VI, the Declarant shall function as the Architectural Committee (the "Committee") so long as Declarant is a Class B Member of the Association. After termination of the Declarant's Class B Membership, the Board of Directors of the Association shall appoint the members of the Committee to carry out the functions set forth in this article.

Section 2. Definitions. For purposes of this Article VI, the following terms shall have the following meanings unless the context clearly requires a different meaning:

- "accessory building" means every carport, tool shed, storage or utility building, quarters, detached servants' quarters or other constructed on a Lot which is not a dwelling; detached garage, wellhouse, guest similar building
- "buildings" means accessory buildings and dwellings;
- "dwelling" means a building constructed for single-family residential use but excluding servants' quarters and guest quarters; and
- "improvements" or "structures" mean buildings and all walls, fences, bulkheads, decks, patios, planters, terraces, mail receptacles, swimming pools, tennis courts or anything else constructed or placed on a Lot.

Section 3. General Guidelines.

Reservations: The Declarant reserves the right to change, alter, or redesignate all roads, utility and drainage facilities, and such other present and proposed amenities or facilities as may, in the sole judgment of the Declarant, be necessary or desirable.

Variations : The Committee shall be empowered to allow adjustments of the conditions and restrictions stated herein in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein, provided, however, that such is done in conformity to the intent and purposes hereof, and provided, also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood. Variations and adjustments of height and size requirements may be granted hereunder.

Development Concept: It is the express intention of the Declarant to maintain in this residential community a uniform plan of development that will blend with and not detract from the natural environment with respect to design, type and general appearance of the structures to be erected on the lots. Property owners are encouraged to have their architects contact the Committee prior to any costly design work for conceptual guidelines pertaining to the residential community.

(d) Approval of Plans: The proposed Site and Grading Plans, Building Plans and Specifications, Exterior Colors and Finishes, and Construction Schedule must be approved by the Committee. One (1) copy of all plans and related data shall be furnished to the Committee for its records. Until all of the above listed prerequisite plans are approved no improvements or structures shall be erected, placed, or altered on any residential lot.

The material used, as well as the design, shall be subject to the prior written approval of the Committee.

The site and Grading Plans should show the proposed location of each building, structure, driveway, parking area, other improvements, and proposed alterations to the physical characteristics of the site.

The grade, elevation, or physical characteristics (including but not limited to slopes and tree growth) of any such Lot shall not be altered in any way whatsoever without prior written approval of the Committee based upon a Site or Grading Plan.

The committee encourages the planting of flowering shrubs and trees; however, all tree removal or planting of trees, bushes, shrubs, grasses, or other vegetation whatever, shall be based upon a Site Plan, Landscaping Plan, or Planting Plan which has been submitted to and received written approval from the Committee.

Upon the written request of a lot Owner for approval of plans, the Committee shall have ten days within which to approve or disapprove plans. In the event of failure to approve or disapprove within 10 days, such approval will not be required provided the design of proposed building is in harmony with the existing structures in this area. If the Committee approves the construction of such improvements, it shall issue a certificate evidencing such approval.

Refusal or approval of any such plans or specifications may be based by the Committee upon grounds, including purely aesthetic and environmental considerations that in the sole and absolute discretion of the Committee shall seem sufficient.

Without the prior written consent of the committee, no changes or deviations in or from such plans or specifications as approved shall be made. No alterations in the exterior appearance of any building or structure, or in the grade, elevation, or physical characteristics of any Lot shall be made without like approval by the Committee.

Upon completion of approved construction, the Committee shall inspect the construction to insure that the approved Plans and samples were complied with by the Owner. No structure may

be occupied or used until the issuance by the Committee of a certificate of compliance. The certificate of compliance shall be issued by the Committee without fee; provided, however, that in the event that the Committee's first inspection of the construction reveals deviations or deficiencies from the approved Plans and samples, the Committee may charge a fee of \$50 for every subsequent inspection which is necessary to insure compliance with the approved Plans and samples . Any such fee must be paid before the issuance of the compliance certificate. If the finished building or other structure does not comply with the submitted plans and specifications, the Committee retains the right to make the necessary changes at owner's expense, and the further right to file under the North Carolina lien laws notice of liens for any costs incurred.

Subdividing: No Lot shall be subdivided, or its boundary lines changed. However, the Declarant hereby expressly reserves to itself, its successors or assigns, the right to replat any two (2) or more lots shown on the plat of any subdivision in order to create a modified building lot or lots; and to take such steps as are reasonably necessary to make such replatted lot suitable and fit as a building site, said steps to include but not to be limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said replatted lots.

Section 4. Site Improvements:

- a) Building setback Guidelines and Requirements Since the establishment of standard inflexible building setback lines for location of houses on lots tends to force construction of houses both directly behind and directly to the side of other homes with detrimental effects on privacy, view of the water, preservation of land contour, important trees, and other vegetation, ecological and related considerations, no specific setback guidelines are established by these Restrictions . In order to assure, however, that the foregoing considerations are given maximum effect, the Committee reserves the right to control and approve absolutely the site and location of any house or dwelling or other structure upon any lot.
- b) Nevertheless, any dwelling or other building constructed on any lot must comply with all governmental regulations and restrictions applicable to building setback and location, including but not limited to the following:
 - a. 1) Zoning ordinances, building codes, and other ordinances of the Town of Carolina Beach; and
 - b. 2) The Coastal Area Management Act and all regulations issued pursuant thereto.
- c) Use of Fill and Changes in Elevation: No changes in the elevations of the land shall be made on any lot, nor any fill placed within the common easement areas or within the regulatory setback lines; nor shall any Lot be increased in size by filling in the waters on which it abuts without prior written approval of the Committee plus state and federal agencies.
- d) Adequate Drainage Requirement: It shall be the obligation of the Lot Owner to provide

adequate drainage of his or her Lot to the end that the property or properties adjacent to said Lot shall not be subjected to other than the natural flow of drainage presently existing. It shall also be the obligation of the Lot Owners to provide, install and maintain adequate culvert or drainage pipe beneath his or her driveway as it crosses the street right-of-way in order that the natural flow of drainage will not at any time be blocked along the street right-of-way. The size of such drainage pipe shall be determined by the Committee.

- e) Off Street Parking: Each Lot Owner shall provide space on his Lot for off street guest parking for not less than three (3) passenger automobiles as well as oversized vehicles (boat trailers, vans, etc.) prior to the occupancy of any single family dwelling constructed on said lot. No vehicles shall be permitted to be parked in any street, road, or other common area. Said parking areas and
- f) driveways thereto shall be in accordance with reasonable standards and shall be constructed of concrete, asphalt, crushed stone, crushed shells, or any other material approved by the Committee in writing as provided for in Section 3(d) hereinabove.
- g) Underground Utility Requirements: All electric transmission or service lines within the perimeter bounds of any Lot or common easement shall be installed beneath the surface of the ground.
- h) Water supply Systems: All water to be used on any lot shall be obtained by connection to the water system operated by the Town of Carolina Beach. No individual water supply system, including a lawn irrigation system or a water to air heat system, shall be permitted unless such system complies with all requirements of the Town of Carolina Beach and other appropriate governmental agencies and all required permits have been obtained.
- i) Driveway and Mailbox Locations : The Committee has the right to decide in its sole and absolute discretion the precise site and location of any driveway and mailbox location placed upon any right-of- way; provided, however, that the owner shall be given the opportunity to recommend a specific site for such improvements.

Section 5. Structural Improvements:

(a) Residential Use: No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any residential Lot other than one detached single family dwelling. However, a garage or small accessory building (which may include a pool house, servants' quarters, or guest facilities) is permitted provided the use of such dwelling or accessory building does not in the opinion of the Committee overcrowd the site, and provided, further, that such buildings are not used for the activities normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building. No building or other structure, or part thereof, at any time situated on any such residential lot shall be used as a professional office, charitable or religious institution, business or manufacturing purpose, or for any use whatsoever other than residential and dwelling purposes as aforesaid. No duplex

residence or apartment house shall be erected or placed on or allowed to occupy any such residential lot, and no building shall be altered or converted into a duplex residence or apartment unit thereon.

(b) **Building Materials:** All structures constructed or placed on any Lot shall be built of substantially new materials. Any structure erected on any lot shall be of lapwood siding, wood shingles, brick veneer, or concrete and stucco. Any accessory buildings or structures shall be constructed of the same material as the main dwelling, or from other suitable material specifically approved in writing by the Committee. All roofs of any structures constructed or placed on any lot shall be of metal, tile, concrete, or asphalt shingles. Even though the building or roof materials may be as designated herein, the Committee shall have absolute discretion to determine whether the materials are in conformity to the aesthetics of the development.

(c) **Square Footage of Enclosed Dwelling Area:** Every dwelling constructed on a Lot shall contain at least the minimum required square footage of fully enclosed and heated floor area. The minimum required square footage shall be 1600 square feet, exclusive of patios, attached garages, attics, terraces, decks, roofed and unroofed porches and accessory buildings. The maximum allowable square footage shall be that which is permissible within local, state or federal guidelines.

Construction on Pilings: Construction of a dwelling on pilings is generally permissible. However, any dwelling so constructed must be fully enclosed so that said pilings are not visible from the front, side, or rear of such lot. Such enclosure is specifically subject to the prior review and approval of the Committee in accordance with Section 3(d) herein.

Enclosed Garage: All homes are permitted to have an enclosed two car parking garage serving the main house structure. No covered parking facility may be constructed other than an enclosed garage unless incorporated into the main dwelling structure. The opening of said enclosed parking facility or garage shall not be visible from the front of the Lot nor be visible from any common easement area serving the premises or waterfront. Any dwelling constructed on pilings must be enclosed with garage doors on the ground level in order for such area to be used as a garage.

Screening of Refuse Receptacles: Each Lot owner shall provide receptacles for ashes, trash, rubbish, or garbage on his Lot in a screened area not generally visible from the road, other lots, or from common easement areas, or provide underground receptacles (or similar facility) in accordance with reasonable standards established by the Committee.

Mailboxes and Newspaper Receptacles : No mail box, paper box, or other receptacle of any purpose shall be erected or located in the road right-of-way or on any building lot unless and until the size, location, design, and type of material for said box or receptacle shall have been approved by the Committee in accordance with Section 3(d) herein.

Fuel Tanks and Similar Storage Receptacles: No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within an accessory building with a screened area (so as not to be generally visible from the road, adjoining lots, or common areas)

or buried underground; provided, however, that nothing contained herein shall prevent the Committee from erecting, placing, or permitting the placing of tanks or other apparatus on the property for uses related to the provision of utility or other service.

Clotheslines or Drying Yards: Clotheslines or drying yards shall be located as not to be visible from the street, common easement areas serving the premises, or from the waterfront.

Fences and Walls : No fence, bulkhead, or wall of any purpose shall be erected or located on any building lot, easement, or common area unless and until the plans and specifications showing the nature, shape, height, materials, and location for said fence or wall shall have been approved by the Committee in accordance with Section 3(d) herein.