

storage tanks for chemicals, petroleum products or any other mineral or toxic product will be allowed anywhere in The Property, except for propane gas tanks for household heating.

Section 12. Debris. No leaves, trash, garbage or other similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of The Property, except as is temporary and incidental to the bona fide improvement of any portion of The Property. Job site debris shall be removed from the Lot (job site) at least semi-weekly.

Section 13. Antennas. No television antennas, radio receiver or sender antenna or other similar device shall be attached to or installed on the exterior portion of any Dwelling Unit or structure, or placed on any Lot or Common Properties within The Property. A satellite dish not to exceed eighteen (18) inches in diameter may be installed so long as it is appropriately screened from view (as determined by the Committee).

Section 14. Unightly Conditions. It is the responsibility of each Owner to prevent any unsafe, unsightly or unbecoming conditions to exist on his Lot, Dwelling Unit, or grounds, which shall tend to decrease the beauty of The Property, specifically or as a whole. During the construction of any improvement to a Lot in The Property, the Lot, roads, bike paths, landscaping and Common Areas adjacent thereto shall be kept in a neat and orderly condition so as not to cause an unsightly condition to exist or damage to occur. In the event the Owner or his agent or employee (including, without limitation, any contractor or subcontractor) shall fail to maintain the Lot and adjoining areas as specified herein or allow damage to occur and such failure continues or damage remains unrepaired for seven (7) days following delivery of written notice thereof from Declarant, Declarant shall have the right, exercisable in its sole discretion, to summarily abate any unsightliness, make needed repairs, and to remove any rubbish, refuse, unsightly debris and/or growths from the Lot and adjoining area. In the event that Declarant, after such notice, causes the subject work to be done, the costs of such shall be reimbursed by the Owner to the Declarant and will become a continuing lien on the Lot until paid.

Section 15. No Offensive Activity or Fires. No noxious or offensive activity or excessive noise shall be carried on upon any portion of The Property, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Owner, tenant or guest thereof, in any portion of The Property. Fires on any Lot or Dwelling Unit or on any portion of the Common Properties are prohibited unless procedures adopted by the Declarant are strictly followed.

Section 16. Certain Plants, Animals and Pets. Except as otherwise permitted herein, or in any amended Declaration, no plants, animals, device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may tend to diminish or destroy the enjoyment of any other Lot or Dwelling Unit Owners, or tenants and guests thereof, may be maintained on a Lot or in a Dwelling Unit. No animals, livestock or

poultry of any kind shall be raised, bred, or kept on any Lot or in any Dwelling Unit, except that a reasonable number, but no more than three, dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. At no time will any household pets be allowed to run free, and at all times when off the Owner's Lot, such household pets will be on a leash.

Section 17. Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows within The Property is prohibited unless required for public safety.

Section 18. Motorized Vehicles Prohibited Parking. All motorized vehicles operating within The Property must be properly muffled so as to eliminate noise which might be offensive to others. No motorized vehicle, boat, boat trailer, other trailer, camper, recreational vehicle, utility vehicle or truck shall be allowed to remain on any street right-of-way or on any portion of the Common Properties overnight without expressed written consent of the Declarant. Boat, boat trailers, campers, recreational vehicles and utility vehicles should be in a designated storage area if provided by the Declarant or should be kept in an enclosed accessory building or an enclosed garage or other suitable approved enclosure. If a boat, boat trailer, camper, recreational vehicle or utility vehicle must be stored on a lot without an enclosure every effort should be made to screen the stored property from public view and from view of adjoining property owners by way of an approved fence or by the use of plantings and shrubbery. In addition, each Owner shall provide as a part of his Dwelling Unit or as a part of an accessory building thereto an enclosed garage or other suitable approved enclosure for the parking, out of public view, of two full sized automobiles.

Section 19. Signage. No "For Sale" or "For Rent" signs or other signs of any kind shall be displayed in public view on any Lot, Dwelling Unit, facility, appurtenance, short or long term parked vehicle, accessory building or structure unless approved by the Declarant, who shall also from time to time provide design criteria and color schemes for approved signage. Notwithstanding the foregoing, the Declarant shall have the right to locate a sign or signs on any lot owned by Declarant. Declarant shall further have the right to locate a sign or signs indicating the location of sales and rental centers, identify model homes or living units and their builder, any Recreational Facilities and such other informational signs of any type as may be necessary or desirable, in Declarant's sole opinion, to facilitate Declarant's plans for development and sales at BATTALINA CREEK. No sign or signs shall be permitted on any unimproved lot other than those lots owned by Declarant until such time as Declarant no longer employs a sales and marketing staff for lot sales at BATTALINA CREEK. Declarant shall have the right to enter upon The Property of violating owners and remove any such sign, advertisement, billboard or structure which is placed on any lot in violation of the Covenants, and in doing so, shall not be liable and is hereby expressly relieved from any liability for trespass or other tort in connection therewith, or arising from such removal.

Section 20. Vegetation. No existing vegetation shall be disturbed during construction without the express written consent of the Committee. The Committee shall require written proposals for the rehabilitation of any such disturbed area. Any vegetation disturbed during construction shall be repaired to the satisfaction of the Committee prior to the Owner applying for an occupancy permit from BEAUFORT COUNTY or the appropriate municipal body. This shall not prevent or limit in any way the Declarant from entering in such earthmoving, clearing, mowing, and pruning activities as are necessary to effect the overall plan of development.

Section 21. Mail and Delivery Boxes. The Committee shall determine the standards and issue guidelines for the location, material, color and design for mail and newspaper boxes, if any, and the manner in which they shall be identified. All Owners must display the COUNTY-assigned street address on their mail boxes, or other appurtenance, pursuant to the then current regulations of BEAUFORT COUNTY.

Section 22. Residential Lot Coverage. All owners shall comply with the local, COUNTY, state and federal limitations of lot coverage as well as any local, COUNTY, state or federal storm water runoff regulations.

Section 23. Fences. Fences are subject to the complete jurisdiction of the Committee as to location, style, materials, height and whether or not a fence is allowed at all. As used herein, fences shall include walls, barricades, shrubbery or other impediments to reasonable mobility and visibility. The Committee shall only approve the construction of a fence upon a determination that the fence is aesthetically pleasing, does not detract from the reasonable value of any Lot or Dwelling Unit and does not unreasonably impede the view of any water course, or other attractive features from any other Lot or Dwelling Unit.

Section 24. Driveways. All driveways, guest parking and turnabouts shall be paved blacktop or asphalt material.

Section 25. Occupancy. No residence on a Lot shall be occupied in any manner prior to completion of construction and the connection of permanent utilities.

Section 26. Windstorm Resistance Standards. BATTALINA CREEK requires all dwellings to be built in accordance with current local, county, state and federal windstorm building codes.

Section 27. Timely Completion. When construction of any Dwelling Unit, structure, improvement, or addition thereto has once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. It is a requirement that Dwelling Units under construction in The Property be "dried-in" with exterior finishes installed, including roofing, windows and finish siding within one hundred twenty (120) days of starting construction and that all phases of work, including execution of the Landscape Plan, be complete within one year from Committee approval. In the event that completion should be delayed beyond one year from

Committee approval, then in that event, the Committee, may, so long as the Owner is notified within thirty days of the one year period expiring, by way of unanimous vote of its members, rescind the existing approval and require that the Owner reapply and seek new approval. Committee shall approve the construction of an accessory building or garage to be built upon any lot, no sooner than 12 months prior to the commencement of the building of the dwelling unit.

Section 28. Water and Sewers. All properties shall be required to use public water and sewer facilities provided by the City of Belhaven and Beaufort County.

Section 29. Existing Dwellings. Notwithstanding the minimum housing requirements as to size, location and roof pitch, any existing dwellings are "grandfathered" as they now exist. Any new replacement dwellings on said lots shall conform to the provisions of this Article Five.

Section 30. Multiple Dwellings. No Lots shall be used for multi family use although "guest quarters" are not prohibited, all "guest quarters" will be subject to Architectural Approval.

ARTICLE SIX MEMBERSHIP

Section 1. Membership. Every person or entity who is a record Owner of a fee simple interest in any Lot or Dwelling Unit in BATTALINA CREEK is subject by this and any other declarations to all rights, responsibilities and assessments of the Declarant and shall be a Member, provided, however, that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member. Each member shall be entitled to one vote for each lot owned for the purpose of electing the Association's Board of Directors, Architectural Control Committee, or for any other voting situations that may arise in the operations of the Association after the Turnover meeting as established in this Article Six Section 3.

Section 2. Rights and Responsibilities of the Declarant. Subject to the rights of Owners and Declarant as set forth in this Declaration, The Declarant has exclusive management and control of the Common Properties and all improvements thereon and all furnishings, equipment and other personal property relating thereto until Declarant holds a Turnover meeting, at which time the ownership, rights and responsibilities of all Common Properties shall convey to the Association, governed by a Board of Directors, elected by the Lot owners.

The Declarant's duties, until the Turnover meeting, with respect to such Common Properties include, but are not limited to, the following:

- (a) Maintenance of the Common Properties;

(b) Management, operation, maintenance, repair, servicing, replacement and renewal of all landscaping, improvements, equipment and personal property constituting part of the Common Properties or located upon the Common Properties so as to keep all of the foregoing in good, clean, attractive, sanitary, safe and serviceable condition, order and repair;

(c) All landscaping of the Common Properties;

(d) Maintenance of adequate public liability, property casualty or hazard insurance for the benefit of the Declarant with respect to the Common Properties;

(e) Payment of all taxes and assessments validly levied, assessed or imposed with respect to the Common Properties;

(f) Management, operation, maintenance, repair, servicing, replacement and renewal of all streets and roads within The Property and all improvements thereon; provided, however, that following any irrevocable acceptance of the streets and roads for maintenance as public rights of way by applicable governmental entities, the maintenance obligations of the Declarant for the streets and roads shall only be to the extent such activities are not performed by the applicable governmental entities.

The Declarant may also provide other services such as, but not limited to, security services or devices, including but not limited to operation of an entry guard house and any other security gates, security personnel and overall traffic control as and to the extent the Declarant deems appropriate.

The Declarant may obtain and pay for the services of any personnel to manage its affairs to the extent the Declarant deems advisable, as well as such other personnel as the Declarant determines is necessary or desirable, whether such personnel are furnished or employed directly by the Declarant or by any person with whom it contracts. Without limitation, the Declarant may obtain and pay for legal, accounting, engineering or other professional services necessary or desirable in connection with the Common Properties or the enforcement of this Declaration.

The Declarant, from time to time, may adopt, alter, amend, rescind and enforce reasonable rules and regulations governing use and operation of the Common Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The validity of the Declarant's rules and regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of The Property.

The Declarant may, acting through its Board, contract with other residential Declarants or commercial entities, neighborhoods or clubs to provide services or perform services on behalf of the Declarant and the Members. In addition, the Declarant may contract with other residential Declarants or commercial entities, neighborhoods or clubs within BATTALINA CREEK to

provide service to or perform services on behalf of such other Declarants, neighborhoods or clubs.

Section 3. Turnover of Management and Control to Association. No later than twenty-four months after the Declarant no longer holds the title to 3% of the lots in The Property, the association shall conduct a special meeting of the membership, hereinafter called the Turnover Meeting, for the purpose of assuring the transition of control of the Common Facilities to an Association for the Lot Owners.

Section 4. Board of Directors. After the Turnover meeting, the Association shall be governed by a Board of Directors, which will be elected by the Lot Owners at the Turnover Meeting. The Board of Directors shall be comprised of current property owners. As provided in Article Six, Section 1, each Lot owner shall be entitled to one vote for each lot owned for the election of the Board of Directors and for any other voting initiated by the Association.

**ARTICLE SEVEN
PROPERTY RIGHTS IN THE COMMON FACILITIES**

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article Seven, every Member shall have a right and easement of enjoyment in and to all of the Common Facilities and such easement shall be appurtenant to and shall pass with the title to every Lot or Dwelling Unit in The Property, as well as every Other Lot and Other Residential Unit in other sections of BATTALINA CREEK.

Section 2. Title to Common Facilities. The Declarant may retain the legal title to any Common Facilities shown on any recorded plat of The Property, until such time as it has completed improvements, if any, thereon and until such time as Declarant holds the Turnover meeting detailed in Article Six, Section 3. At the Turnover meeting Declarant shall convey title to the Common Facilities to the Association by Non-Warranty Deed, at no cost to the Association, free and clear of all liens and encumbrances except this Declaration and any supplements and amendments thereto. The Association covenants that it will accept a conveyance of all of the Common Facilities.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created herein shall be subject to the following:

(a) The right of the Declarant or the Association, in its sole discretion, to grade, pave or otherwise improve any road or street shown on any recorded plat of The Property, BATTALINA CREEK;

(b) The right of the Declarant or the Association to suspend the enjoyment rights of any Member for any period during which any assessment of the Member remains

unpaid, and for any period not to exceed thirty (30) days for any infraction of any published rules and regulations adopted by the Declarant;

(c) The right of the Declarant or the Association or its assignee to charge reasonable admission and other fees for use of any of the facilities situated upon its Common Properties.

Section 4. Driveway Culverts. Each Owner, if required by the Committee as a condition to approval of his Plans, when making a driveway connection to the street or to a cul-de-sac, will provide a suitable drainage culvert so as to allow for unimpeded water movement along the existing roadway swale, and will maintain that culvert at all times in such a way that it does not become an eyesore or disturb the desired drainage patterns in the swale system.

Section 5. Stormwater Management Improvements. The Declarant, until such time as the Declarant no longer owns any of the Common Properties in BATTALINA CREEK, will be responsible for maintenance of any stormwater management swales, channels, and check dams and to see that each Owner installs and maintains his driveway culvert in accordance with Section 4 of this Article Seven. Such maintenance shall include removal of sediments within the swales and channels, restabilization of the swales and channels at all times in such a way that it does not become an eyesore or disturb the desired drainage patterns in the swale system.

In accordance with Title 15 NCAC 2H.1000, the Coastal Stormwater Management regulations, deed restrictions and protective covenants are required for Low Density Residential Subdivisions where lots will be subdivided and sold. Deed restrictions and protective covenants are necessary to ensure that the development maintains a "built-upon" area consistent with the applicable regulation governing the density level.

1. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit No SW7062002 as issued by the Division of Water Quality under NCAC 2H.1000
2. The State of North Carolina is made beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.
3. These covenants are to run with the land and be binding on all persons and parties claiming under them.
4. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.

5. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.

6. The maximum allowable built-upon area per lot is as shown on Exhibit A attached.

These allotted amounts include any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, and coquina, but does not include raised, open wood decking, or the water surface of swimming pools.

7. In the case of a lot within CAMA's regulated AEC, where the Division of Coastal Management calculates a different maximum allowable built-upon area for that lot than is shown herein, the governing maximum built-upon area for that lot shall be the most restrictive of the two.

8. Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is strictly prohibited by any persons.

9. Each lot will maintain a 50' wide vegetative buffer between all impervious areas and surface waters.

10. All roof drains shall terminate at least 50' from the mean high water mark surface water.

11. The area of the 20' private drive on Lots 32, 33, 34, 35, 39, 40 and 41 is not included in the allowable built-upon area listed in Item 6. The values listed in Item 6 are the remaining built-upon area per lot.

Section 6. Private Roads. In the development of The Property, the Declarant may construct certain private streets or roads or access easements within The Property connecting parcels of The Property to public rights of way. The Owners of Lots, Dwelling Units, shall have no more than an easement for ingress and egress for themselves, their tenants, agents, employees, representative, invitees and assigns over such private streets and roads, and there shall be no public rights of any kind therein, unless approved by the Members in accordance with the provisions of Section 3 of this Article Seven. Declarant reserves the right to name and revise from time to time the names or other designations given to such private streets or roads. In the event the Declarant or property owners association decides that the roads should be turned over

EXHIBIT A

Lot No.	Allowable Built-Upon Area		Lot No.	Allowable Built-Upon Area	
	AC	SF		AC	SF
1	0.17	7,527	27	0.14	6,095
2	0.18	7,919	28	0.22	9,414
3	0.22	9,558	29	0.62	27,100
4	0.23	9,933	30	0.18	7,988
5	0.11	4,973	31	0.23	9,920
6	0.11	4,675	32	0.20	8,633
7	0.11	4,633	33	0.18	7,988
8	0.18	7,690	34	0.19	8,419
9	0.20	8,893	35	0.21	9,289
10	0.17	7,577	36	0.16	7,045
11	0.14	5,999	37	0.12	5,105
12	0.20	8,557	38	0.11	4,924
13	0.18	8,041	39	0.10	4,561
14	0.28	12,154	40	0.10	4,142
15	0.26	11,479	41	0.14	6,243
16	0.25	10,796	42	0.10	4,422
17	0.20	8,601	43	0.12	5,105
18	0.10	4,338	44	0.14	6,085
19	0.11	4,926	45	0.12	5,431
20	0.13	5,621	46	0.10	4,446
21	0.15	6,316	47	0.10	4,514
22	0.15	6,523	48	0.14	6,076
23	0.21	8,093	49	0.16	7,064
24	0.21	8,931	50	0.16	6,950
25	0.27	11,620	51	0.14	5,962
26	0.14	5,905	52	0.17	7,441

to the appropriate regulating government agency, the roads must be brought up to current NCDOT standards subsequent to the transfer.

ARTICLE EIGHT COVENANT FOR PAYMENT OF ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Member, other than the Declarant, who is the owner of any Lot, or Dwelling Unit, by acceptance of a deed therefore, and all other Members, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to and does hereby covenant and agree to pay, as limited below, to the Declarant:

- (a) Annual assessments or charges as herein provided;
- (b) Special assessments for capital improvements (such annual and special assessments to be fixed, established, and collected from time to time as herein provided); and
- (c) Any liquidated damages or summary charges imposed under authority contained herein, together with costs, fees and expenses (including reasonable attorney's fees) incurred by the Declarant incidental to the enforcement of any rules and regulations, collection of assessments (both annual and special) or collection of damages or charges arising herein.

The annual and special assessments of an Owner and any liquidated damages or summary charges as herein provided, together with such interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the Lot & Dwelling Unit, against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person or persons jointly and severally, who is (are) the Owner(s) of such properties at the time when the Assessment fell due.

Section 2. Purpose of Assessments. The Assessments levied by the Declarant shall be used exclusively to promote the recreation, health, access, maintenance of property values, security, safety and welfare of the residents of The Property and other Members, and in particular for:

- (a) Improvement, maintenance, and replacement of any of the Declarant's Common Properties including, without limitation, the Facilities, Waste Water Treatment Facilities and payment of the Common Expenses;
- (b) Maintenance of exteriors of Dwelling Units and related improvements on Lots in The Property, as well as Other Lots within BATTALINA CREEK, if necessary, subject to reimbursement by the Owner(s) of such property pursuant to Article Nine, Sections 1 and 2 of this Declaration.