

(c) Establishment of capital replacement reserves; and

Acquisition of services and facilities devoted to the foregoing purposes or for the use and enjoyment of the Declarant's Common Properties, including but not limited to, the cost of repairs, replacements, additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against those Common Properties, the procurement and maintenance of insurance related to those Common Properties, its recreational facilities and use in accordance with the Bylaws, the employment of attorneys to represent the Declarant as necessary, and such other requirements as are necessary to perform all of the aforesaid functions and purposes.

The regular annual assessment minimum amounts shall be the sums calculated in accordance with the following schedule as may be increased in each instance by an adjustment for inflation as set forth below.

Owner Members Assessments	Minimum Regular Annual Assessments
Per Lot	\$250.00
or	
Per Dwelling Unit	\$350.00

Commencing with the calendar year beginning January 1, 2009, on the first day of each year, the minimum regular annual assessments shall automatically be increased by a minimum of three percent (3%) and a maximum of ten percent (10%) per annum, as determined by the Board of Directors. In no event shall the minimum regular assessment increase by more than 10% in any given year unless by majority vote of the Owners. Special assessments shall be subject to the approval of the Board of Directors. In no event shall a special assessment(s) be levied upon any Owner, in any twelve (12) month period, be greater than that year's annual assessment, except by majority vote of the Owners.

Section 3. Dates of Commencement of Annual Assessments; Due Dates. The regular annual assessments provided for herein shall be paid (as determined by the Declarant) in quarterly, semiannual, or annual installments. The payment of the regular annual assessment by Owners shall commence as to each Lot, Dwelling Unit, Other Lot or Other Residential Unit, on the first day of the month following the conveyance of that Property by the Declarant, but no earlier than January 1, 2009. The first regular annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Declarant or board shall fix the amount of the following year's annual assessment by December 15 of the current year. Written notice of the

regular annual assessment shall be sent to every Member subject thereto. The due dates shall be established by the Declarant. The Declarant, upon any qualified demand (as determined by the Board) at any time, shall furnish a certificate in writing signed by an officer of the Declarant setting forth whether any specific assessment has been paid. Such properly executed certificate of the Declarant as to the status of the assessment is binding upon the Declarant as of the date of its issuance. The due date for any special Assessment or any other Assessment, permitted by the Declaration, shall be fixed by the Declarant.

Section 4. Effect of Non-Payment of an Owner's Assessment: the Personal Obligation of the Owner, the Lien, Remedies of Declarant. If the assessments of an Owner are not paid within ten (10) days following the date due (being the date referred to in Section 7 of this Article Eight), then such assessments shall become delinquent and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot(s) or Dwelling Unit(s) which shall bind such Lot(s) or Dwelling Unit(s), in the hands of the then-Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment shall remain his personal obligation for the statutory period; and, in addition, shall pass to his successors in title (as an encumbrance or lien against the Lot or Dwelling Unit, unless expressly waived by the Declarant.

If the assessment(s) is not paid within thirty (30) days after the delinquency date, the assessment(s) shall bear interest from the date of delinquency at the rate of one and one-half (1.5%) percent per month and the Declarant may authorize its officers to bring appropriate civil action against the Owner personally obligated to pay the same or to foreclose the lien against any such Lot(s) or Dwelling Unit(s) and there shall be added to the amount of such assessment, the costs of such action and reasonable attorneys' fees or other cost incurred by the officers of the Declarant pursuant to authority of the Declarant. In the event a judgment is obtained against any Owner for such assessments, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the Court, together with the costs of the action.

Section 5. Subordination of the Lien on an Owner's Property to Mortgages or Deeds of Trust. The lien on an Owner's property of the assessments provided for herein shall be absolutely subordinate to the lien of any first mortgage or deed of trust now and hereafter placed upon any Lot(s) or Dwelling Unit(s), subject to assessment. The subordination shall not relieve any Lot(s) or Dwelling Unit(s) from liability for any assessments now or hereafter due and payable, but the lien thereby created shall be secondary and subordinate to any first mortgage or deed of trust as if said lien were a second mortgage, irrespective of when such first mortgage or deed of trust was executed and recorded.

Section 6. Commons Building Site. Any owner of one or more adjoining lots (or portions thereof) may, with prior written consent of Declarant consolidate such lots or portions into one building site which shall be considered one lot for purposes of assessments.

Section 7. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- (a) All Common Properties as defined in Article Two of this Declaration; and
- (b) All properties exempted from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption. (Homestead exemptions shall not be considered an exemption.)
- (c) All properties owned by the Declarant before and after Turnover of the Association.

Notwithstanding any provisions of this Section 7, no Lot or Dwelling Unit, shall be exempt from said assessments, charges or liens.

ARTICLE NINE EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. After thirty (30) days written notice to an Owner specifying any required maintenance, the Declarant shall have the right but not the obligation to provide (a) maintenance upon any Lot and (b) maintenance upon any Dwelling Unit, which is subject to assessment under Article Eight hereof. Such maintenance includes (but is not limited to) painting, grass and weed mowing, the trimming of shrubs, repairing, replacing and care of roofs, gutters, downspouts, removal of signs in violation of this Declaration, and exterior improvements on any Dwelling Unit. Such maintenance as to a vacant Lot may include the mowing of grass and woods, the trimming of shrubs, or the removal of trash and litter.

Section 2. Assessment of Cost on Exterior Maintenance. The cost of any such maintenance shall be assessed against the Lot or Dwelling Unit, upon which such maintenance is performed and shall be added to and become part of the regular annual assessment or charge to which such Lot, Dwelling Unit, is subject and, as part of such regular annual assessment or charge, it shall be a lien against any such Lot or Dwelling Unit, as heretofore defined and limited, and a personal obligation of the Owner and shall become due and payable in all respects as provided herein.

ARTICLE TEN CAPTION, INTRODUCTIONS AND GENDER

The captions and introductory material herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter genders, and the use of the

- singular shall be deemed to refer to the plural, and the use of the plural shall be deemed to
- include the singular, whenever the context so requires

ARTICLE ELEVEN AMENDMENT TO DECLARATION

Section 1. **Amendments.** Declarant, its successor or assigns shall be allowed to make amendments/modifications to this Declaration, notwithstanding any other provision contained herein, and without joinder of any other party, for the purposes of correcting any discovered typographical error contained herein, clarifying any ambiguity contained herein, or adding or deleting any provisions deemed in the sole discretion of the Declarant to be in the best interest of the Development and the Members therein. This right may be exercised, and shall be effective, only upon the recording of an "Amended Declaration" or "Modification of Declaration" in the Office of the Register of Deeds of BEAUFORT COUNTY, which Amended Declaration or Modification of Declaration shall specifically reference this document and the provision(s) impacted.

Section 2. **Modifications.** The Declarant shall have, and solely reserves the right to, include in any declaration, contract or deed thereafter made or entered into, such modifications and additions to these protective covenants, which will, in the sole opinion of the Declarant, raise the standards or enhance the desirability of the subdivision as a residential area. Such reservation shall not relieve any purchaser of a Lot, in whole or in part, from any of the protective covenants set forth. Declarant may allow reasonable variances and adjustments of these covenants in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with 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 subdivision.

The Declarant, without the consent or approval of any other property owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over The Property or to qualify The Property or any lots and improvement thereon for mortgage or improvement loans made or insured by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements or mortgage interest therein, as well as any other law or regulation relating to the control of property, including without limitation; ecological controls, construction standards, aesthetics, matters of public health, safety and general welfare. A letter from an official of any such corporation or agency, including without limitation; the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Association, the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such

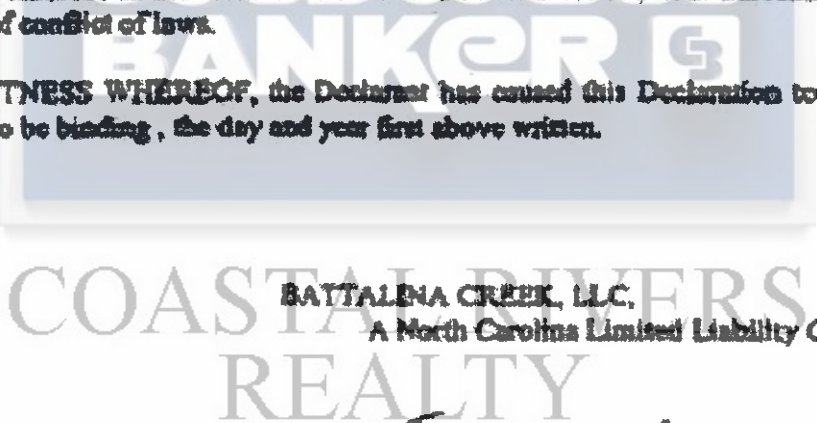
corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

3. Right to Add Additional Members and Lots. Declarant, its successors and assigns, hereby reserves the right to develop additional properties and to add Owners from such other properties as Members of the Association who may use any facilities, Common areas, open areas that are available within The Property, provided such additional Members shall be obligated to pay dues to the association the same of Owners.

**ARTICLE TWELVE
SEVERABILITY AND GOVERNING LAW**

If any provision of this Declaration is found to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof, and for the purposes hereof all covenants as contained herein shall be deemed to be severable each from each other without qualification. This Declaration and the separate provisions thereof shall be construed and enforced in accordance with the laws of the State of North Carolina without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed in such form as to be binding, the day and year first above written.



BATTALINA CREEK, LLC.
A North Carolina Limited Liability Company

BY: Jeffery A. Pascoe
Jeffery A Pascoe, Manager

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I, a Notary Public of CRAVEN County, North Carolina, certify that on this day before me personally appeared JEFFERY A. PASSOT, Manager of BATTALINA CREEK, LLC, personally known to me or who produced satisfactory evidence of identification and voluntarily signed the foregoing or attached instrument for the purposes therein expressed and in the capacity indicated.

WITNESS my hand and official stamp or seal this the 30 day of May, 2007.



Susan L. Milliron
Signature of Notary Public

My commission expires March 23, 2010

SUZAN L. MILLIRON
Typed or Printed Name of Notary Public

COASTAL RIVERS
REALTY



JENNIFER LEGGETT WHITEHURST
BEAUFORT COUNTY REGISTER OF DEEDS
COURTHOUSE BUILDING
112 W. 2ND STREET
WASHINGTON, NC 27889

Filed For Registration: 08/01/2007 01:11:18 PM

Book: RE 1588 Page: 412-439

Document No.: 2007004499

DECLR 27 PGS \$89.00

Recorder: JENNIFER L WHITEHURST

COASTAL RIVERS
REALTY

2007004499

2007004499

T. Archie