

NORTH CAROLINA

PASQUOTANK COUNTY

AMENDED DECLARATION OF RESTRICTIVE COVENANTS

THIS AMENDED DECLARATION made this 20th day of October, 1988, by LINDA S. ETHERIDGE and husband, OLIVER ETHERIDGE; DI S. BRAY and husband, LARRY BRAY; WILLIAM F. SMALL, II and wife, JANE ETHERIDGE SMALL; JEFFREY R. SMALL and wife, SUZAN B. SMALL; G. ELVIN SMALL, III and wife, MARGARET P. SMALL; F. P. MARKHAM SMALL and wife, EUSTACE A. SMALL; and ANITA S. OLDHAM and husband, KIRK B. OLDHAM, (hereinafter collectively "Declarants");

W I T N E S S E T H:

THAT WHEREAS, the Declarants are the fee simple owners of that certain tract of land situated near the City of Elizabeth City, in Nixonton Township, Pasquotank County, North Carolina, as shown on those certain maps or plats entitled Section "C", "D", "E" and "F", Newbegun Land Subdivision, by S. Elmo Williams, Registered Surveyor, which maps or plats are recorded in Map Book 8 at Pages 46, 47, 48 and 49 in the Office of the Register of Deeds of Pasquotank County, North Carolina; and

THAT WHEREAS, the Declarants previously established for the aforesaid property Restrictive Covenants, same being of record in Deed Book 426 at Page 859 in the Office of the Register of Deeds of Pasquotank County, North Carolina; and

THAT WHEREAS, Declarants, being the owners of a majority of the lots in the aforesaid sections of Newbegun Land Subdivision, now deem it desirable to amend said Restrictive Covenants and to rewrite the same as hereinafter set forth.

NOW, THEREFORE, Declarants hereby covenant, declare and make known that the lands shown and delineated on those maps or plats hereinabove designated, are hereby subject to the following

restrictions shall run with the said lands by whomsoever owned, and shall be binding upon the successors in interest of the declarants:

ONE: If the owner or owners of any lot in the sections of Newbegun Land Subdivision covered by these restrictions, or the successors, heirs or assigns of such owner or owners, shall violate any of the covenants and restrictions herein, it shall be the right of any lot owner to institute proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restrictions for the purpose of preventing him or them from so doing, or to recover damages for such violation, or both.

TWO: Invalidation of any of these covenants or restrictions by judgment, court order or otherwise shall in no way affect any of the other provisions contained in this instrument, and the remaining covenants or restrictions shall remain in full force and effect, and these covenants, shall theretofore be construed and considered as being severable.

THREE: These covenants or restrictions shall be binding upon the lands hereinabove designated and upon all persons owning same or in possession thereof for a period of twenty years after August 15, 1980, and shall be extended for successive periods of ten years thereafter, unless prior to the expiration of said twenty year period or any such ten year period, an instrument executed by the record owners of a majority of the lots included and contained in Sections "C", "D", "E" and "F", Newbegun Land Subdivision, has been recorded revoking or modifying the said covenants or restrictions set forth herein.

FOUR: If any further owner of any lot contained in Sections "C", "D", "E" or "F", Newbegun Land Subdivision, shall

desire to sell the lots owned by him, he shall offer the Declarants herein the option to repurchase the said lot(s) at a price no higher than the lowest price he is willing to accept from other prospective purchaser. Declarants agree to exercise said option or reject the same in writing within fourteen days of said offer. These covenants shall be binding on Declarants, their heirs and assigns, and upon all purchasers of any of the aforesaid lots and their heirs and assigns, for as long as any of the Declarants shall live and for twenty years from the date of death of the last of the Declarants die, unless sooner rescinded.

FIVE: PROPERTY OWNERS' ASSOCIATION

(1) Declarants will agree to and authorize the incorporation under the laws of the State of North Carolina, as a non-profit corporation, the Newbegun Land Association, Inc. (hereinafter referred to as the HOA) in conjunction with the owners of lots shown on those certain maps or plats entitled "Section 'A', Newbegun Land", in the event that said owners of lots in Section A and B wish to join the HOA. The aforesaid subdivision plats of Section A and Section B, Newbegun Land Subdivision, are recorded in Plat Book 8, Pages 20 and 21, Pasquotank County Public Registry.

(2) Membership - Every person or entity who purchase an equitable interest or undivided equitable interest in any lot within Sections "C", "D", "E" and "F" of said Newbegun Land Subdivision shall be a member of HOA provided that any such person or entity who holds such an interest merely as a security for the performance of an obligation shall not be a member.

(3) Voting Rights - Each "Owner", as that term is defined herein, shall be entitled to one vote and each vote shall be expressed by the "Owner" in person or by proxy. An "Owner" shall mean any person owning any lot or lots in Newbegun Land.

Subdivision, Sections "C", "D", "E" and "F". Where any lot or lots is/are owned as a tenancy in common or as a tenancy by entirety or other form of multiple ownership, said tenants shall be considered as one "Owner". In no event shall more than one vote be cast by any such "Owner".

(4) Maintenance Assessments - Each "Owner", as defined hereinabove, by acceptance of a conveyance for a lot or lots within the subdivision or any additions thereto, whether or not it shall be expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the HOA one annual assessment or charge and special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Regardless of whether an "Owner" owns one or more lots, he shall pay only one of any assessment levied by the HOA as opposed to multiple assessments for multiple lots. The assessments levied by the HOA shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the subdivision and in particular for the improvement and maintenance of the property, services and facilities devoted to this purpose and related to the use and enjoyment of the common areas, if any, and of the forms and structures situated upon the property.

(a) Annual Assessment or Charge - The annual assessment for members owning unimproved lots in Sections "C", "D", "E" and "F", Newbegun Land Subdivision as of the date of this Amended Declaration of Restrictive Covenants shall be SIXTY DOLLARS (\$60.00) for each lot owner, regardless of the number of lots he or she may own. The annual assessment for owners of improved lots (i. e., lots with residences constructed thereon), shall be ONE HUNDRED TWENTY DOLLARS (\$120.00) per owner, regardless of the number of lots he or she may own. The annual assessment shall be ONE HUNDRED TWENTY DOLLARS (\$120.00) per owner for all members who join the HOA by acquiring title to lots in Sections "C", "D",

"E" or "F", Newbegun Land Subdivision, subsequent to the date of this Amended Declaration of Restrictive Covenants. The HOA shall have the right to increase or decrease the annual assessment to reflect the actual cost for providing maintenance and other services. The annual assessment shall commence as to each "Owner" on the first day of the month following the conveyance of a subdivision lot or lots to said "Owner". The first annual assessment shall be adjusted according to the number of months remaining in the calendar year and shall be paid on the first day of the calendar month after the conveyance. At least thirty (30) days before January 1 of each year, the Board of Directors of the HOA shall fix the amount of the annual assessment for each "Owner" and at least fifteen (15) days before January 1 of each year, shall send written notice of each assessment to every "Owner" subject thereto. The due date for the payment of the annual assessment shall be established by the Board of Directors.

(b) Special Assessments for Capital Improvements - In addition to the annual assessment authorized above, the HOA may levy against each owner in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the common area, if any, including roads, piers, fixtures and personal property related thereto. Any such levy of a special assessment for capital improvements shall require the affirmative vote of two-thirds of all members. Special assessments shall be governed by the HOA By-Laws, which shall initially require the affirmative vote of two-thirds of all voting owners.

(c) Collection of Assessment - The annual and special assessments, together with interest, costs and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property in the subdivision held by the

"Owner". Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) per annum. The HOA may bring an action of law against the property in the subdivision held by "Owner", and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No "Owner" may waive or otherwise escape liability for any assessment provided for herein by abandonment of his property located in the subdivision. The liens provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

5. Architectural Control Committee - An Architectural Control Committee composed of three (3) or more members of the HOA shall be appointed by the Board of Directors of the HOA to insure the architectural integrity of Newbegun Land Subdivision and shall have such powers and authority as hereinafter set out. Provided, however, that the original Declarants reserve the right to reject as members of the Architectural Control or Planning Committee any person or persons appointed by the Board of Directors of the HOA, and the original Declarants further reserve the right to replace any member of the Architectural Control and Planning Committee appointed by the Board of Directors of the HOA with other members of the HOA.

SIX: No business, commercial or professional enterprise or activity shall be conducted upon any lot and no structure shall be erected or maintained upon any lot other than one single family residence, together with such outbuildings or dependencies as may be approved by the Architectural Committee, excepting however, any lot or structure designated as "Common Area" as same is hereinafter defined. Provided however, that, in addition to one single-family residence, as provided for hereinabove, a detached garage for no more than three automobiles may be placed upon a lot. Any such detached garage shall be located at least

one hundred feet from the front lot line as shown on the plats of Sections "C", "D", "E" and "F", Newbegun Land Subdivision.

SEVEN: Common Area - "Common Area" shall mean all real and personal property which may be dedicated as such by Original Declarants and/or acquired by the HOA, which property is intended to be devoted to the common use and enjoyment of the members of the HOA and not designated for use by the general public. Every member of the HOA shall have a right and easement of enjoyment in and to any common area which right shall be appurtenant to and shall pass with the title of every lot, subject to the following provisions:

(1) The right of the HOA, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage said properties and the rights of the members hereunder;

(2) The right of the HOA, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member in the recreational facilities for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(3) The right of the HOA to charge reasonable fees for special uses that might be made of certain parts of the Common Area by members of the HOA or persons outside the community;

(4) The right of the HOA to dedicate or transfer all or part of the Common Areas to any public agency, authority or utility;

(5) Any member may delegate his rights of enjoyment to the Common Area to members of his family and tenants who reside on the property or such other persons as may be permitted by the HOA.

EIGHT: Additions to Existing Property. Additions may be made and other properties made subject to this Declaration of

Covenants by the Declarants for as long as the Declarants own one or more lots in Sections "C", "D", "E" and "F" of Newbegun Land Subdivision. Such additions shall include additions to be dedicated as common areas and shall be made by the filing in the Pasquotank County Registry of a Supplemental Declaration of Restrictive Covenants with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the HOA to such properties and thereby subject such additional properties to the assessments for their just share of the HOA's expenses. The Supplemental Declaration of Restrictive Covenants may contain such complementary additions and modifications of the Covenants contained in this Amended Declaration as may be necessary to reflect only the different character of the added properties and are not inconsistent with the provisions of this Amended Declaration. Upon the filing and recording of a Supplemental Declaration of Restrictive Covenants, the additional properties described therein shall become subject to this Declaration of Restrictive Covenants and persons or entities having title to the additional properties shall become members of the HOA and be entitled to all of the benefits and obligations thereof as set out in this Amended Declaration.

NINE: No structure shall be erected, placed or permitted to remain on any lot closer than fifty (50) feet from the front lot line, nor closer than ten (10) feet from the side lines. On waterfront lots, no dwelling shall be erected, placed or permitted to remain on any lot within thirty (30) feet of the high water line.

TEN: When one owner acquires two or more adjoining lots, then and in that event, the adjoining lots may be used as one building site, in which event, the side line restrictions hereinabove set forth shall apply to the outside perimeter property line of the combined lots owned by said Owner. No lots

may be resubdivided for the purpose of creating additional lots.

ELEVEN: No one-story dwelling containing less than 2200 square feet of interior living space shall be constructed on any building site. No one and one-half story dwelling containing less than 2400 square feet of interior living space shall be constructed on any building site. No dwelling comprised of two or more stories shall be constructed on any building site, unless said dwelling contains at least 2600 square feet of interior living space. For purposes of this section, the term interior living space does not include basements, garages, breezeways, porches, patios, balconies and unfinished attics, even though said breezeways and porches may be enclosed. No dwelling having a roof with less than 7/12 pitch shall be constructed on any building site. No dwelling shall be constructed unless the same contains at least four separate roof plains.

TWELVE: The construction of a dwelling, addition to a dwelling, garage, carport or other structures shall not be commenced until the construction plans have been submitted in writing and approved by the Architectural Committee appointed by the Board of Directors of the HOA. Any addition to any dwelling or garage, including fencing, requires like approval from said Architectural Committee.

Any plans and specifications prepared and submitted in proper form and order to the Architectural Committee appointed by the Declarants and which plans and specifications have not been approved nor rejected within thirty days after the submission thereof shall be conclusively presumed to have been approved and ratified; provided, however, that such plans and specifications and any construction pursuant thereto, shall nevertheless fully comply with all provisions required of improvements in Section "C", "D", "E", and "F", Newbegun Land Subdivision.

THIRTEEN: All construction and any alteration to original

structures shall be completed within twelve months from the commencement of construction, and landscaping in accordance with a plan given prior approval by the Architectural Control and Planning Committee shall be completed within eighteen months from the commencement of construction.

FOURTEEN: No structure of a temporary nature, house trailer, mobile home, trailer, camper, modular home, tent, or shack shall be erected, parked, placed, or allowed to remain on any lot in temporarily or permanently, and no structure of a temporary character shall be used at any time on any said lots as a place of residence, provided, however, that nothing herein shall be construed to prohibit the temporary use of a portable toilet for use by workmen during construction.

FIFTEEN: No structure shall be moved on any lot contained in Sections "C", "D", "E" and "F", Newbegun Land Subdivision, unless it shall conform with and be in compliance with the covenants and restrictions set forth herein, including approval of the Architectural Committee appointed by the Board of Directors of the HOA.

SIXTEEN: All dwellings must have private inside bathroom facilities and septic tanks which conform to the minimum requirements of the public health laws and ordinances of the Pasquotank County Board of Health:

SEVENTEEN: No exterior light, mailbox, newspaper receptacle or fence shall be erected on any of the lots in Sections "C", "D", "E" and "F", Newbegun Land Subdivision, until the same has been approved by the Architectural Control and Planning Committee. No trash receptacles, clothing drying apparatus, exterior air-conditioning equipment or other mechanical equipment, satellite dishes, carports, playhouses, dog pens or dog houses, other recreational equipment, electric meters, or detached outbuildings shall be erected, placed or allowed to remain on any lot in said subdivision unless

adequately screened from view in a manner approved by the Architectural Control and Planning Committee.

EIGHTEEN: No nuisance or offensive, noisy, noxious or illegal activity, including the recreational use of firearms shall be carried on or suffered or permitted upon any lot in Sections "C", "D", "E" and "F", Newbegun Land Subdivision. There shall be no hunting allowed upon any lot contained in said sections of Newbegun Land Subdivision. No part of any lot shall be used or occupied so as to adversely affect the use or value of the adjoining premises for residential purposes or the neighborhood wherein the premises are situated. All garbage and trash receptacles shall be emptied regularly and all electric meters, exterior air conditioning equipment, fuel tanks, wood piles, and trash, garbage or rubbish accumulations are to be adequately screened so as to preclude view of the same. No signs or advertising posters shall be permitted on any lot in said subdivision, except signs identifying the owner or occupant of the property and one sign used by the builder during construction.

NINETEEN: No domestic animals, except household pets, shall be kept or maintained upon any of the lots in Sections "C", "D", "E" and "F", Newbegun Land Subdivision, it being the intent and purpose of this provision to prohibit the keeping and quartering on the lots contained in Sections "C", "D", "E" and "F", Newbegun Land Subdivision, of horses, cows, ponies, goats, chickens, or other animals commonly classified as domestic animals. No unattended or unleashed dogs shall be allowed or permitted in said sections.

TWENTY: No junked, wrecked or inoperative automobile, truck, bus or boat shall be permitted to remain on any lot in said subdivision, nor shall any other unsightly materials be stored thereon. All owners of vacant or unoccupied lots in Sections "C", "D", "E" and "F", Newbegun Land Subdivision, shall

at all times keep and maintain said lot in an orderly manner and shall prevent the accumulation of rubbish, trash and debris thereon and shall cut down any excessive growth of weeds, brush or bramble thereon.

TWENTY-ONE: All buildings, structures and other appurtenances shall be maintained in a suitable state of repair; and in the event of destruction by fire or other casualty, the premises are to be cleaned and cleared of debris within ninety days from the date of casualty.

TWENTY-TWO: No owner of any lot in Sections "C", "D", "E" and "F", Newbegun Land Subdivision, shall permit the riding of two-wheeled motorized vehicles, motorcycles or "go-carts" over any vacant lot which he may own, nor shall any such owner permit the creation of a trail or tract on which said two-wheeled motorized vehicles, motorcycles or "go-carts" shall be operated.

TWENTY-THREE: All lots in said subdivision shall be subject to reasonable and necessary drainage and utility easements along lot lines for the purpose of constructing and maintaining of necessary utilities. An easement of 35 feet is hereby reserved from the center lines of the dedicated streets as shown on the maps or plats of Sections "C", "D", "E" and "F", Newbegun Land Subdivision, for the erection of telephone lines and poles, electric lines, underground lines and other utilities for said Sections of Newbegun Land Subdivision.

TWENTY-FOUR: Tree Removal - No more than two trees which are greater than six inches in diameter may be removed by any lot owner from his property (whether he owns one or more lots) within one calendar year, without the prior approval of the Architectural Control and Planning Committee. Any owner who violates this provision shall replace the trees cut without authorization or otherwise in violation of this provision, with the trees replaced to be the same variety and size as those which were cut in violation of this provision. This restriction is

designed for the purpose of preventing erosion, and maintaining the natural beauty of the lots contained in Newbegun Lands Subdivision, and not to unduly hinder the building of residences by owners on these lots. Applications to the Architectural Control and Planning Committee for permission to remove additional trees shall be considered in this spirit, and not unreasonably withheld.

IN WITNESS WHEREOF, the Declarants have executed this Amended Declaration of Restrictive Covenants, this the day and year first above written.

DECLARANTS

Linda S. Etheridge (SEAL)
LINDA S. ETHERIDGE

Oliver Etheridge (SEAL)
OLIVER ETHERIDGE

Di S. Bray (SEAL)
DI S. BRAY

Larry Bray (SEAL)
LARRY BRAY

William F. Small, II (SEAL)
WILLIAM F. SMALL, II

Jane Etheridge Small (SEAL)
JANE ETHERIDGE SMALL

Jeffery R. Small (SEAL)
JEFFERY R. SMALL

Suzan B. Small (SEAL)
SUZAN B. SMALL

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G. Elvin Small, III (SEAL)
G. ELVIN SMALL, III

Margaret P. Small (SEAL)
MARGARET P. SMALL

F. P. Markham Small (SEAL)
F. P. MARKHAM SMALL

Eustace A. Small (SEAL)
EUSTACE A. SMALL

Anita S. Oldham (SEAL)
ANITA S. OLDHAM

Kirk B. Oldham (SEAL)
KIRK B. OLDHAM

STATE OF NORTH CAROLINA

COUNTY OF Perquimans

I, the undersigned Notary Public do hereby certify that Linda S. Etheridge and husband, Oliver Etheridge, Di S. Bray and husband, Larry Bray, William F. Small, II and wife, Jane Etheridge Small, Jeffery R. Small and wife, Suzan B. Small, G. Elvin Small, III and wife, Margaret P. Small, F. P. Markham Small and wife, Eustace A. Small and Anita S. Oldham and husband, Kirk B. Oldham personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and notarial seal, this the 20th day of

October 1988.
My Commission Expires:
July 31 1990

Vivian E. Brady
Notary Public

NORTH CAROLINA

PASQUOTANK COUNTY

The foregoing or annexed certificate of Virginia E. Bundy,
a Notary Public of the County of Pasquotank, State of
North Carolina, is certified to be correct.

This the 29th day of November, 1988.

J.C. Spence
Register of Deeds

By: Joseph W. Hitchard
Deputy/Assistant

Filed for registration and duly recorded on the 29th day of November,
1988, at 12:00 o'clock Noon.

J.C. Spence
Register of Deeds
By: Paul J. Summerow
Deputy/Assistant