



STATE OF NORTH CAROLINA

COUNTY OF PENDER

*Lawrence Boehling* ✓

REVISED  
DECLARATION OF PROTECTIVE COVENANTS  
BRYAN’S COURT SUBDIVISION, PHASE 1

This revised Declaration of Protective Covenants of Bryan’s Court Subdivision, Phase I is made this 10<sup>th</sup> day of OCTOBER, 2012, and supersedes and replaces those Declaration of Protective Covenants recorded in Book 3771, at Page 20 of the Pender County Registry which are hereby rendered void and of no effect.

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, Owners and Developers of that certain subdivision in Topsail Township, Pender County, North Carolina known as “BRYAN’S COURT SUBDIVISION, Phase 1, as the same is shown on a map recorded in Map Book 50, at Page 89 in the Office of the Register of Deeds of Pender County, in order to promote a uniform and harmonious development of said subdivision as a desirable residential community, do hereby covenant and agree to and with each other and with all persons, firms, or corporations now owning or hereafter acquiring any of the numbered lots in the above mentioned subdivision, that the use of all said numbered lots as shown on the above referenced map is hereby made subject to the following protective covenants, which shall run with the land, and be binding upon said lots and whomsoever owns the same, to wit:

1. All lots shall be used for residential purposes only.
2. No double-wide mobile homes, single-wide mobile homes, or modular homes will be allowed on any lot.
3. All structures placed on a lot in this subdivision shall be site built.
4. No lot can be subdivided which will result in a duplex lot of less than 4,250 square feet.
5. No homes built shall have less than 660 square feet of heated space.



6. Storm Water Management Plan.

- A. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 070843, as issued by the Division of Water Quality under NCAC 2H.1000.
- B. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.
- C. These covenants are to run with the land and be binding on all persons and parties claiming under them.
- D. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.
- E. Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division of Water Quality.
- F. The maximum built upon area per lot is 3660 square feet. This allotted amount includes 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, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming polls.
- G. Lots within CAMA's Area of Environmental Concern may be subject to a reduction in their allowable built-upon area due to CAMA regulations.
- H. All runoff on the lot must drain into the permitted system. This may be accomplished through providing roof drain gutters which drain to the street, grading the lot to drain toward the street, or grading perimeter swales and directing them into the pond or street. Lots that will naturally drain into the system are not required to provide these measures.
- I. Built-upon area in excess of the permitted amount will require a permit modification.

7. No tent, shack or temporary structure of any nature shall be located on any parcel or used at any time as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

8. No sign or billboard shall be displayed on numbered lots. Only signs advertising the property "for rent" or "for sale" will be allowed.

9. All driveway connections and installations must be approved in advance by the Town of Surf City.

10. No debris or leaves shall be disposed of in ditches or swales. All electrical service shall be underground from this property to the source of service.



11. Any accessory buildings must be located behind the home, built of the same material as the home and be of the same exterior color.
12. Fences are only allowed in the back yard and can be no more than 5 feet in height.
13. Each lot must have an underground drainage system and infiltration trench from house for runoff in compliance with the codes of the Town of Surf City and the State of North Carolina.
14. It shall be the responsibility of each lot owner to prevent the development of unclean, unsightly or unkempt conditions of buildings or grounds on their lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.
15. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or be a nuisance to the neighborhood. There shall not be maintained any plants or animals, or devices or things of any sort whose normal activities or existence is any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof.
16. No cattle, swine, livestock or poultry of any kind shall be raised, bred, or kept on this property except that dogs, cats or others household pets may be kept provided they are not kept, bred or maintained for any commercial purpose.
17. No discarded junk, scrap or inoperable vessels, boats or vehicles, or any wreckage shall be kept, maintained or located on any lot or permitted to be kept, maintained or located on any lot.
18. Developers reserve the right to form a Home Owner's Association to be known as Bryan's Court Homeowner's Association (or a similar name if this name is not available) with said Association having the authority to hold title to real property and the ability to promulgate reasonable rules and regulations regarding the use and maintenance of said property and/or common areas, and to assess dues which will become a lien on the lots in the subdivision. Upon the sale of 75% of the lots in the subdivision, all rights reserved herein to Developers shall devolve to the Home Owner's Association.
  - A. Membership in Homeowner's Association.

Every Lot Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot .
  - B. Transfer of Membership.

A Lot Owner shall not transfer, pledge or alienate his membership in the Association in any way, except upon the sale or encumbrance of the Lot, and then only to the purchaser of his Lot.



### C. Voting Rights.

Except as otherwise provided herein or in the By-Laws, each member shall be entitled to vote in Association matters. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised by one person or alternative persons as the Lot Owners among themselves determine. If more than one of the multiple owners is present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only in accordance with the agreement of a majority in interest of the owners as evidenced by a written designation filed with the secretary of the Association. If an owner holds title to more than one Lot, he shall be entitled to one vote for each Lot in the subdivision that he owns.

### D. Management and Control.

Management for the affairs of the Association, excepting architectural control, shall be right and responsibility of its board of directors in accordance with this declaration and the by-laws as adopted from time to time of the Homeowner's Association; PROVIDED HOWEVER, that all of the powers and duties of the Board of Directors may be exercised by the Declarant until such time as 75% of the Lots and Units have been sold and conveyed by the Declarant to purchasers. The Developer may maintain architectural control until all Lots have been sold, or until such control shall be expressly relinquished to the Association in writing, whichever occurs earliest.

### E. Officers.

The initial offices of the Association shall be a President of the Association, and a Secretary/Treasurer, and such additional officers as provided for in the By-Laws of the Homeowner's Association.

### F. Association Fees.

Once a certificate of occupancy has been issued for a lot, the owners of said lot shall be assessed a monthly association fee in the initial amount of \$45.00. If a said lot is subdivided into a duplex lot the initial \$45.00 monthly fee will be assessed to each side. Changes to the monthly association fees or any assessments shall be by majority vote of the members at present or duly authorized meeting with notice provided for said meeting as specified in the By-Laws of the corporation. By acceptance of a deed for the Owner's Lot, whether or not it shall be so expressed in such deed, each Lot Owner covenants and agrees to pay to the Association Annual and Special Assessments (collectively the "Assessments"). The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the Assessments are made. Each Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

G. Purpose of Fees and Assessments.

The Homeowners Association, their agents, contracted service providers and authorized individuals shall maintain the drainage retention pond(s) and shall have an easement upon that portion of each lot between the street and the homes to go upon and maintain the front and/or side yard of each lot.

H. Easement.

The Homeowners Association reserves a perpetual, alienable easements for the installation and maintenance of drainage facilities and underground utilities (including, but not limited to, water, telephone, electric, and sewer lines and facilities) are reserved to the Developer, its successors and assigns, in, under, and over the Subdivision and the Common Property, which shall be easements appurtenant, running with the land. Said easements shall inure to the benefit of the Developer, its successors and assigns.

I. Access to Lots.

The Association and their designees shall have the right to go onto any Lot at reasonable times for the purpose of maintaining, repairing and replacing any drainage facilities and underground utilities located on such Lot; and a right of entry and easement is hereby reserved and granted to the Association for such purposes. The Association shall repair and restore any landscaping disturbed by such activities as required by rules and regulations adopted by the Association from time to time. Further an easement is reserved to go upon the lots at all reasonable times to perform yard maintenance and landscaping on the front and side yards of the Lots in the subdivision.

19. Invalidations of any one these covenants by judgment or Court Order, or otherwise, shall in no way affect in any manner any of the other provisions contained herein, which shall remain in full force and affect,

20. Enforcement of these restrictions shall be through proceeding at law or in equity on the part of any person or persons owning any interest in the real property hereinabove described against any person or persons violating or attempting to violate any part hereof, either to restrain the said violations or to recover damages incurred thereby.

21. Developers, for themselves and their heirs, assigns and successors, do hereby reserve the right to amend or alter the restrictions contained herein so as to provide for minor violations thereof. The term "minor violation" shall not be interpreted to include any violation in excess of ten (10%) per cent off the minimum restrictions. Such amendment or alteration may be made by written consent of the Developers, their heirs, assigns or successors, and the owner from time to time of the parcel upon which such restrictive covenants are to be changed.

22. Developers specifically reserve the right to amend or change any part of all of these restrictions, covenants and conditions contained herein by the filing in the Office of the Register of Deeds of Pender County a Declaration of Protective Covenants, which such amendments, modifications or conditions shall be made applicable to the conveyance of lots



made subsequent to the recording of such Declaration of Protective Covenants. Developers further reserves the right to add additional lots to Bryan's Court Subdivision in additional phases and said lots/lot owners shall become members of any Homeowner's Association formed by Developers and have all rights and responsibilities of the other owners of lots in Bryan's Court Subdivision, Phase One.

23. Developers reserve the right to subject the real property in the subdivision to a contract with Jones Onslow EMC or any other applicable electrical utility company for the installation of street lighting which may require a continuing monthly payment to said utility company by each customer within the subdivision. All electrical, telephone, and cable transmission lines shall be placed underground.

24. All covenants and restrictions herein shall run with the land and shall be binding on all parties owning parcels out of said land for a period of twenty years (20) years from the date hereof, at which time these covenants shall be automatically extended for successive periods of ten (10) years each unless by vote of the majority of the then owners of said parcels not under legal disability, it is agreed to revoke or amend same. Any interested party may take such steps as are necessary or appropriate under the North Carolina Marketable Title Act to extend these restrictive covenants, consistent with this paragraph. Any owner in this subdivision shall have the right to enforce the covenants and restrictions.

25. Any reference to Developers, Aldrich Alvin Batts and David Wayne Lanier, herein shall include any agent designated by him or his personal representative and his heirs, devisees and legatees.

IN WITNESS WHEREOF, Declarant, ROYAL PALM DEVELOPMENT CORP., a North Carolina Corporation, has hereunto set their hands and seals this the day and year first above written.

Royal Palm Development Corp.

BY: David Wayne Lanier President



STATE OF NORTH CAROLINA  
COUNTY OF PENDER

I, Penny Jo Batson, the undersigned, a Notary Public of Pender County and of the State of North Carolina, certify that DAVID WAYNE LANIER personally came before me this day and acknowledged that he is \_\_\_ President of ROYAL PALM DEVELOPMENT CORP., a North Carolina Corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by the \_\_\_ President. Witness my hand of official seal this 10<sup>th</sup> day of OCTOBER, 2012.

Penny Jo Batson  
Notary Public

My commission expires: 12/13/2013

