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**Second Amendment to
Declaration of Development Standards
for The Village at Nags Head**

THIS SECOND AMENDMENT TO DECLARATION OF DEVELOPMENT STANDARDS FOR THE VILLAGE AT NAGS HEAD made this 26th day of July, 1999 by the Village at Nags Head Property Owners Association, a North Carolina Non-Profit Corporation (the "Association") of P.O. Box 1807, Nags Head, North Carolina.

RECITALS

- a. By that First Amendment and Restatement to the Declaration of Development Standards for The Village at Nags Head recorded in Deed Book 1176, Page 452 in the Office of the Public Registry of Dare County, North Carolina (the "Declaration"), the Association as part of the Restatement, as set forth in its Statement of Purpose, the composition of the Architectural Control Committee (the "Committee"), the procedures for application for the submission of plans and other related procedures before the Architectural Control Committee and the specific guidelines for building and development within The Village at Nags Head.
- b. In accordance with Paragraph K of the Declaration, the Association has adopted this Second Amendment as a codification of those guidelines applicable to commercial development and to clarify that Section D of the Declaration only applies to residential development.

NOW, THEREFORE, The Association in accordance with the Recitals and Statement of Purpose set forth in the First Amendment to the Declaration hereby adopts Section L, **Guidelines for Commercial Development:**

1. All commercial establishments built in The Village at Nags Head (and presently zoned by the Town of Nags Head as: C-1, C-2 and Hotel and Recreational) shall be of the "Old Nags Head" architectural style similar to the vernacular of improvements built within the Village at Nags Head to date. The Committee encourages buildings with roofs having a 6/12 pitch or more, wrap-around porches, wooden shutters and color schemes employing earth-tone colors.
2. Buildings with street frontage in excess of 50 horizontal feet must incorporate recesses and projections (e.g., window boxes, arcades, awnings) amounting to twenty (20) percent of the facade length. These recesses and projections are to be to a minimum depth of three (3) percent of the facade length.
 - a. Rooflines must feature two or more of the following characteristics: parapets concealing flat roofs and mechanical equipment, overhanging eaves, or sloping roof.
 - b. Materials used in the facade must be of high quality, such as brick, sandstone, wood or stucco. Common cement block and/or poured concrete panels are prohibited.
 - c. Facade colors must be low-reflecting, subtle and neutral or earth-toned. The building trim may feature brighter colors.
3. When a commercial lot proposed for development which is adjacent to either a residential lot, an Open Space or a Common Area owned by the Association or is adjacent to a street abutting residential properties, then the commercial lot shall be visually screened by utilizing any one or combination of the following methods:



- a. A minimum six (6) foot berm at a minimum slope of 3:1, with indigenous vegetation.
 - b. Locally adapted live evergreen trees or shrubs at a minimum height at planting of three (3) feet, that will reach a height at maturity of six (6) feet in three years.
 - c. A combination of (a) and (b) above.
4. All construction (which term shall include within its definition: staking, clearing, excavation, grading and other site work) or modification (except interior alterations not affecting the external structure or appearance of any building including but not limited to: accessory buildings, waste-water treatment facilities, water distribution facilities and public access facilities) including plantings or removal of plants, trees or shrubs shall not take place except in strict compliance with Section C of the Declaration and written approval has been obtained from the Committee. Notwithstanding the reference to "Section D" in Section C (3) of the First Amendment and the Restatement to Declaration, the Guidelines applicable to Commercial Development for which plans must be submitted to the Committee as set forth in Section C (2) and (3) of the Declaration shall be those guidelines set forth within Section L of this Second Amendment.
 5. Signage and exterior lighting shall be in accordance with the Town of Nags Head Zoning Ordinance, with the following exceptions: no roof signs, dynamic signs, tethered balloons, or signs featuring animated cartoon characters shall be permitted.
 6. Exterior siding shall be of natural wood, stucco, or other approved material and left unpainted or covered with solid, semi-transparent stain, weathering stain or paint. Only colors approved by the Committee may be used. Approval by the Committee shall also be required if an Owner desires to repaint a building with a previously approved color scheme. Roofs must be of natural cedar shake.
 7. No noxious or offensive activity shall be conducted on any lot or in any business, and nothing shall be done thereof or therein which may be or may become an annoyance or nuisance to the commercial and mixed residential-commercial nature of the area. At the time of application before the Committee, the Owner shall state the intended commercial uses and shall certify as required by the Committee that neither the Owner or any occupant shall use, generate, store or dispose of hazardous materials on the property or discharge or release any hazard materials on, above or under the property except in compliance with all applicable laws, regulations, ordinance and permits, then only with the prior written consent of the Association. "Hazard materials" means materials, substance, gases, or vapors identified as hazardous, toxic or radioactive by any applicable Federal, State or local laws, regulations or ordinances.
 8. Except for construction trailers, dumpsters and port-a-john facilities used during construction, no structure of a temporary nature shall be allowed to remain on any lot without the prior written permission of the Committee.
 9. High intensity lighting used for illuminating building or parking areas during nighttime operation must be deflected to avoid illumination of any adjacent residential properties.
 10. Each applicant upon submittal of an application to the Committee acknowledges that the composition of the Committee will change from time to time and that decisions regarding aesthetic matters and interpretation and application of the Commercial Guidelines may reasonably vary from time. In addition, each applicant acknowledges that it may not always be possible to identify objectionable features of proposed Improvements until the Improvements are completed, in which case it may be unreasonable to require changes to the Improvements previously approved, but the Committee may refuse to approve similar Improvements in the future. Approval of Improvements for any particular applicant shall not be deemed a waiver of the right to withhold approval as to any similar Improvements subsequently submitted for approval.



- 11. Review and approval of any application pursuant to this Section is made on the basis of aesthetic considerations only and the Committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications or for ensuring compliance with building codes and other governmental requirements. Neither the Association, any Committee or member of the Association shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any commercial property.
- 12. All truck docks, trash collection areas and mechanical equipment servicing any building approved by the Committee, including but not limited to garbage cans, trash containers, above-ground tanks, air-conditioning equipment and similar items must be located, or otherwise aesthetically screened so that they are not visible from any residential properties, Open Space or Common Areas owned by the Association or streets.

Except as amended and incorporated herein, all other provisions and procedures of the First Amendment and Restatement to the Declaration with the exception of Section D shall be applicable to any commercial development of properties within The Village at Nags Head situated within the Town of Nags Head Zoning Classifications: C-1, C-2 and Hotel and Recreational.

IN WITNESS WHEREOF, the Association has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors the day and year first above written.

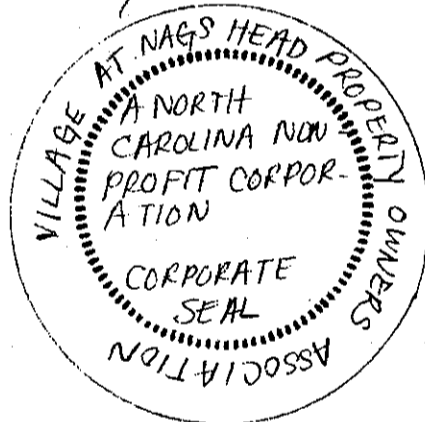
The Village at Nags Head Property Owners Association

BY: Andrew C. Moore (SEAL)
President Andrew C. Moore

[Corporate Seal]

ATTEST:

Clarissa C. Thomasson (SEAL)
Secretary Clarissa C. Thomasson



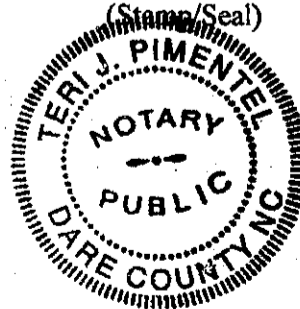
STATE OF NORTH CAROLINA
COUNTY OF DARE

I, a Notary Public of the County and State aforesaid, certify that Clarissa Thomasson personally came before me this day and acknowledge that she is Secretary of The Village at Nags Head Property Owners Association, 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 its President, sealed with its corporate seal and attested by her as its Secretary.

Witness my hand and official stamp or seal, this 5th day of August, 1999.

My commission expires:
Feb 17, 2002

Teri J. Pimentel
Notary Public
(Stamp/Seal)





North Carolina
Dare County

The foregoing certificate of Teri J. Pimentel a Notary Public
of DARE CO., NC is certified to be correct. This instrument and this certificate are
duly registered at the date and time in the Book and Page shown on the first page hereof.

Barbara M. Gray, Register of Deeds

By Andruan Y. Tillett ^{Deputy} ~~Assistant~~ Register of Deeds