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 Craven, NC
 Sherri B. Richard Register of Deeds

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STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

RETURN TO ✓ *CAROLINA CREEK LLC*
503 W. THURMAN Rd
NEW BERN NC 28522

AMENDMENT TO PROTECTIVE COVENANTS
CAROLINA COLOURS
BAYBERRY PARK PHASE 1

THIS AMENDMENT TO PROTECTIVE COVENANTS, CAROLINA COLOURS, is dated for purposes of reference only this 15th day of September, 2008, and is submitted for recordation by Carolina Creek LLC, a North Carolina limited liability company (hereinafter "Declarant").

RECITALS:

Carolina Creek LLC has prepared a master development plan for a predominantly residential community named Carolina Colours, located in Craven County, City of New Bern, North Carolina. The development plan for Carolina Colours is set out in the Protective Covenants for Carolina Colours recorded in Book 2267, Pages 270 through 307, Craven County Registry ("Master Covenants"). Certain properties particularly described in the Master Covenants were subjected to its provisions upon its recordation. Declarant reserved the right, in Paragraph 2 of the Master Covenants, to subject described additional properties to the terms and conditions of the Master Covenants. Declarant further reserved the right to impose new or different development guidelines and restrictions on the additional properties made subject to the Master Covenants. The purpose of this Amendment to Protective Covenants ("Amendment") is to subject additional properties more fully described hereinafter to the terms and conditions of the Master Covenants, and to specify particular restrictions and easements applicable to the properties hereby annexed.

Therefore, the Master Covenants are hereby amended as follows:

1. Annexed Properties. The provisions of the Master Covenants shall apply fully to all of the property as shown on that plat of **Carolina Colours Bayberry Park Phase 1**, including, without

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limitation, Lots 1 through 57, as well as all rights-of-way and other properties described thereon, said plat being recorded in Plat Cabinet H, Slides 107D and 107E, Craven County Registry. Said plat shall herein be referred to as the "Plat." All of the terms and provisions of the Master Covenants, as previously amended, shall be fully binding and applicable to the property described on the Plat, except as specifically modified by this Amendment. The Lots shown on the Plat shall be referred to herein as "**Phase 1 Lots.**"

2. Minimum Building Requirements. No primary residential Structure located on any **Phase 1 Lot** shall contain less than 1600 heated square feet. Heated space shall only include fully enclosed space heated by the primary central heating system utilized for the primary residential Structure.

Bayberry Park Phase 1 is a community of mostly 70 foot street frontage lots. In order to maintain the aesthetics and values within these lots, only specific homes, pre-approved by Declarant, shall be allowed to be constructed on any **Phase 1 Lot**. Any Person acquiring title to any **Phase 1 Lot** agrees and acknowledges that there will be a limited number of home plans that may be constructed within Bayberry, and each such buyer agrees to build only from such Declarant approved portfolio of homes, with any exterior modifications thereto subject to the approval of Declarant (which right may be delegated by Declarant to the Improvement Review Committee of the Carolina Colours Association, Inc). Declarant may add or remove homes from the approved portfolio from time to time. It is further agreed that Declarant may require that a home be constructed by a buyer within an agreed time frame. If such a time frame is to be imposed, it shall be contained in the contract for sale and deed of conveyance for such **Phase 1 Lot**. Such time frames may be imposed on some, but not all, of the **Phase 1 Lots**.

The following building standards shall be applicable to Bayberry Park Phase 1 Lots, in lieu of conflicting standards contained in the Master Covenants or in Building Guidelines adopted by Declarant or the Carolina Colours Association, Inc. for other neighborhoods within Carolina Colours.

a) Front loaded garages shall be allowed, but the garage door or doors are subject to approval by the Improvement Review Committee, and must be split or decorative. Furthermore, unless a variance is granted by the Improvement Review Committee, no garage may extend more than half its depth beyond the main façade of the front of the home. As used herein, "main façade" means the exterior wall of a room of heated space that extends nearest to the adjoining street, and does not include architectural features, such as bay windows, that protrude from the main wall of the home.

b) Fencing in the rear yard may extend to the edge of the drainage easement in the rear of each lot, but is otherwise subject to the provisions of the Master Covenants.



3. Set-backs: The minimum building set-backs shall be the greater of the set-backs shown on the Plat, or the following:

- a) Front (street) set-back: 25 feet*
- b) Side set-back: 8 feet
- c) Rear set-back: 25 feet

It is acknowledged that the above referenced Improvement Review Committee may impose greater front or rear yard setbacks along any street in order to improve the appearance of the streetscape. **The typical front setback will be 35 feet, and shall only be reduced by the Improvement Review Committee for good cause shown.*

4. Impervious Surface Limitations: The maximum amount of impervious coverage (built upon area) of any Lot is set out on an exhibit hereto. Impervious materials include asphalt, gravel, concrete, brick, stone, slate, coquina or similar material, (including any such materials used on driveways or parking areas) but do not include raised, open wood decking or the water surface of swimming pools. Swales (whether roadside or in drainage easements) shall not be filled in, piped, or altered except that vegetated conveyances permitted with 3:1 slopes may be piped, but only as necessary to provide driveway crossings. No filling in, piping or altering any curb outlet swale permitted with a 5:1 slope shall be allowed. A 50 foot vegetated buffer must be maintained between all built upon area and the Mean High Water Level of all surface waters. All roof drains must terminate at least 50 feet from the Mean High Water line of any surface water.

Each designated curb outlet swale or 100 foot vegetated area shown on the permitted plan must be maintained by the Association at a minimum of 100 feet long, with a minimum 5:1 side slope (or flatter), have a longitudinal slope no steeper than 5%, and be maintained with a dense vegetated cover so as to carry the flow from a 10 year storm in a non-erosive manner. Such swales must be located in a recorded drainage easement. No Owner shall take any action that adversely impacts these requirements.

This covenant is intended to insure ongoing compliance with North Carolina State stormwater management permit SW7070910 as issued by the Division of Water Quality and can not be modified or deleted without the consent of the State of North Carolina by issuance of a permit amendment. The State of North Carolina and the City of New Bern are specifically given the right, by specific performance, to enforce the limitations and restrictions contained in this paragraph 4 of this Amendment.

The Association is specifically required to maintain any storm water collection, distribution or holding structures constructed in accordance with ordinances of, or permits issued by, the City of New Bern as relates to storm water management and



discharge, and as relates to nitrogen reduction, whether or not said facilities are located on Common Elements or on Lots, if such structures are not maintained by the City of New Bern. The Association is also specifically directed to pay any inspection fees charged by the City of New Bern for inspection of such facilities and improvements.

5. Flood Zone: None of the lots shown on the Plat are located within an X flood zone, as established by the Federal Emergency Management Agency (FEMA), in accordance with the flood maps issued by FEMA.

6. Common Areas: There is shown on the Plat five tracts denoted Common Element #1 through Common Element #5. All such tracts shall be Common Areas as defined in the Master Covenants, and shall be conveyed to the Carolina Colours Master Association on or before December 31, 2011. All such Common Elements shall be used primarily as vegetated buffers, but incidental use for sidewalks or other passive recreation, such as park benches, shall be allowed.

7. Rental Limitations: No rental of any home within **Baybery Park Phase 1** shall be allowed that is for a term of less than six months.

8. Other Restrictions: Drainage Easements as shown on the Plat, (and as described in paragraph 9.4 of the Protective Covenants), have been established in part in order to comply with certain restrictions regarding nitrogen reduction and/or stormwater management imposed by the City of New Bern and/or the State of North Carolina. No Lot Owner shall interfere in any way with the drainage within such easements or with drainage structures therein. Specific drainage easements along property lines of Lots, as delineated on the Plat, may contain low level structures to contain sediment and slow water flow. To the extent these specified easements, and the structures therein, are not maintained by the City of New Bern, they shall be maintained by the Association. The only obligation of the Lot Owner whose Lot is burdened thereby shall be to maintain ground vegetation in a sightly condition, to the extent such area is incorporated as part of the grassed or cleared area of the Lot by the Lot Owner. Drainage swales located on a public right of way adjoining the boundary of a Lot shall be maintained (mowed) by the Owner of the adjoining Lot, and the Owner of a Lot burdened with a drainage swale within a drainage easement on or adjacent to a street right of way (except as specified herein before) shall also maintain (mow) that portion of the swale and easement located on said Owner's Lot. The Owner of a Lot shall also be required to mow the area between said Owner's Lot and adjoining street pavement and/or sidewalks, regardless of whether or not such area contains a drainage swale. Declarant and the Association reserve the right to abandon drainage easements if their use is not required to comply with governmental requirements or is not otherwise necessary for proper drainage. No private use of said easements or swales for

drainage or other purposes, other than normal runoff from Lots, may be made by the Owner of any Lot without consent of the Association.

9. Telecommunications Services. **Phase 1 Lots** shall be provided the same telecommunications services as are provided from time to time to Sienna Woods Lots, as more fully described in the Master Covenants, as the same are amended from time to time, and the cost of such services shall also be the same. However, the Association has agreed to alter the free monitored services plan for security set out in paragraph 7 or Exhibit B, so the provisions set out therein are no longer in effect. Payments for service or service availability begin when a certificate of occupancy is issued for a home constructed on a **Phase 1 Lot**.

10. Definitions. All definitions (capitalized words or phrases) contained in the Master Covenants are hereby incorporated within this Amendment by reference.

11. Survival. Except as specifically altered by this Amendment, all provisions of the Master Covenants, to the extent not limited therein to particular designated Lots, and as the same may have been previously amended from time to time, shall be fully applicable to all **Phase 1 Lots**, and the terms and conditions of the Master Covenants shall remain in full force and effect as to all **Phase 1 Lots** encumbered hereby and thereby.

IN WITNESS WHEREOF, the undersigned have executed this instrument under authority duly given as of the day and year first above written.

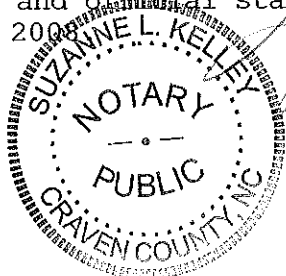
CAROLINA CREEK LLC
BY: [Signature] (SEAL)
Kenneth M. Kirkman, Manager

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I, Suzanne L. Kelley, a Notary Public of the County and State aforesaid, certify that personally came before me this day Kenneth M. Kirkman and acknowledged that he is a Manager of Carolina Creek LLC, a limited liability company of the State of North Carolina, and that by authority duly given him and as the act of the company, the foregoing instrument was signed in its name by him, under seal.

Witness my hand and official stamp or seal, this 15 day of September, 2008



[Signature]
Notary Public

My Commission Expires:
8-13-2013



BAYBERRY PARK PHASE 1
IMPERVIOUS SURFACE ALLOWED (IN SQUARE FEET)

LOT NO.	ALLOWED IMPERVIOUS	LOT NO.	ALLOWED IMPERVIOUS
1	3892	30	4306
2	3150	31	4202
3	3150	32	4200
4	3150	33	4200
5	4601	34	4200
6	4519	35	4200
7	4500	36	4792
8	4500	37	4200
9	3223	38	4200
10	3150	39	4792
11	3150	40	4200
12	3150	41	4200
13	3150	42	4200
14	3150	43	4200
15	3150	44	4200
16	3150	45	4805
17	4200	46	6489
18	4200	47	3594
19	4200	48	3150
20	4200	49	3150
21	4792	50	3594
22	4200	51	4200
23	4200	52	4200
24	4792	53	4200
25	4200	54	4200
26	4200	55	4200
27	4200	56	4200
28	4200	57	4792
29	4198		