

After recording, MAIL TO: Bill Clark Homes of Raleigh, LLC
200 E Arlington Blvd, Ste A, Greenville, NC 27858

Prepared By: MOORE & ALPHIN, PLLC (RH)

STATE OF NORTH CAROLINA

**FIRST ADDENDUM TO DECLARATION
FOR AVOCET SUBDIVISION**

COUNTY OF WAKE

This First Addendum to Declaration for Avocet Subdivision (hereinafter referred to as "Amendment") is made as of the date set forth in the notary acknowledgment herein by **BILL CLARK HOMES OF RALEIGH, LLC** a North Carolina limited liability company (hereinafter referred to as the "Declarant") with the approval of the requisite number of Owners of Avocet Subdivision as certified by Avocet Homeowners Association, Inc., a North Carolina non-profit corporation (hereinafter referred to as the "Association").

WITNESSETH:

WHEREAS, Declarant has previously executed that certain Master Declaration of Covenants and Restrictions Avocet Subdivision recorded in Book 13187, Page 257, Wake County Registry, as amended and supplemented from time to time (hereinafter the "Declaration"); and

WHEREAS, some sections of the Declaration are insufficiently precise in their terms, which may interfere with Declarant's continued development of Avocet Subdivision; and

WHEREAS, Declarant wishes to amend the Declaration to more accurately reflect the original intent of the document and to allow development to continue as previously planned and approved; and

WHEREAS, Article IX, Section 2 of the Declaration provides that the Declaration may be amended without restriction so long as such amendment is approved by 2/3 of the votes cast at a meeting of the members at which a quorum is present.

NOW, THEREFORE, the Declarant hereby makes the following amendments to the Declaration:

1. The first paragraph of Article II, Section 2, subsection (a) is hereby deleted in its entirety and

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in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

replaced with the following: "For so long as Declarant owns any property subject to the Master Plan, Declarant, its successors and assigns shall have the right, without further consent of the Association to bring additional property within the plan and operation of this Declaration by recording a Supplementary Declaration describing such additional property provided, however, that such property must be contiguous to property already subjected to this Declaration (or separated from such property only by the right of way of a street or road). The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members."

2. Article III, Section 4 is hereby deleted in its entirety and replaced with the following: "The method of electing directors shall be as provided in the Bylaws."
3. Article IV, Section 4 is hereby deleted in its entirety and replaced with the following: "Declarant, for itself, its successors and assigns, covenants that, prior to the conveyance of the final Lot within any phase of the Subdivision, Declarant will convey to the Association title to those portions of the Common Area in such phase to be owned in fee by the Association. Declarant reserves and grants (regardless of whether or not such reservation and grant is specifically set forth in such deed), for itself, and its respective successors and assigns, an easement over, under, across and through the Common Area so long as any of them own any Lot within the Properties, for the purpose of constructing any improvements on the Common Area and/or the Lots as it or they deem necessary or advisable; provided however that, following construction of improvements, the Common Area shall be restored to its prior condition to the extent practicable. Except as otherwise stated herein, all conveyances by Developer to the Association shall be free and clear of all encumbrances and liens (including statutory liens of laborers and materialmen pursuant to Article 2 of Chapter 44A of the North Carolina General Statutes) except this Declaration, restrictive covenants applicable to the Properties, utility, drainage, conservation, greenway and other easements of record or shown on the recorded plats of the Properties, and the of ad valorem taxes not yet due and payable. Any improvements placed on the Common Area by Declarant shall become the property of the Association upon completion of such improvements, except utilities owned and maintained by a governmental entity, or a public or private utility company."
4. The first sentence of Article V, Section 3 is hereby deleted in its entirety and replaced with the following: "The Maximum Regular Annual Assessment, as set forth in subparagraph (a) of this Section 3 and as increased annually pursuant to the provisions of subparagraph (c) below, shall be levied by the Association."
5. In Article V, Section 3, a new subparagraph (c) is hereby added as follows: "Until December 31, 2016, the annual assessment shall be \$720.00 for each Class A Lot. The annual assessment for Class B Lots shall be zero, provided, however, that any Lot containing a Unit occupied by any person as a residence shall be assessed as a Class A Lot, regardless of ownership of same. Beginning on January 1, 2017, and on January 1 of each year thereafter, the annual assessment shall automatically increase by five percent (5%) over the annual assessment for the previous year unless the increase is otherwise set by the Board of Directors at an amount other than 5% (including 0% if no increase)."
6. In Article V, Section 9, the first sentence is hereby deleted in its entirety and replaced with the

following: "All annual assessments, special assessments and other charges remaining unpaid after any grace period set forth in the Bylaws may be subject to late charges. Such assessments, together with late charges, interest, and the costs of collection thereof, including attorney's fees, shall be a charge on the Owner's Lot as provided in §47F-3-116 of the Act."

7. In Article V, Section 14, the first sentence is hereby deleted in its entirety and replaced with the following: "At the time of closing of the initial sale of each Dwelling constructed on a Lot, a sum equal to one third (1/3) of the annual assessment for Class A Lots in effect at the time of such sale shall be collected from the purchaser of such Lot and transferred to the Association as part of its working capital."
8. In Article VII, Section II and Article VIII, Section VII, each reference to "Section VIII" is hereby deleted and replaced with the phrase "Article VII".
9. In Article IX, Section 10, each reference to "Article VIII, Section 1" is hereby deleted and replaced with the phrase "Article IX, Section 1".

IN WITNESS WHEREOF, the Declarant and the Association has each caused this Amendment to be executed effective as of the day and year on which it is recorded in the Wake County Registry.

By executing this document, the Association certifies that this Amendment was submitted to a vote of the Members as a duly called meeting of the Association held on November 9, 2016, notice of which was given on October 4, 2016, that a quorum of 90 votes was present at the meeting (a quorum of 15 being required), that this Amendment has been approved by the affirmative vote or written agreement of 89 lot owners with 1 votes cast against (a total of 46 affirmative votes being necessary to pass), and that the Association certifies the above in accordance with N.C. Gen. Stat. § 47F-2-117.

DECLARANT:**BILL CLARK HOMES OF RALEIGH, LLC**

a North Carolina limited liability company

By: Donald F. Frakey, Jr.
 Name: Donald F. Frakey, Jr.
 Title: Division Manager

STATE OF NORTH CAROLINA -- COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she, being duly authorized to do so, signed the foregoing document in the capacity indicated: Donald F. Frakey, Jr.

Date: 10/27/2016

(Official Seal)

Curtis K. Thompson, Notary Public
 (Print Name)

My commission expires: _____



ASSOCIATION:

AVOCET HOMEOWNERS ASSOCIATION, INC.
a North Carolina non-profit corporation

By: Donald F. Fraley Jr.
Name: Donald F. Fraley Jr.
Title: President

STATE OF NORTH CAROLINA -- COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she, being duly authorized to do so, signed the foregoing document in the capacity indicated: Donald F. Fraley Jr.

Date: 12/27/2016

(Official Seal)

Curtis K. Thompson, Notary Public
(Print Name)
My commission expires: _____

