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**STATEMENT OF COVENANTS, RESERVATIONS, AND RESTRICTIONS OF THE
MALLARD COVE SUBDIVISION OF CAROLINA TRACE
5000 CARDINAL CIRCLE,
SANFORD, LEE COUNTY, NORTH CAROLINA, 27332**

January 1, 2003; Amended November 2, 2005; Amended April 19, 2017.

Amended July 13, 2019; November 8, 2022; April 30, 2023

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STATEMENT OF COVENANTS, RESERVATIONS, AND RESTRICTIONS OF THE MALLARD COVE SUBDIVISION OF CAROLINA TRACE 5000 CARDINAL CIRCLE SANFORD, LEE COUNTY, NORTH CAROLINA, 27332-8348

This document supersedes the Covenants, Reservations and Restrictions dated January 1998 filed in Book 290, Page 585 and all relative dated or undated, and signed or unsigned addendums that existed prior to January 1, 2003. Filed in Book 983 pages 134 – 142. It also includes Amendments to Articles V and VIII approved by the membership on November 2, 2005 and filed in Book 1001 pages 44 – 49. It also includes Additions to Article IV and Article IX and Amendments to Article IX and X approved by the membership on April 19, 2017. It also includes Additions to Article IV and V and revisions to Appendix B and C of CR&Rs approved by the membership November 8 2022. It also includes an Addition to Article IX approved by the membership April 30 2023.

I. DEFINITIONS

As used herein.

- a. **Mallard Cove Property Owners Association, (MCPOA), Property Owners Association, or the Association:** shall all mean and refer to the Mallard Cove Property Owners Association, Inc. its successors and assigns.
- b. **Owner:** shall mean and refer to the owner of record, whether one or more persons or entities, of a fee simple title to any lot which is part of Mallard Cove, but excludes those having such interest as security for the performance of an obligation.
- c. **Member:** shall mean all present owners of improved lots and owners of unimproved lots and all residents of the Mallard Cove Subdivision. Voting members include all present owners of improved lots and adult household members residing with them, and the owners of unimproved lots in the Mallard Cove Subdivision. Mallard Cove residents who are lessees are non-voting members.
- d. **Common Area:** shall mean all real property and improvements thereon owned by the Mallard Cove Property Owners Association, Incorporated for the common use and enjoyment of its Members.
- e. **MCPOA CR&R's:** shall mean the Covenants, Reservations and Restrictions of the Mallard Cove Property Owners Association, Inc.

II. EASEMENTS

- a. **Utilities and Drainage:** Easement for the right of various utilities and drainage facilities are reserved as appear on record in the Lee County, North Carolina Public Registry. No structure, plantings or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of utilities or which may change the flow of drainage or retard the flow of water within these easements.
- b. **Repair of Evacuatiions:** The evacuatiions necessary to install, inspect, repair and operate the utilities and facilities shall be backfilled and tamped to conform to the adjacent ground surface and the surplus dirt, if any, shall be removed from the premises. All roadways that are evacuated to accommodate the necessary equipment for the utilities and facilities shall be resurfaced with material conforming to the original materials and original condition and appearance as stipulated in Appendix B, paragraph 8.

III. PROPERTY OWNERS' ASSOCIATION (POA)

- a. **Establishment and Purpose:** There is established for Mallard Cove, the Mallard Cove Property Owners Association, Inc. The Association operates as a Non-profit Corporation and is organized as a Corporation under North Carolina Statutes. The purposes of the Association are to own, manage and maintain the common areas and their improvements and to enforce the Covenants, Restrictions and

Reservations (CR&R's) contained in this Statement and the By-Laws of the Association.

- b. **Common Property Rights of Members:** Every property owner shall have the right of easement and enjoyment in and to the common areas within the Mallard Cove subdivision. Such easement shall be appurtenant to and shall pass with the title to every lot, subject to regulations the Association may impose on the use of common areas.

IV. ASSESSMENTS

- a. **Lot Owner and Assessment Roster:** As required in its By-Laws the Treasurer of the Association shall maintain a roster of all lot owners and assessments applicable thereto. Such roster shall be accessible to all voting members of the Association at any time during normal business hours.
- b. **Purpose:** The Association shall establish for each lot annual assessments and may establish special assessments, which shall be for the purpose of promoting the recreation, health, safety and welfare of its members and for the improvements, operation and maintenance of facilities and service relating to the common areas. These assessments shall also be for the payment of taxes and for providing insurance on the common areas, structures, and facilities, maintaining landscaping, repairing roads and walkways, providing services for the development and preservation of an attractive community appearance and for privacy and general safety of all home sites within Mallard Cove.
- c. **Annual Budget and Assessment Requirement:** The Association Board of Directors shall develop a proposed budget and annual assessment for each owner(s) of a developed lot and for each owner(s) of an undeveloped lot. An undeveloped lot becomes a developed lot upon the clearing of trees in preparation of site construction. The budget and assessment shall include an amount necessary to satisfy the Associations charge/assessed portion of the budget of the Carolina Trace Association, Inc. (CTA), the organization responsible for the maintenance of Traceway and common areas of Carolina Trace and for the Carolina Trace Security System.
- d. **Budget:** The annual budget and the annual assessment may, after consideration of current maintenance costs and future needs, be changed for any year at a meeting of the members as provided for in Article III of the By-Laws of the Association.
- e. **Special Assessments:** In addition to the annual assessment, the Association may levy 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, unexpected repair or replacement of a capital improvement upon a common area, provided such assessment shall have the assent of the voting membership at a meeting of the members as provided in Article III of the By-Laws of the Association.
- f. **Special Assessments Against Specific Lot Owners:** In the event a lot owner(s) fails to maintain their property in accordance with these Covenants, Reservations, and Restrictions of the Association, a special assessment may be imposed against specific lots and owners after written notification of the violation and failure of the lot owner(s) to correct the violation, the Board of Directors of the Association may levy the cost of such performance against the owner of such lot as a special assessment and perform such tasks or remedy such matter.
- g. **Fines as Special Assessments and Suspension of Privileges:** When approved by the Board of Directors of the Association, fines may be levied as a special assessment, or a suspension of community privileges may be imposed in the event it is deemed the provisions of the above paragraph f are inappropriate or unsuccessful, and after written notification of the violation and failure of the lot owner(s) to correct the violation. Procedures for enforcement under this section are as follows:

1. A hearing shall be held before an adjudicatory panel appointed by the Board of Directors of the Association, or the Board may act as the adjudicatory panel to determine if any owner(s) should be fined, or community privileges suspended pursuant to the powers granted the Association in North Carolina General Statute 47F-3-102 (11) and (12).
 2. The lot owner(s) shall be given notice of the charge, an opportunity to be heard, and to present evidence during the hearing and shall be given notice of the decision. If the panel decides that a fine is to be imposed, the panel will determine an appropriate fine, not to exceed \$100.00, to be imposed for the violation and without further hearings, for each day after the decision that the violation occurs. IF the panel decides that the suspension of community privileges or services should be imposed, the suspension may continue without further hearings until the violation of the delinquency is remedied.
 3. Members not in good standing will lose their recreational privileges (pool, tennis courts, and boat dock) until all dues and fines are paid and liens are reversed.
- h. **Payments of Assessments:** Payments of annual assessments are due January 1, and payments of special assessments are due as stated on the assessment notice. Assessments not paid within thirty (30) days of the date due, then such assessments shall become delinquent and shall, together with interest of ten percent (10%) per annum, costs of collection, court costs, and reasonable attorney fees, become a constituting lien on the property in the hands of the owner, his heirs, and assigns. The personal obligation of the owner to pay such assessment shall however remain his personal obligation for the statutory period provided by law and shall not pass to his successors in title unless expressly assumed by them. The Association may bring an action at law against the owner personally obligated to pay the same, or to foreclose, the lien against the property.
1. **Lien Priority:** The lien of the assessment provided for in this section, shall be prior to and superior to all other liens, except only (a) ad valorem taxes, (b) all sums unpaid on the first mortgage or deed of trust to secure the debt of record. The sale or transfer of any lot shall not affect the assessments lien, provided however, that the sale or transfer of any lot pursuant to the foreclosure of a first mortgage thereon shall extinguish the lien of such assessments as to the payments which become due prior to such transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.
 2. **Common Properties Exemption:** All common properties dedicated and used for benefit of all members of the Mallard Cove Property Association shall be exempt from charge and liens.
 3. **Collection and Disbursement:** All assessments, both annual and special, as herein provided shall be levied, collected, and disbursed by the Association.
 4. **Annual Assessment on a Calendar Year Basis:** The annual assessment provided for herein, shall be on a calendar year basis and shall be payable by the lot owner on January 1. Annual assessment shall be payable in advance. When ownership is acquired during the year, the parties involved will determine allocation of the assessment between them.
 5. If a home is built spanning two lots, the owner is assessed for one improved and one unimproved lot.
 6. An unimproved lot assessment cannot exceed 50% of the improved lot assessment.
 7. A board vote is required to extend the time allowed to pay assessments.
 8. An owner shall be fined \$50 when a check is returned for insufficient funds.

V. ARCHITECTURAL CONTROL

The architecture and appearance of homes and/or improvements to and on each of the lots subject to these Covenants, Reservations, and Restrictions shall be controlled in the following manner by the Architectural Committee:

- a. **Scope:** The appearance of all lots developed and undeveloped and the architecture and appearance of the exterior of all homes, additions and/or improvements thereto and appurtenant items and structures, and the enforcement of the requirements of Article V and Article VI of these Covenants, Reservations and Restrictions shall be under the control of the Mallard Cove Property Owners Associations Architectural Committee.
- b. **Architectural Committee:** The Architectural Committee shall be composed of one chairperson and two members, all designated and appointed by the Board of Directors of the Association. The Chairperson and each member may be removed from the Architectural Committee by the Board of Directors or may resign at any time. Any vacancies are to be filled by the Board of Directors.
- c. **Compensation for Committee Services:** The Chairperson and members of the Architectural Committee shall not be entitled to any compensation for services as a member but may be reimbursed for all reasonable expenditures incurred as a member.
- d. **General Construction Requirements:** All original construction and all subsequent changes to the exterior of the house or any other improvements on any lot must have the written approval of the Architectural Committee prior to any construction. No house, garage, deck, playhouse, outbuilding, wall, fence, pet enclosure or other above-ground structure shall be commenced or be erected upon any property subject to this covenant, nor shall any exterior additional to, change or modification in or alteration of any said structures be made until complete final plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location and floor plan thereof, and showing front, sides, and rear elevations in relation to the lot topography, and the name of the builder have been submitted to any approved by the Architectural Committee, its agents, successors and/or assigns, as to the harmony of exterior design and general quality with the existing standards of the neighborhood and as to location in relation to surrounding structure, topography, lot line and Lake Trace.
- e. **New Construction:** All original construction shall be performed according to the plans, specifications and details as approved by the Architectural Committee. Responsibilities and procedures for the construction projects in Mallard Cove are as follows:
 1. Lot Owner Responsibility.
 - A. At least thirty (30) days prior to the planned start date of construction the owner or owner's agent and General Contractor selected by the owner shall complete and submit to the Mallard Cove Architectural Committee two (2) copies of Appendix A (Construction Indemnity Agreement), two (2) copies of Appendix B (Construction Guidelines and Site Maintenance Agreement), and two (2) copies of Appendix C (Request for Construction, Exterior Changes and Additions) and accompanying document requirements as stipulated therein. The owner is responsible for ensuring the Contractor they have selected is licensed to and insured for construction of residential properties in Lee County and that the contractor is financially stable and has the ability and building experience to build homes of the type for which the owner has contracted to be built on the property subject to these provisions.
 - B. At the time of submitting the plans and specifications to the Architectural Committee for approval, the owner or his agent, shall also include a Common Area and Other Owner's Property Damage and Site Maintenance Deposit of \$1,500 to reimburse the Association for any common area and other owner's property damage repairs and site maintenance, which occurs as a result of the construction process. Upon completion of construction this deposit will be refunded to the owner less the cost of any repairs to common areas and/or other owner's property damaged and the cost to remedy improper site maintenance during construction. The Architectural Committee shall be the final arbiter of any damage and the cost of repair attributable to the construction. If the owner does not go forward with construction within 90 days from the date of submittal the deposit will be refunded to owner.

C. Road Maintenance Fee. The Owner and/or Contractor of each lot upon which a new residence is to be constructed shall pay a non-refundable road maintenance fee of Three Thousand Dollars (\$3000). This fee shall be paid to Mallard Cove Property Owners Association at the time the Owner and/or Contractor files this indemnity agreement with the Association's Architectural Committee. No on-site construction activity for this project will be approved until the Association has received this fee. In addition, the Owner and/or Contractor agree to remove excess dirt or mud and other debris from roads, as a result of their activities.

2. Contractors Responsibility. The contractor shall comply with all requirements of these Covenants, Reservations and Restrictions as applies to construction on any lot in Mallard Cove. The General Contractor shall be responsible for ensuring that all subcontractors abide by the requirements of these Covenants, Reservations and Restrictions, Construction Guidelines and Site Maintenance Agreement. Failure to comply may be grounds for the Construction Approval to be withdrawn until such time as the violation(s) has been corrected. When Construction Approval is withdrawn, all work on the building site shall cease until Construction Approval is reinstated.

3. Architectural Committee Responsibility. Upon receipt of the construction documentation package described in 1.A. above, the committee shall:

A. Mark and date the documents and acknowledge receipt to the Owner, Owner's Agent or General Contractor and provide an estimated date for final response.

B. After a visit to the proposed building site for familiarization of the lot's configuration and topography, conduct a formal review of all documentation and provide the owner, the owner's agent or General Contractor a "Construction Approval" form (see Appendix D), approving or disapproving the plans and/or other documentation as well as listing conditional stipulations for construction to commence. If approval is denied the reason will be stated. One set of plans with any minor pencil changes will also be returned. If major changes are required the committee may request new drawings.

C. Maintain a file on each building project including original and revised drawings, dated records, committee memorandums and all other written and verbal communications.

f. **Subsequent Changes/Modifications/Additions/Improvements:** The provisions of Article V paragraphs (d. and e.) above are applicable to all changes, modifications, additions and any other improvements to the original construction or to the lot. The same Appendixes shall be used for submitting required documentation, however, depending on the complexity of the job to be done certain portions /entries may not be applicable and should be so annotated.

1. At the time of submitting the plans and specifications for additions to the enclosed heated or unheated space of existing construction, the owner or his agent shall include a Construction Application and Review Filing Fee payment which shall be equal to one dollar (\$1.00) per square foot of the addition. The minimum review fee shall be \$50.00. If the addition is not begun within 90 days of submittal, the fee will be returned less \$10.00.

2 At the time of submitting the plans and specifications for additions to the enclosed heated or unheated space of existing construction, the owner or his agent shall also include a Common Area and Other Owner's Property Damage and Site Maintenance Deposit, which shall equal fifty percent (50%) of the Construction Application and Review Filing Fee described in paragraph f.1 above. Upon completion of construction, this deposit will be refunded to the owner less the cost of any repairs to common areas and/or other owner's property damaged and the cost to remedy improper site maintenance during the construction process. The Architectural Committee shall be the final arbiter of any damage and the cost attributable to the construction. If modifications, additions or improvements are not begun within 90 days of submittal, the deposit will be refunded to the owner.

- g. **Appurtenant Private Items and Structures:** Appurtenant items or structures may be permitted upon written approval on Construction Approval, (Appendix D) by the Architectural Committee. The following procedure is required:
1. The property owner shall submit a written request to the Architectural Committee for review.
 2. The request must be accompanied by a complete set of sketches, drawing or photos of the item or structure the owner desires to place on the lot.
 3. The request must include a drawing of the lot and the exact locations of the item or structure in relation to any existing structure and the front, side and rear property lines.
- h. **Variations From Architectural Requirements:** The Architectural Committee may grant variations from any of the architectural requirements prescribed by these Covenants, except no variation will be granted that violates the privacy of neighbors, the existing standards of design, construction and appearance of the neighborhood.
- i. **Maintaining Natural Appearance:** Owners are responsible for maintaining their property to conform to the natural appearance of surrounding and adjacent properties. This includes property with existing homes, vacant lots, and lots on which there will be new construction. The Architectural Committee is responsible for preventing the excessive removal of trees, flowering bushes and foliage. Removal of any trees, and/or other foliage between the house setback lines and the property lines must be mutually agreed upon between the property owner (or his/her representative) and the Architectural Committee. No tree, bush, or foliage of any type may be removed from common property without prior permission from the Architectural Committee.

VI. APPROVAL OF CONTRACTORS.

- a. **Architectural Committee Approval of Contractors:** Any builder or contractor of any home or modification of any property subject to this declaration must, before beginning construction of each home or modification, be approved by the Architectural Committee. Based on prior knowledge of construction in Carolina Trace by the contractor, the Architectural Committee may reject the Request for Construction Approval and require the selection of another contractor by the owner.
- b. **Must be a Licensed Builder of Residences:** The Architectural Committee shall approve only a licensed builder of residences.
- c. **Owner-Builder Restriction:** No lot owner will be permitted to act as his own builder or contractor except where such owner is a licensed builder or contractor of residences and otherwise meets the qualifications for approval by the Architectural Committee as herein set forth in these Covenants.

VII. CONSTRUCTION INDEMNITY AGREEMENT

- a. **Damages to Roads, Facilities, and Common Areas:** Any owner, desiring to construct a house, garage, fence, wall, or other above-ground structure or make additions or alterations thereto pursuant to Article V. herein, shall execute a Construction Indemnity Agreement with the Association whereby such owner agrees to indemnify and hold harmless the Association for any and all damages to the roads, facilities, and common areas resulting from the construction on such owner's lot.
- b. **Copy of Indemnity Agreement:** Appendix A of these covenants is a copy of the Construction Indemnity Agreement, which may be reproduced as needed.

VIII. LAND USE AND BUILDING LOCATION.

- a. **Single Family Only:** Only single-family homes may be constructed in Mallard Cove.
- b. **Building Location and Size:** Requirements and restrictions as to location and size as defined in the construction Guidelines and Site Maintenance Agreements; Appendix B, paragraph 3, of these covenants are:

1. **Building Placement.** No building of any kind shall be located on any building site in Mallard Cove less than thirty (30) feet from the front lot line and no less than thirty (30) feet from the lot line adjacent to a roadway, and no less than ten (10) feet from the side lot line, or less than twenty (20) feet from the maintenance easement line of the lake or less than twenty (20) feet from any rear lot line.
 2. **Minimum Square Footage.** Homes shall have a minimum of fifteen hundred (1,500) square footage of enclosed dwelling area. (Enclosed dwelling area is defined as the square footage of area between the midpoint of the perimeter of the continuous interior foundation walls exclusive of decks, porches, garages or other unheated areas)
 3. **Maximum Square Footage.** The maximum square footage of lot area to be covered by all structures, (house, garages, porches, decks and other extensions) shall be restricted to the setback lines as defined above in b.1.
- c. **Must Include a Garage:** Each home must include a garage not less than twenty-one (21) feet wide adequate to house two full size automobiles. Existing structures, which were approved, are grandfathered, but do not establish a precedent.

IX. GENERAL REQUIREMENTS AND RESTRICTIONS.

- a. **After Original Construction:** No building, deck, mailbox, newspaper box, wall, fence, screen plantings, or other enhancements that shall be erected, placed or altered upon any property subject to this covenant, nor shall any exterior addition to, change or modification in or alteration of any said structures be made until the plans and specifications and location of such items have been approved in writing by the Architectural Committee as to conformity and harmony of external design and materials with existing structures in the area as to location with respect to topography, Lake Trace, finished ground elevation and neighboring structures and lot lines.
- b. **Lot and Building Maintenance and Appearance:** Each lot owner and homeowner shall keep his lot free of tall grass, undergrowth, dead trees, trash and rubbish and properly maintained so as to present a pleasing appearance. Each homeowner shall properly maintain the exterior of his building. It is the responsibility of each property owner of an improved lot with a driveway and culvert to maintain the culvert as a free running watercourse. Property owners are also responsible for maintaining clean ditches that readily allow water runoff. Maintenance of culverts under roadways is the responsibility of the POA. In the event any owner of any lot and/or building does not, in the opinion of the Architectural Committee, properly maintain his lot and/or building, the Board of Directors may levy a special assessment and/or fine as outlined in Section IV. Paragraphs f. and g. of the MCPOA CR&R's.
- c. **Temporary Structures/Facilities:** No trailer, tent, shack, barn or other outbuilding or temporary structure shall be erected or placed on any building site in Mallard Cove.
- d. **Vehicle Parking:** Each owner shall maintain a sufficient number of parking spaces on the owner's lot to accommodate all motor vehicles by all occupants of the lot. No motor vehicles may be parked at any time on any road or common area that would restrict access of emergency equipment and in no event shall motor vehicles owned or kept by such owner or occupant be parked or kept overnight or longer on any road or common area. Parking of commercial vehicles and buses are prohibited except when responding to a request for services or repairs.

- e. **Recreational Vehicles:** Boats, trailers, self-motorized recreational vehicles, tractors or lawn mowers shall not be kept, stored or regularly parked on any Mallard Cove lot except it may be kept in the garage or in an approved well screened area so that it is not visible from roadways or adjoining lots. Motor homes and camping trailers may be stocked and serviced on the owner's premises for periods not to exceed 72 hours. Motor homes and camping trailers of guests of homeowners may be parked on the owner's premises for a period not to exceed 72 hours. A reasonable extension to this time limit of up to 7 days may be granted by the President, Vice President or Architectural Committee Chairperson of the Association.
- f. **Offensive Trade or Activity:** No noxious or offensive trade or activity shall be carried on or upon any building site, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood covered by these covenants, except as specifically permitted herein.
- g. **Trade Materials:** No trade materials or inventories may be stored upon the premises except during original construction.
- h. **Signs:** Signs (except for one (1) For Sale sign) are prohibited in Mallard Cove except a professionally lettered builder sign of a size, not to exceed 24 inches by 36 inches. This sign is to be displayed only during original construction of the residence or during renovation of the residence and must be removed immediately upon completion of construction or renovation. Informational and safety signs on common areas, approved by the Board of Directors are exempt from this provision.
- i. **Clotheslines:** Clotheslines are permitted only if they are placed in screened areas and placed so as not to be visible to the occupants of other lots or the users of any road or recreational area.
- j. **Garbage/Trash Containers:** Containers for garbage or other refuse shall be kept in sanitary conditions in an enclosure so as not to be accessible to animals or visible to the occupants of other lots or the users of any road or recreational area when said enclosure is closed. Incinerators for garbage, trash and other refuse are prohibited. Trash containers must be returned to storage after emptied by the refuse collection contractor by the evening of trash pick-up day. All garbage and trash containers shall not be left overnight at roadside.
- k. **House Pets:** House pets are classified as either a dog or a cat. Pets are restricted to two (2) per improved lot (or three (3) with POA Board Approval) and are to be maintained under safe and sanitary conditions. Certified service animals are excluded. Pet owners shall not permit or negligently allow their pets to leave their premises unless the pet is secured, held or contained by chain, rope, cage or other container, or by other means of physical restraint and in the custody of the person assuming control of the pet. Pets should not be left outside unattended for long periods of time when temperatures are below 40 degrees or above 90 degrees. Pet owners must abide by Lee County animal ordinances pertaining to proper sheltering for inclement weather, proper length and equipment if tethering and excessive barking etc. Every pet owner is responsible for cleaning up after their pet.
- l. **Animals Other Than House Pets:** No animal, poultry or livestock of any kind shall be kept or maintained in Mallard Cove.
- m. **Kennel Operations:** Kennel and Breeding operations are Not permitted in Mallard Cove. A kennel is defined as housing for dogs, cats or other pets and animals for the purpose of breeding or boarding.
- n. **Open Burning:** Mallard Cove does not allow open burning of yard debris, which includes leaves or trash. Personal use of fire pits are not allowed unless approved by the Board.
- o. **For Sale Signs:** Mallard Cove will allow one (1) For Sale sign (not to exceed 24 " by 36") to an owner attempting to sell his property.
- p. **Firearms:** Discharging a firearm within 100 yards of a residence is prohibited unless defending against home invasion.

q. **Short Term Rentals:** Property owners who have designated their property as rental property shall notify the Mallard Cove POA Treasurer of their intent. No short-term rentals are allowed in Mallard Cove. Short term rentals are defined as less than 90 days in term. The property owner shall provide the renter with a copy of the R&R's and By-Laws. Property owners are responsible for their tenants and for maintaining their property to the high standards of appearance as noted in Covenants.

X. RECREATIONAL AREAS USE

- a. **Pool, Tennis Court and Boat Dock Rules:** (ONE SHOULD NEVER SWIM ALONE).
1. All members are afforded recreational area privileges. These privileges may be suspended by the Board of Directors for violations of the rules or abuse of the recreational facilities
 2. The use of the Mallard Cove recreation areas is a privilege enjoyed by all Mallard Cove POA Members. All using the pool, pavilion, tennis court and boat dock areas are to abide by the posted rules governing their use.
 3. Everyone entering the pool, pool area and pavilion enclosure must sign the register book at the gate. A member must sign in houseguests indicating he/she is the sponsor. Non-houseguests must be accompanied at all times by the member who sponsors them while using the pool, pavilion, tennis courts and while utilizing the boat dock area.
 4. All children 12 and under must be accompanied at all times by a member or houseguest 18 older while in the pool and pavilion area. Since there is no lifeguard on duty, all swimmers do so at their personal risk.
 5. Everyone entering the pool must first shower in the facilities provided in the pool area. Proper swimming attire is required; shorts, cut-offs and all other such non-swimming attire are not allowed
 6. All glass items, bottles, drinking glasses, cups, and plates are prohibited around the pool deck, tennis courts, and boat dock areas. Glass casseroles, serving dishes, and bottles may be used in the Pavilion area.
 7. Running, roughhousing, pushing, diving and ball playing, including volleyball, are prohibited in the pool, pavilion, tennis courts, and boat dock areas.
- b. **Boat Dock - Boat Storage Area:** Members may use the boat dock and ramp for fishing and launching small boats. Storage space for boats is very limited. Members desiring to leave, or store, a boat at the boat dock must register the boat with the Recreational Committee Chairperson who will provide written permission if space is available.
- c. **Group Use**
1. A Group is defined as more than fifteen (15) non-members who are sponsored by a member. Sponsored groups over fifteen (15) non-members, or groups not sponsored by a member, shall be defined as a commercial group. If commercial group use is approved by the Board, an appropriate fee (to be determined by the MCPOA Board of Directors) will be charged per non-member.
 2. Requests for group non-exclusive use of the pool, pavilion, or tennis area must be submitted in writing and include starting and ending times and the number of guests to the MCPOA Board of Directors at least ten (10) days prior to the requested day of use. The Board will approve, or deny, the request in writing. The Board may limit the number of hours of use requested by groups on Saturdays, Sundays, and holidays.
 3. If approved, a notice will be posted on the pool bulletin board stating who the groups is, the sponsoring member, the number of persons, and the date and time of the group use.

XI. ENFORCEMENT.

- a. **Binding On All Members.** These Covenants, Reservations and Restrictions and Appendixes A. through D and any amendments hereto (as provided for in Article III of the Mallard Cove By-Laws) are to run with the land and shall be binding on all parties claiming under them until January 1, 2008, at which time said Covenants, Reservations and Restrictions shall be automatically extended for successive periods of one year unless by a vote of the Membership of the Association as provided in Article III of its By-Laws it is agreed to change said Covenants, Reservations and Restrictions.
- b. **Prosecution.** It shall be lawful for any person or persons owning any real property situated in Mallard Cove, Carolina Trace and which is subject to these or substantially identical covenants to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent it, her, him, or them from so doing or to recover damages or other dues for such violations.
- c. **Complaints.** Prior to taking any legal actions, complainants should first try to correct the situation through direct contact with the offending person or persons. If personal contact fails, the complainant may initiate a written complaint to the Board of Directors of the Association for possible resolution.
- d. **North Carolina Planned Community Act.** Except as provided in its By-laws and these Covenants, Reservations and Restrictions, the provisions of the North Carolina Planned Community Act shall apply to Mallard Cove and the Mallard Cove Property Owners Association, Inc.

APPENDIXES The Appendixes are the four forms used by the Architectural Committee:

- A. CONSTRUCTION INDEMNITY AGREEMENT
- B. CONSTRUCTION GUIDELINES & SITE MAINTENANCE AGREEMENT
- C. REQUEST FOR CONSTRUCTION EXTERIOR CHANGES AND ADDITIONS
- D. CONSTRUCTION APPROVAL

Revised January 1, 2003 / Amended November 2, 2005 / Amended April 19, 2017 / Amended July 13, 2019 / Amended November 8, 2022/ Amended April 30, 2023

In Witness whereof, this instrument, the above stated Statement of Covenants, Reservations and Restrictions were approved by a majority of its members at a meeting held April 30, 2023, is executed by the undersigned this the 10 day of MAY, 2023.

Mallard Cove Property Owners Association, Inc.

By: [Signature]
Dan Jouppe, President

Attest: By: [Signature]
Bonni Markocich, Secretary



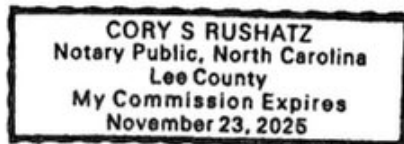
(SEAL) MALLARD COVE P.O.A. 5000 Cardinal Circle Sanford, NC, 27332 NORTH CAROLINA LEE COUNTY

I, Cory S. Rushatz, a Notary Public of Lee County do hereby certify that Don Jouppe and Bonni Markocich personally appeared before me this day and stated that she is Secretary of Mallard Cove Owners Association, Inc., a North Carolina Corporation, and that by authority duly given and as an act of the corporation, the forgoing 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 seal, this 10th day of May, 2023

[Signature]
Notary Public

My commission expires: November 23, 2025



**APPENDIX (A) MCPOA CR&R's Page 1 of 3 STATE OF NORTH CAROLINA COUNTY OF LEE
CONSTRUCTION INDEMNITY AGREEMENT**

This agreement, made this _____ day of _____, 20__ by and between MALLARD COVE PROPERTY OWNERS ASSOCIATION, INC., a corporation organized and existing under the laws of the State of North Carolina with its principal place of business in Lee County, N.C. (hereinafter referred to as "the Association"); and

_____, a natural person
or persons

Name/Names of Lot Owner

residing in the County of _____, State of _____,
(hereinafter

referred to as "the Owner" or "the Owners"); and

_____, a construction company licensed to
do business

Name of Contractor

in Carolina Trace, Sanford, Lee County, North Carolina (hereinafter referred to as "the Contractor").

WITNESSETH:

WHEREAS the Owner(s) holds title to Lot Number _____, Mallard Cove Subdivision, Carolina Trace, Sanford, North Carolina, and desires to perform construction, alter an existing building or make improvements to grounds which require approval of the Architectural Committee as designated in the Covenants, Reservations and Restrictions, Section V (Architectural Control) and Section VI (Approval of Builders) and Section VII (Construction Indemnity Agreement) and

WHEREAS the Association desires to ensure that the appearance of the subdivision and the roads are properly maintained during the period of construction that the area is left clean and free of debris; and

WHEREAS the Owner(s) desires to assure the Association that the appearance of the subdivision and the roads will be properly maintained during construction and

NOW THEREFORE, in consideration of the issuance of a Certificate of Architectural Approval by the Mallard Cove Property Owners Association, Inc. to the Owner(s), and in further consideration of the mutual promises and covenants herein contained, the parties to this agreement do agree as follows:

1. Receipts of Covenants, Reservations and Restrictions. The Owner and/or Contractor acknowledges that he/she has received a copy of the Statement of Covenants, Reservations and Restrictions applicable to all property in Mallard Cove Subdivision, Carolina Trace, Lee County, North Carolina.

2. Submission of Plans and Documents. The Owner and/or Contractor must submit a complete plot plan, set final of building plans and other documentation specified in Appendix C of the Mallard Cove Covenants, Reservations and Restrictions to the Architectural Committee for review and approval. Any changes in these plans and documentation after initial approval, which in any way alters the design, scope of work, or the exterior appearance of the building or the lot, must be approved by the Architectural Committee prior to the initiation of such changes.

3. Building Site. The Owner and/or Contractor shall maintain the building site as prescribed in Appendix B (Construction Guidelines and Site Maintenance Agreement) of the MCPOA CR&R's.

4. Road Maintenance, Repairs and Cuts. The Owner and/or Contractor shall maintain and make repairs to roads which may be damaged as a result of construction activity at the building site as prescribed in Appendix B (Construction Guidelines and Site Maintenance Agreement) of the MCPOA CR&R's.

5. Subcontractors. The Owner/Contractor agree to be responsible for actions of any subcontractor working on construction, and to ensure that all such subcontractors maintain the job site and roads as prescribed in Appendix B (Construction Guidelines and Site Maintenance Agreement) of the MCPOA CR&R's.

6. Completion Time Requirements.

a. It is understood and agreed that all phases of exterior construction will be completed within six (6) months from the time of groundbreaking, and all construction equipment and/or building supplies shall be removed from the exterior of the premises within a reasonable time from the completion of exterior construction.

b. If there are circumstances or conditions that render this time restriction unattainable or pose undue hardship, the Owner/Contractor must inform the Architectural Committee in writing of these conditions or circumstances and request an extension of time, which will not be unreasonably withheld.

c. Penalty for noncompliance is \$25 a day for the first thirty (30) days, \$50 a day for the next thirty (30) days and \$100 a day thereafter.

7. Contractors Failure. If any Contractor or subcontractor shall fail to perform any work as required by this agreement, then the Contractor and Owner agree that the Association may perform such work and charge to the Contractor and Owner, jointly or severally, the cost of performing such work. The Contractor and the Owner, jointly and severally, agree to promptly reimburse the Association for any costs expended under this Agreement, together with interest at 1.5% per month from and after the date of expenditure of funds by the Association, together with the reasonable attorney's fees of the Association incurred in collection.

8. Upon Completion of Construction. The Owner and/or Contractor shall notify the Architectural Committee for a final review of their compliance with this Construction Indemnity Agreement and these Covenants, Reservations and Restrictions.

This the _____ day of _____, 20____.

ACCEPTED

Signature of Owner

Printed Name of Owner

Signature of Owner

Printed Name of Owner

Signature of Contractor

Printed Name of Contractor

**APPENDIX (B) Page 1 of 4 MCPOA CR&R's STATE OF NORTH CAROLINA COUNTY OF LEE
CONSTRUCTION GUIDELINES and SITE**

MAINTENANCE AGREEMENT

1. Documentation Requirements: Not less than thirty-days prior to clearing the lot or beginning any construction, additions/changes to the exterior of existing homes, or exterior repainting, the lot owner or their contractor shall submit to the Architectural Committee the documentation stipulated in a. through g. below, as applicable for review and approval.

- a. A validated copy of the Construction Indemnity Agreement; Appendix A of the Mallard Cove Covenants, Reservations and Restrictions. (MCPOA CR&R's)
- b. A validated copy of this Appendix B to (MCPOA CR&R's)
- c. Two (2) sets of final building plans and front, rear and both side elevation drawings.
- d. Two (2) copies of the final plot plan. (See paragraph 7 below)
- e. Two (2) copies of the Soil Erosion Control Plan. (See paragraph 8 below)
- f. A certificate of Proof of Insurance listing the carrier and policy number.
- g. Contractor's License. The Architectural Committee may require a copy of the builder's license.
- h. Two (2) validated copies of your Request for Construction/Exterior Changes/Additions. (See Appendix C to MCPOA CR&R's)
- i. After the construction approval after Appendix D (Construction Approval) has been granted by the Architectural Committee, the Lee County Building Permit shall be posted at the building site and a copy provided to the Architectural Committee prior to starting any home construction.
- j. Provide \$1500 reimbursable property site damage deposit.
- k. Provide \$3000 non-reimbursable road maintenance fee.

2. Removal of Trees and/or Vegetation: The Contractor shall mark all trees with colored tape that are to be removed from the building site. The Architectural Committee shall be consulted before removal of ANY TREE or vegetation from any lot. A landscape consultant is recommended prior to clearing in order to preserve the natural appearance of Mallard Cove. There shall be no disturbance to adjoining lots.

3. Requirements and Restrictions.

a. Building Placement. No building of any kind shall be located on any building site in Mallard Cove less than thirty (30) feet from the front lot line and no less than thirty (30) feet from the lot line adjacent to a roadway, and no less than ten (10) feet from the side lot line, or less than twenty (20) feet from the maintenance easement line of the lake or less than twenty (20) feet from any rear lot line.

b. Minimum Square Footage.

Homes shall have a minimum of fifteen hundred (1,500) square footage of enclosed dwelling area. (Enclosed dwelling area is defined as the square footage of area between the midpoint of the perimeter of the continuous interior foundation walls exclusive of decks, porches, garages or other unheated areas)

- c. Maximum Square Footage. The maximum square footage of lot area to be covered by all structures, (house, garages, porches, decks and other extensions) shall be restricted to the setback lines as defined in 2.a. above.
 - d. Garage Requirement. Each new home must include an attached garage not less than twenty-one (21) feet wide adequate to house two full size automobiles.
 - e. Marking Property and Footing Lines. Prior to any digging for the footings, the contractor shall run tight straight string or tape lines continuous from all survey stakes in order to determine exact lot perimeter. Afterwards, the contractor shall stake out the exact location of the foundation and notify the Architectural Committee so the setback lines can be established.
 - f. Termite Control. Each lot and building shall be treated for termites according to all applicable building codes.
 - g. Fire Retardant Roofs. All roofs shall be shingled with fire retardant material.
 - h. Spark Arresters. All homes shall be equipped with spark arresters on all chimneys.
 - i. Underground Utilities. All electric power, telephone lines, cable lines and any other utility lines and connections between the main utility lines and the residence, other buildings and other outlets located on each building site shall be located underground and concealed so as not to be visible on the lot.
 - j. Occupancy Restriction. Before any house may be occupied it must be completely finished on the exterior, all utilities must be installed and working, all yard which is visible from the any roadway, the lake, recreation area or neighboring home must be planted with grass or have other ground cover as approved by the Architectural Committee.
4. Request For Variance. No construction outside lot setback lines and no changes to approved plans will be permitted without submitting updated drawings and plans requesting a variance to the Architectural Committee. If the Architectural Committee grants approval it must be in writing.
 5. Common Areas. There shall be no clearing, grading or other changes to common areas without prior approval of the Architectural Committee. This includes the creation of paths or walkways through common grounds.
 6. Boat Dock. The construction of a boat dock or other structure on Lake Trace or within the setback area from Lake Trace also requires the approval of the Board of Governors of the Carolina Trace Country Club.
 7. Plot Plan. The plot plan must show:
 - a. Placement of building(s) on the lot.
 - b. All measurements for the lot.
 - c. All distances from the front, back, and side property lines to the extreme outer perimeter of the building(s), including garages, decks, and porches.
 - d. Lines indicating vegetation and trees that are not to be disturbed/removed from the lot. (This is to insure and maintain Mallard Cove's natural setting; see paragraph 2. above).

8. Soil Erosion/Drainage Control Plan. Each lot shall be graded to contain or control its own runoff to prevent injury or danger to other lots. Soil shall not be taken from roadways, common areas, or neighboring lots for any purpose. The Request for Construction package (paragraph 1. above) shall include 2 copies of this Plan which must address the following specific areas:

- a. Culvert size and composition, i.e., corrugated metal, concrete, etc.
- b. Drainage ditch/conduit locations and directions of flow.
- c. Type of erosion material to be installed permanently as lining for drainage ditches.
- d. Lateral slopes from road to drain ditches.
- e. Any other site-specific drainage and/or erosion controls including installation of Silt fencing before construction begins.

9. Cuts and Evacuations in Roadways.

- a. The Contractor shall notify the appropriate utility company for any cuts or disruptions in roadways for providing utility services. The utility company or the sub-contractor involved shall restore such cuts and evacuations as closely as possible to the original condition. The utility company or contractor shall install warning signs and/or barriers. Cuts in roadways shall be refilled, compacted, and at least 6 inches of gravel be compacted before repaving.
- b. The owner and contractor shall use best effort to affect this restoration as soon as possible.

10. Driveways.

a. Driveways shall be surfaced with gravel during construction to prevent mud and dirt buildup on Mallard Cove streets from construction vehicles. Where applicable a suitable conduit shall be installed at the entrance to the driveway. This requirement shall be identified in the Drainage Plan (see paragraph 8 above). The conduit requirement is mandatory when the driveway is to pass over a drainage. No standing water shall be permitted.

b. Driveways shall be concrete, asphalt or brick.

11. Mailboxes. The Architectural Committee will provide sketches concerning the location and installation of mailboxes that conform to the Postal Regulation PS Form 4056. It is required that the standard Carolina Trace mailbox holder and stand be utilized. It is required that a separate container or space be included on the mailbox stand for non-U.S.P.S. delivered material as newspapers and Association information and notices.

12. Construction Site Maintenance.

a. Daily cleanup is required.

b. Trash containers shall be provided and used for lunch papers, bags, bottles and drink containers and like debris. Weekly on-site trash collection shall be provided for all discarded/scrap building materials. Unused construction materials shall be properly stored or removed from the lot.

c. The lot area and public roadway parallel/adjacent to, and for the distance of the lot line shall be kept neat, litter free and in a safe condition.

d. Fires are not permitted

e. Sanitary facilities shall be placed as inconspicuously on the building site prior to starting any construction, with the door facing in the opposite direction of public streets.

f. Adjoining or neighboring lots shall not be littered, nor trespassed upon without prior approval by the owners and such approval conveyed to the Architectural Committee.

g. One permit board/holder shall be placed on the lot and used for all permits and other documentation.

h. One professionally lettered builder's sign of a size, not to exceed 24 inches by 36 inches is allowed at the building site but only during original construction.

13. Damage To Adjacent Terrain, Vegetation, Roadways. Damages to any terrain, vegetation, road shoulders, and roadways, as a result of the construction project, shall be replaced or repaired as closely as possible to the original condition within a reasonable time period by the owner, contractor or the utility company.

13. Actions/Conduct of Contractor Employees. Contractor/Builders and their Subcontractors are responsible for the actions of their employees concerning courteous driving and parking on Mallard Cove streets, use of radios and compliance with appropriate sections of these guidelines.

Signature of Lot Owner

Date

Signature of Contractor

Date

**APPENDIX (C) Page 1 of 3 MCPOA CR&R's STATE OF NORTH CAROLINA COUNTY OF LEE
REQUEST FOR CONSTRUCTION, EXTERIOR CHANGES AND ADDITIONS**

Date: _____

To: Mallard Cove Property Owners Association, 5000 Cardinal Circle, Sanford, NC 27332

From: _____

Name of Owner Telephone Number

Street Address City State Zip

Nature of Request: New Construction _____ Exterior Changes _____ Additions _____
Repainting _____

Work Site: _____

Lot Number Street

Contractor: _____

Company Name Contact Person Telephone Number

Street Address City State Zip

1. The following is submitted herewith, for review:

a. Method of Construction (Check One)

(1) _____ Field Framed

(2) _____ Other (Please Specify) _____

b. Total Square Footage (Including Garage, Sunroom, Porches, Decks)

(1) Single story _____sq. ft. (2) Story-and-a-half _____sq. ft.

(3) Two Story _____sq. ft. (4) Tri-level _____sq. ft.

c. Total Heated Area (Living Space)

(1) Single story _____sq. ft. (2) Story-and-a-half _____sq. ft.

(3) Two Story _____sq. ft. (4) Tri-level _____sq. ft.

d. Modular and Mobile Homes. Modular and mobile homes are prohibited.

Page 2 of 3 e. Documents.

(1) All documents are attached as prescribed by Appendix B in the Mallard Cove Covenants, Reservations and Restrictions.

(2) A validated Lee County Building Permit will be posted on a post/container at the site and a copy provided to the Architectural Committee prior to starting any home construction.

f. Materials List. (Samples may be required)

ITEM TYPE COLOR BRAND/MANUFACTURER.

Foundation No exposed cinder blocks

Steps _____

Siding Color- _____ approval only required with color change on existing.

Windows _____

Exterior Doors _____

Solar Panels _____

Trim _____

Roof Color- _____ approval only needed with color change on existing.

Fence _____

Chimney or Flue _____

Open Decks _____

Porch _____

Screened Porch _____

Shutters _____

Gutters _____

Bay Window Covers _____

Retaining walls _____

Repainting approval only needed with color change _____

2. If approved, construction will not commence until all final documentation as specified in Appendix B (Construction Guidelines and Site Maintenance Agreement) in the MCPOA CR&Rs has been provided to the Architectural Committee.

3. If approved, I/we agree to adhere to the requirements and guidelines specified in appendix B of MCPOA CR&R's.

4. I understand that any misrepresentation or substantial misstatement of fact, or any action by myself as property owner or by my contractor or any subcontractor in violation of the terms of this Request for Construction Approval, could cause revocation of Construction Approval. In the event of any revocation of Construction Approval, I agree to cease construction until such time as I, my/our contractor and/or subcontractor(s) are in compliance with this Request for Construction Approval.

5. I understand the approval of this request in no way places any responsibility on the Architectural Committee for the financial responsibility or quality of work of the contractor selected by the property owner. The property owner is responsible for the actions of their contractors, subcontractors or agents.

_____ Signature of Property Owner Printed Name of Owner Date

_____ Signature of Contractor Printed Name of Contractor Date

APPENDIX (D) Page 1 of 1 MCPOA CR&R's STATE OF NORTH CAROLINA COUNTY OF LEE

CONSTRUCTION APPROVAL

Date: _____

To: _____

Property Owner Address

The Mallard Cove Architectural Committee has reviewed and voted to _____ at this time your request for construction on Lot Number _____ Street Name _____

as [] submitted by you [] as amended by the Architectural Committee, the amendments are noted on your application or on the plans, specifications or documentation you provided the Architectural Committee.

Note: Any changes/amendments to those directed by the Architectural Committee must be resubmitted to the Architectural Committee for review.

If approval is indicated above, it is contingent on the following:

1. Our receipt of all applicable original documentation requirements in Appendix B of MCPOA CR&R's.
2. You or your contractor notifying the Architectural Committee when the property lines and foundation footing lines have been staked so that placement of the house and set back requirements can be verified.
3. Violations of the terms of the documentation submitted by you or your contractor may be cause for the withdrawal of the Construction Approval, at which time all work on the building site shall cease until Construction Approval is reinstated
4. _____

Sincerely,

The Architectural Committee

Normal Approval

Non-Standard fencing Majority Board Approval

