proposed revised budget shall be an agenda item.

Section 12.4 Approval of Common Operating Expense Budget. The common operating expense section of the Budget must be approved by a majority vote of the owners at the annual meeting where a quorum is present. In the event that the proposed common operating expense budget is rejected, the periodic operating expense budget last approved by the owners shall be continued until such time as the owners approve a subsequent common operating expense budget proposed by the Board. The common operating expense assessment for the fiscal year shall be determined based upon the common operating expense budget adopted by the Board and approved by the owners.

Section 12.5 Budget Approval. Except for the common operating expense section of the budget, all other sections of the proposed budget must be approved as provided for in the following subsections in order to be effective:

(a) Each budget section may be approved separately and in total by vote of two/thirds (2/3) of owners voting at a meeting where a quorum is present, unless prior to the vote ten percent (10%) or more owners eligible to vote at the meeting objects.

(b) When ten percent (10%) or more owners eligible to vote at the meeting object to approval of a budget section in total, each line item in that section of the budget shall be approved separately by vote of two/thirds (2/3) of owners at a meeting of owners where a quorum is present.

(c) In the event one or more section(s) or line item(s) of the proposed budget is/are rejected, the Board may propose a revised budget for each rejected section or line-item. The revised budget section(s) or line-item(s) shall be subject to approval in accordance with the provisions of Section 12.4 and 12.5.

## ARTICLE 13 . ARCHITECTURAL STANDARDS AND DESIGN GUIDELINES

Section 13.1 Architectural Control Committee

(a) The Board shall create an Architectural Control Committee (ACC) and appoint a minimum of three (3) and a maximum of five (5) members. All members of the ACC must be owners of a lot in Beachwalk. At least one (1), but no more than two (2), members of the ACC must also be a member(s) of the Board.

(b) Members of the ACC shall be appointed for a term of three (3) years and may be reappointed to additional terms by the Board. ACC members shall serve and may be removed at the Board's discretion.

Section 13.2 Architectural Control Committee Review and Approval

(a) Any construction, improvements, and alterations of existing improvements on any lot or the exterior of any structure (other than landscaping in previously approved and established plots) must be made in compliance with this Declaration, the Use Restrictions (Exhibit B), and the Design Guidelines. Before such activities may be undertaken, a lot owner must receive the approval for plans and specifications by the Architectural Control Committee as provided in this Article.

(b) The Architectural Control Committee shall use the design guidelines as the community-wide standard, as defined in Article 3, Sections 13 and 15 of this Declaration, to assess compliance, to provide oversight and guidance, and to insure consistency and fairness.

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(c) Construction, improvements and alterations include, but are not limited to, all excavation, grading, construction activities, placing or posting of objects or things on an owner's lot and painting of the exterior of a dwelling. The posting or placement of an object or thing includes, but is not limited to, signs, accessory buildings, clotheslines, playground equipment, temporary or permanent basketball goals, swimming pools, lighting and other similar temporary structures.

(d) An owner may remodel, paint, modify or redecorate the interior of structures on his lot and dwelling unit, including the interior of screened porches, without prior approval.

Section13.3. Guidelines and Procedures.

(a) The Board shall propose design guidelines which must be approved by a majority vote of lot owners at a meeting where a quorum is present to become effective. The design guidelines shall apply to all construction, improvement and alteration activities that are within the scope of Article 13.

(b) The owners must be given not less than thirty (30)nor more than sixty (60) days notice of a meeting to vote on adoption of the initial design guidelines and any subsequent amendment to them after the initial design guidelines are approved. The notice shall include a summary of the proposed design guidelines or proposed amendments. If any proposed/amended guidelines are rejected, the design guidelines in effect immediately prior to the proposed amendments shall remain in effect.

(c) The design guidelines shall contain general provisions applicable to all of Beachwalk so that they will be uniformly and consistently applied; provided that the design guidelines may contain more specific guidelines that vary from the general guidelines based on the unique location, characteristics, intended use, applicable zoning ordinances or other circumstances that make the more specific guideline reasonable and equitable under the circumstances involved.

(d) All construction, improvement and alteration activities within the scope of Article 13 shall be made in compliance with the design guidelines in effect at the time a lot owner's plans and specifications for such activities were approved by the ACC. Amendments to the design guidelines shall not apply to activities undertaken to carry out plans and specifications approved by the ACC that were commenced before the amendments became effective. The design guidelines are not the exclusive basis for a decision by the ACC and compliance with the design guidelines does not guarantee approval of any application.

(e) The Association shall make the design guidelines available to owners, builders and contractors who seek to engage in development or construction activities within Beachwalk and all such persons shall conduct their activities in accordance with such design guidelines.

(f) Decisions made by the ACC may be appealed to the Board by the lot owner giving written notice to the Board within thirty (30) days after receipt of the ACC's decision. The Board shall conduct a hearing to review the application and the ACC decision within thirty (30) days of a receipt of the appeal. The decision of the Board shall be final.

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Section 13.4. Submission of Plans and Specifications.

(a) No activities within the scope of Article 13 shall commence on any lot until a written application for approval of the proposed work has been submitted to and approved by the ACC. Such application shall be in the form required by the ACC and shall include the purpose and/or intended use of the completed project, plans and specifications (“Plans”) showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, facilities layout, screening and other features of proposed construction, as applicable. The design guidelines shall set forth the procedure and any additional information required for submission of the plans and specifications.

(b) In reviewing each application, the ACC may consider the owner's purpose for and/or intended use of the completed project, quality of workmanship and design, visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures, environment, and location in relation to surrounding structures and plant life.

(c) The ACC shall, within thirty (30) days, respond in writing to the party seeking approval and inform him of its decision: (1) that the plans have been approved; or (2) that the plans have been disapproved, in whole or in part. If the plans have not been approved in whole, the ACC's decision must include the following: (a) the details of the plans or specifications that were deemed to be inconsistent or not in conformity with the design guidelines, (b) the reasons for such findings, (c) recommendations for the curing the deficiencies, and (d) a statement that the decision may be appealed by the owner to the Board by written notice within thirty (30) days after receipt of the ACC's decision.

If outside consultation is deemed necessary, the ACC response can be extended an additional 60 days. The homeowners will be advised accordingly.

(d) The ACC approval shall be deemed withdrawn if construction on an approved project has not been commenced within sixty (60) days of Plan approval. If construction is not completed within six (6) months after the approval, the approval shall be deemed withdrawn and unfinished construction shall be deemed to be in violation of this Article. The ACC may extend these deadlines for good cause.

(e) An owner may resubmit a disapproved or expired application if circumstances that resulted in disapproval or expiration have sufficiently changed and/or the ACC's suggested remedy has been accommodated.

Section 13.5. Future Approvals.Each owner acknowledges that the members of the ACC will change with the passage of time and that interpretation, application and enforcement of the design guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval by any owner. In carrying out its duties under this Section, the ACC shall strive to make its decisions reasonable and equitable to the Beachwalk community and the lot owner.

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Section 13.6. Variances.The ACC, with Board approval, may authorize variances in writing from its design guidelines or deadlines, for an individual application, under the following circumstances:

(a) There are unique circumstances, such as unusual topography, natural obstructions, hardship, or aesthetic or environmental considerations that make a variance reasonable and equitable under the circumstances involved; and

(b) Construction in accordance with the variance would be consistent with the overall purposes of the Declaration and design guidelines and compatible with existing and anticipated uses of adjoining properties. Inability to obtain or meet the terms of any governmental approval or the terms of any financing shall not be considered a hardship warranting a variance.

Section 13.7. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither the Association, the Board, nor the ACC nor any member of any of the foregoing shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with codes, governmental requirements, and any other restrictions. Neither the Association, the Board, nor the ACC, nor any member of any of the foregoing shall be held liable for damages or loss arising out of the manner or quality of approved construction on or any modifications to any lot. In all matters, the ACC and their members shall be defended and indemnified by the Association as provided in the Bylaws.

Section 13.8. Enforcement.

(a) Any construction, alterations or other activities within the scope of Article 13 that are carried out after the adoption of this Declaration and design guidelines and that are in violation of this Article or the design guidelines shall be deemed to be nonconforming. Upon written notice from the Board, any owner engaged in such non-conforming activities shall, at their own cost and expense, cure such nonconformance or restore the property, lot and/or dwelling unit involved to substantially the same condition as it existed before the nonconforming activity was undertaken. All costs may be assessed, with interest, against the benefited lot and collected as a benefited assessment.

(b) All approvals made under Article 13 are deemed conditioned upon completion of all elements of the approved Plan and all work previously approved. If a lot owner commences but fails to diligently perform all of the work necessary to complete the approved Plan, the Association shall be authorized, after notice to the owner and an opportunity to be heard in accordance with the Article 17 of this Declaration, to enter upon the lot and remove or complete any incomplete work and to assess all costs incurred, with interest, against the lot and the owner as a benefited assessment.

(c) All acts by any contractor, subcontractor, agent, employee, or invitee of an owner shall be deemed to have been acts done by or on behalf of such owner. Any contractor, subcontractor agent, employee, or other invitee of an owner who fails to comply with the terms and provisions of this Article and the design guidelines may be excluded from Beachwalk, subject to the notice and hearing procedures contained in Article 17 of this Declaration. In such event, the Association, its officers, or directors shall not be held liable to any person for exercising the rights granted by this section.

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(d) In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Board.

* 1. **ARTICLE 14. USE RESTRICTIONS**

Section 14.1. Applicability and Effect.

(a) Property in Beachwalk is subject to design guidelines as set forth in Article 13 herein and other restrictions governing land development, architectural and design control, individual conduct and uses of or actions in Beachwalk. This Declaration, including the Use Restrictions attached hereto as Exhibit B and the rules and resolutions adopted by the Board or the members establish affirmative and negative covenants, easements, and restrictions on property in Beachwalk. All provisions of this Declaration and any rules shall apply to all owners, their contractors, family members, occupants, tenants, guests and invitees of any lot.

(b) A violation of the use restrictions, architectural and design guidelines and/or rules and regulations provisions shall be considered approved by the Board if it is in place at the time of the recording of this Declaration with the New Hanover County Register of Deeds. The Board will document those violations as approved by the Board by documenting them in the permanent records of the Association. However, the condition(s) causing such violation, upon its removal, modification or destruction by any cause or means, must be brought into compliance with the use restrictions, architectural and design guidelines and/or rules and regulations provisions established in accordance with this Declaration.

Section 14.2. Authority to Promulgate Rules.

(a) Subject to the terms of this Article and in accordance with its duty of care and undivided

loyalty to the Association and its members, the Board may adopt rules not inconsistent with the

Use Restrictions set forth in Section 14.4 herein, and other such rules and regulations

permitted by, and not inconsistent with, the North Carolina Planned Community Act.

(b) Such rules shall be published and provided to all owners and residents at least thirty (30) calendar days prior to the effective date.

(c) The owners, at a meeting duly called for such purpose, may adopt rules which modify, cancel, limit, or create exceptions to Board-adopted rules by a majority vote of all lot owners in Beachwalk.

(d) The Board shall send a copy of the rule to each owner specifying the effective date of such rule within a reasonable period of time, as determined by the Board prior to the effective date of the rule. The Association shall provide, without cost, a copy of the rules then in effect to any requesting member or mortgagee.

(e) Nothing in this article shall authorize the Board or the owners to modify, repeal or expand the Declaration, the Bylaws, the Articles, or the design guidelines. Such documents may be amended only as provided therein.

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