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NEW HANOVER COUNTY, NC
TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS

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**STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for the Oyster Point of New Hanover County Home Owners Association (as may be amended or supplemented as set forth herein) is made this 11th day of June 2018 by The Oyster Point of New Hanover County Home Owners Association, a North Carolina corporation, whose address is P. O. Box 10446, Wilmington, NC 28404 (the "Declarant").

This declaration pertains to all properties in Sections 1, 2, and 3, of the Oyster Point subdivision described on Plat Book 27 Page 122, Plat Book 28 Page 82, and Plat Book 29 Page 83, at the New Hanover County Register of Deeds, and any properties subsequently annexed into the Oyster Point subdivision. This Declaration replaces a previous Declaration executed on August 18, 1987 and recorded with the New Hanover County Register of Deeds in Book 1387, Pages 655 to 679, as amended on September 1, 1987 and recorded with the New Hanover County Register of deeds Book 1389, Pages 251 to 253.

WITNESSETH:

The Declarant is the Oyster Point of New Hanover County Home Owners Association, a North Carolina, non-profit corporation with its principal place of business in New Hanover County North Carolina, and its successors and assigns. The Homeowners Association is organized for the mutual benefit and protection of the Property and the operation and regulation of the various facilities, and common areas as set forth herein and in the Articles of Incorporation and the Bylaws of said association. All property owners of lots in Oyster Point shall be members of the Association, which membership shall be appurtenant to and may not be separated from the ownership interest of any property within the above described development.

THEREFORE, the Declarant hereby declares that all of the Lots and Common Areas (defined herein) located within the Subdivision are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following covenants, conditions and restrictions, all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision as a whole and of each of said Lots. All of these restrictions shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title or interest, legal or equitable in and to the Property, or any part or parts thereof subject to such restrictions, and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to any of the Property.

ARTICLE I

DEFINITIONS

Section 1.1. "Annual Assessment" means the charge established by Article IV of this Declaration

Section 1.2. "Annual Meeting" means the annual meeting of the Members held in New Hanover County, North Carolina, within the first quarter of each calendar year, upon proper notice, at a date, time and at a place from time to time designated by the Board

Section 1.3. "Annual Organizational Board Meeting" means the annual organizational board meeting of the Board, which shall take place immediately after each Annual Meeting of the Members.

Section 1.4. "Articles" or "Articles of Incorporation" shall mean those articles, filed with the Secretary of State of North Carolina, incorporating the Oyster Point of New Hanover County Homeowners Association, Inc., as a nonprofit corporation under the provisions of North Carolina State law, as the same may be amended from time to time.

Section 1.5. "Assessments" means Annual Assessments, Special Assessments, Individual Assessments and Fine Assessments.

Section 1.6. "Association" shall mean and refer to the Oyster Point of New Hanover County Homeowners Association, Inc., a non-profit corporation, its successors and assigns.

Section 1.7. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.8. "Boat Slip" shall be used interchangeably with "docking space" and shall mean the space in and above the water adjacent to the Everett's Creek for the docking of a boat. The boat slips are located within a common area, the Pier and Docking Facility, designated as such and delineated on documents recorded with the New Hanover County Register of Deeds. At the time of initial sale, each lot was assigned a slip by the developer, which assignment carries and transfers

in perpetuity with the lot. The record of assignments is kept by the Board of Directors. The Board of Directors shall provide each lot owner with a letter stating the slip assignment for each lot. The assignment shall not be recorded, but shall entitle the lot owner or tenant to the exclusive use and enjoyment of the boat slip so assigned, subject to this Declaration, the Bylaws and such rules and regulations as may be established by the Association or the Board of Directors. No owner may transfer or sell his membership and boat slip except as an incident to the sale of his lot and/or dwelling in Oyster Point. Boat slips may not be rented separately from the rental of the corresponding lot and dwelling, nor may the slip be used for any commercial purpose without the express written consent of the Association.

Section 1.9. “Bylaws” shall mean the Bylaws of the Association, as the same may be amended from time to time.

Section 1.10. “Constituent Documents” shall mean the Declaration, the Bylaws, the Articles of Incorporation, and the Rules and Regulations, if any, and any other documents used to create and govern the Subdivision.

Section 1.11. “Common Areas” shall mean all the real estate (including retention ponds, storm drainage improvements, entrance signage, streets, piers, docks, and all landscaping and other improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

Section 1.12. “Common Expenses” shall mean, refer to, and include all charges, costs and expenses incurred by the Association for and in connection with the administration of the Subdivision, including, without limitation thereof, operation of the Subdivision, maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Common Areas; the costs of any additions and alterations thereto; all labor, services, common utilities, materials, supplies, and equipment therefor; all liability for loss or damage arising out of or in connection with the Common Areas and their use; all premiums for hazard, liability and other insurance with respect to the Subdivision; all costs incurred in acquiring a Lot pursuant to judicial sale; and all administrative, accounting, legal, and managerial expenses. “Common Expenses” shall also include the cost of operation, maintenance, improvement, and replacement of any Recreational Facilities, including establishing reserves therefore. “Common Expenses” shall also include amounts incurred in replacing, or substantially repairing, capital improvements within the Common Areas of the Subdivision, including, but not limited to private road and parking lot resurfacing. “Common Expenses” shall also include all reserve funds or other funds established by the Association. “Common Expenses” shall be construed broadly.

Section 1.13. “Declarant” shall mean and refer to the Oyster Point of New Hanover County Home Owners Association, a North Carolina corporation, its successors and assigns as a Declarant.

Section 1.14. “Default” shall mean any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents.

Section 1.15. “Dwelling Unit” shall mean and refer to the individual family living unit on an individual Lot.

Section 1.16. “Fine Assessment” means the charge established by Article IV of this Declaration.

Section 1.17. “Individual Assessment” means the charge established by Article IV of this Declaration.

Section 1.18. “Lot” shall mean and refer to any parcel of land designated on the Plat upon which a Dwelling Unit has been or is to be constructed.

Section 1.19. “Member” shall mean and refer to all those Owners who are Members of the Association as provided in Article III below.

Section 1.20. “Owner” shall mean and refer to the record owner, including Declarant, whether one or more persons or entities, of a fee simple title to any Lot, or other facilities located within the Subdivision.

Section 1.21. “Pier and Boat Dock Facility” shall mean the pier and boat dock facility as shown and delineated on documents recorded with the New Hanover County Register of Deeds. The pier and boat dock facility are common areas owned by the Association.

Section 1.22. “Plat” shall mean and refer to the record plat of the Subdivision recorded in the New Hanover County Register of Deeds.

Section 1.23. “Property” or “Subdivision” shall mean and refer to that certain real estate described in Exhibit A and all other real estate that may be annexed into this Declaration and the Association by the Declarant.

Section 1.24. “Recreational Facilities” shall mean and refer to the common community and recreational facilities located upon the property designated as Common Areas on Plat Book 27 Page 122, Plat Book 28 Page 82, Plat Book 29 Page 83, and the pier and dock facilities designated on Plat Book 33, Page 86, including, but not limited to, the related grounds, docks and piers, landscaping and improvements located, or to be located thereon.

Section 1.25. “Resident” shall mean and refer to any person, not an Owner, living in the Owner’s Dwelling Unit, including, but not limited to, temporary guests, family members, and Tenants.

Section 1.26. “Restrictions” shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including, without limitation, all notices, rules and regulations issued in accordance with this Declaration.

Section 1.27. “Rules and Regulations” shall mean and include the rules and regulations made from time to time by the Board of Directors as provided in Article III below.

Section 1.28. “Special Assessment” means the charge established by Article IV of this Declaration.

Section 1.29. “Tenant” means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

Section 1.30. When applicable for the sense of this instrument, the singular should be read as including the plural and the male, female, and neuter pronouns and adjectives should be read as interchangeable.

ARTICLE II

PROPERTY RIGHTS IN COMMON AREAS

Section 2.1. Owner's Easements of Enjoyment. Except as herein otherwise provided, each Owner shall have a right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to his Lot. Each Tenant shall have a non-transferable right to use and enjoy the Common Areas, if any, which right shall terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

Section 2.1.1. The right of the Board to suspend the right of any Owner or the privilege of any Resident to use such of the Common Areas that are recreational in nature as determined by the Board for a period not to exceed sixty (60) days for any non-payment or delinquency of the Assessments against such Owner's Lot for a period not to exceed the period of such non-payment or delinquency;

Section 2.1.2. The members by a majority vote at an Annual Meeting or at a meeting duly called for this purpose, may adopt and from time to time amend reasonable limitations upon use and Rules and Regulations pertaining to the use of the Common Areas, including regulations limiting guests of Owners and Tenants who may use the Common Areas at any one time, and the Board shall have the authority to enforce such Rules and Regulation;

Section 2.1.3. All applicable provisions of valid easements and/or agreements of the Association relating to the Common Areas, including, without limitation, the Roadways;

Section 2.1.4. The right of the Association to grant permits, licenses and public or private easements over Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

Section 2.2. Extension of Use. Any Owner may extend his right of enjoyment to the Common Areas to the immediate and/or extended members of his family, his Tenants, guests or contract purchasers of the Owner's Lot, except for the use of boat slips for boats not owned by the lot owner or tenant.

ARTICLE III

HOMEOWNERS ASSOCIATION

Section 3.1. Homeowners Association. There has been created a North Carolina non-profit corporation, known as Oyster Point of New Hanover County Homeowners Association, Inc., which shall be responsible for the maintenance, management and control of the Common Areas and upon each Lot and Dwelling Unit as more specifically set forth in this Declaration.

Section 3.2. Board of Directors and Officers. The Board of Directors, and such officers as they may elect or appoint in accordance with the Articles or the Bylaws, shall conduct the affairs of the Association. The Board of Directors may also appoint committees or other employees and agents, subject to the general direction of the Board of Directors. The hiring of a community management company must be approved by a vote of the Association at its annual meeting or another meeting duly called for that purpose.

Section 3.3. Notice and Quorum for Meetings of the Association. Notice of any meeting of the Association called shall be sent to all members not less than thirty (30) days prior nor more than sixty-day in advance of the meeting. The presence of members or of proxies entitled to cast sixty (60) percent of all votes of the membership shall constitute a quorum. If the required quorum is not present at the first such meeting, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 3.4. Rules and Regulations. By a majority vote of the Members at an Annual Meeting or a meeting duly called for this purpose, the Association may, from time to time adopt, amend and repeal Rules and Regulations with respect to all aspects of the Association's rights, activities and duties under this Declaration. The Rules and Regulations may, without limitation, govern use of the Subdivision, including prohibiting, restricting or imposing charges for the use of any portion of the Subdivision by Owners, Residents or others, interpret this Declaration or establish procedures for operation of the Association or the administration of this Declaration; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the By-Laws or the Articles of Incorporation. A copy of the Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Association and shall be given each Owner by mail, email or hand delivery.

Section 3.5. Membership of Association. Every Owner of a Lot shall be a Member of the Association. Such Owner and Member shall abide by the Association's Rules and Regulations, shall pay the Assessments provided for in this Declaration, when due, and shall comply with decisions of the Association's governing body. Conveyance of fee simple title to a Lot automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to Assessment.

Section 3.6. Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot upon which a Dwelling Unit has been erected within the Property, shall automatically be a Member of the Association; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot upon which a Dwelling Unit has been constructed that is subject to Assessment. Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot portion shall be exercised as they among themselves determine, but no more than one (1) vote may be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

Section 3.7. Maintenance Obligations of the Association. The Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Areas and all improvements located thereon for the common benefit of the Subdivision. This shall include, without limitation, the maintenance, repair, replacement and painting of the following landscaping and improvements (to the extent that such improvements or landscaping are located upon or constitute Common Areas, or are deeded to the Association, or are installed by the Association): (a) all private roadways, driveways, pavement, sidewalks, walkways and uncovered parking spaces; (b) all lawns, trees, grass and landscape areas, shrubs and fences, except as otherwise set forth hereinbelow; (c) the Recreational Facilities; (d) all conduits, ducts, utility pipes, plumbing, wiring and other facilities deeded to the Association, or installed by the Association, which are part of or located in, or for the furnishing of utility services to, the Common Areas, and infrastructure facilities not in common areas, but deeded to, or installed by the Association, shall be operated and maintained by the Association.

Section 3.8. The Association shall provide a safe environment in all common areas. Therefore, the Association shall make the determination as to when maintenance, repair, replacement and care shall be done, and its determination shall be binding. The Association shall have the right to employ a manager to oversee and implement the Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Association. The Association shall also perform the other duties prescribed by this instrument or the Association's Rules and Regulations.

Section 3.9. Maintenance Obligation of the Lot Owners. The responsibilities of each Lot Owner shall include:

Section 3.9.1. The cost of connecting to water-sewer infrastructure, and the cost of maintaining the infrastructure from the house to the connection point.

Section 3.9.2. To clean, maintain, keep in good order, repair and replace at his or her expense all portions of his or her Lot and Dwelling Unit. Any repair, replacement and maintenance work to be done by an Owner must comply with any Rules and Regulations of the Association including architectural control and visual harmony.

Section 3.9.3. To perform his responsibilities in such manner so as not unreasonably to disturb other persons residing within the Subdivision.

Section 3.9.4. Not to paint any exterior portion of his Dwelling Unit, without the written consent of the Association.

Section 3.9.5. Not to impair the use of any easement without first obtaining the written consents of the Association and of the Owner or Owners for whose benefit such easements exists.

Section 3.9.6. Each Lot Owner shall be deemed to agree by acceptance of delivery of a deed to a Lot, to repair and/or replace at his or her expense all portions of the Common Areas which may be damaged or destroyed by reason of his or her own intentional or negligent act or omission, or by the intentional or negligent act or omission of any invitee, tenant, licensee family member, including, but not limited to any repairs necessary which result from damage incurred by pets or vehicles owned by the Lot Owner, or owned by any guest, invitee, Tenant or licensee of such Lot Owner. To the extent that any Common Area is damaged as an insurable loss and the proceeds from the Association's insurance policy are utilized to pay for the loss, the Owner shall be responsible for payment of the deductible as an Individual Assessment in accordance with Article IV and Article VI below.

Section 3.10. Construction Defects. The obligations of the Association and of Owners to repair, maintain and replace the portions of the Subdivision for which they are respectively responsible shall not be limited, discharged or unreasonably postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in materials or workmanship in the construction of the project. The undertaking of repair, maintenance or replacement by the Association or Owners shall not constitute a waiver of any rights against any warrantor but such rights shall be specifically reserved. Likewise, this statement is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by Association may be delayed if Association does not have the means or the funds to repair the defect or if by repairing the defect, Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

Section 3.11. Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Association and/or any Lot Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of construction guarantee or insurance coverage shall not excuse any unreasonable delay by the Association or any Lot Owner in performing his obligation hereunder. Likewise, this statement is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by Association may be delayed if Association does not have the means or the funds to repair the defect or if, by repairing the defect, the Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

ARTICLE IV

COVENANT FOR ASSESSMENTS

Section 4.1. Creation of the Lien and Personal Obligations of Assessments. The Association levies the following assessments: Annual Assessment, Special Assessments, Individual Assessments, Fine Assessments, and other such Assessments to be established hereinafter. Annual and Special Assessments for a Lot Owner shall be determined by the Association based upon the proportion that each Lot bears to the aggregate number of Lots located on the Property,

Section 4.2. Annual Assessments. Annual Assessments for the payment of the Common Expenses shall be made in the manner provided herein, and in the manner provided in the Bylaws. The Annual Assessment is established for the benefit and use of the Association and shall be used in covering the Common Expenses.

Section 4.2.1. At the Annual Meeting of the Association, the Board of Directors will present budget performance data from the previous year (independently audited), the Association's financial status, and a proposed budget for the current calendar year. The proposed budget will include the expected usual expenditures and capital improvements. The budget must be approved by the majority of the members of the Association attending meeting in person or by proxy, constituting a quorum. The annual assessment for each lot shall be based on a proportionate share of the total proposed annual budget and the total number of lots being assessed. If the proposed budget requires an increase in annual assessment greater than five percent (5%), two thirds (2/3) of the members at the meeting must vote to approve.

Section 4.2.2. The Annual Assessment provided for herein shall commence as to each Owner of a Lot, on the first day following the initial conveyance of the Dwelling Unit to the Owner and shall be adjusted according to the number of days remaining in the month. The Board of Directors shall fix the amount of the monthly Annual Assessment to be paid by each Member against each Lot. Written notice of the monthly Regular Assessment shall be sent to every Member subject thereto. The Board of Directors shall establish the due dates.

Section 4.2.3. The Association shall inform each Lot Owner of the amount of the total Annual Assessment (previously referred to as dues) due from the Owner(s) of each Lot according to the guidelines given in Sections 4.1 and 4.2.1. This Annual Assessment may be paid in monthly, bi-monthly, quarterly, semiannual or annual installments as illustrated in the Table below, or as otherwise authorized by the Association. Payment is to be made to such person at such address as the Association determines. If the Subdivision is expanded and additional Lots are brought into the Subdivision during a given Assessment year those additional Lots shall begin paying the Annual Regular Assessment on the first day of the annexation into the HOA. Partial months shall be pro-rated accordingly. Due dates are shown in the table below.

Payment Plan	Portion of Annual Regular Assessment	Payment Due Date
Monthly	1/12 th	Jan 1, Feb 1, Mar 1, Apr 1, May 1, Jun 1, Jul 1, Aug 1, Sep 1, Oct 1, Nov 1, Dec 1
Bi-Monthly	1/6 th	Jan 1, Mar 1, May 1, Jul 1, Sep 1, Nov 1
Quarterly	1/4 th	Jan 1, Apr 1, Jul 1, Oct 1
Semi-Annually	1/2	Jan 1, Jul 1
Annually	100%	Jan 1

Section 4.2.4. Common Surplus. If the Annual Assessment collected in any given year exceeds the actual Common Expenses for that year, the Members shall by majority vote at the annual meeting or a meeting duly called for this purpose Authorize the Association to: (a) return each Owner's share of the Common Surplus; (b) credit each Owner's share of the Common Surplus to each Owner's payment as for the Regular Assessment for the following year; or (c) apply the Common Surplus to the reserve.

Section 4.3. Special Assessment. In addition to levying Annual Assessments, and to the extent that the reserve fund is insufficient, the Board of Directors may levy Special Assessments to repair, maintain, construct, structurally alter, or replace improvements which are a part of the Common Areas, provided that total funds shall not be assessed for any capital improvement in excess of Five Thousand and 00/100 Dollars (\$5,000.00, \$125 per lot) for any one item or in excess of Ten Thousand and 00/100 Dollars (\$10,000.00; \$250 per lot) in the aggregate in any one calendar year ("Capital Expenditure Limit") without the prior written consent of two-thirds (2/3) of the votes of the members of the Association who are voting either in person or by proxy at a meeting duly called for such purpose or unless expressly stated in the annual budget. Special Assessments shall be due thirty days after the bill for the Special Assessment has been mailed or otherwise sent out by the Association, unless the Association otherwise directs

Section 4.4. Individual Assessment. In the event that the need for maintenance, repair or replacement of any improvement on the Property, for which the Association has the maintenance, repair and/or replacement obligation, is caused through the willful or negligent act of an Owner, his family, his pet(s), resident tenant, the cost of such maintenance, repairs or replacements shall be paid by such Owner. The Board shall have the maintenance, repair or replacement done and the cost thereof shall be provided by the Board to said Owner and shall be paid by said Owner within thirty (30) days thereafter, unless an earlier date is otherwise set forth herein.

Section 4.5. Fine Assessments. The Members by majority vote at the annual meeting or a meeting duly called for this purpose, may approve the imposition of reasonable Fine Assessments, as fines or penalties for violation of this Declaration, all in accordance with the Planned Community Act.

A lien may be filed for this Fine Assessment and a Fine Assessment may be enforced by foreclosure and otherwise treated as a Regular Assessment.

Section 4.6. Non-Payment of Assessment. Any Assessments levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest and other costs as set out elsewhere in this Declaration, thereupon become a continuing lien upon the Lot which shall bind the Lot in the hands of the then Owner and the Owner's successors and assigns.

Section 4.6.1. Annual Assessments: Unless otherwise authorized by the Association, payment(s) for the Annual Regular Assessment becomes due on the days specified in Section 4.2.3, overdue on the first day of the following month and delinquent on the first day of the next month. Delinquent payments shall be assessed \$20 for each month they are delinquent.

Section 4.6.2. Special Assessments: Special Assessments not paid within thirty (30) days after the due date shall be considered delinquent and the Assessment shall bear interest at a reasonable rate of ten percent (10%) per year or at such other reasonable rate set by the Association in its minutes, not to exceed the maximum amount allowed by law.

Section 4.7. Priority of Association Lien. The lien provided for in this Article IV shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed of record before a claim of this lien hereunder has been docketed in the office of the clerk of superior court in New Hanover County, and may be foreclosed in the same manner as a mortgage on real property under power of sale in an action brought by the Association in accordance with the Planned Community Act. The Association is entitled to recover its reasonable attorneys' fees and court costs and collection costs, as part of the lien. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

Section 4.8. Purchaser at Foreclosure Sale Subject to Declaration, Bylaws, Rules and Regulations of the Association. Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all the provisions of this Declaration, the Bylaws and the Rules and Regulations.

Section 4.9. Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot acquires title to the Lot as a result of foreclosure of the first mortgage first deed of trust or by deed in lieu of foreclosure, such acquirer of title, his, her or its successors and assigns, shall not be solely liable for the share of the Common Expenses or other Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to the Lot by such acquirer, other than Assessments for which a claim of lien has been docketed with the New Hanover County clerk of superior court prior to the recordation of the lien being foreclosed. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from all of the Lots, including that of such acquirer, his, her or its successors or assigns. This provision shall not relieve the party acquiring title or any subsequent Owner of the subject Lot from paying future Assessments.

Section 4.10. Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Lot, any grantee or his or her first mortgagee shall inform the Board of Directors in writing of such contemplated conveyance and such grantee or first mortgagee shall be entitled to a statement from the Board of Directors of the Association setting forth the amount of all unpaid Assessments (including current Assessments) against the grantor due the Association. Neither the grantee nor the mortgagee shall be personally obligated for any delinquent Assessments, but such delinquent Assessments, along with interest, late charges, costs and reasonable attorney's fees shall be a lien against the Lot in accordance with Section 4.7 and Section 4.13 herein.

Section 4.11. Books and Records of the Association. The Association shall keep full and correct books of account. The Association shall make available to all Lot Owners and the holders of all first mortgages on Lots, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Association and the Lot Owners. All books and records must be kept in accordance with good accounting procedures and must be reviewed at least once a year.

Section 4.12. Miscellaneous.

Section 4.12.1. The Association may change the interest rate due on delinquent Assessments (including any late charges), except that the rate cannot be changed more often than once every six (6) months. As of its effective date, the new interest rate will apply to all Assessments then delinquent.

Section 4.12.2. The Owner has the sole responsibility of keeping the Association informed of the Owner's current address if different from the Lot owned. Otherwise notice sent by Association to the Lot is sufficient for any notice requirement under this Declaration.

Section 4.12.3. The lien under this Article IV arises automatically, and no notice of lien need be recorded to make the lien effective.

Section 4.12.4. The Assessment lien includes all collection costs, including demand letters, preparation of documents, reasonable attorneys' fees, court costs, filing fees, collection fees, and any other expenses incurred by the Association in enforcing or collecting the Assessment.

Section 4.12.5. Any Assessment otherwise payable in installments shall become immediately due and payable in full without notice upon Default in the payment of any installment. The acceleration shall be at the discretion of the Board.

Section 4.12.6. No Owner of a Lot may exempt himself or herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his or her Lot.

Section 4.12.7. This Section 4.13 applies to every type of Assessment.

ARTICLE V

EASEMENTS AND ENCUMBRANCES

Section 5.1. Easement for Encroachments. The Dwelling Units, all utility lines, and all other improvements as originally constructed by or on behalf of the HOA or its assigns shall have an easement to encroach upon any setback, Lot or Common Area as a result of the location of the building, utility lines and other improvements across boundary lines between and along Lots and/or the Common Areas, or as a result of building or improvement movement or alterations or additions from time to time, provided that such alterations or additions have complied with the requirements of this Declaration.

Section 5.2. Lot's Utility Easements. Easements are granted in favor of each Lot Owner to and throughout the Common Areas and, if necessary, the setback areas of any other Lots, as may be necessary for the installation, maintenance, repair and use of underground water, gas, sewer, power and other utilities and services including power and communication, now or hereafter existing, including maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components. The foregoing notwithstanding, no Lot Owner may exercise the easement rights reserved in this Section 5.2 without the prior written approval of the Board.

Section 5.3. Utility Easements. Easements are reserved and/or granted hereby in favor of the Association through each Lot (provided that such easements shall not materially and unreasonably interfere with the use of any dwelling located upon any Lot) and the Common Areas for the purpose of installing, laying, maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or storm water drainages or other components throughout the Common Areas. . The easements may be assigned and/or granted by the Association to any utility or service company.

Section 5.4. General Easements. An easement is hereby reserved and/or granted in favor of the Association in, on, over and through the Common Areas, the Lots Units for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing and otherwise dealing with the Common Areas, Lots, including all improvements thereon as required or permitted by the Constituent Documents or applicable law.

Section 5.5. Access Easement. Appurtenant to each Lot is an easement over any Common Area for necessary pedestrian and vehicular ingress and egress to and from any such Lot over the Common Areas, to and from a thoroughfare. The easement shall be over such walkways, driveways, or other ways as are designated by the Association and shall be subject to the terms of the Constituent Documents.

Section 5.6. Use of Easement. Any use of the rights and easements granted and reserved in this Article V shall be reasonable. If any damage, destruction, or disturbance occurs to a Lot or Common Area as a result of the use of any easement or right, the Lot or Common Area shall be restored by, or at the direction of, the Association promptly in a reasonable manner at the expense

of the person or persons making the use of the easement or right that resulted in the damage, destruction or disturbance. Before beginning work, the Association may require all or any part of the expected expense to be prepaid by that person or those persons liable for the expense. Additionally, should any Lot Owner other than Declarant elect to exercise its easement rights hereunder, it shall be required to obtain the Board's prior written approval (not to be unreasonably withheld), after providing the Board with detailed plans of its proposed work, as well as evidence of appropriate insurance and other such reasonable information or assurances as the Board may require. No easement may be granted across, through, over, or under any Lot or Common Area, which materially restricts ingress and egress to the Lot or Common Area, unless reasonable alternate ingress and egress is provided or unless the restriction is only temporary. All easements reserved hereunder shall be perpetual and non-exclusive.

Section 5.7. Roadway Easement. Declarant has reserved for the benefit grants to all Lot Owners the non-exclusive right of ingress and egress on, over and across all public and private roadways (the "Roadways") located on, or to be located in, the Subdivision which private roadways extend between one or more publicly dedicated streets. The Association hereby reserves the right (but not the obligation), in its sole discretion, to annex additional Roadways into the Subdivision. Notwithstanding the foregoing to the contrary, no part of the Roadway shall be dedicated or transferred to a unit of local government without acceptance of the unit of local government involved and consent of the majority of members of the Association.

Section 5.8. Easements to Run with Land. All easements and rights described in this Article V are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Association, its successors and assigns, and any Owner, purchaser, mortgagee, and other person or entity now or hereafter having an interest in the Subdivision, or any part or portion of it.

Section 5.9. Reference to Easements and Deeds. Reference in the respective deeds of conveyance or any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees in said instruments as fully and completely as those such easements and rights were recited fully and set forth in their entirety in such instruments.

ARTICLE VI

WATER AND SEWER MANAGEMENT PLAN

Section 6.1. The Association shall provide water and sewer services to its members in accordance with the obligations and limitations set forth in this declaration. Operations and billing will be conducted in accordance with the guidelines in the Oyster Point Water and Sewer System Management Plan, water permit # _____, and waste water permit # WQ0039704 (see attached documents, Exhibits A, B, and C).

Section 6.2. The Oyster Point of New Hanover County Homeowners Association (hereafter OPHOA or HOA) historically received well water and sewer disposal via a private facility constructed by the original developer. As of, or around July 15, 2018, water and sewer will be

obtained through connections with Cape Fear Public Utility Authority (hereafter CFPUA). After the connection with CFPUA, the Association will own and maintain the entire water and sewer system through Everett's Creek Drive and through Oyster Point Drive to Barstow Drive where it connects to a backflow preventer and CFPUA master water meter. Homeowners, however, are responsible for the cost of connections to association owned or installed facilities and for the lines to their dwellings.

Section 6.3. CFPUA will transmit a bill to the OPHOA for the water usage and the sewer fees based on readings from the master meter. Oyster Point Homeowners Association shall apportion or have apportioned the total bill from CFPUA to the owner or resident of each lot receiving water and sewer services based on the proportional usage indicated from bimonthly readings of individual lot meters. Payment from individual lot owners will be due one month from the billing date. If full payment is not received by the due date, a \$25 late fee will be added. Failure to make full payment of all charges and late fees two months from the due date will result in the homeowner's water being turned off. Once the past due date amount plus a \$55 fine is paid, water will be turned back on. A \$110.00 tampering fee is in effect. Tampering is defined by CFPUA on their web site (<https://www.cfpua.org/Faq.aspx?QID=141>).

Section 6.4. The bimonthly charges to Lot Owners for Water and Sewer usage will be separate from the Annual Assessment. A surcharge on each Home Owner's water and sewer bill will be placed in escrow as a Capital Reserve to be used for major replacements of the system as needed in the future. The calculation/amount of the water-sewer surcharge is: 1. explained in the Water Management Plan (see attached document), 2. May change from year to year, and 3. will be included in each year's budget report. The Members of the Association will approve the water-sewer surcharge by majority vote at each annual meeting or at a duly called meeting for that purpose if changes are required more often than yearly. Any abnormal emergency water or sewer repairs necessary to meet applicable state and county requirements not covered by the Annual Assessment or Special Assessment budgets or the Capital Reserve fund will be given first priority and will be funded by immediate assessment or loans at the Board's discretion without a vote of the Association's membership.

Section 6.5. Routine operational costs for the water system will be collected as part of the Annual Assessment. Each lot will be assessed an equal share of the operational costs. The cost of repairing or replacing infrastructure will be paid from the Capital Reserve established for that purpose. The Capital Reserve is collected as a surcharge on each bimonthly water bill.

ARTICLE VII

INSURANCE

Section 7.1. General Insurance. The Board of Directors on behalf of the Association, as a common expense, shall keep the property of the Association insured against loss or damage by fire or other hazards, vandalism, malicious mischief, and other such risks, including, but not limited to director's liability and public liability insurance, upon such terms and for such amounts as may be