

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR SAPONAS POINT WATERFRONT
RECREATIONAL FACILITIES

This Declaration, made the 14th day of June, 2002, by SAPONAS POINT INVESTMENTS, LLC, hereinafter referred to as "Declarant" for the purposes hereinafter stated;

WITNESSETH:

Whereas, Declarant is the owner of and possesses the riparian rights to certain real property in New Hanover County, North Carolina, known as the Saponas Point Waterfront Recreational Facilities, which is shown on Schedule 1 attached hereto and made a part hereof, and on a plat (the "Plat") recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, in Map Book 42 Page 272, to which reference is made for a more particular description (said land shown thereon and all riparian rights and improvements associated therewith hereinafter referred to as the "Property"); and

Whereas, Declarant is developing the Property, for gain, as waterfront recreational facilities; and

Whereas, the Declarant makes the following declarations;

NOW, THEREFORE, Declarant declares that the Property described above shall be held, and Memberships in the Association (as those capitalized terms are hereinafter defined) sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the land and be binding on and shall inure to the benefit of all parties having any right, title or interest in the Property, their heirs, successors and assigns.

ARTICLE I
DEFINITIONS

SECTION 1. Additional Property shall mean and refer to any lands (including any associated riparian rights), in addition to the above described Property, annexed to and made a part of the Development (as hereinafter defined) pursuant to the terms of this Declaration.

SECTION 2. Association shall mean and refer to Saponas Point Waterfront Recreational Facilities, Inc., a North Carolina non-profit corporation, its successors and assigns, the owner's association organized for the purposes set forth herein, as well as for those purposes established in the Declaration.

FOR REGISTRATION REGISTER OF DEEDS
REBECCA T. CHRISTIAN
NEW HANOVER COUNTY, NC
2002 JUN 26 10:22:13 AM
BK: 3342 PG: 391-415 FEE: \$83.00
INSTRUMENT # 2002032189

Retained to Mr. Rowe

SECTION 3. Assessments shall mean the Annual, Special, Insurance, Ad Valorem and Working Capital Assessments defined herein.

SECTION 4. Boat shall mean any boat or vessel moored at any Boat Slip.

SECTION 5. Boat Slip shall mean the space in and above the water for the docking of boats as diagrammatically shown on the Plat.

SECTION 6. Boat Slip Diagram shall mean the “as built” diagram of the Property maintained by the Association indicating the location and size of all Boat Slips and the location of other facilities of the Development.

SECTION 7. Certificate of Boat Slip Membership (also known as a Class A Membership) shall mean the certificate issued to each Boat Slip Member assigning a specific Boat Slip to the Boat Slip Member.

SECTION 8. Certificate of Charter Membership shall mean a certificate issued to the Declarant for each of 32 Boat Slips for each Lot owned by Declarant in Saponas Point or Captains Walk at Saponas Point.

SECTION 9. Certificate of Waterfront Recreational Facilities Membership (also known as a Class B Membership) shall mean the certificate issued to each Owner of a Lot in Saponas Point or Captains Walk at Saponas Point.

SECTION 10. Common Area(s) shall mean and refer to all lands and easements within or appurtenant to the Development and all bulkheads, piers, docks, pilings, and other parts of the Development intended for the common use and enjoyment of the Owners.

SECTION 11. Declaration. Declaration shall mean this instrument as it may be amended or supplemented from time to time.

SECTION 12. Developer. All references to Developer herein shall mean the Declarant.

SECTION 13. Development shall mean the Property plus any Additional Property.

SECTION 14. Limited Common Area shall mean that area of the Boat Slip consisting of any improvements to the Boat Slip which the Owner is permitted to make at his own expense with the approval of the Association, and the area adjacent to the Boat Slip, including dock finger extensions and hydraulic lift systems.

SECTION 15. Member shall refer to and mean the Charter Member of the Saponas Point Waterfront Recreational Facilities, a Waterfront Recreational Facilities Member, and a Boatslip Member.

SECTION 16. Plat shall mean the plat referred to in the preamble to this Declaration.

SECTION 17. Property shall mean the Property as defined in the preamble to this Declaration.

SECTION 18. Boat Slip Member(s) shall mean and refer to every person or entity (whether one or more persons or entities) who has a Membership in the Association and to whom a Boat Slip has been assigned pursuant to a Certificate of Boat Slip Membership.

SECTION 19. Boat Slip Membership shall mean and refer to the rights, privileges, benefits, duties and obligations, which shall inure to the benefit of and burden each Boat Slip Member of the Association.

SECTION 20. Waterfront Recreational Facilities Member(s) shall mean and refer to every person or entity (whether one or more persons or entities) who has a membership in the Association.

SECTION 21. Waterfront Recreational Facilities Membership shall mean and refer to the rights, privileges, benefits, duties and obligations, which inure to the benefit of and burden each Member of the Association.

ARTICLE II PROPERTY RIGHTS AND EASEMENTS

SECTION 1. Members' Property Rights and Easement of Enjoyment. Every Member shall have and is hereby granted a right and easement of enjoyment in and to the Common Areas, subject to the following provisions:

(a) The Association may make and amend reasonable rules and regulations governing use of the Common Areas by the Members, which may include a schedule of fines and penalties for violation thereof or of this Declaration, to be levied and collected in accordance with the North Carolina Planned Community Act ;

(b) The Association may suspend the voting rights, privileges, use of the common areas, and/or impose a fine for any period during which any Assessments remain unpaid and for each infraction of the published rules and regulations of the Association, for such period and/or in such amounts as the Board may determine.

(c) The Association may mortgage the Common Areas for such purposes and subject to such conditions as may be agreed to by at least two-thirds of the Members; provided, however, that the Association may without the consent of the Members grant easements over the Common Area for drainage systems and public utilities servicing the Development and hypothecate the Development for acquisition, construction and development loans to the Developer.

(d) The Board of Directors on behalf of the Association, as a common expense, may at their option keep the Common Areas and other assets of the Association, if any, insured against loss or damage by fire or other hazards and such other risks, including public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect such property, which insurance shall be payable in case of loss to the Association for all Members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their mortgagees.

(e) The Declarant is informed and believes that all necessary governmental permits for the existence of the Waterfront Recreational Facilities have been issued and are presently in full force and effect. The facilities are located upon navigable waters and exist solely in accordance with the terms of such permits as have been issued, and remain in effect, by agencies of the United States of America and the State of North Carolina. All rights of the Declarant and the Members in and to the Waterfront Recreational Facilities are subject to the terms and conditions of any such permits, compliance with such terms and conditions, and the continued existence, effectiveness, and renewal (if required) of such permits. Each Member acknowledges these disclosures and accepts Membership subject thereto.

(f) The Declarant may grant right and easement of access and enjoyment in and to the Common Areas.

SECTION 2. Easements in Favor of Declarant and the Association. The following easements are reserved to Declarant and the Association, their successors and assigns:

(a) Easements as necessary in the lands constituting any part of the Common Area for the installation and maintenance of utilities and drainage facilities; including the right of Declarant and the Association to go upon the ground and improvements with men and equipment to erect, maintain, inspect, repair and use electric and telephone lines, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities; the right to cut drain ways, swales and ditches for surface water; the right to cut any trees, bushes or shrubbery; the right to make any grading of the soil; and the right to install wells, pumping stations, and tanks. No structures or plantings or other material shall be placed or permitted or remain upon such easement areas or other activities undertaken thereon which may damage or interfere with

the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems.

(b) Easements over all access easements, and the Common Areas within the Development as necessary to provide access, ingress and egress, to any Additional Property.

(c) An easement of unobstructed access over, on, upon, through and across each Boat Slip at all reasonable times to perform any maintenance and repair to the Common Areas and Limited Common Areas.

SECTION 3. Other Easements. The following easements are granted by Declarant to others (and in certain cases also to the Declarant):

(a) An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all Boat Slips and Common Areas and Limited Common Areas in the performance of their duties.

(b) In case of any emergency originating in or threatening any Boat or Boat Slip or Common Areas or Limited Common Areas, regardless of whether any Member is present at the time of such emergency, the Association or any other person authorized by it, shall have the right to enter any Boat or Boat Slip for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Members, and such right of entry shall be immediate. Such work shall be performed at the expense of the Member, and in such event a lien shall arise and be created in favor of the Association for the full amount of the cost thereof chargeable to such Boat Slip, including collection costs and such amounts shall be due and payable within thirty (30) days after the Owner is billed therefor. Such lien against the membership shall be enforceable in the same manner as for the lien for Assessments.

(c) The Association is granted an easement over each Boat for the purposes of providing maintenance when a Boat Slip Member fails to provide maintenance and upkeep in accordance with this Declaration.

(d) The Boat Slip Owners shall have an easement over the common area, walkways, piers, docks and other improvements of the Waterfront Recreational Facilities to transport persons, materials and supplies to their boat slips in order to construct, maintain and repair finger piers, hydraulic lifts, and other improvements approved by the Board of Directors at their boat slips.

SECTION 4. Nature of Easements. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any Member,

purchaser, mortgagee and other person having an interest in the Property, or any Additional Property, or any part or portion thereof.

ARTICLE III
OWNERS' ASSOCIATION

SECTION 1. Formation of Association. The Association is a nonprofit corporation organized pursuant to the Nonprofit Corporation Act of the State of North Carolina for the purpose of establishing an association for the Members to own, operate and maintain the Common Areas, and any improvements in accordance with this Declaration, its Charter and Bylaws.

SECTION 2. Membership in Saponas Point Waterfront Recreational Facilities. Upon the recording of this Declaration, all Lot Owners at Saponas Point and Captains Walk at Saponas Point shall become members of the Saponas Point Waterfront Recreational Facilities.

SECTION 3. Membership and Classes. The following classes of membership are hereby established:

(a) Charter Membership: Saponas Point Investments, LLC shall be the sole Charter Member. Upon the recording of this Declaration, the Charter Member shall be issued a Certificate of Charter Membership for each of the 32 Boat Slips in the form of Exhibit A attached hereto. The Charter Membership is created for the purpose of vesting the Charter Boat Slip Owner with ownership of such Boat Slips until sold to the Boat Slip Owners. The Charter Member shall be the only Boat Slip Owner who shall be entitled to own a Boat Slip without owning the Lot to which that Boat Slip is assigned. All other Boat Slip Owners shall be required to be the owner of a Lot in Saponas Point or Captains Walk at Saponas Point to which that Boat Slip is assigned and from which that Boat Slip is inseparable.

(b) Class A and Class B Memberships. There shall be two classes of Membership, in addition to the Charter Membership; Class A and Class B. The only difference between the classes is that Class A Members are Lot Owners at Saponas Point and Captains Walk at Saponas Point who own Boat Slips at the Saponas Point Waterfront Recreational Facilities, and thus are Boat Slip Owners according to this Declaration, and Class B Members do not own Boat Slips (in other words, Class B Members are those Lot Owners in Saponas Point and Captains Walk at Saponas Point who have not purchased Boat Slips). Class A Membership shall be evidenced by the issuance of a Certificate of Boatslip Membership. Class B Membership shall be evidenced by the issuance of a Certificate of Waterfront Recreational Facilities Membership. The form of Certificate of Membership for each class is attached hereto as Exhibits "B" and "C".

SECTION 4. Voting Rights. Each Class A Member shall be entitled to two votes; each Class B Member shall be entitled to one vote. When more than one person holds an interest in any Boat Slip, all such persons shall be Boat Slip Members. The vote for such Boat Slip shall be

exercised as the owner of that Boat Slip determines, but in no event shall more than two votes be cast with respect to any Boat Slip except as to Boat Slips owned by the Charter Member as provided below. Fractional voting with respect to any Boat Slip is hereby prohibited. The vote for such Lot shall be exercised as the owner of that Lot determines, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is hereby prohibited. The Charter Member shall have three votes for each Boat Slip owned, and three votes for each Lot owned.

SECTION 5. Surrender of Charter Membership. The method of termination and surrender of Charter Membership for any Boat Slip shall be by the Charter Boat Slip Member signing the Certificate of Charter Membership for that Boat Slip in the place provided on the Certificate of Charter Membership . The Charter Member's signature upon such Certificate, nothing else appearing, shall constitute a complete surrender and termination of Charter Membership as to that Boat Slip and the Charter Member's ownership interest in the Boat Slip referenced on the Certificate. Upon surrender and termination of any Charter Membership, the Association shall without charge, at the direction of the Declarant, either issue a Certificate of Membership to the Declarant or hold the surrendered Charter Membership Certificate in trust for issuance at a later date in accordance with the instructions of the Declarant.

SECTION 6. Release of Institutional Lender's Interest. To the extent that any Boat Slip Membership is secured by a first lien deed of trust and security interest under the Uniform Commercial Code, both of which are subject to the terms of this Declaration, the method of release of a lender's security interest in any Boat Slip Membership shall be by the Bank signing a Certificate of Boat Slip Membership for any boat slip issued by the Developer, upon compliance with the terms of the release provisions of that lender. The signature of the lender's representative upon such Certificates, nothing else appearing, shall constitute a complete surrender and release of the lender's security interest with regard to the Boat Slip Membership referenced on the Certificate. The institutional lender's signature upon Certificates of Boat Slip Membership shall be for the sole purpose of effectuating surrender and release of the institutional lender's liens.

SECTION 7. Profits. Notwithstanding that the Property has been deeded by the Charter Boat Slip Member to the Association, the proceeds from the sale of Boat Slips shall belong to and be the sole property of the Declarant. When requested to do so by the Declarant, the Association shall issue Certificates of Membership without charge. The Association shall not issue any initial Certificate of Membership except at the direction of the Declarant.

SECTION 8. Transfer of Boat Slip Membership. Upon the transfer of a Boat Slip, the transferring Boat Slip Member shall surrender the applicable Certificate of Boat Slip Membership to the Association and a new Certificate of Boat Slip Membership shall be issued by the Association to the new Boat Slip Owner. The Association shall be entitled to charge a reasonable administrative fee for handling the transfer. All Boat Slips shall be permanently assigned to and may not be separated from Lot Ownership within Saponas Point and Captains Walk at Saponas

Point, except for Boat Slips owned by the Charter Member. No Boat Slip may be transferred to anyone other than the transferee of the Lot to which that Boat Slip is permanently assigned.

SECTION 9. Government Permits. All duties, obligations, rights and privileges of the Developer under any water, sewer, stormwater and utility agreements, easements, licences, and permits for the Development with municipal or governmental agencies or public or private utility companies are at all times the responsibility of the Association. The Association shall assign to the Charter Boat Slip Member the right to obtain the necessary permits to add additional Boat Slips.

ARTICLE IV COVENANTS FOR ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each Member, whether or not that Member owns a Boat Slip in the Saponas Point Waterfront Recreational Facilities, covenants and agrees to pay to the Association the following assessments (collectively the "Assessments") regarding the Waterfront Recreational Facilities:

- (a) Annual Assessments;
- (b) Special Assessments for Capital Improvements;
- (c) Insurance Assessments;
- (d) Ad Valorem Tax Assessments;
- (e) Working Capital Assessments; and
- (f) Limited Common Area Repair Assessments.

The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on and a continuing lien upon the respective Boat Slip and Lot to which it is assigned against which the Assessments are made, or in the case of Non-Boat Slip Members to the respective Members' Lots. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot to which such Boat Slip was assigned at the time when the Assessment fell due, whether or not such Lot Owner has purchased said assigned Boat Slip. The personal obligation for delinquent Assessments shall not pass to the Member's successors in title unless expressly assumed by them.

SECTION 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association pursuant to this Declaration shall be used exclusively to promote the recreation, health, safety and welfare of the Waterfront Recreational Facilities and for the improvement and

maintenance of the Common Areas. The funds arising from said assessments or charges, may be used for any or all of the following purposes: Operations, maintenance, dredging and improvement of the Common Areas, including payment of utilities; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees and governmental charges; establishing working capital; and in addition, doing any other things necessary or desirable in the opinion of the Association to keep the Common Areas in good order and repair. Annual Assessments shall not be used for maintenance or repair of the Limited Common Areas unless used to repair Limited Common Areas whose repair is required, but whose Boat Slip Owner has refused to repair those Limited Common Areas. Such repairs shall be assessed against the Boat Slip Owner and his Boat Slip.

SECTION 3. Annual Assessments. The Board of Directors shall adopt a proposed annual budget at least 90 days before the beginning of each fiscal year. Within 30 days after adoption of the proposed budget for the Development, the Board of Directors shall provide to all of the Members a summary of the budget and notice of a meeting to consider its ratification, including a statement that the budget may be ratified without a quorum. The budget is ratified unless at the meeting a majority of all of the Members in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board of Directors. The Annual Assessment for each Membership shall be established based on the annual budget thus adopted; provided, however, that the first Annual Assessment shall be set by the Declarant prior to the issuance of the first Certificate of Membership. The due date for payment shall be established by the Board of Directors. The Board of Directors shall have the authority to require the assessments to be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments of a specified Boat Slip have been paid.

SECTION 4. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas and any Limited Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting of Members called for the purpose of approving Special Assessments shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. Special Assessments for Capital Improvements shall not be used for maintenance or repair of the Limited Common Areas unless used to repair Limited Common Areas whose repair is required, but whose Boat Slip Owner has refused to repair those Limited Common Areas. The Association may charge back to a Boat Slip Owner the costs of repairs to that Boat Slip Owner's limited common area as a special assessment, and shall have lien rights with regard to those repairs as to that limited common area.

SECTION 5. Insurance Assessments. All premiums on insurance policies purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense, and the Association may in any assessment year levy against the Members equally an "Insurance Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay the annual cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment.

SECTION 6. Ad Valorem Tax Assessments. All ad valorem taxes levied against the Common Areas, if any, shall be a common expense, and the Association may in any assessment year levy against the Members equally an "Ad Valorem Tax Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay such ad valorem taxes in such year not included as a component of the Annual Assessment.

SECTION 7. Working Capital Assessments. At the time title to a Certificate of Membership is issued by Declarant, the Member shall pay the sum of \$150.00 to the Association as working capital to be used for operating and capital expenses of the Association. The Charter Member shall not be required to pay working capital assessments. Amounts paid into the working capital fund are not to be considered as advance payment of the Annual or any other assessments.

SECTION 8. Commencement of Assessments. Assessments for each Member shall commence upon the date determined by the Association.

SECTION 9. Effect of Nonpayment of Assessments and Remedies of the Association. Any Assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Membership and/or Lot of that Member. No Member may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Membership. All unpaid installment payments of Assessments shall become immediately due and payable if a Member fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments.

SECTION 10. Lien for Assessments. The Association may file a lien against a Certificate of Membership when any Assessment levied against a Member remains unpaid for a period of 30 days or longer. The Association may also file a lien against any Lot owned by a Member in either Saponas Point or Captains Walk at Saponas Point when any assessment levied against the Member remains unpaid for a period of thirty (30) days or longer.

(a) The lien shall constitute a lien against the Certificate of Membership and Lot (s) when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of New Hanover County. The Association may foreclose the claim of lien in like manner as a

mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Fees, charges, late charges, fines, interest, and other charges imposed pursuant to Sections 47E-3-102, 47F-3-107, 47F-3-107A and 47F-3-115 of the Planned Community Act (Chapter 47F of the North Carolina General Statutes) are enforceable as Assessments.

(b) The lien under this section shall be prior to all liens and encumbrances on a Membership and/or Lot except (i) liens and encumbrances (specifically including, but not limited to, a security interest in the Membership and/or Lot) recorded or filed before the docketing of the claim of lien in the office of the Clerk of Superior Court, and (ii) liens for ad valorem taxes and other governmental assessments and charges against the Membership.

(c) The lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of Superior Court.

(d) Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(e) Where the holder of a first security interest of record, or other purchaser of a Membership, obtains a Certificate of Membership and/or title as a result of foreclosure, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Membership which became due prior to the acquisition of title to the Membership by such purchaser. The unpaid Assessments shall be deemed to be Common Expenses collectible from all of the Members including such purchaser, its heirs, successors and assigns.

(f) A claim of lien shall set forth the name and address of the Association, the name of the Member(s) holding the Certificate of Membership at the time the claim of lien is filed, a description of the Membership covered by the Certificate of Membership and/or Lot, and the amount of the lien claimed.

SECTION 11. No Assessments Paid by Charter Member. The Charter Member shall not be obligated to pay Assessments.

ARTICLE V RIGHTS OF DECLARANT

The Declarant shall have, and there is hereby reserved to the Declarant, the following rights, powers and privileges which shall be in addition to any other rights, powers and privileges reserved to the Declarant herein:

SECTION 1. Control of Association. The Declarant shall be entitled to appoint the Board of Directors of the Association during any period that the Charter Member, its successors or assigns, holds any Charter Memberships.

SECTION 2. Plan of Development. The right to change, alter or redesignate the allocated planned, platted, or recorded use or designation of any of the lands and waters constituting the Development including, but not limited to, the right to change, alter or re-designate the layout and design of docks, piers, pilings, utility and drainage facilities, and easements, and to change, alter or redesignate such other present and proposed amenities or facilities as may in the sole judgment and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors and assigns, the right to re-plat any one (1) or more Boat Slips shown on the Plat or on the Boat Slip Diagram in order to delete Boat Slips or to create one or more modified Boat Slips.

The Association shall cooperate with the Charter Member in the event that more than 32 Boat Slips are permitted and can be constructed on the Property, or in the event that additional property is acquired and developed for additional Boat Slips, in assisting and obtaining the necessary permits and performing such other acts as may be reasonably required of it as Owner of the Property. The Association shall issue to the Charter Membership Certificates for any such additional Boat Slips to the Charter Member.

SECTION 3. Amendment of Declaration by the Declarant. This Declaration may be amended without Member approval by the Declarant, or the Board of the Association, as the case may be, as follows:

- (a) In any respect, prior to the issuance of the first Certificate of Membership.
- (b) To the extent this Declaration applies to Additional Property.
- (c) To correct any obvious error or inconsistency in drafting, typing or reproduction.
- (d) To qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status.
- (e) To include any platting change as permitted herein.
- (f) To conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any Additional Property or to qualify the Property or any Additional Property and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls,

construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

(g) To provide for more than 32 Boat Slips in the event that more than 32 Boat Slips can be constructed on the Property, or the Additional Property.

SECTION 4. Membership and Classes. Class A and B Certificates of Membership shall be issued by the Association only at the direction of the Declarant, except for Certificates issued pursuant to Article III, Section 8 of this Declaration. Declarant in its sole discretion shall be entitled to designate the total number of Class A and Class B Memberships and to amend the form of Certificate of Membership for each class.

SECTION 5. Annexation of Additional Property. Declarant may annex to and make a part of the Development any other real property or waters which Declarant now owns or which Declarant may hereafter acquire or develop (the "Additional Property").

SECTION 6. Sales. So long as any Charter Memberships remain outstanding the Declarant or its designee may utilize any Boat Slip covered by such Certificates for purposes relating to the sale of Memberships, including the right to place "For Sale" signs on any Boat Slip. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose.

ARTICLE VI USE RESTRICTIONS AND MAINTENANCE

SECTION 1. Use Restrictions. The following Use Restrictions shall apply at all times. Any violations of the following Use Restrictions may result in the loss of the right to use the Waterfront Recreational Facilities at the discretion of the Board of Directors of the Association.

(a) Alterations. No part of the docks, utility posts or any other Common Area may be altered by a Member in any way.

(b) Animals. Animals shall be leashed at all times when on the premises. No animals shall be tied to any part of the dock, including fingers or dock boxes. Animals shall be physically kept on board at all times. The owner of an animal is responsible for cleaning up pet feces and urine

(c) Boats. The overall length of any vessel to be moored in a Boat Slip may not exceed the footage for the Boat Slip shown on its Certificate of Membership. No "tramp vessels",

“derelict vessels”, barges, or commercial vessels may be moored in any Boat Slip. All Boats shall be maintained in a neat, clean, ship shape, and seaworthy condition. No inoperable Boat without current registration and insurance, will be permitted on any Boat Slip. The Association shall have the right to have all prohibited Boats towed away and stored at the Member's expense. No major repairs or complete overhauls to any Boat may be made at a Boat Slip. Boats may not be used as permanent residences.

(d) Devices and Structures. No device, structure or other thing shall be located or maintained on any dock or other Common Area except one dock box per Boat Slip, the design and location of which must be approved by the Association. All fishing gear and other marine devices and equipment when not in use shall be stored on board or in a dock box.

(e) Dockways. Children under twelve (12) years of age are not permitted on docks without the immediate presence of a parent or other responsible adult. Parents shall not allow children to run and play on the dockways. Dockways shall be kept clear and uncluttered.

(f) Finger Extensions and Hydraulic Lifts. Each Member shall be entitled to construct a finger extension and a hydraulic lift system at the Member's Boat Slip at the sole expense of the Member, provided such construction is in conformity with plans and specifications for same approved by the Association. The Member shall be entitled to obtain electrical service to the Boat Slip at the Member's expense.

(g) Fish Cleaning. Fish cleaning of any kind will not be permitted at the Development except at a place or places designated by the Board of Directors.

(h) Food and Beverages. No cooking shall be allowed on any dock.

(i) Guests. Every Member shall insure that his guests abide by this Declaration and all rules and regulations and shall be responsible to the Association for any violation. The number of guests which a Member may have at any one time may be limited by the Association.

(j) Insurance and Proof of Insurance. Boat Slip Owners shall maintain replacement cost insurance on their boats at fair market value and shall provide the Association with proof of that insurance.

(k) Mooring/Storm Precautions. To prevent damage from weather or storms, adequate mooring lines must be properly secured and maintained, and all outside property of any Member shall be battened down, secured, or placed inside the Boat. The Association may order boats immediately removed from their slips in the event of impending hurricanes or other storms in order to protect the docks and other Common Areas. Upon the issuance of any such order, each Member shall immediately remove his boat from the Boat Slip. Any damage caused to the

common area on account of such Member failing to remove his Boat shall be repaired by the Association at the sole cost and expense of such Member.

(l) Non-commercial Use. Boat Slip Owners shall provide the Association with evidence that the boats moored in their Boat Slips belong to them. Boat Slips shall not be rented by the Members and are restricted only to personal, recreational and non-commercial use.

(m) Nuisances. No noxious or offensive activity shall be carried on upon any Boat, Boat Slip or Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Boat Slips by the Members thereof. It shall be the responsibility of each Member to prevent the development of any unclean, unsightly or unkept condition of the Member's Boat or Boat Slip.

(n) Operation of Engines. Unnecessary operation of engines in slips is not permitted.

(o) Parking. No overnight parking shall be allowed in the Common Areas. There shall be no parking of motor homes, other recreational vehicles or trailers, including boat trailers, at any time in the Common Areas.

(p) Safety and Compliance with Law. All persons using the facilities shall do so lawfully and in such fashion as to maintain and preserve those facilities and the Common Area. Each person shall be responsible for his/her own conduct and safety. All persons shall comply with all ordinances of New Hanover County.

(q) Signs. No signs (including "for sale" signs) shall be permitted on any Boat Slip or in the Common Areas except as provided for in Article V, Section 5 hereinabove.

(r) Speed Limits.

(i) Boat Speed Limits. The boat speed limit within the Waterfront Recreational Facilities shall be dead slow, or wakeless speed, whichever is slower.

(ii) Vehicular Speed Limits. No vehicle shall be operated in the common areas and pedestrian easements in excess of 8 miles per hour. **ANY VIOLATION OF THIS SPEED LIMIT SHALL RESULT IN THE LOSS OF THE RIGHT TO USE THE WATERFRONT RECREATIONAL FACILITIES AS PROVIDED FOR IN SECTION 1 HEREINABOVE.**