

**PROTECTIVE COVENANTS OF CYPRESS BAY AT MARITIME SHORES**

Drawn By: Murchison, Taylor & Gibson, PLLC  
16 North Fifth Avenue, Wilmington, NC 28401

NORTH CAROLINA

BRUNSWICK COUNTY

RET R. Green  
TOTAL 131 REV TC# 38  
REC# 40 CK AMT 131 CK# 4095  
CASH REF BY RG

THESE PROTECTIVE COVENANTS (these "Protective Covenants" or these "Restrictions"), made this the 13<sup>th</sup> day of MAY, 2006, by SNOW CREEK GROUP, LLC, a limited liability company organized and existing under and by virtue of the laws of the State of North Carolina, its successors and assigns, hereinafter referred to as "DECLARANT".

WITNESSETH:

WHEREAS, DECLARANT is the Owner of certain property in Brunswick County, North Carolina, which is more particularly described as CYPRESS BAY AT MARITIME SHORES, as the same is more particularly described in a map thereof recorded in Map Cabinet 34, Page 445 of the Brunswick County Registry (the "Initial Property"); and

WHEREAS, DECLARANT desires to subject said Initial Property to certain protective covenants, conditions, restrictions, liens and charges as hereinafter set forth for the mutual benefit of DECLARANT and succeeding property owners and desires that said protective covenants, conditions, restrictions, liens and charges run with the and be binding upon the DECLARANT, its successors and assigns.

NOW, THEREFORE, DECLARANT hereby declares that all of the Property (as defined below) shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability and attractiveness of the Property, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in the described Property or any plan thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE 1

Definitions

Section 1. Association shall mean and refer to Cypress Bay at Maritime Shores Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 2. Board of Directors or Board means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 3. Building shall mean and refer to any Home, associated garage or any other building constructed or erected on a Lot.

Section 4. Bylaws means the Bylaws of the Association as they now or may hereinafter exist. The initial Bylaws of the Association are attached hereto as Exhibit A and

incorporated herein by reference.

Section 5. Home shall mean and refer to a detached, free-standing home, dwelling or place of residence (including, if applicable, any attached or detached garage appurtenant thereto) constructed upon a Lot.

Section 6. Common Areas shall mean and refer to all land within the Property owned by or dedicated for use by the Association, along with facilities and improvements erected or constructed thereon, which is provided for the general use and enjoyment of the Members of the Association, including, without limitation, any "Common Area" designated on the map of CYPRESS BAY AT MARITIME SHORES, recorded in Map Cabinet 34, Page 445, of the Brunswick County Registry. In addition, all private streets, alleys, sidewalks, access easements or pedestrian easements, community access areas, open space, amenities area and club area within the Property which are intended for the common use and enjoyment of the Owners and residents of CYPRESS BAY AT MARITIME SHORES are hereby declared to be Common Areas. Without limiting the generality of the foregoing, the Common Areas shall specifically include any areas which DECLARANT may designate from time to time for the common use and enjoyment of the Owners on a recorded subdivision plat or in any other instrument recorded by DECLARANT relative to the Property. Said Common Areas shall be maintained by the Association.

Section 7. Common Expenses shall mean and include:

- a) All sums lawfully assessed by the Association against its Members;
- b) Expenses of administration, permit renewals, maintenance, repair or replacement of the Common Areas including but not limited to, private streets, alleys, sidewalks, accent lighting, bridges, the easement access associated with the landscape easement areas, non-residential irrigation lines and systems, the storm water system, any disposal system serving Common Areas;
- c) Expenses declared to be common expenses by the provisions of these Protective Covenants or the Bylaws;
- d) Liability for insurance required to be maintained by the Association under N.C.G.S. §47F-3-113 and such other insurance premiums as these Protective Covenants or Bylaws may require the Association to purchase;
- e) Expenses agreed by the Members to be common expenses of the Association;
- f) Any ad valorem taxes and public assessments levied against the Common Areas.

Section 8. DECLARANT shall be and refer to Snow Creek Group, LLC, and its successors and assigns to whom the rights of DECLARANT are expressly transferred.

Section 9. Design Guidelines shall have the meaning provided in Article 13, Section 1 herein.

Section 10. Lot shall mean and refer to a portion of the Property, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family in a manner consistent with these Protective Covenants and any applicable Supplemental Declaration. The term shall, unless otherwise specified, include (by way of illustration, but not limitation) single-family detached houses and vacant land intended for development as such. The term shall include all portions of the Lot owned as well as any structure thereon. As of the date hereof, there are five (5) Lots within the Property as shown and designated on that map recorded in Map Cabinet 34, Page 445, of the Brunswick County Registry (*i.e.*, the four numbered lots and the "Future Development" lot).

Section 11. Member shall mean and refer to every person who is an Owner of a Lot subject to these Protective Covenants.

Section 12. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, excluding those having such interest merely as security for the performance of an obligation.

Section 13. Person shall mean and refer to an individual, corporation, partnership, association, trustee or other legal entity.

Section 14. Property shall mean and refer to that certain real property described as CYPRESS BAY AT MARITIME SHORES, in that map recorded it Map Cabinet 34, Page 445, of the Brunswick County Registry (*i.e.*, the Initial Property), together with such additions thereto as may hereafter be annexed into these Protective Covenants by the filing of a Supplemental Declaration or other instrument of annexation.

Section 15. Protective Covenants shall mean this instrument as it may be from time to time amended or supplemented.

Section 16. Rules and Regulations shall mean the rules and regulations adopted by the Association from time to time governing land use, individual conduct and uses or actions upon the Property.

ARTICLE 2

Property Rights

Section 1. Owners' Easements of Enjoyment. Every 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 every Lot, subject to the following provisions:

- a. The right of the Association to limit the number of guests of Members;
- b. The right of the Association, in accordance with these Protective Covenants, the Articles of Incorporation and Bylaws and the North Carolina Planned Community Act (*i.e.*, Chapter 47F of the North Carolina General Statutes), to borrow money for the purpose of improving the Common Areas and facilities and in aid thereof to mortgage said Property;
- c. The right of the Association to suspend a Member's voting rights and rights to use the Common Areas and the facilities (except streets), including, without limitation, the rights of any person to whom a Members has delegated his or her voting right, during any period which any assessment against such Member's Lot remains unpaid and/or for any period (not to exceed sixty (60) days) for any infraction of the Association's published Rules and Regulations;
- d. The right of the Association to exercise the powers and authority set over the Common Areas;
- e. The right of the Association to formulate, publish and enforce Rules and Regulations for the use and enjoyment of the Common Areas and improvements thereon, which regulations may further restrict the use of the Common Areas and the right of the Association to establish penalties for any infraction thereof;
- f. Easements as provided in Article 10 herein; and
- g. The right of the Association to exercise any of the powers granted to homeowners' associations under Article 3 of the North Carolina Planned Community Act.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas to the members of his family, his tenants, or contract purchasers, provided, every such delegatee shall reside on the Property.

Section 3. Title to Common Areas. The DECLARANT hereby covenants for itself, its

successors and assigns, that it will convey fee simple title to the Common Areas at the time of the conveyance of the last Lot in the subdivision (or prior to said conveyance if the DECLARANT desires), provided that such conveyance may be conditioned upon requirements that such lands (i) shall continue to be designated "common area," (ii) shall continue to be provided for the sole and exclusive use and benefit of Members and (iii) shall continue to be maintained in conformity with the requirements of these Protective Covenants, the Bylaws, the Design Guidelines and the Articles of Incorporation of the Association at the sole expense of the Association. DECLARANT shall also be entitled to convey the Common Areas subject to all matters of record, including, without limitation, those easements described in Article 10. The Association shall accept conveyance of these Common Areas on the terms outlined herein.

Section 4. Parking Rights and Restrictions. In addition to garage parking, off street parking shall be provided by the Owner of each Lot for the parking of at least two automobiles and all other vehicles owned or controlled by such Owner, members of Owner's family, guests or domestic employees of Owner and/or tenants. Owners (including family members and tenants) of the Lots covenant and agree not to park their automobiles, trucks, boats, trailers and other vehicles on the streets or Common Areas located on the Property. No trucks, boats, trailers or commercial vehicles shall be stored, housed or parked on the Property except within an enclosed garage.

Section 5. Water Rights. DECLARANT may elect, in its sole and absolute discretion, to offer or extend waterfront access and/or other riparian rights to Owners and/or Lots within CYPRESS BAY AT MARITIME SHORES on terms, conditions, rules and regulations to be specified by DECLARANT from time to time. Notwithstanding the foregoing, **NEITHER DECLARANT NOR THE ASSOCIATION MAKES ANY WARRANTIES OR REPRESENTATIONS WHATSOEVER WITH RESPECT TO ANY WATER RIGHTS. EACH OWNER, BY ITS ACCEPTANCE OF TITLE TO ANY LOT, THEREBY WAIVES ANY CLAIM AGAINST THE DECLARANT AND/OR THE ASSOCIATION RELATIVE TO ACCESS TO OR USE OF TOWN CREEK OR ANY OTHER WATERCOURSE OR BODY OF WATER WITHIN OR ADJACENT TO CYPRESS BAY AT MARITIME SHORES.** DECLARANT hereby reserves and shall have complete discretion over the determination of the terms and conditions relating to possible Water Rights. In the event an arrangement is established for the use and/or offering of Water Rights and such arrangement requires the collection of assessments or fees for such usage, the Association shall have the right and power to collect such payments with assessments as provided in Article 6 herein. Notwithstanding anything herein to the contrary, any Water Rights which may hereafter accrue to any Owner or be appurtenant to any property or Lot hereunder shall be in all respects subject to any and all applicable local, state and federal laws, ordinances, rules, regulations and permits.

### ARTICLE 3

#### Declarant's Rights

Section 1. The DECLARANT hereby reserves the right to annex and subject to these Protective Covenants any real property which is located within a one (1) mile radius of, and is adjacent to and contiguous with, the Initial Property, in order to bring such additional property within the jurisdiction of the Association. Such annexation shall not require the consent of any party other than DECLARANT and the owner of such property, if other than DECLARANT. Nothing in these Protective Covenants shall be construed to require the DECLARANT or any successor to annex or develop any such additional property in any manner whatsoever. An annexation by DECLARANT under this Section 1 shall be accomplished by filing a Supplemental Declaration in the land records of Brunswick County, North Carolina, describing the property to be annexed and specifically subjecting it to the terms of these Protective Covenants. The DECLARANT may subject any property annexed into these Protective Covenants to additional covenants and easements, provided that same do not alter the general or common scheme of development for the Property and further provided that this right to amend shall not render these covenants and restrictions purely personal to the DECLARANT and the benefits and burdens contained in these Protective Covenants shall remain mutual and reciprocal to all Owners.

Section 2. In order to mitigate problems which occur during the course of development, DECLARANT reserves the right to change, alter or designate roads, utility and drainage facilities and easements on the Property, as well as the configuration of other Common Areas located on the Property from time to time. Without limiting the generality of the foregoing, DECLARANT shall have the right to change, alter or redesignate such other present and proposed Common Areas and the amenities or facilities therein as may in the sole judgment of the DECLARANT be necessary or desirable. Retention of this right is not intended to affect the overall scheme of development as set forth herein. DECLARANT's obligation to furnish certain amenities or facilities is subject to its ability to obtain the required permits for construction of these facilities from the appropriate governmental entities. If DECLARANT is unable to obtain these permits, DECLARANT's obligations to the Lot Owners, if any, to furnish these facilities shall be terminated with no obligation or claim being vested in any Lot Owner.

Section 3. Any or all of DECLARANT's special rights and obligations set forth in these Protective Covenants or the Bylaws may be transferred in whole or in part to other persons; provided, however, the transfer shall not reduce an obligation nor enlarge a right beyond that which DECLARANT has under these Protective Covenants or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument signed and recorded by DECLARANT. Following any such transfer of DECLARANT's rights, DECLARANT in no way shall be liable or responsible to any party with regard to any such right, interest, or liability or any claim or claims arising out of same in any manner.

Notwithstanding the foregoing, the terms of this Section 3 shall not preclude DECLARANT from permitting other persons or entities to exercise, on a one-time or limited basis, any right reserved to DECLARANT in these Protective Covenants where DECLARANT does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence DECLARANT's consent to such exercise.

#### ARTICLE 4

##### Membership

Every person who is record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association (excluding persons who hold an interest merely as security for the performance of any obligations) shall be a Member of the Association. Ownership of such interest shall be the sole qualification for such membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The Board of Directors may make reasonable rules regarding proof of ownership.

#### ARTICLE 5

##### Voting Rights

The Association shall have the following two classes of voting membership:

a. Class I. Class I Members shall be all Owners with the exception of the DECLARANT. Class I Members shall be entitled to one vote for each actual, plotted Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners thereof determine, but in no event shall more than one (1) vote be cast with respect to any Lot, and no fractional vote may be cast with respect to any Lot.

b. Class II. The sole Class II Member shall be the DECLARANT, and it shall be entitled to three (3) votes for each actual, plotted Lot owned by DECLARANT as well as three (3) votes for each potential lot or parcel which DECLARANT plans to develop as a Lot and annex into CYPRESS BAY AT MARITIME SHORES. The Class II membership shall cease and be converted to Class I membership on the happening of one of the following events, whichever occurs earliest:

(1) when 90% of the total number of planned or potential Lots within CYPRESS BAY AT MARITIME SHORES (as fully developed by DECLARANT) have been issued certificates of occupancy and have been conveyed to Class I Members other than builders (it being hereby disclosed that DECLARANT initially anticipates that a total of approximately 35 Lots will be located within CYPRESS BAY AT MARITIME SHORES as fully developed);

(2) December 31, 2015; or

(3) when, in its discretion, the Class II Member so determines.

Notwithstanding the foregoing, the actual number of Lots within CYPRESS BAY AT MARITIME SHORES may ultimately be more or less than 35, and DECLARANT makes no representation whatsoever regarding the number of Lots which will actually or eventually be included in CYPRESS BAY AT MARITIME SHORES.

## ARTICLE 6

### Covenants for Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The DECLARANT, for each Lot owned within the Property, hereby covenants, and each owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- a. General annual assessments or charges;
- b. Special assessments for capital improvements; and repairs necessitated by hurricane or storm damage;
- c. Individual assessments against specific Lot(s) or property, in the event an Owner fails to comply with the provisions of these Protective Covenants, the Articles, Bylaws or Rules and Regulations of the Association. The Association through its Board of Directors, may perform such required task or remedy such matter, or assess a fine for such failure to comply and may levy the cost of such fine, performance, or remedy against the Owner(s) and the Owner's Lot or property as an individual assessment; and

Such assessments shall be fixed, established and collected from time to time as hereinafter provided.

The general annual, special and individual assessments, together with such interest thereon, costs of collection thereof and reasonable attorneys' fees as maybe established by the Association as permitted by the North Carolina Planned Community Act, shall be a charge on the land and shall be a continuing lien upon the Lot and improvements against which each such assessment is made. Each such assessment, together with interest, late fees, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment became due. The personal obligations for an Owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them and then only with the consent of the Association.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for promoting the recreation, health, safety and welfare of the residents and the Property, for enforcing these Protective Covenants and the Rules and Regulations of the Association; for providing the services and facilities for the purposes of or related to the maintenance, use, enjoyment and repair of the Common Areas and facilities; for the purpose of payment of Common Expenses; for maintenance of private roadways, alleys and sidewalks and the equivalent. In the event the any of the Common Areas are damaged by an Owner, or a guest or tenant of an Owner, the Association shall have the right to assess that Owner for the cost of repairs. This assessment shall constitute a lien against the Owner's Lot in favor of the Association for the full amount of the cost of repair (including, without limitation, collection costs) and shall be due and payable within 30 days after the Owner is billed. Such lien shall be

enforceable by Court proceedings as provided by law for enforcement of liens all as set forth herein. Notwithstanding anything contained herein to the contrary, all rights of enforcement and collection of charges and liens are subject to applicable law, including, without limitation, the provisions of the North Carolina Planned Community Act.

Section 3. General Annual Assessment and Annual Budget.

a. Initial General Annual Assessment. The initial general annual assessment, due and payable to the Association, shall be prorated and paid at the time of closing of the purchase of a Lot by an Owner, so that all payments thereafter shall be due semiannually on January 1 and July 1 of each year. The due date(s) may be changed by the Board of Directors as is more fully set forth in Section 7 of this Article. All general annual assessments shall be fixed to a uniform rate for all Lots. The general annual assessment due during calendar year 2006 shall be One Thousand and No/100 Dollars (\$1,000.00) per Lot. General annual assessments for subsequent years shall be established using the budget procedure contemplated in this Article 6.

b. Criteria for Establishing General Assessment. In proposing the general assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts and reserves for future needs, and the annual Common Expense budget established by the Association.

c. Preparation of Budget. At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses of the Association for the coming year, to be allocated among all Lots. Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount estimated to be generated through the levy of assessments against the Lots. The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected life of each, the expected repair or replacement cost, and the contribution required to fund the projected need by annual contributions over the expected useful life of the asset.

d. Notice of Budget and Assessment, Right to Disapprove. The Board shall send a copy of the final budget, together with notice of the amount of the general annual assessment for each Lot to be levied pursuant to such budget, to each Owner at least 30 days (but no more than 60 days) prior to the effective date of such budget. Such notice shall include a statement that the budget may be ratified without a quorum. The Common Expense budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total Class I votes in the Association, and by the Class II Member, if such exists. Except as provided in the North Carolina Planned Community Act, there shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the Common Expense budget, on petition of Members as provided for special meetings in the Bylaws. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

e. Budget Revisions. The Board may revise the budget and adjust the assessments levied pursuant thereto from time to time during the year, subject to the same notice requirements and rights to disapprove the revised budget as set forth above.

f. Lots Owned by DECLARANT. Notwithstanding anything in this ARTICLE 6 to the contrary, all Lots owned by DECLARANT shall be exempt from assessments until such time as DECLARANT conveys said Lots to an Owner other than DECLARANT.

Section 4. Special Assessments for Capital Improvements. In addition to the general assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repairs or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property

related thereto, within the project provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members, who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of such meeting, which shall set forth the purpose of the meeting, shall have been sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Special assessments for the maintenance of the drainage and stormwater runoff systems as required by government permits or regulations, may be assessed by the Board of Directors without a vote of the Members.

Section 5. Working Capital Assessment. At the time title is conveyed to an Owner by DECLARANT, each Owner shall contribute to the Association as working capital an amount equal to three (3) months of the general assessment. Such funds shall be used for initial operating and capital expenses of the Association, such as prepaid insurance, supplies, and the maintenance of Common Areas and facilities, furnishings, and equipment, etc. Amounts paid into the working capital fund are not to be considered as advance payment of regular assessments. All working capital funds shall become part of the general operating funds of the Association. Notwithstanding the foregoing, the Working Capital Assessment payable in connection with closings occurring during calendar year 2006 shall be Two Hundred Fifty and No/100 Dollars (\$250.00). The Board shall be entitled to determine the Working Capital Assessment payable in connection with closings occurring after calendar year 2006.

Section 6. Quorum for any Action Authorized Under Section 4. At a meeting called, as provided in Section 4 hereof, the presence at the meeting of Members or of proxies entitled to cast fifty (50%) percent of the votes of each class of membership shall constitute a quorum. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present (as determined by the Bylaws), any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of General Annual Assessments and Due Dates. Except as otherwise provided herein, the general annual assessments provided for herein shall commence on the date of conveyance of each Lot to an Owner other than DECLARANT. The first general annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates of January 1 and July 1 may be changed by the Board of Directors in its discretion. The Board of Directors shall require the general annual assessments to be paid at least annually, but may require the general assessments to be paid more often. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessments or portions thereof which are not paid when due shall be delinquent. If the assessment or any portion thereof is not paid within thirty (30) days after the due date, the same shall bear interest from the date of delinquency at a rate not to exceed the maximum legal rate allowed in the State of North Carolina per annum, and, in addition, a late fee shall be assessed in such amount as may be determined by the Board of Directors. The Association may file Notice of Lis Pendens, bring an action against the Owner personally obligated to pay the same and/or foreclose the lien against the property in the same manner as provided in North Carolina for the foreclosure of deeds of trust. In any such event, interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Areas or abandonment of his Lot or for any other reason. The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments.

Section 9. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any first

mortgage and ad valorem taxes on such Lot. The sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to such mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Lien for Assessments.

(a) All assessments authorized in this Article 6 shall constitute a lien against the Lot against which they are levied until paid. The lien shall also secure payment of interest, late charges (subject to the limitations of North Carolina law), and costs of collection (including reasonable attorneys fees). Such lien shall be superior to all other liens, except (i) the liens of all ad valorem taxes or assessments, (ii) the lien or charge of any recorded first mortgage on a Lot (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value, and (iii) any other liens which by applicable law would be superior.

(b) The Association may record notice of the claim of lien in the Office of the Clerk of Superior Court of Brunswick County or file a suit to collect such delinquent assessments and charges. The Association may file Notice of Lis Pendens, bring an action of law against the Owner personally obligated to pay the same and/or bring an action to foreclose the lien against the property, or utilize any other remedy provided under North Carolina law. No Owner may waive or otherwise escape liability for the assessments provided for herein.

Section 11. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release or any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

Section 12. Exempt Property. The following property shall be exempt from payment of assessments under this Article:

- (a) all Common Areas;
- (b) any property dedicated to and accepted by any governmental authority or public utility;
- (c) any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Lot which is subject to assessment hereunder (in which case the Lot shall not be exempted from assessment); and
- (d) any Lot or property owned of record by the DECLARANT.

ARTICLE 7

Maintenance and Landscaping

Each Owner shall be responsible for the exterior maintenance of each Home and/or Building on such Owner's Lot, as well as all walkways, driveways and landscaping on such Owner's Lot. Each Owner agrees to maintain his or her Lot and all Homes, Buildings, structures and improvements thereon in a good and acceptable manner. If, in the opinion of the Association, any Owner shall fail to maintain any Lot owned by him in a manner which is reasonably neat and orderly, or shall fail to keep improvements constructed thereon in a state of repair so as not to be unsightly, all in the sole opinion of the Association, the Association in its discretion, by the affirmative vote of a majority of the Members of the Board of Directors, and following thirty (30) days written notice, may enter upon and make or cause to be made repairs to such improvements and perform such maintenance on the Lot as the removal of trash, cutting of grass, pruning of shrubbery, weeding and items of erosion control. The Association shall have an easement onto and over each Lot for the purpose of accomplishing the foregoing, and the

reasonable cost incurred by the Association in rendering all such services, plus a service charge of fifteen (15%) percent of such cost, shall be added to and automatically become an individual assessment against such Owner and his or her Lot.

ARTICLE 8

Use Restrictions

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable Rules and Regulations concerning the use and enjoyment of the Common Area.

Section 2. Use of Property. Any Building, Home or other structure erected on a Lot or the Common Areas shall be for the following uses and subject to the following restrictions:

(a) All Lots, Buildings and Homes shall be used solely for single family residential purposes and for purposes incidental or accessory thereto.

(b) No commercial use shall be permitted on any Lot. No Building or other structure shall be erected, placed or permitted to remain on any Lot other than one (1) detached, single family Home not to exceed two and one-half stories in height above floor or piling level and such outbuildings as are usually accessory to a single family residence dwelling, including a private enclosed garage.

Any Home constructed on a Lot subject to these Protective Covenants shall contain not less than the following square footage of fully enclosed and heated floor space devoted to living purposes (exclusive of roofed or unroofed porches, breezeways, terraces, porches, steps, walks, garages and any outbuildings):

<u>Lots</u>	<u>Minimum Heated Square Footage</u>
Lots 1, 2, 3 and 4.....	1,800 square feet
All additional Lots.....	To Be Determined by DECLARANT

An enclosed garage shall be constructed on each Lot at the time of construction of the Home.

(c) All Lots shall be well maintained and no accumulation of rubbish or debris shall be permitted. The Owners of all vacant or unimproved Lots in the subdivision shall clear their Lots of underbrush at least one time each year. If the Owners do not clear their Lot as required by this paragraph, the Association shall have the authority to clear any such Lot of underbrush and separately assess the cost of such work against each Owner. Such charge shall be an individual assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of Article 6 herein

(d) No mobile home, trailer, tent, or temporary house, temporary garage or other temporary outbuildings shall be placed or erected on any Lot, provided, however, that the DECLARANT may grant permission for temporary structures for storage of materials during construction.

(e) During construction of improvements on any Lot, adequate portable sanitary toilets must be provided for the construction crew. Such toilets shall be screened at all times by lattice.

(f) Construction activity on a Lot shall be confined within the boundaries of said Lot. Each Lot Owner shall have the obligation to collect and dispose of all rubbish and trash resulting from construction on his Lot. Without limiting the generality of the foregoing, each Lot Owner shall be responsible for any overflow from trash receptacles on his or her Lot and shall ensure that such receptacles are emptied on a regular basis.

(g) All dwellings and permitted structures erected or placed on any Lot shall be constructed of material of good grade, quality and appearance and all construction shall be performed in good workmanship manner and quality. The covering for all roofs shall be shingles or materials approved by the DECLARANT or the ARC (as defined in Article 13, Section 1 herein) in accordance with the requirements of Article 13 herein. Materials and colors for the exterior of all dwellings and permitted structures must be approved by the DECLARANT or the ARC in accordance with the requirements of Article 13 herein. No used structures shall be relocated or placed on any Lot and no structures shall have an exterior constructed of asbestos or asphalt siding, aluminum siding, paper composition, or concrete blocks (it being intended that only wood siding, manufactured lap siding, vinyl, brick, clay brick, or stucco exteriors be constructed on Lots subject to these Protective Covenants). Modular and prefabricated homes may not be erected or placed on any Lot.

Roof colors and textures and exterior wall materials should be compatible with the setting and reflective of "Lowcountry" traditions. Roof material may be standing seam metal, cementitious tile, simulated slate, "dimensional" asphalt or fiberglass shingle similar in style to cedar shake construction. Only colors that are compatible with the elevations and surroundings shall be permitted. Roof vents and accessories should be located on the part the roof unseen from the right-of-way and must be painted to match the roof color. Gutters shall match the fascia trim color or they shall be seamless aluminum or copper. Downspouts shall match the exterior wall trim. Flue pipes shall be cased in a chimney enclosure that matches exterior materials. All dwellings shall be constructed of material of good grade, quality and appearance and all construction shall be performed in a good workmanlike manner and quality. Any permitted outbuilding shall be of the same material, quality, general appearance and workmanship as the dwelling.

Outdoor, uncovered living areas should be constructed with materials and colors that are compatible with the exterior materials and detailing of the Home. Railings should be consistent with the architectural character of the Home. Patio and terrace surfacing materials should be concrete, stone, or pavers.

Lighting sources shall not be directly seen. Illumination of surfaces such as walls, walks, and decks is permissible. Porch lighting, for example, may include wall washers and recessed fixtures that illuminate the entry surface, but the source of lighting should not be in view. Floodlights are restricted to the rear of the Home unless otherwise approved by DECLARANT or the ARC.

(h) Any Building or improvement on any Lot that is destroyed in whole or in part by fire or other casualty shall be either rebuilt or torn down and all debris removed and the Lot restored to a slightly condition with reasonable promptness; provided, however, that in no event shall such debris remain on such Lot longer than three (3) months. A temporary privacy wall or fence must be built to screen the property from view within seven (7) days and such fence or wall must be approved in advance by DECLARANT or the ARC.

(i) No stripped, partially wrecked, junk motor vehicle, or part thereof, or any motor vehicle not displaying a current valid inspection sticker shall be permitted to be parked or kept on any Lot.

(j) No outdoor poles, clotheslines and similar equipment shall be erected or located upon any Lot.

(k) No fuel tanks or similar storage receptacles may be exposed to view. The placement of any such receptacles may be approved by the ARC or DECLARANT and may only be located within the main dwelling house, within an accessory Building, within a screened area, or buried underground.

(l) Each Lot in the subdivision shall have no more than one (1) mailbox and one (1) paper box which shall be mounted on a single post and all such boxes must be approved by the DECLARANT or the ARC. Such mailboxes or paper boxes may be provided by the DECLARANT or builder. Any boxes provided by the DECLARANT or builder shall be considered an improvement and must remain with the Lot and must be maintained by the Lot Owner. Boxes damaged beyond repair shall be replaced by the Lot Owner. Notwithstanding the

foregoing, DECLARANT reserves the right to incorporate a shared mailbox program as part of the Design Guidelines, in which case all Owners shall be required to comply with the requirements of such program.

(m) To the extent permitted by applicable law, outside antennas and satellite dishes shall be prohibited on the Property unless and until permission for the same has been granted by the ARC or DECLARANT. Any permitted antennas or satellite dishes shall be screened from the view of adjoining property Owners and any user of any street, recreation area or Common Area. The design and location of the screening shall be approved by the ARC or the DECLARANT and shall be consistent with the requirements of the Design Guidelines.

(n) All dwelling connections for all utilities, including, but not limited to, electricity, telephone, and television shall be run underground from the proper connecting points to the dwelling structure in such manner as may be acceptable to the appropriate utility authority. The cost for such underground service shall be shared by the Owner and utility company in conformity with existing utility company policy, if any.

(o) No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling; provided, however, a reasonable number (as determined by the Association) of dogs, cats or other household pets may be kept or maintained on a Lot, but only if such animals (i) are not kept or maintained for commercial purposes, (ii) are not allowed to run free, (iii) are at all times properly leashed and personally escorted or confined to Owner's Lot and (iv) do not constitute a nuisance or bother to other Owners. No animals, livestock or poultry of any kind may be raised, bred or kept in any Common Area. Pets must be restrained or confined within the Lot. Owners must promptly remove any and all animal excrement from any and all Common Areas and Lot(s) and keep such area(s) clean and free of pet debris. All animals must be properly tagged for identification.

(p) No fence shall be erected or hedge grown on any Lot unless same is permitted by the Design Guidelines and has been approved in advance by the DECLARANT or the ARC in accordance with the requirements of Article 13 herein. All fences constructed hereunder shall be maintained in its original condition by the Lot Owner.

(q) No Lot or Lots shall be subdivided or its boundary lines changed except with the prior written consent of the DECLARANT during the Class II membership and, thereafter, by the Board.

(r) Owners shall be responsible for any damage done to any streets, roadways, accessways, Common Areas or property of other Owners within the Property which may be caused by any Owner, his agents, domestic employees, guests, licensees or invitees. The Association shall have the authority to assess any Owner for such damage, in which case such charge shall be an individual assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of Article 6 herein.

(s) The dwelling, Buildings and other improvements (including landscaping) to be constructed on a Lot shall be completed within twelve (12) months after the first conveyance of the Lot by DECLARANT to a party other than DECLARANT. In the event such improvements are not completed within such time period, and no extension of completion time has been granted by the Association, the Association may impose a daily fee for each day such improvements have not been completed. Such fees, if unpaid, shall be the personal obligation of the Owner of the Lot, and shall be added to and becomes part of the Shared Common Expense assessment applicable to such Owner's Lot, enforceable pursuant to the provisions of Article 6 of this Declaration. The determination as to whether or not improvements have been completed for the purposes of this Section and of the established amount of the daily fee for incomplete improvements shall be made by the ARC, in its sole discretion. The restrictions of this subsection (s) shall not be applicable to any Lots which are owned by DECLARANT (provided that such restrictions shall become applicable to such Lots once DECLARANT conveys such Lot to another party).

(t) No vehicle of any type shall be parked on any street in the Property. No truck nor other vehicle in excess of a three-quarter (3/4) ton capacity, boat, vessel, motorboat, camper, trailer, motor or mobile home, or similar type vehicle or apparatus (other than standard

sport utility vehicles like Chevrolet Suburbans, Hummers etc.) shall be parked or kept overnight or longer on any street or on any Lot unless such vehicle is stored in an enclosed garage and in such a manner as to not be visible to the Owners of other Lots or to any user of a street or Common Area. All tools or other materials stored in vehicles for overnight parking shall be kept out of sight. No customized vehicles which are unsightly in appearance as determined by the Board of Directors or the DECLARANT shall be allowed.

(u) No immoral, improper, illegal, noxious or offensive activity shall be carried on or upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the DECLARANT or any Owners. There shall not be maintained any plants or animals, or device or anything of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the Owners thereof. All laws, orders, rules, regulations, ordinances or requirements of any government agency having jurisdiction thereof, relating to any party or the Property, shall be complied with, by or at the sole expense of Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

(v) No yard sales or garage sales shall be permitted upon any Lot in this Property.

(w) Nothing shall be kept and no activity shall be carried on in any Building, Home or other structure on the Common Area which will increase the rate of insurance, applicable to residential use, for the Property or the contents thereof. No Owner shall do or keep anything, nor cause or allow anything to be done or kept in his Home or on the Common Area which will result in the cancellation of insurance on any portion of the Property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation.

(x) No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area except at the direction of and with the express written consent of the Association.

(y) The properties constituting Common Area hereunder shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the Homes on the Property, subject to any Rules or Regulations that may be adopted by the Association pursuant to these Protective Covenants or the Bylaws.

(z) All equipment, including basketball goals, outdoor play equipment, bicycles, toys, grills and other similar objects must be stored when not in use so as not to be visible by the Owners of other Lots or the users of any street, Common Area or other recreation area.

(aa) No waste shall be committed on any portion of the Common Areas.

(bb) All garbage receptacles, containers and enclosures shall be located so as not to be unsightly and said locations shall be as designated by DECLARANT or the ARC.

(cc) Nothing shall be done in or to any Home, garage or Building, or in, to or upon any of the Common Areas, which will impair the structural integrity of any Building, Home, garage or portion of the Common Areas or which would impair or alter the exterior of any Building, Home, garage or portion thereof, except in a manner permitted by the Design Guidelines and these Protective Covenants.

(dd) Except as may be required by municipal ordinance, no Owner shall display, or cause or allow to be displayed to public view any sign, placard, poster, billboard or identifying name upon any Home, Building or any portion of the Common Areas.

(ee) All Lots are subject to the State of North Carolina rules and regulations covering stormwater runoff as these rules and regulations are amended from time to time. Without limiting the generality of the foregoing, the following restrictions shall apply to the Property with respect to stormwater runoff:

(i) The allowable built-upon area for each of the first four (4) Lots encumbered by these Protective Covenants (*i.e.*, Lots 1-4 as shown on Map Cabinet 34, Page 445 of the Brunswick County Registry) shall be four thousand four hundred (4,400) square feet.

(ii) DECLARANT is currently seeking from the State of North Carolina stormwater permits for additional Lots and construction of Common Areas. Once such permits have been obtained, DECLARANT shall have the unilateral right, by Supplemental Declaration, to amend these Protective Covenants to include such rules and restrictions as may be applicable under such permits. Such additional restrictions may include, without limitation:

(1) The allowable built-upon area per Lot, inclusive of that portion of the right-of-way between the lot line and the edge of pavement, structures, pavement, walkways of brick, stone or slate (but not including open wood decking or the water surface of swimming pools).

(2) Restrictions stating that the additional covenants pertaining to stormwater regulations may not be changed or deleted without concurrence of the State Division of Water Quality.

(3) Restrictions stating that the filling in, piping, or altering of any vegetated conveyances (ditches, swain, etc.) associated with the development (except for average driveway crossings) shall be prohibited by any persons.

(4) Restrictions stating that the alteration of the drainage as shown on the approved plan may not take place without the concurrence of the State.

(5) Restrictions stating that the filling-in, piping, or altering any designated curb outlet swale associated with the development is prohibited by any persons.

(6) Provisions stating that Lots within CAMA's Area of Environmental Concern (the "AEC") may have the permitted built-upon area reduced due to CAMA jurisdiction within the AEC.

Once obtained, DECLARANT shall transfer the above-described permit and the responsibility for maintenance of the stormwater runoff system and facility to the Association. The Association shall accept conveyance and transfer of such permits and carry out and abide by the duties and obligations contained therein.

(ff) Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitation shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(gg) Signs. No sign, billboard, or other advertising of any kind, including, without limitation, political signs and professional prepared "for sale" and "for rent" signs, shall be placed or erected on any Lot, right-of-way or Common Areas. Notwithstanding the above, any additions to the Property may be further limited in regard to signs, billboards or advertising as set out in any Supplemental Declaration. Nothing herein shall prohibit any sign erected by the DECLARANT or its assigns.

(hh) Driveways/Parking. All driveways constructed on any Lot shall be paved with either concrete, stamped concrete, colored concrete in earthtone colors, pea gravel concrete, oyster shell concrete, or brick pavers. Any dwelling shall include an attached or detached two car garage with a "side load" (entrance from side, not viewable from the front street) unless

otherwise approved by the ARC. An Owner shall provide a minimum of two (2) paved off-street parking spaces, excluding garage space(s) and shall provide at least one per automobile or other vehicle owned and regularly used at the Lot. On street parking is prohibited except for temporary, short gatherings.

(ii) Trees. In order to maintain the rural, wooded character of the subdivisions, the following restrictions shall apply with respect to trees on the Property:

(a) Except as to development or construction by DECLARANT or as may be approved by the DECLARANT or the ARC, no tree which is either six inches (6") in diameter at any location on said tree or is ten feet (10') or more in height shall be cut, removed or intentionally damaged on any Lot unless first approved by DECLARANT or the ARC.

(b) Fallen trees, dead trees and live trees less than six (6") inches in diameter may be removed from the Lot at any time.

(c) Trees may be removed from the area of construction as permitted by DECLARANT.

(jj) Swimming Pools. Outdoor swimming pools, hot tubs, Jacuzzi, and other similar facilities may be located on a Lot only with the advance approval of the DECLARANT or the ARC in accordance with Article 13 herein. All such improvements shall be screened and fenced, and all such improvements must be in full compliance with all applicable governmental laws and regulations at all times.

(kk) Fence Minimum Requirements. Architectural review requirements must be met prior to construction of any fence. No fences over 4 feet in height shall be constructed on any Lot, except as originally installed by the DECLARANT. No fence shall be erected between the rear line of any Building and the street right-of-way. Any portion of any fence which can be viewed from the street right-of-way shall be of an ornamental nature. The term fence shall include but not be limited to a wall, fence, landscaping, berm, or hedge which acts as a fence or privacy or security inducing structure.

Fences should be compatible with the architectural style of the Home and should be used primarily for screening and defining outdoor space. Fencing or landscape materials are required to screen HVAC equipment and trash receptacles and must be approved in advance in accordance with the requirements of Article 13 herein. Perimeter fencing around the entire is not permitted. Fences should maintain a reasonable scale to the house and not block desirable views and vistas or negatively impact adjacent Lots. Walls are not permitted. Split rails, chain link or welded wire fencing are not allowed.

(ll) Compliance with Wetlands Regulations. It shall be the responsibility of each Owner, prior to alteration of any Lot, to determine if any portion of such Lot constitutes a legally protected wetland. Any subsequent fill or alteration of any wetlands within the Property shall conform to the requirements of state and federal wetland rules and regulations in force at the time of the proposed alteration. The intent of this deed restriction is to prevent additional wetland fill, so the Owner should not assume that a future application for fill will be approved. The Owner shall report the name of the subdivision in any application pertaining to a wetland rule or regulation. This covenant is intended to insure the continued compliance with wetland rules adopted by the State of North Carolina therefore benefits may be enforced by the State of North Carolina. This covenant is to run with the land and shall be binding on all parties and all persons claiming under them.

(mm) Compliance with Watershed and Riparian Buffer Regulations. It shall be the responsibility of each Owner, prior to alteration of any Lot, to determine if the planned improvement or alteration of the Lot complies with applicable federal, state and local laws, ordinances, rules and regulations pertaining to the protection of riparian buffers (including, without limitation, CAMA regulations and other laws, ordinances, rules and regulations designed or intended to protect waters, watercourses, marshes and other areas of environmental concern). Any subsequent improvement or alteration of the Lot shall conform in all respects to the requirements of federal, state and local laws, ordinances, rules and regulations in force at the time of the proposed improvement or alteration.

(nn) Treehouses and Playhouses. No treehouses or playhouses shall be erected or located upon any Lot unless specific approval is obtained in advance from DECLARANT or the ARC (which approval may be granted or withheld in the sole discretion of DECLARANT or the ARC).

Section 3. Lease of Homes. No Home or Building shall be leased or otherwise let for transient or hotel purposes, nor may any owner lease less than the entire Home or Building, nor shall any such lease be for any period of less than six (6) months. Any lease must be in writing and provide that the terms of the lease and occupancy of the Home or Building shall be subject in all respect to the provisions of these Protective Covenants (including, without limitation, any applicable Declaration of Annexation or Supplemental Declarations) and the Bylaws of the Association, and any failure by a lessee to comply with the terms of such documents shall be a default under the lease. A copy of each lease must be furnished to the Association Board of Directors.

## ARTICLE 10

### Easements

Section 1. Walks, Drives, Parking Areas, Alleys and Utilities. All of the Property, including Lots and Common Areas, shall be subject to a perpetual non-exclusive easement or easements in favor of all Owners of Lots for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes and for ingress, egress and regress in and to such easements for private streets, driveways, walkways, alleys, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, antenna lines and other public utilities as shall be established prior to subjecting the Property to these Protective Covenants by the DECLARANT or its predecessors in title. The Association shall have the power and authority to grant and to establish in, over, upon and across the Common Areas, and over driveways located on Lots, such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2. Reservation to DECLARANT. DECLARANT reserves the right to subject the Property to a contract with Progress Energy or Brunswick EMC as the case may be for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or continuing monthly payment to Progress Energy for the Owner of each Lot. However, no mercury lights or dawn-to-dusk lights shall be permitted without the written consent of DECLARANT.

Section 3. Emergencies. Every Lot and Home shall be subject to an easement for entry by the Association for the purpose of correcting, repairing or alleviating any emergency condition which arises upon any Lot or within any Home and which endangers any Building or portion of the Common Areas. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance pursuant to the provisions of these Protective Covenants, and to inspect for the purpose of ensuring compliance with these Protective Covenants, any Supplemental Declaration, the Design Guidelines, the Bylaws, and the Rules and Regulations, which right may be exercised by any member of the Board, the Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry onto a Lot shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

Section 4. General Easements. An easement is hereby established over all Lots and Common Areas for the benefit of applicable governmental agencies for the setting, removing and reading of water, gas and electric meters, maintaining and replacing water, drainage and drainage facilities, maintaining and replacing gas and electric facilities, fire fighting, law enforcement, garbage collection and the delivering of mail.

Section 5. DECLARANT'S Development Easement. An exclusive easement is hereby established in favor of DECLARANT over all Common Areas for access to adjacent properties for the purposes of future development and the installation of streets, public and private utilities, stormwater drainage and such other improvements or facilities deemed necessary or appropriate by DECLARANT.

Section 6. Landscaping and Maintenance Easement. An easement is hereby established in favor of the DECLARANT and the Association, their agents and assigns, over all Lots and Common Areas for the purpose of providing and maintaining landscaping on the Common Areas, for installation and maintenance of irrigation lines and facilities in or serving the Common Areas and for other activities reasonably relating to the maintenance of the Common Areas, including sidewalks, bridges, alleys and shorelines of ponds.

Section 7. Utility Easements. DECLARANT hereby reserves, for itself and the Association, an easement for installation and maintenance of utilities and drainage facilities over and upon (i) any "private road" or cul-de-sac shown on the plat recorded in Map Cabinet 34, Page 445 of the Brunswick County Registry, (ii) a five (5) foot strip of land at the front of each and every Lot within the Property and (iii) a ten (10) foot strip of land at the rear and on each side lot line of each and every Lot within the Property. Within these easement areas, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

The DECLARANT reserves for itself, its successors or assigns, an easement and right at any time in the future to grant a right-of-way under, over and along ten (10) feet of the side and rear property lines and fifteen (15) feet of the front property line of each and every Lot in the subdivision described herein for the installation and maintenance of poles, lines, conduits, pipes and other utility facilities or equipment necessary to or useful for furnishing electric power, gas, telephone service, drainage or other utilities including water and sewer services.

Section 8. Easements for Cross-Drainage.

(a) Every Lot and the Common Areas shall be burdened with easements for drainage of water runoff from other portions of the Property; provided, no Lot Owner shall alter the drainage on any Lot so as to materially increase the drainage of water onto adjacent portions of the Property without the consent of the Owner of the affected property.

(b) The Property is hereby burdened with a permanent and right to use easement for the benefit of the DECLARANT and its successors and assigns, for the stormwater runoff and drainage facilities located on the Property, including, without limitation, any stormwater retention ponds or ditches. This easement includes the right to (i) drill, install, locate, maintain and use pipes, conduits and pumps running to the stormwater retention ponds and other related facilities located on the Property, (ii) cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to facilitate proper drainage. Following such action the DECLARANT, to the extent practicable, shall restore the affected property to its original condition. The DECLARANT shall give reasonable notice to all affected Owners of its intent to take any action described in this subsection (b), unless in the opinion of the DECLARANT an emergency exists which precludes such notice.

Section 9. Temporary Repair Area and Offsite Pump Area Easement for Waste Disposal. The DECLARANT hereby reserves, for itself and the Association, a temporary easement over and upon the Common Areas for the purpose of providing temporary repair areas and offsite pump facilities for waste water disposal as and to the extent deemed necessary or appropriate by DECLARANT. Such easement shall specifically include, without limitation, the right of DECLARANT to install, maintain and use conduits for the purpose of carrying waste-water to any waste water pump systems that may be installed on portions of the Common Areas from time to time. The temporary easement described in this Section 9 shall terminate at the time a municipal wastewater system is available to the Property and the Property is fully tapped into such municipal system.

Section 10. Easements Run with the Land. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on all undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in these Protective Covenants.

#### ARTICLE 11

##### Compliance with these Protective Covenants, the Articles And the Bylaws of the Association

In the case of failure of an Owner to comply with the terms and provisions contained in these Protective Covenants, the Articles, the Design Guidelines, the Bylaws or Rules and Regulations of the Association, the following relief shall be available:

Section 1. The Association, the DECLARANT and any Owner, an aggrieved Owner within the Property on behalf of the Association or any Owner on behalf of all the Owners within the Property shall have the right to enforce, by any proceeding at law or in equity, all of the conditions, covenants and restrictions of these Protective Covenants and the Articles, Bylaws and Rules and Regulations of the Association and any and all laws hereinafter imposed pursuant to the terms of these Protective Covenants. The prevailing party in any such action shall be entitled to collect all costs thereof, including reasonable attorney's fees.

Section 2. The Association shall have the right to remedy the violation and assess the costs of remedying same against the offending Owner as an individual assessment as provided in Article 6 herein.

Section 3. For any violation by an Owner, including, but not limited to, the nonpayment of any general, special or individual assessment, the Association shall have the right to suspend the offending Owners voting rights and the use by such Owner, his agents, lessees, employees, licensees and invitees of the Common Areas in the Property (except streets) for any period during which a violation continues except that such penalties may not be for more than sixty (60) days for violation of any of the Association's published Rules and Regulations.

Section 4. The Association may establish a schedule of fines for the violation of these Protective Covenants, the Articles, Bylaws and the Rules and Regulations. If an Owner does not pay the fine within 30 days after the Owner is billed the fine shall be an individual assessment against such Owner's Lot and may be enforced by the Association in accordance with Article 6 herein.

Section 5. The remedies provided by this Article are cumulative, and are in addition to any other remedies provided by law.

#### ARTICLE 12

##### Duration Amendment & Termination

Section 1. Lots, Persons and Entitles Subject to the Protective Covenants. All present and future Owners, tenants, and occupants of Lots and their guests or invitees, licensees, domestic employees or agents, shall be subject to, and shall comply with the covenants, conditions, restrictions and affirmative obligations set forth in these Protective Covenants, and as the Protective Covenants may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of these Protective Covenants are accepted and ratified by such Owner, tenant or occupant and that they will fully comply with the terms and conditions of said Protective Covenants. The covenants, conditions, restrictions, and affirmative

obligations of these Protective Covenants shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns for a term of forty (40) years from the date these Protective Covenants are recorded in the Brunswick County Registry, after which date these Protective Covenants shall be extended for successive periods of twenty (20) years, unless a eighty percent (80%) of the then-current Owners agree to revoke the same in accordance with the requirements of the North Carolina Planned Community Act. The covenants, restrictions, conditions and affirmative obligations of these Protective Covenants shall run with and bind the land and shall bind any person having at any time any interest or estate in any Lot as though such provision were made a part of each and every deed of conveyance or lease.

Section 2. Amendment. At any time prior to the first to occur of (i) December 31, 2015, or (ii) all Lots are sold by DECLARANT, these Protective Covenants may be amended by DECLARANT in its discretion. Retention of this right by the DECLARANT is not intended to affect the general or common scheme of development for the property herein described but to correct and/or modify situations or circumstances which may arise during the course of development. Thereafter, these Protective Covenants may be amended by affirmative vote of not less than sixty-seven percent (67%) of the total Class I votes of the Association; provided, however, as long as the Class II membership exists, no amendment to these Protective Covenants shall be valid or enforceable without the written joinder and consent of DECLARANT. In no event may the Protective Covenants be amended so as to alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien, or the payment thereof established herein, or so as to deprive DECLARANT or successors and assigns of any rights herein granted or reserved unto DECLARANT. No amendment described in this Section 2 shall be effective until same is recorded in the Brunswick County Registry.

### ARTICLE 13

#### Architectural Control

Section 1. No Homes, structures, Buildings, or other improvements shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made, including change of color, until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing by DECLARANT, or by an architectural review committee composed of three (3) or more representatives (the "ARC"). Except as otherwise permitted by DECLARANT, all improvements shall be constructed in compliance with architectural design guidelines as may be established and revised by DECLARANT or the ARC from time to time, which guidelines shall be applicable to all Lots within the Property (the "Design Guidelines"). Structures, Buildings and improvements subject to these restrictions shall include, but not be limited to, any dwelling, garage, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, drainage pipe, drainage canal duct, swale, catch basin, septic/dispersion system, swimming pool, sign, flag pole, exterior illumination, monument or marker, outdoor statuary, exterior lights, security lights, storm door, well utility facility, mailbox, patio, deck screening for outdoor trash cans or other purposes, sprinkler system, driveway, outdoor decorative objects, shrubbery or landscaping. In the event the DECLARANT, or the ARC (as applicable), fails to approve or disapprove such design and location within thirty (30) days after complete plans and specifications have been received by it and notification of receipt of plans and specifications has been sent to the submitting Owner(s), approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. All architectural review duties and responsibilities conferred upon the DECLARANT or the ARC by these Protective Covenants or the Bylaws of the Association may be exercised and performed by the DECLARANT, the ARC or such other party as may be designated by DECLARANT to handle its architectural review responsibilities (an "Architectural Review Designee") for as long as DECLARANT shall own any Lot or any other portion of the Property (as same may be expanded by Supplemental Declaration or Amendment to these Protective Covenants). During such period, if DECLARANT elects to confer architectural review authority in the ARC, DECLARANT shall be entitled to select all members of the ARC, all of whom shall serve at the pleasure of the DECLARANT. Once DECLARANT no longer owns any plotted or planned Lot in the Property or any additions annexed thereto (or if

DECLARANT voluntarily surrenders control of architectural review to the ARC, if earlier), architectural review duties and responsibilities shall be automatically transferred to the ARC, after which time the members of the ARC shall be selected by the Association, such members of the ARC shall serve at the pleasure of the Board, and the ARC shall be entitled to adopt or revise administrative procedures as will insure the submission, review and approval of any and all buildings and/or improvements constructed.

Section 3. In addition to its duties of review and approval of external harmony and design, DECLARANT or the ARC shall monitor the compliance with all Design Guidelines and architectural control provisions and conditions. The DECLARANT or the ARC shall report such violations as may come to its attention to the DECLARANT or the Association for appropriate actions of enforcement.

Section 4. No construction, which term shall include within its definition, clearing, excavation, grading and other site work, shall take place except in strict compliance with this Article, and until the approval of the ARC or DECLARANT has been obtained.

Section 5. Since the establishment of standard inflexible building setback lines in location of Homes on Lots tends to force construction of Homes directly to the side of other Homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, and other ecological and related concerns, no specific setback lines are established by these Protective Covenants. In order to assure, however, that the foregoing considerations are given maximum effect, the DECLARANT reserves the right to select the precise site location of each Home, Building or other structure on each Lot in its sole discretion and to arrange the same in such manner and for such reasons as the DECLARANT deems sufficient. The desired goal for the placement of Homes is to create, to the extent practical, a sense of spaciousness and to avoid monotony. For such purposes it is the DECLARANT's intent that setback lines may be staggered where appropriate. In any event, no house shall be erected closer to the front Lot line or nearer to any side Lot line than the minimum distances established by applicable governmental ordinances.

Section 6. All improvements, driveway connections, and plantings, including, but not limited to, drainage pipes, landscape materials, irrigation systems, walls and fences, must be approved by DECLARANT or the ARC. Lot Owner shall be responsible for all roadway repairs required because of damage caused by such Owner.

Section 7. The ARC or DECLARANT shall have jurisdiction over all original construction on any Lot and later changes or additions after initial approval thereof, together with any modifications, additions or alterations subsequently to be constructed on any Lot or made to any improvements initially approved, including any exterior change or alteration and change of color.

Section 8. The ARC or DECLARANT shall have the right to disapprove any plans, specifications and details submitted to it in the event the same are not in accordance with any of the provisions of these Protective Covenants and the Design Guidelines which may be in effect at the time. Disapproval of plans, location, specifications or details may be based upon any grounds which the ARC or DECLARANT, in its sole and uncontrolled discretion, shall deem sufficient (including, without limitation, aesthetic considerations as to harmony of external design, location in relation to surrounding structures and topography); provided, however, approval of plans shall not be unreasonably withheld. An Owner shall have the right to appeal disapproval of plans, location, specification and details to the Board of Directors, in which case the decision by the Board of Directors shall be final and not subject to appeal or review.

Section 9. The ARC or the DECLARANT (as the case may be) shall have the right to inspect all construction to ensure that it is performed in strict accordance with the approved plans, specifications and details.

Section 10. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of any residence or permitted pertinent structures, or to paint the interior of the same any color desired.

Section 11. Neither the DECLARANT nor the ARC nor the Board of Directors or any

architecture agent thereof shall be responsible in any way for any defects in plans, specifications or details submitted, revised or approved in accordance with the provisions contained herein or in the guidelines, nor for any structural or other defect in any construction.

Section 12. Owner(s) shall be responsible for compliance with all applicable governmental statutes, ordinances and regulations, including, but not limited to, land use, zoning, and building regulations.

Section 13. Notwithstanding anything herein to the contrary, any piers, wharves, bulkheads or other improvements which relate in any way to Water Rights that may be applicable to Lots and/or Owners under these Protective Covenants from time to time shall be subject to architectural approval by the ARC and/or DECLARANT in accordance with the terms and conditions of this Article 13.

## ARTICLE 14

### General Provisions

Section 1. Waiver. No provision contained in these Protective Covenants, the Articles of Incorporation or the Bylaws of the Association any Rules or Regulations or other associated documents shall be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any person as to the same or similar future violations, no matter how often the failure to enforce is repeated.

Section 2. Conflict. In the event of any irreconcilable conflict between these Restrictions and the Bylaws of the Association, the provisions of these Restrictions shall control. In the event of any irreconcilable conflict between these Restrictions or the Bylaws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control. Notwithstanding the foregoing, in the event of a conflict between any of the above-described documents (or any other subsequent documents relating to the Property) and the North Carolina Planned Community Act, the terms of the North Carolina Planned Community Act shall control.

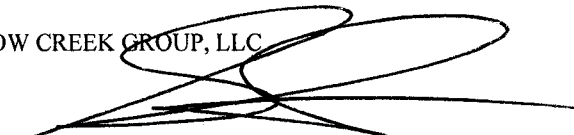
Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or any court, agency or legislative order shall in no way affect any other provision, covenants, conditions or restrictions contained in these Protective Covenants.

Section 4. Captions. The captions preceding the various Articles of these Protective Covenants are for the convenience of reference, only, and shall not be used as an aid in interpretation or construction of these Protective Covenants. As used herein, the singular includes the plural and where there is more than one Owner of a Lot, said Owners are jointly and severally liable for the obligations herein imposed. Throughout these Protective Covenants, references to the masculine shall be deemed to include the feminine, the feminine to include the masculine and the neuter to include the masculine and feminine.

Section 5. Liberal Construction. The provisions of these Protective Covenants shall be construed liberally to effectuate its purpose of creating a Property of fee simple ownership of Lots and buildings governed and controlled by rules, regulations, restrictions, covenants, conditions, reservations and easements administered by an Owners' Association with each Owner entitled so and burdened with the rights and easements equivalent to those of other Owners.

IN WITNESS WHEREOF the DECLARANT, has hereunto set its hands and seals all as of the day and year first above written.

SNOW CREEK GROUP, LLC

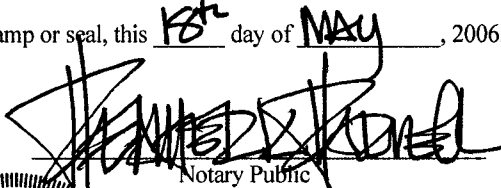
By:   
Name: SEAN SCANLON  
Title: Manager

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

I, HEATHER K. HARVELL, a Notary Public for said County and State, do hereby certify that SEAN SCANLON, Manager of Snow Creek Group, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

WITNESS my hand and official stamp or seal, this 18<sup>th</sup> day of MAY, 2006.

  
Notary Public

My Commission Expires:

10.14.2006

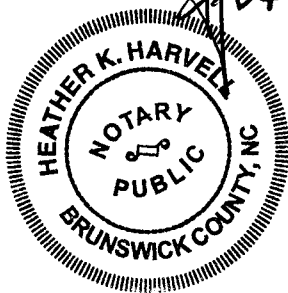


EXHIBIT A

Bylaws

**BYLAWS**  
**OF**  
**CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION, INC.**

**ARTICLE 1**  
**GENERAL**

1. Name and Location. The name of the Association is **CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION, INC.** The principal office of the Association shall be located at, 141A Old Fayetteville Road, Brunswick County, Leland, North Carolina 28451, or at such other place as may be subsequently designated by the Board of Directors of the Association.

2. Applicability. The provisions of these Bylaws are binding on all Owners of Lots in Cypress Bay at Maritime Shores Subdivision (herein called "Subdivision"), their tenants, guests, invitees, agents, employees, licensees, grantees, successors and assigns.

3. Definitions. The definitions of the terms used herein shall be the same as the definitions set forth in the Protective Covenants of Cypress Bay at Maritime Shores ("Protective Covenants").

**ARTICLE 2**  
**MEMBERSHIP**

The Corporation shall have two classes of voting memberships:

- a. Class "I". Class I members shall be all Owners with the exception of the DECLARANT and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the Owners thereof determine, but in no event shall more than one (1) vote be cast with respect to any Lot, and no fractional vote may be cast with respect to any Lot.
- b. Class "II". The Class II member shall be the DECLARANT, and it shall be entitled to three (3) votes for each planned or plotted Lot owned. The Class II membership shall cease and be converted to Class I membership on the happening of one of the following events, whichever occurs earliest:
  - (1) when 90% of the total number of actual, planned or potential Lots within CYPRESS BAY AT MARITIME SHORES (as fully developed by DECLARANT) have been issued certificates of occupancy and have been conveyed to

Class I Members other than builders (it being disclosed that DECLARANT initially anticipates that approximately 35 Lots will be located within CYPRESS BAY AT MARITIME SHORES as fully developed);

- (2) December 31, 2015; or
- (3) when, in its discretion, the DECLARANT (a/k/a the Class II Member) so determines.

ARTICLE 3  
MEETINGS OF MEMBERSHIP

1. Place. All meetings of members shall be held at such place as may be designated in the notice of the meeting.
2. Annual Meeting. The annual meeting of the members of the Association shall be held in March of each year at a date and time to be fixed by the Board of Directors. At the Turnover Meeting, the members shall elect the new members of the Board of Directors and transact such other business as may properly come before the meeting.
3. Turnover Meeting. The first annual meeting of the members which is held after the Class II membership ceases (the period prior to the termination of the Class II membership being referred to herein as the "Class II Control Period").
4. Proviso. Notwithstanding any of the provisions herein, until the Class II Control Period ceases there shall be no annual or special meeting of the members of the Association, and, should a meeting be called, the proceedings shall have no effect unless approved by the Board of Directors of the Association except as provided by the Planned Community Act. However, the DECLARANT may waive this proviso, in whole or in part, by consenting in writing to a meeting of the membership.
5. Special Meetings. Special meetings of the members must be called by the President of the Association upon a vote of the majority of the Board of Directors or at the written request of the members entitled to vote one-third (1/3) of all of the votes of the Association. Business transacted at all special meetings shall be confined to the subjects stated in the notice of the meeting.
6. Notice of Meetings. Written notice of each annual and special meeting of the members shall be served upon or mailed to each member entitled to vote thereat, at such address as appears on the books of the Association, at least thirty (30) days, but no more than sixty (60) days, before the meeting. Alternatively, written notice of a meeting of the members may be given by or at the direction of the Secretary or other person authorized to call the meeting by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the member. Each notice shall specify the place, day, time and purpose of the meeting. Waiver in writing of the notice required herein, signed by the member

before, at, or after such meeting, shall be equivalent to the giving of such notice. Each member shall notify the Secretary of the Association of any address change, and the giving of notice shall be in all respects sufficient if sent to the address of the member which is then on file with the Secretary. Notice given electronically shall be deemed to be delivered when dispatched, unless an error message is reported back to the sending system.

7. Membership List. At least ten (10) days before every election of directors, a complete list of members entitled to vote at the election, showing the Lot owned by the member and the residence address of each, shall be prepared by the Secretary. Such list shall be open to examination by any member throughout the ten (10) day period preceding the election, until the election is completed.

8. Voting Rights. The number of votes each member is entitled to cast at any meeting of the membership is set forth in Article 5 of the Protective Covenants. If more than one person or entity owns a Lot, they shall file a certificate with the Secretary naming the person authorized to cast the vote for the Lot. If no certificate is filed, the co-owners must designate, at the time of the meeting, the person authorized to cast such vote.

9. Proxies. At all meetings of the members, every member shall have the right to vote in person or by proxy. All proxies shall be executed in writing by the member or by his duly authorized attorney-in-fact and shall be filed with the Secretary. The provisions of N.C.G.S. §47F-3-110 shall be applicable with respect to proxies utilized in Association business.

10. Quorum. At any meeting of the members, the presence of ten (10%) of the Class I votes of the Association, in person or by proxy, and the presence of the Class II Member shall constitute a quorum of the membership for any action, except as otherwise provided in the Protective Covenants of Cypress Bay at Maritime Shores or these Bylaws. In the event business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision to the contrary in the Protective Covenants or these Bylaws, the quorum requirement at the next meeting shall be one-half (½) of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

11. Quorum at Meeting Called for Special Assessments of Capital Improvements. Written notice of any meeting called for the purpose of taking any action authorized under Article 6, Section 4 of the Protective Covenants shall be sent to all Members entitled to notice not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast ten (10%) percent of all the votes of each class of membership shall constitute a quorum. At subsequent called meetings, fifty (50%) percent of the votes of each class of membership shall constitute a quorum. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

12. Voting Required to Transact Business. When a quorum is present at any meeting, a majority of the votes entitled to be cast by the members present or represented by proxy shall decide any question brought before the meeting unless the question is one upon which, by express provision of the Protective Covenants or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

13. Action Without a Meeting. Any action which is required or permitted to be taken at a meeting may be taken without a meeting if:

a. Consent in writing, setting forth the action so taken, is signed by all of the members entitled to vote with respect to the subject matter thereof and filed with the Secretary, whether done before or after the action so taken; or

b. Approved by written ballot sent to all members entitled to vote, provided, (i) the number of votes cast by written ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and (ii) the number of approvals cast equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the same total number of votes were cast.

14. Order of Business. The order of business at annual members' meetings and as far as practical at other members' meetings, will be:

- a. Roll call and certification of proxies;
- b. Proof of notice of meeting or waiver of notice;
- c. Reading of minutes of prior meeting;
- d. Officers' reports;
- e. Committee reports;
- f. Appointment by Chairman of Inspectors of Election;
- g. Election of directors;
- h. Unfinished business;
- i. New business;
- j. Adjournment.

ARTICLE 4  
BOARD OF DIRECTORS

1. Number. The affairs of the Association shall be managed by a Board of Directors consisting of two (2) who shall be appointed by the DECLARANT until the Turnover Meeting of the members after the termination of the Class II Control Period and thereafter consisting of five (5), all of whom shall be members of the Association, except that none of the initial Board of Directors or their successors need be members until the Turnover Meeting of the members.
2. Term. The term of office of a director shall be two (2) years. The first election of the Board of Directors shall provide for the election of three (3) directors for a two (2) year term and for the election of two (2) directors for a one (1) year term. Thereafter, all directors shall be elected for a two (2) year term such that one (3) directors are elected one year and two (2) directors the next year.
3. Vacancy. Any vacancy occurring in the Board of Directors by reason of transfer of ownership, death, resignation, retirement, disqualification, removal from office or other reason, may be filled by the remaining members of the Board of Directors appointing a member to fill the vacancy. A director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office.
4. Removal. Notwithstanding any provision of the Protective Covenants or these Bylaws to the contrary, the Members, by a majority vote of all persons present and entitled to vote at any meeting of the Members at which a quorum is present, may remove any member of the Board of Directors of the Association with or without cause, other than a member appointed by the DECLARANT.
5. Organizational Meeting. The organizational meeting of a newly elected Board of Directors of the Association shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary.
6. Disqualification and Resignation of Directors. Any Director may resign at any time by sending a written notice of such resignation to the office of the Association, delivered to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary. Commencing with the Directors elected at the first meeting of the membership, the transfer of title of his Lot by a Director shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors, unless the Director continues to own another Lot. No member shall continue to serve on the Board of Directors should he be more than thirty (30) days delinquent in the payment of an assessment, and said delinquency is confirmed by the Board of Directors.
7. First Board of Directors. The first Board of Directors shall consist of those persons appointed by the DECLARANT. The first Board of Directors, or their

replacement as determined by the DECLARANT during the Class II Control Period, shall serve until the Turnover Meeting.

8. Compensation. No director shall receive compensation for any service he may render to the Association in his capacity as a director. However, each director may be reimbursed for actual expenses incurred in the performance of his duties.

9. Proviso. Notwithstanding any provisions contained herein, until Class II membership ceases and so long as the DECLARANT has a right to appoint any Directors, the Directors, named in the Articles of Incorporation or their successors need not be members and may not be removed by the members of the Association.

10. Powers. The Board of Directors may exercise all corporate powers not specifically prohibited by statute, the Articles of Incorporation or the Protective Covenants. The powers of the Board of Directors shall specifically include, but not be limited to, the following:

- a. To make and collect general, special and individual assessments and establish the time within which payment of such assessments are due;
- b. To use and expend the assessments collected to maintain, repair, replace, modify, care for, manage and preserve the Common Areas, except those portions thereof which are required to be maintained, cared for and preserved by the Owners;
- c. To procure, maintain and pay premiums on, insurance policy(s) and equitably assess the members as part of the Common Expenses;
- d. To contract for and discharge management of the Subdivision and to delegate to such manager, employee or contractor all powers and duties of the Association except those specifically required by the Protective Covenants to have specific approval of the Board of Directors or the membership of the Association;
- e. To employ, compensate and discharge such personnel as may be required for the maintenance and preservation of the property, including but not limited to attorneys, accountants, contractors and architects;
- f. To make and amend rules and regulations governing the use of the Common Areas and the conduct of the Lot Owners, their tenants and guests;
- g. To acquire, rent or lease a Lot in the name of the Association or its designee;
- h. To designate, as the Board of Directors deems appropriate, assigned parking spaces for each Lot, visitors, service vehicles, and other vehicles;

- i. Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that Common Areas may be conveyed or subjected to a security interest only pursuant to applicable law;
- j. To impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Areas other than for service provided to members;
- k. To purchase equipment, supplies and materials required in the maintenance, repair, replacement, operation and management of the Association property;
- l. To pay bills for utilities serving the Association property;
- m. To foreclose any unpaid assessments and liens resulting therefrom against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the member personally obligated to pay the same;
- n. To exercise all authority with respect to architectural review and control, including but not limited to the authority to approve plans and specifications for all structures on and improvements to Lots and Common Areas, to impose and collect architectural review fees, to approve landscaping plans, to enforce design guidelines applicable to the Lots and Common Areas, and to enact additional guidelines for all improvements;
- o. To exercise all authority in connection with Lot use restrictions, including but not limited to the authority to enforce use restrictions applicable to the Lots, to enact rules and regulations relating to Lot use and Lot Owners and guests, and to establish and collect fines for breaches of such restrictions, rules and regulations;
- p. To delegate to any person or entity any powers not prohibited by law to be delegated;
- q. Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the planned community;
- r. To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;
- s. Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that Common Areas may be conveyed or subjected to a security interest only pursuant to applicable law;
- t. To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- u. To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;

v. To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

w. To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, provided, however, no money may be lent without approval of a majority of the members present and voting in person or by proxy at a meeting;

x. To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust, or other entity with the approval of a majority of the members of the association present and voting in person or by proxy at a meeting; and

y. To make donations for the public welfare or for charitable, religious, cultural, scientific, or educational purposes, and to make payments or donations not inconsistent with law for other purposes that further the corporate interest;

z. To exercise all other powers that may be exercised in this state by legal entities of the same type as the Association;

aa. To have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of North Carolina by law may now or hereafter have or exercise;

bb. Make contracts and incur liabilities;

cc. Regulate the use of the Common Areas;

dd. Cause additional improvements to be made as a part of the Common Areas;

ee. Grant easements, leases, licenses, and concessions through or over the Common Areas;

ff. Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Areas and for services provided to Lot Owners;

gg. Impose reasonable charges for late payment of assessments, and impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of 30 days or longer in accordance with the Planned Community Act or for violations of the Protective Covenants, Bylaws, and Rules and Regulations of the Association;

hh. To enforce the provisions of these Bylaws, the Articles of Incorporation, the Protective Covenants and the rules and regulations promulgated thereunder by any legal means;

ii. Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the Protective Covenants or statements of unpaid assessments;

jj. Provide for the indemnification of and maintain liability insurance for its officers, Board of Directors, directors, employees and agents; and

kk. Assign its right to future income, including the right to receive common expense assessments.

11. Duties. It shall be the duty of the Board of Directors to do the following:

a. To cause the Common Areas to be maintained, repaired, and replaced as necessary, and to assess the members to recover the cost of the upkeep of the Common Areas;

b. To keep a complete record of all its acts and corporate affairs and present a statement thereof to the members at the Turnover Meeting, or at any special meeting when such statement is requested in writing by 20% of the members;

c. To supervise all officers, agents and employees of the Association, and see that their duties are properly performed;

d. To fix the amount of the general assessment against each Lot at least thirty (30) days in advance of each general assessment period. The budget shall be presented to the members in accordance with N.C.G.S. §47F-3-103(c).

e. To send written notice of each assessment to every member at least thirty (30) days in advance of the due date for each annual assessment;

f. To issue, or have issued, for a reasonable charge, a certificate setting forth whether or not any assessment has been paid; provided, however, that if a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment as to all parties except the member and Lot Owner as of the date of the assessment;

g. To procure and maintain, at all times, adequate hazard insurance on the property owned by the Association and all property for which the Association has the duty to maintain, and sufficient liability insurance to adequately protect the Association as provided in the Protective Covenants;

- h. To hold the organizational meeting of any newly elected Board of Directors within ten (10) days of their election in accordance with Article 4, Section 5 above;
- i. To pay all taxes and assessments against Association property; and
- j. To select depositories for the Association's funds and to determine the manner of receiving, depositing and disbursing Association funds and the form of check and the person or persons by whom the same shall be signed, when not signed as otherwise provided by these Bylaws.

ARTICLE 5  
MEETINGS OF DIRECTORS

1. Meetings. Meetings of the Board of Directors shall be held at such place and hour as may be fixed from time to time by resolution of the Board of Directors, after not less than three (3) days' notice to each director.
2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) days' notice to each director.
3. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at such meetings at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At each such adjourned meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.
4. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time and place thereof, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If a meeting of directors otherwise valid is held without proper call or notice, action taken at such a meeting is deemed ratified by a director who did not attend unless promptly, after having knowledge of the action taken and of the impropriety in question, he files with the Secretary of the Association his written objection to the holding of the meeting or to any specific action so taken.
5. Action Without a Meeting. Any action taken by a majority of directors without a meeting is nevertheless effective if written consent to the action is obtained from all

the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

6. Attendance by Telephone. Any director may participate in a meeting of the Board of Directors, by means of a conference telephone or similar communications device which allows all persons participating in the meeting to hear each other. Such participation by a director in a meeting shall be deemed presence in person by the director at such meeting.

## ARTICLE 6 OFFICERS AND THEIR DUTIES

1. Officers. The officers of the Association shall be a President, Vice-President, Secretary and Treasurer, all of whom shall be elected annually by the Board of Directors. Any two offices may be held by the same person, except the offices of the President and Secretary. The President and Vice President must be members of the Board of Directors. All other officers need not be members of the Board of Directors or of the Association.

2. Special Officers. The Board of Directors may from time to time elect such other officers as the affairs of the Association require, including an Assistant Treasurer and Assistant Secretary, each of whom shall hold office for such period, have such authority, and perform such duties as the Executive Board may prescribe.

3. Term. The officers shall hold office until their successors are chosen and qualify in their stead. Any officer elected by the Board of Directors may be removed at any time with or without cause by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors. No compensation will be paid to the officers of the Association.

4. Removal or Resignation. Any officer may be removed from office with or without cause, at any time, by action of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of receipt of the notice, unless a later time is specified therein. The acceptance of the resignation shall not be required to make it effective.

5. Compensation. No compensation shall be paid to the officers of the Association.

6. Vacancy. A vacancy in any office may be filled by the Board of Directors. An officer appointed to fill a vacancy shall serve for the unexpired term of the officer s/he replaces.

7. Duties. The duties of the officers are as follows:

a. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members. He shall have executive powers and general supervision over the affairs of the Association and other officers and shall be an ex-officio member of all committees. He may sign all written contracts, and shall prepare, execute, certify and record or cause to be prepared, executed, certified and recorded amendments to the Protective Covenants on behalf of the Association and perform all duties incident to his office which may be delegated to him from time to time by the Board of Directors.

b. Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be prescribed by the Board of Directors.

c. Secretary. The Secretary shall record the notes and keep the minutes of all meetings of the members and of the Board of Directors in one or more books provided for that purpose; shall see that all notices are fully given in accordance with the provisions of these Bylaws or as required by law; shall be custodian of the Association's records and of the seal of the Association and shall see that the seal of the Association is affixed to all documents requiring said seal; shall keep the records of the Association, except those of the Treasurer, and in general, shall perform all duties as from time to time may be assigned to him by the President, including certifying amendments to the Protective Covenants, or assigned to him by the Board of Directors.

d. Treasurer. The Treasurer shall receive and deposit all monies and other property of the Association in such depositories as may be designated by the Board of Directors; shall keep proper books of account; shall disburse the funds of the Association as ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and Board of Directors, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association, which records shall be open to inspection by members at reasonable times in accordance with applicable law; shall prepare an annual budget and a statement of income and expenditures to be presented to the members at their regular Turnover Meeting; shall with the approval of the Board of Directors, be authorized to delegate all or part of his responsibilities to competent accounting, collection or management personnel, but in such event, the Treasurer shall retain supervisory responsibilities, and, in general, shall perform all duties incident to the office of Treasurer and assigned to him by the President or the Board of Directors.

8. Indemnification. To the fullest extent and upon the terms and conditions from time to time provided by law, the Association shall indemnify any and all of its officers, directors, employees and agents, or any person who has served or is serving in such capacity at the request of the Association in any other Association, partnership, joint venture, trust or other enterprise, against liability and reasonable litigation expenses, including attorneys' fees incurred by him in connection with any action, suit or proceeding in which he is made or threatened to be made a party by reason of being or having been such director, officer, employee or agent (excluding, however, liability or litigation expenses which any of the foregoing may incur in

relation to matters as to which he shall be adjudged in such action, suit or proceeding to have acted in bad faith or to have been liable or guilty by reason of willful misconduct in the performance of his duty). Such directors, officers, employees and agents shall be entitled to recover from the Association, and the Association shall pay, all reasonable costs, expenses and attorneys' fees in connection with the enforcement of rights of indemnification granted herein. Any person who at any time after the adoption of this bylaw serves or has served in any of the aforesaid capacities for or on behalf of the Association shall be deemed to be doing or to have done so in reliance upon and as consideration for the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any right to which such person may be entitled apart from the provisions of this bylaw.

The Board of Directors of the Association shall take all such action as may be necessary and appropriate to authorize the Association to pay the indemnification required by this Bylaw, including without limitation, to the extent needed, making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable amount of indemnity due him and giving notice to, and obtaining approval by, the members of the Association.

Expenses incurred by a director, officer, employee or agent in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall be ultimately determined that he is entitled to be indemnified by the Association against such expenses.

The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another Association, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

Any person who at any time after the adoption of this Section 8 serves or has served in any of the aforesaid capacities for or on behalf of the corporation shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this Bylaw.

9. Fidelity Bond. The Association shall provide blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. A management agent that handles funds for the Association should also be covered by its own fidelity bond. Except for fidelity bonds that a management agent obtains for its personnel, all other such bonds shall name the Association as an obligee and their premiums shall be a common expense and paid by the Association. The fidelity bond shall cover the maximum funds that will be in the custody of the

Association or its management agent at any time while the bond is in force. The fidelity bond coverage must at least equal the sum of the annual assessment on all Lots in the Subdivision, plus the Association's reserve funds. The bonds must include a provision that calls for 10 days' written notice to the Association, or any insurance trustee, before the bond can be canceled or substantially modified for any reason.

ARTICLE 7  
COMMITTEES

The Board of Directors shall appoint a Nominating Committee and such other committees as they may from time to time deem appropriate.

ARTICLE 8  
FINANCES

1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to a specific instance.

3. Checks and Drafts. All checks, drafts or other orders for the payment of money issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such depositories as the Board of Directors may select.

ARTICLE 9  
RECORDS

1. Receipts and Expenditures. The Board of Directors or the manager shall keep detailed accurate records in chronological order of the receipts and expenditures affecting the Common Areas and any other expenses incurred. Both said book and the vouchers accrediting the entries thereupon shall be available for examination by all Lot Owners, their duly authorized agents and attorneys, at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good and accepted accounting practices.

2. Other Records. The Board of Directors or the manager shall keep correct and complete books of records of account, minutes of the proceedings, and a record of the names and addresses of the members entitled to vote, which latter records must be kept at the Association's principal office. Any member, his agent or attorney may examine these books and records for any proper purpose at any reasonable time.

3. Inspection of Records. The Association shall make available to Lot Owners, lenders, holders, insurers or guarantors of any first mortgage, current copies of the Protective Covenants, Articles of Incorporation, Bylaws or other rules concerning the Subdivision and the books, records and financial statements of the Association as and to the extent required by law. For purposes of this section, "available" means available for inspection upon request during normal business hours and under reasonable circumstances.

ARTICLE 10  
RULES AND REGULATIONS

The Board of Directors shall have the right to enact administrative rules and regulations regarding the use of the Common Areas and conduct of the members.

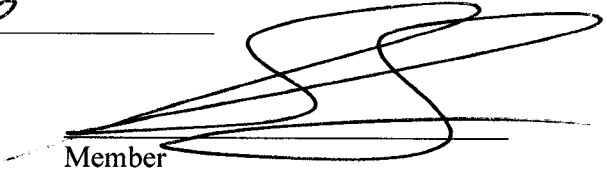
ARTICLE 11  
FORMS OF PROXY AND WAIVER

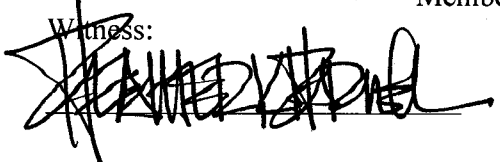
1. Forms of Proxy. The following form or proxy shall be deemed sufficient, but any other form may be used which is sufficient in law:

CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION, INC.

Know all men by these presents that the undersigned member of CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION hereby constitute and appoints Richard F. Green the attorney and proxy of the undersigned to annual and special meeting of the members of CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION, INC. at which I am not present, until the secretary of the Association receives from me a letter revoking this proxy and for and on behalf of the undersigned to vote as the undersigned would be entitled to vote if personally present, hereby ratifying and confirming all that said attorney and proxy shall do in the premises, and giving and granting unto said attorney and proxy full power of substitution and revocation.

Dated: 5-18-6

  
Member

Witness:  


2. Form of Waiver of Notice. The following form of waiver of notice shall be deemed sufficient, but any other form may be used which is sufficient in law:

CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION, INC.

We the undersigned (Board or Association Members) of CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION do hereby severally waive notice of the time, place, and purpose of (the annual or a special) meeting of the (Board of Directors or Association members) of the said association, and consent that same be held at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_ o'clock \_\_.M., and we do further consent to the transaction of any and all business of any nature that may come before the meeting.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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ARTICLE 12  
PARLIAMENTARY RULES

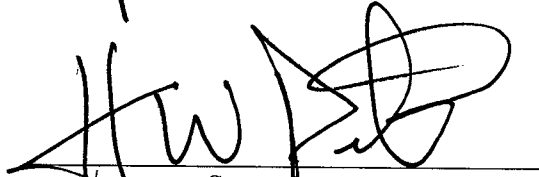
Robert's Rules of Order (latest edition) shall govern the conduct of all Association Meetings, not in conflict with the Protective Covenants, Articles of Incorporation and these Bylaws.

ARTICLE 13  
GENERAL PROVISIONS

1. AMENDMENT. At any time prior to the first to occur of (i) December 31, 2015, or (ii) the date on which all planned or plotted Lots have been sold by DECLARANT, these Bylaws may be amended by DECLARANT in its discretion. Retention of this right by the DECLARANT is not intended to affect the general or common scheme of development for the Property but to correct and/or modify situations or circumstances which may arise during the course of development. Thereafter, these Bylaws may be amended by affirmative vote of not less than sixty-seven percent (67%) of the total Class I votes of the Association; provided, however, as long as the Class II membership exists, no amendment to these Bylaws shall be valid or enforceable without the written joinder and consent of DECLARANT. In no event may the Protective Covenants be amended so as to deprive DECLARANT or successors and assigns of any rights herein granted or reserved unto DECLARANT unless DECLARANT agrees to and joins in such amendment. HUD/VA has the right to veto amendments while there is a Class II membership.

2. ASSOCIATION SEAL. A seal with the words "CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION, INC.," on the outer circle shall be the common corporate seal of the Association and shall be in the custody of the Secretary.

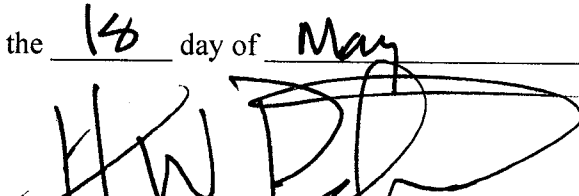
These Bylaws effective as of May 15, 2006.

  
Secretary

[Corporate Seal]

The foregoing were adopted as the Bylaws of the CYPRESS BAY AT MARITIME SHORES OWNERS ASSOCIATION, INC., a non-profit corporation under the laws of the State of North Carolina, at the first meeting of the Board of Directors.

Certified to be correct, this the 15 day of May, 2006.

  
Secretary