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Onslow County, NC  
Omega K. Jarman Reg. of Deeds

**BK 5455 PG 47 - 101**

**Summerhouse**  
**on**  
**Everett Bay**

**AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,  
RESTRICTIONS, EASEMENTS, CHARGES, AND LIENS FOR  
SUMMERHOUSE ON EVERETT BAY**

**NOTE: THIS DECLARATION CONTAINS BINDING, IRREVOCABLE AGREEMENT  
TO ARBITRATE AND IS SUBJECT TO ARBITRATION PURSUANT TO THE STATE  
CODE STATUTE OR UNIFORM ARBITRATION ACT THAT IS APPLICABLE  
REGARDING BINDING ARBITRATION.**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL  
SIGNS, THE FLAG OF THE UNITED STATES OF AMERICA, AND THE FLAG OF  
THE STATE OF NORTH CAROLINA.**

submitted electronically by "Ward and Smith, P.A."  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Onslow County Register of Deeds.

AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,  
RESTRICTIONS, EASEMENTS, CHARGES, AND LIENS FOR SUMMERHOUSE ON  
EVERETT BAY

THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE  
COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES, AND LIENS FOR  
SUMMERHOUSE ON EVERETT BAY ("Declaration") is made and entered into as of the 5<sup>th</sup>  
day of May, 2021 by SUMMERHOUSE ON EVERETT BAY HOMEOWNERS  
ASSOCIATION, INC., a North Carolina non-profit corporation (the "Association").

RECITALS:

- A. R.A. North Development I, Inc., a North Carolina corporation ("Declarant"), caused to be recorded the Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens for Summerhouse on Everett Bay in Book 2679, at Page 633 in the office of the Register of Deeds of Onslow County (as amended and supplemented, the "Original Declaration").
- B. R.A. North Development I, Inc. converted to R.A. North Development I, LLC by filing Articles of Organization Including Articles of Conversion on December 29, 2010.
- C. Pursuant to Article XIV, Section 11 of the Original Declaration, the Original Declaration may be amended pursuant to N.C. Gen. Stat. § 47F-2-117 with at least a sixty-seven percent (67%) vote of the membership in the Association.
- D. The Association has obtained at least a sixty-seven percent (67%) vote of the membership in the Association to amend and restate the Original Declaration as set forth herein.

NOW, THEREFORE, the Association hereby covenants and declares on behalf of itself and its successors and assigns that the Original Declaration is hereby amended and restated in its entirety. The real estate previously made subject to the Original Declaration from the date this Declaration is recorded in the office of the Register of Deeds of Onslow County shall be held, conveyed, acquired and encumbered subject to the terms and provisions hereof, all of which shall run with the real estate and bind and inure to the benefit of all current Owners and prospective purchasers and parties who have or may acquire any right, title, estate or interest in or to any of such real estate or who have or may acquire any right or occupancy of or

interest upon any portion thereof, all subject to the right of the Association to amend this Declaration according to its terms. All such rules, regulations, restrictions, covenants, conditions, uses and obligations are declared and agreed to be in furtherance of a plan for the Subdivision and the use, enjoyment and rental of Lots and shall be deemed to run with the land and be a burden on and a benefit to any person acquiring or owning any interest in the real property in the Subdivision and any improvements thereto, and such parties' grantees, successors, heirs, assigns, executors, administrators and devisees. Individual Owners, their employees, guests, and tenants, and all persons using or possessing any property within the Subdivision are subject to the provisions of this Declaration.

#### AMENDMENT AND RESTATEMENT OF ORIGINAL DECLARATION

The Original Declaration is hereby amended to delete and rescind the Original Declaration, as amended and supplemented, in its entirety, subject to Article VI herein, and adopt in its place instead this Declaration.

#### ARTICLE I

##### Definitions

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Additional Property" shall mean and refer to additional real estate that the Declarant, in its discretion, may incorporate as additional phases of the Subdivision and bring same under this Declaration but shall be under no obligation to do so.

(b) "Annual Assessments" or "Assessments" shall mean an assessment established by the Board of Directors for common expenses as provided for herein or by a subsequent amendment which shall be used for the purpose of promoting the recreation, common benefit and enjoyment of the Owners and occupants of all Lots and the operation, maintenance and repair of the Common Area.

(c) "Architectural Review Committee" or "ARC" shall mean and refer to the Architectural Review Committee established under Article VIII hereof.

(d) "Association" shall mean and refer to Summerhouse on Everett Bay Homeowners Association, Inc., its successors and assigns, a nonprofit North Carolina corporation.

(e) "Boat Storage Lot" shall mean and refer to a portion of the Common Area designated by the Board as an area where Members may store certain items, as determined by the Board, for a fee established by the Board, subject to rules and regulations promulgated by the Board.

(f) "Common Area and/or Open Space" or "Common Area" shall mean and refer to all common area and those areas of land, including the facilities to be constructed thereon, if any, shown and specifically designated as such on any subdivision map of the Subdivision (as hereafter defined) filed by Declarant or by any other means so designated by Declarant or the Association. The Common Area shall be all areas not included in one of the Lots. Common Area and/or Open Space will be under control of the Association. Such areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public. However, no general plan or plat of the Subdivision showing additional property or adjoining areas which may later be developed as additional phases of the Subdivision, shall cause such areas to be included as Common Area nor shall the Association or any Owner be entitled to any right, title or interest therein unless and until such adjoining areas shall have been formally included as a part of the Subdivision by the Declarant pursuant to the terms hereinafter contained. Subject to the provisions of Article VI hereof, existing and future streets, roads and right-of-ways, alleys, open spaces, private lanes, greenways, median strips, cul-de-sac centers, planting areas, street trees, clubhouse facility, swimming pool, tennis courts, playground and miscellaneous recreational areas, parks, entrance walls, electronic entry gate and signage, mail box facilities, gate house, ponds, lakes, retaining walls, bulkheads, walks, sidewalks, boardwalks, estuary areas, walking trails, the Boat Storage Lot, and a small vessel launch, a viewing dock and 10 day slips, and any other areas, facilities, or improvements so designated specifically in writing or designated as "Common Area and/or Open Space" on the plats of the Subdivision referred to in Exhibit "A" to the Original Declaration and any further phases of the Subdivision, shall become Common Area upon conveyance by Declarant to the Association.

Provided, however, the recording and reference to said plat shall not in and of itself be construed as creating any dedications, rights or easements (negative reciprocal or otherwise), all such dedications, rights and/or easements being made only specifically by this Declaration, any amendment or supplement hereto or any deed of conveyance from Declarant, its successors or assigns.

Notwithstanding the foregoing, Pump Stations 1-5, the Wastewater Treatment Plant, and Infiltration Basins 1-2 conveyed by the Declarant to Onslow Water and Sewer Authority shall not be Common Area.

(g) "Community-Wide Standard" shall mean and refer to the standard of conduct, upkeep, or other activity generally prevailing throughout the Subdivision, or as otherwise established by the Board of Directors or Architectural Review Committee, with the determination of the Architectural Review Committee having precedence over what may be generally prevailing. The standard may contain both objective and subjective elements, and may evolve and change as development progresses and as the needs and desires within the Subdivision change. No other writing is required for the establishment of this

Community-Wide Standard, as it is determined based on the Governing Documents and determinations of the Board of Directors and the Architectural Review Committee.

(h) "Declarant" shall mean and refer to R.A. North Development I, LLC, a North Carolina limited liability company, its successors and/or assigns.

(i) "Declaration" shall mean and refer to this Amended and Restated Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens for Summerhouse on Everett Bay, as it may be amended from time to time.

(j) "Dwelling" shall mean and refer to the completed single family home located upon a Lot.

(k) "Governing Documents" shall mean and refer to the Declaration, the Articles of Incorporation of the Association, the By-Laws of the Association, the Architectural Review Guidelines ("Guidelines") as more fully described in Article VIII herein, the Application for Preliminary Architectural Review, the Application for Final Architectural Review, Summerhouse on Everett Bay Guidelines Pattern Book, Summerhouse on Everett Bay Approved Plant List, and the Rules and Regulations of the Association.

(l) "Lot" shall mean and refer to any lot of land intended for residential use, with delineated boundary lines appearing on any recorded subdivision map of the Subdivision, with the exception of any Common Area shown on any plat of the Subdivision. In the event any Lot is increased in size by subdivision or combination, the same shall nevertheless be and remain a Lot for the purposes of this Declaration. This definition shall not imply, however, that a Lot may be subdivided if prohibited elsewhere in this Declaration. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon, including, but not limited to, the Dwelling.

(m) "Member" shall mean and refer to an Owner who is a member of the Association as provided in Article V hereof.

(n) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee-simple title to any Lot(s) later developed, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" shall also refer to the heirs, successors and assigns of any Owner. The Declarant shall not be deemed an Owner.

(o) "Setback" shall mean an area along the boundary of a Lot where no building or other structures, including, without limitation, swimming pools, fences, patios or decks, shall be permitted, without the express written permission of the Declarant. After the Declarant has sold its last Lot in the Subdivision, this permission shall be given by the Association, by and through its Board.

(p) "Single Family Area" shall mean and refer to any portion of the Subdivision designated as such by the Declarant in which Lots are for single family residential use.

(q) "Subdivision" or "Properties" shall mean and refer to all real estate including Lots, Common Area and/or Open Space previously made subject to the Original Declaration, together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate together with any additional phases that may be developed and specifically submitted to the provisions of this Declaration pursuant hereto.

(r) "Subsequent Amendment" or "Supplemental Declaration" shall mean an amendment to this Declaration which adds property to this Declaration and makes it subject to the Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Subsequent Amendment to the provisions of the Declaration.

(s) "Waterfront Lot" shall mean those Lots whose boundary lies on the Intracoastal Waterway or any Lot whose boundary lies on Common Area that contains a body of water.

(t) "Turnover Date" shall have the meaning as set forth in Article V hereof.

(u) "Wastewater Facilities" shall mean the wastewater collection system, a wastewater treatment plant and a wastewater disposal system which shall be used for the collection, treatment, and disposal of the wastewater from the Subdivision including any future phases. The Wastewater Facilities include, but are not limited to, collection lines, mains, wastewater treatment plant, pumps, controls, electrical equipment, the upset basin, the infiltration basins, services and connections, existing or proposed for the Subdivision.

## ARTICLE II

### Uses of Property

Section 1. Conformity and Approval of Structures. No structure, fence, sidewalk, wall, swimming pool, or other improvement shall be placed or altered on any Lot except in accordance with the provisions of this Declaration.

Section 2. Encroachment over Setbacks. No building or residence including porches, swimming pools, or projections of any kind shall be erected so as to extend over or across any of the Setbacks as hereinafter established except as herein set forth; provided, however, that roof overhangs may extend over or across Setbacks by up to one (1) foot.

Section 3. Subdivision and Combination of Lots. A Lot or Lots may only be subdivided or combined as follows:

(a) C Lots. Pursuant to Article XIV, Section 15 of the Declaration, Declarant may change the densities that exist on the portions of the Properties it owns by, among other things, combining and subdividing Lots.

(1) The following Lots have been created by Declarant pursuant to its rights under Article XIV, Section 15 of the Declaration: 204C, 206C, 869C, 890C, 906C, 908C, 949C, 951C, and 965C.

(2) Any Lot or Lots created by the Declarant pursuant to Article XIV, Section 15 of the Declaration must be renamed on a plat and must include one or two of the original Lot numbers followed by a "C". For example, if Lots 2 and 3 are combined into one Lot, that Lot shall be renamed either Lot 2C or Lot 3C. If Lots 2, 3, and 4 are combined into two Lots, those two Lots shall be renamed Lots 2C and 3C, Lots 2C and 4C, or Lots 3C and 4C. Lots created under this Article II, Section 3(a) and Article XIV, Section 15 of the Declaration shall be described as "C Lots".

(3) Simultaneously with the recording of the plat depicting the combination or subdivision of Lots, Declarant shall record an Instrument of Combination (as defined herein) that includes a provision setting forth the maximum built-upon area of the combined Lot or Lots.

(b) R Lots. Owners of Lots, with the approval of the Declarant and the recording of a Plat (as defined below) and Instrument of Combination (as defined below) in the office of the Register of Deeds of Onslow County previously combined lots described as "R Lots".

(1) The right to combine Lots set forth in this Article II, Section 3(b) previously expired after seventy-nine (79) Combinations were submitted to and approved by the Declarant and the Plat and Instrument of Combination were recorded in the office of the Register of Deeds of Onslow County.

(2) The Lot or Lots created by this Combination were renamed on the Plat and included one or two of the original Lot numbers followed by an "R". For example, if Lots 2 and 3 were combined into one Lot, that Lot was renamed either Lot 2R or Lot 3R. If Lots 2, 3, and 4 were combined into two Lots, those two Lots were renamed Lots 2R and 3R, Lots 2R and 4R, or Lots 3R and 4R.

(3) Lots may not be subdivided after they are combined.

(4) Upon Combination of Lots, the building line requirements prescribed herein have applied, and shall hereafter apply, and the easements reserved herein have been applicable, and shall be applicable, to the rear, side, and front Lot lines of such Lot as combined. The resulting building site and structures erected thereon must otherwise comply with these restrictions and the new property line of the resulting building site shall be used to compute Setback lines as set forth herein.

(5) In the event that two (2) Lots were combined to create one (1) Lot, the combined Lots shall be deemed to be one (1) Lot for purposes of voting and for all other purposes under the Declaration, except for Assessment purposes, commencing on the date of the Plat and Instrument of Combination being recorded in the office of the Register of Deeds of Onslow County as described in Section 3(b)(3) of this Article II. Despite their Combination, and notwithstanding any other provisions of the Declaration, the combined Lots will continue to be assessed as two (2) Lots for purposes of Assessments under this Declaration until the last to occur of (i) a Certificate of Occupancy being issued for a Dwelling located on the combined Lot; and (ii) the delivery of written notice from the Architectural Review Committee giving final approval of the construction of the completed Dwelling located on the combined Lot, or, in

the case of a Combination with a pre-existing Dwelling, the delivery of written notice from the Architectural Review Committee giving final approval of the landscaping or improvements on the combined Lot as proposed in the plans approved by the Architectural Review Committee. If one of the combined Lots includes, at the time the Plat is recorded in the office of the Register of Deeds of Onslow County, a Dwelling that has been approved by the Architectural Review Committee and for which a Certificate of Occupancy has been issued, the combined Lot shall be deemed one (1) Lot for all purposes commencing on the date of the Plat and Instrument of Combination being recorded in the office of the Register of Deeds of Onslow County.

(6) In the event that three (3) Lots were combined to create two (2) Lots, the combined Lots shall be deemed to be two (2) Lots for purposes of voting and for all other purposes under the Declaration, except for Assessment purposes, commencing on the date of the Plat and Instrument of Combination being recorded in the office of the Register of Deeds of Onslow County. Despite their Combination, the combined Lots will continue to be subject to Assessments as three (3) Lots by each combined Lot being assessed one and one-half (1½) of the Assessment amount imposed against each Lot in the community until the last to occur of (i) a Certificate of Occupancy being issued for a Dwelling located on one of the two Lots resulting from the combination; and (ii) the delivery of written notice from the Architectural Review Committee giving final approval of the construction of the completed Dwelling located on one of the two Lots resulting from the combination. Each combined Lot is assessed one and one half (1½) of the Assessment amount prior to the last event to occur identified above, regardless of the amount of acreage received by either Owner of the combined Lots from the Combination. After the event that is the last to occur of the events described in the preceding sentences, the combined Lot with the completed Dwelling will be treated as one (1) Lot for Assessment purposes; provided, however, that if either of the two Lots resulting from the Combination already included a completed, pre-existing Dwelling prior to the Request for Combination, then the combined Lot with the completed Dwelling will be deemed one (1) Lot for purposes of Assessment commencing on the date of delivery of written notice from the Architectural Review Committee giving final approval of the landscaping or improvements on the combined Lot with the completed Dwelling as presented in the plans approved by the Architectural Review Committee. The remaining Lot from the Combination without a completed Dwelling will continue to be assessed one and one half (1½) of the Assessment amount until such time as the last to occur of (i) a Certificate of Occupancy being issued for a Dwelling located on that Lot; and (ii) the delivery of written notice from the Architectural Review Committee giving final approval of the construction of the completed Dwelling located on that Lot.

(7) As of January 1, 2021, all R-Lot Combinations under this Section 3(b) have been completed, such that new R-Lot Combinations are no longer available.

(c) Z Lots. All Owners who want to subdivide or combine Lots after the recording of this Declaration must comply with the following:

(1) A Lot or Lots may only be subdivided provided the effect is (i) to increase the size of both of the adjoining Lots or (ii) to combine two Lots into one Lot. In such instances, the adjoining Lot Owners, or other Owners in the Subdivision, do not have the right to review, pass on or interfere with such Lots rearrangement, as such rights shall be exclusively that of the Association, acting by and through its Board.

(2) No subdivision or combination under this Article II, Section 3(c) shall be performed without the prior written consent of the Board. All requests for subdivision or combination under this Article II, Section 3(c), must be submitted by an Owner to the Board in writing and must include: (i) a Plat in recordable form depicting the proposed subdivision or combination under this Article II, Section 3(c), and (ii) an Instrument of Combination ("3(c) Request"). The application form that must be submitted with the 3(c) Request, as well as any additional terms or information that must be provided with the 3(c) Request, shall be established by the Board. After a proposed combination is approved by the Board, the Owner must obtain any necessary approvals from the appropriate governmental entities or departments and must record the Plat and Instrument of Combination in the office of the Register of Deeds of Onslow County no later than thirty (30) days from the date of approval by the Board. The Owner must deliver copies of the recorded Plat and Instrument of Combination to the Architectural Review Committee within fifteen (15) days after the Plat and Instrument of Combination are recorded in the office of the Register of Deeds of Onslow County.

(3) The Lot or Lots created by the Combination must be renamed on the Plat and must include one or two of the original Lot numbers followed by a "Z". For example, if Lots 2 and 3 are combined into one Lot, that Lot shall be renamed either Lot 2Z or Lot 3Z. If Lots 2, 3, and 4 are combined into two Lots, those two Lots shall be renamed Lots 2Z and 3Z, Lots 2Z and 4Z, or Lots 3Z and 4Z. Any Lots created under this Article II, Section 3(c), shall be described as "Z Lots".

(4) Lots may not be subdivided after they are combined.

(5) Upon combination of Lots, the building line requirements prescribed herein shall apply and the easements reserved herein shall be applicable to the rear, side and front lot lines of such Lot as combined. The resulting building site and structures erected thereon must otherwise comply with these restrictions and the new property line of the resulting building site shall be used to compute the Setback lines as set forth herein.

(6) All Assessments provided for under Article VII in this Declaration are applicable on each individual Lot as originally recorded by Declarant regardless of whether two or more Lots are combined by an Owner to form one under this Article II, Section 3(c). Where a Lot is subdivided to increase the size of two adjoining Lots, Assessments are applicable to the Owner of each subdivided portion. The Assessment on the subdivided portions for each Lot is based on the percentage of acreage (rounded to a whole number) acquired from the subdivided Lot, which percentage for each Lot the applying Owner(s) must identify and conclusively establish in the application for subdivision and combination. Except for this treatment for purposes of Assessments, a Lot resulting from a combination or subdivision under this Article II, Section 3(c) shall be treated as one Lot for voting purposes and for all other purposes under the Declaration.

(7) An Owner may combine his or her Lot with a Lot owned by Declarant, provided he or she complies with the requirements and procedures set forth in this Article II, Section 3(c).

(d) Manor Lots. The following combined Lots shall be described as "Manor Lots": 197M, 199M, 201M, 203M, 635M, 637M, 639M, 641M, 653M, 655M, 744M, 746M, 817M, 819M, 822M, 824M, 862M, 864M, 871M, 873M, 881M, 883M, 895M, 897M, 898M, 900M, 903M, 905M, 909M, 911M, 912M, 914M, 915M, 917M, 918M, 920M, 921M, 923M, 924M, 926M, 931M, 933M, 934M, 936M, 940M, 942M, 943M, 945M, 956M, 958M, 967M, 969M, 970M, 972M, 1023M, and 1025M.

(1) The Manor Lots are depicted on the plat attached as Exhibit A to the Amendment to Declaration of Protective Covenants, Restrictions, Easements, Charges, and Liens for Summerhouse on Everett Bay recorded in Book 4677, Page 198 of the Onslow County Registry ("Manor Lot Plat") and on the Manor Lot Plats recorded with the Register of Deeds of Onslow County setting forth the maximum built-upon area of all the Manor Lots. A Manor Lot is deemed to be one (1) Lot for purposes of voting and for all other purposes under the Declaration.

(2) Upon combination of Lots to create a Manor Lot, the building line requirements prescribed herein have applied, and shall apply, and the easements reserved herein have been applicable, and shall be applicable, to the rear, side and front lot lines of such Manor Lot as combined. The resulting building site and structures erected thereon must otherwise comply with these restrictions and the new property line of the resulting building site shall be used to compute the Setback lines as set forth herein.

(e) Reallocation of Maximum Built-Upon Area. The maximum built-upon area shall be reallocated to all Lots combined pursuant to the terms of this Declaration based on the total maximum built-upon area allocated to the original Lots pursuant to Article VIII, Section 4(e) of the Declaration. The total amount of maximum built upon area allocated to the combined Lot or Lots shall not exceed the total amount of maximum built upon area allocated to the original Lots. For example if two (2) Lots, each allocated 4,500 square feet of maximum built-upon area, are combined, the combined Lot shall be allocated a maximum built-upon area of 9,000 square feet. If three (3) Lots, each originally allocated 4,500 square feet of maximum built-upon area are combined into two (2) Lots, the two (2) combined Lots shall be allocated a total maximum built-upon area of 13,500 square feet. The exact amount of square footage of maximum built-upon area allocated to each of the two (2) combined Lots shall be proportionate to the size of the combined Lots. The maximum built upon area shall be determined by multiplying the total maximum built upon area for the combined Lots by a fraction, the numerator of which shall be the total square footage of the combined Lot and the denominator of which shall be the total square footage of all the combined Lots. For example, if three (3) Lots, each originally allocated 4,500 square feet of maximum built-upon area, are combined into two (2) Lots, one with 40,000 square feet and one with 60,000 square feet, the Lot with 40,000 square feet shall be allocated 5,400 square feet of maximum built-upon area ( $40,000/100,000 = 40\%$ ,  $40\%$  of 13,500 is 5,400) and the Lot with 60,000 square feet will be allocated 8,100 square feet of maximum built-upon area ( $60,000/100,000 = 60\%$ ,  $60\%$  of 13,500 is 8,100).

Section 4. Alteration of Setback Lines in the Best Interest of Development. Where because of size, configuration, natural terrain, or any other reason in the sole opinion of the ARC, it would be in the best interest of the development of the Subdivision that the setback

lines of any Lot should be altered or changed, then the ARC reserves unto itself, its successors or assigns, and no other, the right to grant a variance to the Lot Owner to meet such conditions. In the case of a Lot owned by Declarant, the Declarant may change said setback lines to meet such conditions. Any such alteration shall meet any minimum standards as set forth by Onslow County or the Town of Holly Ridge. The Declarant specifically reserves the right to transfer and assign this right of alteration or approval for Declarant-owned Lots to the ARC.

Section 5. Completion of Improvements. With the exception of construction which is interrupted or delayed due to strikes, national emergencies, or physical damage to the work in progress (such as damage due to fire, lightning, windstorm, flood, hail, riot or civil commotion, explosion, or theft), any Dwelling constructed upon a Lot must be completed within one (1) year subsequent to commencement of construction, except with the written consent of the Declarant or the ARC. The Owner of the Lot on which the improvements are being constructed shall at all times keep public and private streets contiguous to the Lot free from any dirt, mud, gravel, garbage, trash or other debris which might be occasioned by construction of the improvements. During construction, the Owner shall require its contractors to maintain the Lot upon which such work is being done in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, the Owner shall cause its contractors to immediately remove all equipment, tools, and construction material, and debris from the Lot.

In the event that completion of the Dwelling, outbuildings, or other improvements on any Lot is not completed within one year, and it is determined that construction progress has diminished to such an extent that completion of the Dwelling, outbuildings, or other improvements is unlikely within 120 days, notice will be given to the Owner that the Owner has the obligation, within 30 days, to remove all construction work in progress, including without limitation, the foundation and all building improvements and all stored building materials, and fill and grade the Lot so that it is restored to its natural grade level. The Association shall have the right to undertake this work upon Owner's failure to do so and charge the cost to the Owner and place a lien upon the Lot upon Owner's failure to pay these charges.

**No building under initial construction shall be occupied until construction is completed and all necessary approvals of the ARC and any governmental authorities have been obtained.**

Section 6. Residential Use of Lots. All Lots shall be used for residential purposes exclusively except for limited home office uses permitted under Section 12 of this Article II. No structures, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family Dwelling constructed in accordance with the Plans and Specifications herein defined in Article III. No timesharing, interval ownership or other related ownership scheme where the right to exclusive use rotates among multiple owners or members of the program shall be permitted. Ancillary buildings or other outbuildings shall conform to the architectural scheme and appearance of the Dwelling. In addition, no leasing or rental of any Dwelling shall be permitted having a duration of less than 6 months nor shall less than the entirety of any Dwelling be leased. Declarant or its assignee may, however, maintain a sales office, models and construction office upon one or more Lots until all Lots to be located within the Subdivision have been sold.

Section 7. Maintenance and Landscaping of Lots. It shall be the responsibility of each Owner to maintain their Lot, the Dwelling, and all other improvements thereon in a manner consistent with the Community-Wide Standard and to prevent the development of any unclean, unsightly, or unkempt condition of buildings or grounds on such Lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area. Each Owner shall maintain such Owner's Lot and shall keep underbrush, weeds, and grass mowed. Such maintenance obligation shall also extend to the portion of any Common Area and/or public street right-of-way located between the boundary lines of each Lot and any pavement within such street right-of-way, and to the portion of any Common Area located between the boundary line of each Lot and the shore of any lake, pond, infiltration basin, stream, or other body of water located within such Common Area.

Landscaped and grassed areas on each Lot as designated by the ARC in its sole discretion shall be watered by means of an automatic underground sprinkler system which shall be employed so as to keep all vegetation in excellent condition. Landscaping as approved by the ARC shall be installed prior to occupancy of the building improvements on each Lot. Occupancy prior to completion of landscaping shall require the written approval of the ARC, shall be for good cause only, and shall be no earlier than ninety days prior to completion of landscaping. To ensure that all landscaping will be completed in accordance with the approved landscape plan, Owner shall post a performance bond with the ARC in the manner and amount set forth in the Architectural Review Guidelines as is established by the ARC from time to time.

Section 8. Nuisances. No noxious, unlawful or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood. No plants, poultry, animals, junk, junk automobiles, or devices or things of any sort, the normal activities or existence of which 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, shall be placed, kept or maintained on any Lot or placed, kept or maintained by an Owner on any Common Area. Without limiting the foregoing, exterior lighting may not be so installed on any Lot so as to illuminate any portion of a neighboring Lot or to shine into any window or otherwise enter a Dwelling located on an adjoining Lot. No Lot shall be used for storage of building materials prior to the issuance of the building permit for the primary residence.

Section 9. Screening of Above Ground Tanks and Plumbing. All propane tanks, above ground plumbing, and any other type of above ground tank, plumbing, or piping must be screened from the view of adjacent Lots, streets, and the Common Area in a manner consistent with the Guidelines and with the prior approval of the ARC.

Section 10. Exclusion of Above Ground Utilities. All electrical service and telephone lines shall be placed underground, and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of a Lot, provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Subdivision. Notwithstanding the foregoing, (i) antennae or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (ii) antennae or satellite dishes designed to receive video programming services via multi-point distribution services

which are one meter or less in diameter or diagonal measurement; or (iii) antennae or satellite dishes designed to receive television broadcast signals which are less than one meter in diameter ("Permitted Devices") shall be permitted, *provided that* any such Permitted Device is placed in the least conspicuous location on the Lot in which an acceptable quality signal can be received and is screened from the view of adjacent Dwellings, streets and Common Area in a manner consistent with the Community-Wide Standard and the Guidelines. Overhead utilities shall be permitted during the construction period and until utility companies can place them underground.

Section 11. Signs. No sign of any nature shall be placed on any Lot without prior written approval of the Declarant or the ARC in their sole discretion. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any Lot or improvement thereon except as herein expressly permitted. "For Sale" or similar signs may be permitted on a Lot, in the sole discretion of the Declarant or the ARC, provided the sign complies with material, size, and color guidelines promulgated by the ARC. In addition, it shall be permissible for the Association to have signs located on the Common Area, if the design, size and location of such sign is approved by Declarant, prior to its erection. No other sign of any kind or design shall be allowed. Declarant, as developer, reserves the right at its sole discretion to erect temporary or permanent signs on Lots and Common Area identifying Owner's names, street names, common area, traffic signs (including stop signs and speed limit signs), and any other signs that will aid in the development of the Subdivision, including signs advertising the Subdivision and/or model homes. No sign shall be permitted within the road right-of-way. Should it be determined that a sign erected on a Lot or in the Common Area does not conform to ARC Guidelines, or has not been approved, the Association, the Declarant, its agents or assigns shall have the right from time to time to enter said Lot without any liability for damage, wrongful entry, trespass or otherwise for the purpose of removing the nonconforming sign. The Declarant or the Association has the right from time to time to revise the rules and regulations regarding signs in order to meet the needs of the community or satisfy any governmental regulations. Notwithstanding the foregoing, political signs may be placed on a Lot in the time period beginning 45 days before the day of election and no later than seven days after an election day. The size of any political sign must comply with any applicable city, town or county ordinance regulating the size and number of political signs on residential property, but shall not exceed a maximum dimension of 24 inches by 24 inches.

Section 12. Prohibition Against Business Activity. No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, landscape business, professional office, or beauty shop or the like, or any trade of any kind whatsoever (in which clients or members of the public regularly come to any Lot or any significant business traffic is generated in the Subdivision) shall be carried on upon any Lot or Lots. Provided, however, that nothing contained herein shall be construed so as to prohibit use of any portion of a residence as a home office, so long as no clients or members of the public regularly come to any Lot and no significant business traffic is generated in the Subdivision on account of such use. Provided further, however, that nothing contained herein shall be construed so as to prohibit the construction of houses to be sold on said Lots or the showing of said houses for the purpose of selling houses in the Subdivision. Nothing herein shall be construed to prevent the Declarant or its permittees from erecting, placing or maintaining signs, structures and offices as it may deem necessary for its operation and sales in the Subdivision

Section 13. Mining and Drilling. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of the Subdivision, nor shall any oil, natural gas, petroleum, asphalt or hydrocarbon products or materials of any kind be produced or extracted from the premises.

Section 14. Material Disposal. Each Lot Owner shall provide garbage receptacles or similar facilities in accordance with reasonable standards established by the Association, or a rollout garbage rack of the type approved by the Association, which shall be visible from the streets on garbage pickup days only. No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage or yard waste on any Lot or within the Subdivision shall be permitted (except licensed contractors may burn construction debris during the period of construction of improvements on any Lot if they have been properly permitted). Provided, however, that the Declarant or the Association shall be permitted to modify the requirements of this Section 14 where necessary to comply with orders of governmental bodies.

Section 15. Temporary Structures. No structure of a nonpermanent character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractors during construction of the main Dwelling house, it being clearly understood that the latter temporary shelters may not, at any time, be used for a residence or permitted to remain on the Lot after completion of construction. Prior to placement on any Lot, all temporary construction shelters must be approved in writing by the ARC.

Section 16. Other Structures. No home, tent (other than small overnight tents used by children which remain in place for less than 24 hours), barn, shed, shack, trailer, mobile home, modular home, tree house or other similar out-building or structure shall be placed on any Lot at any time either temporarily or permanently, except as provided in Section 15 above, nor shall above ground swimming pools be permitted.

Section 17. Clotheslines. No clotheslines or drying yards shall be located upon the premises so as to be visible from any Common Area or from any adjoining Lot.

Section 18. Vehicles and Off-Street Parking. Except as set forth in this Declaration, on-street parking is not allowed in the community. Temporary on-street parking may be permitted by the Association's community manager on a case-by-case basis, and the Board of Directors may designate certain areas where on-street parking is allowed. Parking is not permitted on the Common Area except in portions of the Common Area designated for parking by the Board of Directors of the Association. The Association may from time-to-time designate certain portions of the Common Area as parking areas. Parking is not permitted on Lots without a Dwelling and is not permitted on the grass or landscaped portions of a Lot. Each Owner shall provide for parking of vehicles on the Owner's Lot and off alleys, private lanes, streets and roads within the Properties. Construction and maintenance vehicles are allowed to park on the streets while working at any job site. Except as otherwise specifically provided for in this Declaration, no parking shall be permitted in or along any of the alleys, private lanes, roads or streets in the Properties.

There shall be no outside storage or parking upon any portion of the Properties of any mobile home, modular home, trailer (either with or without wheels), motor home, tractor, truck (other than personal-use pick-up trucks and sport utility vehicles), commercial vehicles of any type (including, without limitation, cars or trucks with advertising signs or lettering), camper, motorized camper or trailer, boat or other water craft, boat trailer, motorcycle, motorized go-cart or other related forms of transportation devices, except if adequately screened from view or otherwise permitted in writing by the Declarant or the Association. Notwithstanding the above, the use of golf carts will be allowed on the roads and Common Area subject to any governmental regulations. The Declarant and/or the Association reserve the exclusive right, in their sole discretion, to make certain rules and regulations, which are subject to change from time to time, regarding the use of, parking and storing of golf carts within the Subdivision. No Owners or other occupants of any portion of the Properties shall repair or restore any vehicle of any kind upon or within any portion of the Properties except (i) within enclosed garages, or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

Violators of the prohibitions contained in this Section 18 shall be subject to having their vehicles towed in accordance with any applicable ordinance of Onslow County, North Carolina, at the Owner's expense, by or at the direction of the Association, and to the levy of fines by the Association in such amount as may be determined from time to time by the Board of Directors. Additional rules and regulations regarding use, repair and storage of vehicles in the Properties may be promulgated from time to time by the Board.

Section 19. Sewer, Water, Utilities. No septic tanks or surface toilets are permitted in the Subdivision. Portable toilets will be allowed only during construction. If applicable, the Owner of any Lot assumes all responsibility for obtaining all necessary permits. Summerhouse on Everett Bay Subdivision is to be served by a county water system and by centralized Wastewater Facilities. Owners understand and agree that they will be responsible for the then applicable water connection fee, sewer connection fee, electric connection fee, electric meter fee and any impact fees, whether due at closing, when applying for a building permit or any other time when required to be paid.

It shall be the responsibility of the Owner of each Dwelling to maintain the wastewater collection line from the cleanout to the Dwelling and within the Dwelling. The Owner shall be responsible not only for that portion of the collection line on his property, but also that portion of the collection line that crosses any common ownership prior to entering the wastewater main.

The Wastewater Facilities have or will be conveyed by Declarant to Onslow Water and Sewer Authority which will operate the Wastewater Facilities in accordance with its rules, regulations and applicable governmental laws and regulations.

Section 20. Firearms and Fireworks. No firearms or fireworks of any variety shall be discharged upon the Lots or Common Area, except as permitted by the Association. The term "firearms" shall include, without limitation, guns, "B-B" guns and pellet guns.

Section 21. Animal and Pets. No animals, wildlife, livestock, reptiles, or poultry of any kind shall be raised, bred, or kept on any portion of the Subdivision, except that dogs, cats, or

other usual and common household pets not to exceed a total of three (3) may be permitted in a Dwelling. Dogs shall be leashed and under control of the Owner when on the Common Area. No dogs shall be permitted to roam the Properties, and the Association may have strays and dogs that are not leashed and are found off their Owner's Lot picked up by governmental authorities. Those pets which, in the sole discretion of the Association, endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owners of any portion of the Subdivision shall be removed upon request of the Association. No pets shall be kept, bred, or maintained for any commercial purpose. Pets shall only be permitted on the Common Area if such portions thereof are so designated by the Association. All persons bringing a pet onto the Common Area shall be responsible for immediately removing any solid waste of said pet. No hunting or trapping of any wildlife, including, but not limited to, birds, ducks, geese, turkeys, or deer, shall be permitted on any Common Area, except as approved by the Association.

Section 22. Driveways. All private driveways, right-of-ways, and culverts, if required, installed therein, shall be of a type and quality approved by Declarant or the ARC and the grade of same shall be set by Declarant or the ARC or any governmental regulations. All pipe under driveways must be reinforced concrete pipe. No other material will be allowed.

Section 23. Mailboxes. Declarant or the Association shall provide locations, in its sole discretion, for mail box facilities for the community. No other mailboxes and no paper boxes are allowed.

Section 24. Garages. All dwellings built on Lots shall be required to have at least a two car garage. No garage shall be converted to living area without prior ARC approval. If approved, Lots may have a detached garage as long as the garage is constructed of materials similar to the Dwelling and is compatible in design. Garage doors must be closed except when entering or exiting said garage.

Section 25. Wells and Irrigation Systems. No sprinkler or irrigation systems of any type that draw upon water from creeks, streams, rivers, lakes, ponds, infiltration basins, wetlands, canals, or other ground or surface waters within the Subdivision shall be installed, constructed, or operated within the Subdivision by any person, unless prior written approval has been received from the Declarant. This Section shall not apply to the Declarant, and it may not be amended without Declarant's written consent so long as Declarant has the right to add property to the Subdivision in accordance with Article X, Section 2, of this Declaration. No private water wells or individual drinking water supply system shall be permitted upon any Lot.

Section 26. Ponds and Lakes. No ponds or lakes shown on any map of the Subdivision shall be used for swimming, boating, diving or fishing, nor shall the use of any personal floatation devices, jet skis or other such items be permitted on any pond or lake except as permitted by the rules and regulations of the Association in its sole discretion. No piers, docks, landings, wharfs, seawalls/bulkheads, retaining walls, or other structures or barriers shall be constructed on any portion of the ponds or lakes, nor shall they be attached to the shoreline or banks thereof, except for those that may be constructed by the Declarant or the Association. No Lot Owner may use or permit to be used any water from any ponds, lakes or other bodies of water for irrigation of such Owner's Lot unless expressly approved in writing by the Board.

Permission may be granted in writing at the sole discretion of the Board to allow Lot Owners to use water from the lakes and any other ponds for irrigation purposes. The amount of water and/or when water may be removed will be designated. Neither the Declarant nor Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of ponds or lakes within the Subdivision. No dredging or filling shall be undertaken on any property adjacent to any water body. The Declarant and Association makes no warranties whatsoever as to the water level in the lakes and ponds, nor to their continued existence beyond the time that the construction of them has been completed and they are filled with water. There is to be no interference with pumps, fountains or water features. See Article IV for additional provisions regarding ponds and lakes. There shall be no dumping or discharging of any foreign substance or material into the ponds or lakes which shall be in any way harmful or detrimental to the quality of the waters in said ponds, unless undertaken or approved in writing by the Association. There shall be no storage of any hazardous materials within one hundred (100') of the shoreline of the ponds. No animal life or fish shall be introduced into the waters of the ponds or lakes, except as provided by the Association or approved in writing by the Association.

Section 27. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial grass or artificial vegetation, with the exception of specialty use areas on Common Area such as community putting greens, shall be permitted. Exterior sculpture, fountains, gazebos, arboretums, flags, and similar items must be consistent with the Community-Wide Standard and the Guidelines and may be removed by the Association if erected in violation of the Guidelines or this Declaration; provided, however, that nothing contained herein shall regulate or prohibit the display of the flag of the United States of America and/or the flag of the State of North Carolina, of a size no greater than four (4) feet by six (6) feet, which is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended.

Section 28. Play Structures and Yard Accessories. All yard accessories and play structures, including basketball backboards and any other fixed game, shall be subject to ARC review and prior approval.

Section 29. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of any structure on the Lot and it is implemented into the design of the Lot in a manner consistent with the external design of other Lots in the community, all of which shall be determined solely by the ARC. Any installation of solar panels must be approved by the ARC prior to installation pursuant to the architectural review requirements of Article VIII of this Declaration. The location, color, and design of solar panels must be approved by the ARC. The ARC may require screening of solar panels, and any screening placed around solar panels must be approved by the ARC prior to installation.

Placement of solar panels on a roof surface is not prohibited; provided, however, that (i) solar panels shall not be allowed on any roof surface that faces the street from which the front door of a Dwelling also faces, with the determination of which roof surfaces face the street being solely determined by the ARC; and (ii) solar panels are not allowed on any roof surface facing a street on a Dwelling that the ARC determines, in its sole discretion, is located on a

corner Lot. To the extent solar panels are installed on a roof surface, the color of the solar panels must match the other portions of the roof. All solar panels on a roof surface must be installed flat on the roof, as raised or angled panels are not permitted. All solar panels approved by the ARC and installed prior to March 31, 2021 are deemed approved and not in violation of this Section.

Section 30. Trees. Trees may be removed without prior written approval within the building foundation area of the main Dwelling and within twenty (20) feet of the main Dwelling provided that the location of the house has been approved in writing by the ARC or the Declarant. Except as provided for in this Section and in Article VIII of this Declaration, no tree six (6") inches in diameter or greater at ground level shall be cut, removed or intentionally damaged on any Lot without the prior written approval of the Architectural Review Committee.

Section 31. Elevation and Drainage Changes. No changes in the elevation, topography or drainage characteristics of any Lot within the Subdivision shall be made without the prior written approval of the Declarant or the Association Board of Directors.

Section 32. Architectural Style. The architectural style for the community shall be Coastal Cottage as further described in the ARC Guidelines.

Section 33. Small Vessel Launch and Boat Slips. The Small Vessel Launch and 10 Boat Slips, which are Common Area, are subject to regulatory approval. The use of the Boat Ramp and Boat Slips will be subject to CAMA Regulations and the Rules and Regulations published by the Declarant or Association which may be changed from time to time in their sole discretion. Boat Slips are for day use only by all Lot Owners.

Section 34. Marketing and Sales Activities. Declarant, its affiliates, and designated Preferred Builders (as designated by Declarant) may construct and maintain upon portions of the Common Area and other property they own, such facilities, activities, and things as, in Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots. Such permitted facilities, activities, and things shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant, Declarant's affiliates, and builders may park vehicles in areas other than garages or driveways, including on streets. Builder's rights under this Section are subject to Declarant's prior written approval.

Section 35. Right to Use Common Area for Special Events. As long as Declarant, its successors or assigns, or any affiliate of Declarant owns any property, including but not limited to Common Area, described in and shown on the recorded plats of Summerhouse on Everett Bay, Declarant may use the Common Area to sponsor special events for charitable, philanthropic, or marketing purposes, subject to the following conditions:

- (a) the availability of the facilities at the time requested;

(b) Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event; and

(c) Declarant shall have the right to assign its rights to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Area for special events shall be enforceable by injunctions, by any other remedy in law or equity, and by the terms of this Declaration.

Section 36. Water Levels and Drainage. Declarant makes no representations, guarantees, or warranties whatsoever as to the water level of any stream, river, lake, pond, infiltration basin, waterway or body of water located on or adjacent to this subdivision. Declarant reserves the right (but shall not have the obligation) which right shall survive the closing, to place, move or remove dirt or trees on the subject property to construct the subdivision improvements, facilitate drainage, or to provide the uniformity of grade with surrounding Lots, should the foregoing be deemed necessary or appropriate in the sole discretion of the Declarant.

Section 37. Featured Builder(s). Declarant reserves the exclusive right to designate certain builders as Featured Builders. Featured home builders are independently owned and operated companies. To qualify as a Featured Builder, a builder must satisfy certain criteria and requirements established by the Declarant. The designation of any builder as a Featured Builder and the criteria and requirements established by the Declarant its successors or assigns, for a builder to qualify as a Featured Builder are solely for the Declarant's protection and benefit and are not intended to, and shall not be construed to, benefit any Lot Owner or any other party whatsoever. Declarant makes no representation, express or implied, to any Lot Owner or any other party whatsoever with regard to the Featured Builders, including, without limitation, a Featured Builder's performance or ability to perform, solvency or financial status, compliance with applicable laws and regulations, use of construction substances and materials and performance pursuant to any or other reasonable standard of performance. Neither the Declarant nor any real estate broker is responsible in any manner for the performance of the obligations of Featured Builder chosen by a Lot Owner, who shall look solely to the builder for enforcement of claims for nonperformance, breach of warranty or any other matter relating to the construction of the Lot Owner's Dwelling.

**Each Owner acknowledges and agrees that Featured Builders are not agents or employees of Declarant, the Association, or their respective agents, assigns, or employees. The Association, Declarant, and their respective agents, or assigns, or employees shall not be held liable to any person for any loss, damage, or injury resulting from any decision, action, inaction, negligence, contractual breach, tort, or work performance of any Featured Builder.**

### ARTICLE III

#### Construction in Accordance with Plans and Specifications

Section 1. General. All structures of every type and description shall be constructed, placed or erected within the Subdivision in accordance with the provisions of this Article III

together with other applicable provisions of this Declaration. Only new construction of residential buildings shall be permitted, it being the intent of this covenant to prohibit the moving of an existing building or portion thereof on a Lot and remodeling or converting same into a Dwelling. **ALL NOTES AND LEGENDS INDICATED ON THE RECORD PLATS OF THE SUBDIVISION MUST BE ADHERED TO. IN ADDITION TO THIS DECLARATION, AND THE RECORDED PLATS OF THE SUBDIVISION, THE REQUIREMENTS OF ANY LAW OR ANY GOVERNMENT AGENCY HAVING LEGAL JURISDICTION OR PERMITTING AUTHORITY OVER THE SUBDIVISION MUST BE COMPLIED WITH.**

Section 2. Size of Residences and Lot Coverage. All residences to be constructed upon any Lot shall have a minimum of 2400 square feet of enclosed heated living area (exclusive of porches, decks and garages and other unheated spaces). Notwithstanding the above, the homes constructed upon the following listed Lots shall have a minimum of 2000 square feet of enclosed heated living area (exclusive of porches, decks and garages and other unheated spaces) 167, 168, 173, 189, 190, 191, 192, 193, 194, 199, 200, 208, 671, 673, 674, 676, 677, 678, 697. Homes constructed on these Lots may be limited to a maximum footprint due to various site constraints. No residence shall exceed a height of 50' above ground level. For any additional building height regulations, see Architectural Guidelines.

Notwithstanding the above, the homes constructed upon the following Lots shall have a minimum of 2,000 square feet of enclosed heating living area (exclusive of porches, decks, and garages and other unheated spaces): Lots 832 through 1,029, inclusive, as depicted on the plat entitled "Summerhouse On Everett Bay Final Plat – Phase 2" recorded in Book 51, at Page 218 in the office of the Register of Deeds of Onslow County, said Lots being depicted on Page 218-D, Page 218-E, Page 218-F, and Page 218-G.

Section 3. Setbacks. No building or structure, including porches, decks, swimming pools or projections of any kind, shall be erected so as to extend over or across any of the Setback lines shown on the recorded plat of the Subdivision or as described in the Declaration or any amendment thereto so as to be nearer to the Lot boundary line than such Setback line, except that roof overhangs may extend over or across Setbacks by up to one (1) foot. All setbacks must comply with the Architectural Guidelines. In order to preserve particular view corridors, or to account for unusual topography, natural site features, streetscape or other extenuating circumstances, in its sole discretion, the Declarant and/or ARC reserves the right to require alternate setbacks and to determine house and structure locations at the time of the ARC review. All setbacks or any alteration of setbacks as provided herein shall meet the minimum standards as set forth by Onslow County or the Township of Holly Ridge. The setbacks for Lots presently submitted to this Declaration are as follows:

FRONT: 15 ft.  
SIDE: 5 ft.  
REAR: 20 ft.

Section 4. Fences, Walls and Animal Pens. Any fences, walls or animal pens sought to be constructed on any Lot shall require the specific written approval of the Declarant or the ARC as to location, size, composition, configuration, exterior materials, color and other similar

matters, which approval may be withheld for purely aesthetic considerations. No hedge, shrubbery or vegetation of any kind shall be grown or placed in the form of a fence on any Lot or Lots across the front street line of the said Lot or Lots or on either of the side lines of the said Lot or Lots until such time as the Declarant approves same as to location.

Section 5. Prohibited Building Materials. Exposed exterior walls composed of concrete block (unless covered with stucco or other approved material), imitation asphalt brick siding, tar paper, and imitation asphalt stone siding shall be prohibited. All other materials are subject to the approval of the ARC, which may approve or reject such materials in its discretion, on purely aesthetic grounds.

#### ARTICLE IV

##### Additional Provisions as to Buffer Areas and Ponds

Section 1. Buffer Areas. There shall be a Buffer Area twenty (20') feet in width along the external boundary of Summerhouse on Everett Bay along the Lot line of any Lots that adjoins property located outside of Summerhouse on Everett Bay. No cutting or removal of trees, shrubbery, or landscaping of any kind shall be made within any Buffer area shown on any recorded plat of the Subdivision, except with the prior written consent of Declarant or the ARC. As the provisions contained herein are for the preservation of the aesthetics and privacy of the Subdivision, in the event of the destruction or removal of any tree or landscaping within the aforesaid Buffer (except destruction caused by act of God), the Owner of the Lot upon which such tree, shrub, or landscaping was located will cause same to be replaced or restored with a comparable size and type of tree or landscaping, at the Lot Owner's sole expense.

Section 2. Declarant's Rights and Easements. Declarant, as developer, hereby reserves and is granted a maintenance easement in favor of itself, its successor and assigns over, under, onto and across all Buffer Areas for the purpose of maintaining, restoring, and replacing trees, shrubs, and landscaping. The reservation of these easements shall not place upon Declarant any obligation to perform such activities and such performance shall lie solely within the discretion of Declarant. The within rights of Declarant are in addition to the rights and obligations of Association set out in Article VI, Section 4 of this Declaration. The easements herein reserved and granted are perpetual, non-exclusive and shall run with title to the Lots.

Section 3. Rights of Enforcement. In the event an Owner does not replace trees and/or restore landscaping as and when required under Section 1 above, Declarant and Association may each enforce such Owner's obligations either by an action in specific performance or may perform such work themselves and the cost and expense of such work and materials, shall be due and payable by such Owner as an assessment within seven (7) days of demand by Declarant or Association, as the case may be. In the event such Owner refuses to make such payment as aforesaid, the Declarant and Association shall have the right to bring an action for the collection of same plus attorney's fees related thereto; and Association shall have the additional right to enforce collection thereof in the manner provided under Article VII, Section 6 of this Declaration.

Section 4. Ownership and Control of Ponds, Lakes and Infiltration Basins. No right title or interest, including, without limitation, riparian rights, in any pond, infiltration basin or lake shall attach to or become an appurtenant to the title to any Lot by reason of or upon conveyance of such Lot by Declarant unless such conveyance specifically includes such rights. The Declarant reserves unto itself, its successors and assigns an easement upon and across every Lot to maintain said ponds, lakes, and infiltration basins as more fully provided in Article VI, Section 8 of this Declaration, and the Association shall be responsible for all maintenance of said ponds and lakes, including but not limited to monitoring water levels, maintaining any fountains or aeration devices, dredging and providing lake mitigation services (i.e. algae control and aeration). Nothing in this section shall relieve Lot Owners of their responsibility to maintain the area of their Lot bordering the Common Area around the ponds, infiltration basins and lakes. The Declarant, its successors or assigns hereby grants to the operator of the Wastewater Facility the perpetual right to discharge water into the infiltration basins located within the Subdivision.

## ARTICLE V

### Membership and Voting Rights in the Association

Section 1. Membership. Every person or entity who is an Owner of any Lot which is subjected by this Declaration to Assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

Section 2. Board of Directors. Initially, there shall be three (3) members of the Board of Directors of the Association who shall serve until such time as their successors are duly elected and agree to serve. The directors shall have annual meetings and other such meetings as may be called for at the request of the President of the Association, by a majority of the directors, or as called for in the Bylaws. The foregoing notwithstanding, Declarant shall select the Board of Directors while it is a Class B Member until such time, if any, prior to the Turnover Date that an election of directors by membership vote in 2021 is certified by the Association. Declarant may select board members who are not Owners.

Section 3. Articles of Incorporation and Bylaws. The Articles of Incorporation of the Association and Bylaws of the Association shall be adhered to in the administration and operation of the Association.

Section 4. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners excepting the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1 above. When more than one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine, but in no event shall more than one (1) vote be cast with respect to any such Lot. When a purchaser of an individual Lot or Lots takes title thereto from the Declarant, such purchaser automatically becomes a Class A Member.

Class B. The sole Class B Member shall be the Declarant. The Class B Member shall be entitled to ten (10) votes for each Lot owned; provided, however, that in the event the first election of directors by the membership occurs prior to the cessation of Class B membership, the Class B member shall only be entitled to one (1) vote for each Lot owned by the Declarant in that membership vote to elect directors. Class B membership shall cease and become converted to Class A membership upon the happening of the earlier of the following:

- (a) The date on which the Declarant no longer owns any part of the entire Subdivision, including but not limited to Common Areas; or
- (b) Fifteen (15) years from date of recordation of the Original Declaration; or
- (c) At such time as Declarant, in its sole discretion, voluntarily relinquishes Class B Member status in writing.

From and after the happening of whichever of said events which occurs earlier, the Class "B" Member shall be deemed to be a Class "A" Member and entitled to one vote for each Lot owned in the manner provided above. The earliest to occur of (a) (b) or (c) shall be referred to as the "Turnover Date".

## ARTICLE VI

### Property Rights in the Common Area / Miscellaneous Easements

Section 1. Member's Easements of Enjoyment. Subject to the provisions of Section 3 of this Article, every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot. This right and easement shall be for use in common with all other such members, their tenants, guests and invitees. In the event that Declarant incorporates additional land under the provisions of this Declaration pursuant to Article X, Section 2 of this Declaration, all Owners of Lots within such additional phases shall have the same rights and privileges with regard to use of the Common Area as the Owners of Lots originally made subject to this Declaration.

Section 2. Title to Common Area and/or Open Space. The Declarant hereby covenants for itself, its successors and assigns, that within fifteen (15) years from the date of recording of this Declaration, it will convey to the Association, by Quit-Claim Deed, fee simple title to the Common Area and/or Open Space upon the conditions set forth herein, subject to those rights reserved unto to Declarant pursuant to this Declaration and to the provisions of this Declaration.

In lieu of the conveyance provided for herein with regard to the alleys, private lanes, streets and roads, Declarant, in its sole discretion, may cause such alleys, private lanes, streets and roads to be dedicated to any governmental entity, as provided for in Section 3(a) hereof. In the event the alleys, private lanes, streets and roads are dedicated to a governmental entity, acceptance of such dedication may be conditioned upon the agreement of the Association that the Association shall maintain, (at Association's sole cost and expense) any and all landscaping, shrubbery and the entrance sign to the Subdivision which may be located within the dedicated areas.

NOTICE IS HEREBY GIVEN THAT THE STREETS AND ROADS INSIDE SUMMERHOUSE ON EVERETT BAY ARE PRIVATE STREETS AND ROADS AND ARE NOT TO BE MAINTAINED BY ANY PUBLIC ENTITY. THE STREETS AND ROADS SHALL BE PART OF THE COMMON AREA TO BE MAINTAINED BY THE ASSOCIATION.

Section 3. Extent of Member's Easements. The rights and easements created hereby shall be subject to the following:

(a) The right of Declarant, and/or of the Association, to dedicate, transfer or convey all or any part of the Common Area, with or without consideration (and subject to the condition set out in Section 2 immediately above), to any governmental body, district, agency or authority, the operator of the Waste Water Facility or to any utility company, provided that no such dedication, transfer or conveyance shall adversely limit the use of the Common Area by the Members of the Association;

(b) The right of the Declarant, and/or of the Association, to grant and reserve easements and rights-of-way for maintenance and inspection of lines and appurtenances for public or private water, public or private sewer, or waste water system, drainage and other utilities and services, including, without limitation, a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Declarant to grant and reserve easements and rights-of-way through, over and upon and across the Common Area for the completion of the Subdivision, for the operation and maintenance of the Common Area and perpetual non-exclusive easements for ingress and egress and utility installation and maintenance to any other property of Declarant regardless of whether or not made subject to this Declaration;

(c) The right of the Association, as provided in its By-Laws to suspend the enjoyment rights of any Member in the Common Area (but not access to a Member's Lot) for any period during which any Assessment remains unpaid, and for a period not to exceed thirty (30) days from any infraction of its published rules and regulations.

(d) The rights of the Association, in accordance with law, its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and in pursuance thereof, to mortgage the same.

Section 4. Maintenance. The Association shall at all times maintain, including paying all applicable taxes regardless of ownership, all portions of the Common Area and structures situated on the Common Area, including, but not limited to, Recreational Amenities, in good repair, and the Association shall repair or replace as often as necessary, any leased property, any paving, drainage structures, street lighting fixtures (if not maintained by utility company), landscaping, entrance signage, small vessel launch and boat slips (subject to regulatory approval), and other amenities situated on the Common Area and maintain and keep in a clean condition any lakes and ponds, which are Common Area. The Association shall also maintain any additional property, which may include a Lot and the infiltration basins, for which the Association, in its sole discretion, assumes maintenance responsibly under this Declaration, a Supplemental Declaration, or a contract, covenant, or agreement which the Association enters

into (or which Declarant enters into on the Association's behalf). The Board of Directors, acting by a majority vote, shall order all work to be done and shall pay for all expenses including all electricity consumed by the lighting located in the Common Area and all other common expenses. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through Assessments imposed in accordance with Article VII. Excluded herefrom shall be paving and maintenance of individual Lot driveways, which shall be maintained by each Owner. Nothing herein shall be construed as preventing the Association from delegating or transferring its maintenance obligations to a governmental authority under such terms and conditions as the Board of Directors may deem in the best interest of the Association.

Section 5. Additional Structures. Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of Declarant, erect, construct or otherwise locate any structure or other improvement in the Common Area.

Section 6. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by members of the Owners' family who occupy the residence of the Owner within the Subdivision.

(b) Tenants. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to the Owner's tenants who occupy a residence within the Subdivision.

(c) Guests. Any recreational facilities and other Common Area may be utilized by guests of Owners or tenants subject to this Declaration, the By-Laws of the Association and the Rules and Regulations of the Association governing said use and as established by its Board of Directors.

Section 7. Rules and Regulations. The use of the Common Area by an Owner or Owners, and all other parties authorized to use same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established by the Association governing such use, or which may hereafter be prescribed and established by the Association. Such Rules and Regulations may be revised from time to time in the sole discretion of the Board of Directors.

Section 8. Easement for Utilities and Maintenance. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and reasonable easement and right of ingress and egress, over, upon, across and under the Setback areas, and easement areas on each Lot as shown on the recorded map of the Subdivision and/or as set forth herein and over, upon, across and under the Common Area for maintenance and/or the erection, maintenance, installation and use of electrical and telephone wires, cables, conduits, sewers, force mains, pumps, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public convenience or utilities, including an easement for privately owned television and other communications cable and equipment, and for maintenance of ponds and the installation and maintenance of pumps, fountains or other equipment related to said maintenance. Declarant may further cut drainways for surface water when such action may

appear to the Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of soil, or to take any other similar action reasonably necessary to provide economical and safe utility or other installations and to maintain reasonable standards of health, safety and appearance. Declarant further reserves the right to locate wells, pumping stations, and tanks on Common Area. It shall not be necessary to obtain the consent of Owners of Lots adjoining any existing utilities or pump stations. Such rights may be exercised by the licensee of the Declarant but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility service. No structures or other items, including walls, fences, paving or planting shall be erected upon any part of the Subdivision which will interfere with the rights of ingress and egress provided for in this paragraph. Specifically, no Owner shall erect any structure, including, without limitation, walls, fences or paving within any areas designated on the Plat of the Subdivision and/or as set forth herein as a "Road Right of Way", "Utility Easement", "Common Area and/or Open Space", "Drainage Ditch", or "Swale", nor shall any Owner change the grade of any such easement area, provided however, that driveways may cross utility and drainage easements at the front of the Lots subject to prior approval of Declarant and that any planting in easement areas shall not interfere with the applicable easement and shall be limited to grassing and small shrubbery. Each Owner shall keep drainage ditches and swales located on such Owner's Lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon such Lot as may be reasonably required for proper drainage. Declarant may, at its sole option, convey any such drainage easements to an appropriate governmental entity. The easements referred to in this paragraph are, without limitation, those shown upon the recorded plat(s) of the Subdivision; as set out in easements of record; upon the plans of the Subdivision; as set forth herein or which are located on, over or under the ground.

In addition to the foregoing rights reserved to Declarant, and not in limitation thereof, Declarant further reserves unto itself, its successors and assigns, a perpetual, alienable commercial easement and right of ingress and egress over, upon, across and under the Common Area and all streets and roads within the Subdivision for the purpose of providing drainage and utility installation, construction, reconstruction, and maintenance to adjacent property now or hereafter owned by Declarant and for the installation and maintenance of any pipes, drainways or other installations necessary for the foregoing and further for the installation, maintenance, repair, replacement and operation of water lines, sewer lines and other utilities which serve or shall serve property presently owned by Declarant. Declarant, its agents, contractors, servants, employees and assignees may enter upon the easement areas for the purposes of maintaining, repairing, replacing and operating such water lines and other utilities and drainage facilities and for the purpose of installing additional utilities and drainage facilities. Declarant further reserves unto itself, its successors and assigns, a perpetual, alienable easement and right-of-way over, under and across those areas designated as "Road Right of Way", "Common Area and/or Open Space", "Utility Easement", "Drainage Ditches" or "Swales" on the recorded plats of the Subdivision for the purpose of providing drainage of the Subdivision and lands now or hereafter adjacent to the Subdivision or in the vicinity thereof (whether or not a part of the Subdivision) and for the installation, repair and maintenance of pipes and other facilities necessary for such drainage. Declarant, its agents, contractors, servants, employees and assignees may enter upon any of the easement areas so designated on the recorded plats of the Subdivision for the purpose of maintaining, repairing, replacing and operating any of the drainage facilities, pipes, ditches,

and drainage areas located thereon. The Owners of Lots on which such easements are located shall not interfere in any manner with such easements or any of the facilities located therein or the access thereto. No Owner shall erect any structure or fence within such easement areas without the prior written consent of Declarant. Declarant, its agents, employees and assignees shall have no liability for damage which may occur to any structures, plants, trees, or other items which may be located in such utility and drainage easements and Declarant shall have no obligation to replace any such structures which may be removed or damaged due to maintenance, repair or other work performed in such easement areas. Declarant further specifically reserves unto itself, its successors and assigns, perpetual, alienable, commercial easements over and under all Lots along an area 5 feet in width inside each side boundary line of each Lot and 10 feet along the front and rear of each Lot for the purpose of installation, construction, maintenance, repair, replacement, use and operation of utilities and utility systems of all kinds (including but not limited to water, sewer, electric, and natural gas), drainage (including but not limited to storm water and surface drainage), and access. These easements shall be in addition to, and not in limitation of, any and all other easements reserved unto the Declarant herein. Declarant further reserves an easement of ingress and egress over and across all streets and roads of the Subdivision which such easements are and shall be for the purpose of ingress and egress to any property now owned or hereafter acquired by Declarant, its successors and assigns whether or not such property is made a part of the Subdivision and whether or not such property adjoins the Subdivision.

A perpetual easement is hereby granted for the site location of the wastewater treatment plant and upset basin, including but not limited to, the collection lines, mains, pumps, controls, electrical equipment, infiltration basins and services and connections, existing and proposed. A perpetual easement is also hereby granted in, around and upon the wastewater treatment plant, upset basin and infiltration basins as required by the North Carolina Department of Environmental and Natural Resources, Division of Water Quality. In addition, a perpetual easement 10 feet in width centered on collection and force mains for ingress, egress, regress and access to operate, maintain, repair and or upgrade the collection and force mains is hereby granted.

Section 9. Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents and employees, including but not limited to, any community manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours, whenever practicable.

Section 10. Sales Offices, Rental Offices, Property Management Offices and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant, its successors and assigns, the perpetual, alienable and transferable right and easement in and to the Subdivision for the maintenance of signs, sales offices, rental offices, property or community management offices and construction offices, together with such other facilities as in the sole opinion of Declarant reasonably may be required, convenient or incidental to the completion, management, rental, improvement and/or sale of Lots or Common Area. The Declarant also reserves the right to grant to any builder or builders the right to operate and maintain builder sales offices at any location within the

subdivision upon such terms and conditions as the Declarant in the Declarant's sole discretion may determine.

Section 11. Maintenance Easement. Subject to the other terms of this Declaration, there is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Lot for the purpose of landscaping, mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing rubbish and trash, so as to maintain reasonable standards of health, fire safety and appearance within the Subdivision; provided that such easements shall not impose any duty or obligation upon the Declarant or the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement, but not the obligation, to maintain and/or repair the outer portions of any building, if the Owner shall fail to maintain such building in keeping with the standards of the Subdivision. The cost of such maintenance and/or repair shall constitute a Special Assessment against the Lot on which the building is located and the Owner of said Lot as provided in Article VII herein.

Section 12. Easements in Original Declaration. Notwithstanding the replacement of the Original Declaration with this Declaration, all easements created and described in the Original Declaration shall be easements appurtenant to, and shall run with, the land by whomsoever owned, whether or not the same shall be contained or referred to in any future deed or conveyance, and shall at all times inure to the benefit and be binding upon the Association and the Owners, all their grantees and their respective heirs, successors, personal representatives or assigns.

## ARTICLE VII

### Assessments for the Maintenance and Operation of Common Area and Facilities

#### Section 1. Assessments, Liens, and Personal Obligations Therefor, and Operation & Maintenance of Common Area Solely by the Association.

(a) Each and every Owner of any Lot(s), by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) Annual Assessments or charges; and, (2) Special Assessments for capital improvements, and (3) Individual Assessments. Said Assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and Special Assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot(s) against which each such Assessment is made. Each such Assessment, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall also be the personal obligation of the Owner of such Lot(s) at the time when the Assessment fell due.

(b) The Assessment levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of Owners of Lots in the Subdivision, including without limitation, for (i) the improvement and maintenance of the Common Area,

including the acquisition and replacement of supplies (intended for permanent or consumable use) that support or service the clubhouse and pool and the use thereof, (ii) the purchase and acquisition of any real or personal property, (iii) upon determination by the Board of Directors, improvements located outside of the Subdivision (including, without limitation, identification and/or directional signage [including landscaping] either exclusively or in cooperation with other association or parties) now or hereafter designated or existing, (iv) the payment of taxes and insurance premiums or deductibles, (v) repair, replacement and additions to the Common Area, (vi) the cost of labor, equipment, materials, management and supervision, (vii) the employment of attorneys, accountants, property or community managers, and other professionals to represent the Association when necessary, (viii) the general administration of the Association, including payment of expenses for member meetings and community gatherings, and (ix) such other needs as may arise as determined by the Board. In the event that Declarant performs any of the foregoing services for Association, including, but not limited to, accounting and bookkeeping services, it shall have the right to receive a reasonable fee therefore and such shall not be deemed to be a conflict of interest. Notwithstanding anything contained herein or in the Governing Documents or the Act, neither the Association, the Board, the management company of the Association, Declarant, nor any successor Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or occupant of any Lot or any tenant, guest or invitee of any Owner or occupant or for any property of any such persons. Each Owner and occupant of a Lot and each tenant, guest and invitee of any Owner or occupant shall assume all risks associated with the use and enjoyment of the Properties.

Section 2. Amount and Payment of Annual Assessment. Upon the closing of the initial sale of each Lot by Declarant, the purchaser of each Lot shall pay to the Association the Annual Assessment prorated for the current year. The Annual Assessment for the calendar year of recording of this Declaration was set by the Board of Directors of the Association, and all subsequent years may be increased or decreased by the Board without a vote of the membership to an amount not more than twenty percent (20%) more or less than the Annual Assessment for the previous year. A majority vote of each class of voting members of the Association must approve an increase or decrease in the yearly Assessment if the increase or decrease differs from the Assessment for the previous year by more than twenty (20%) percent. In determining the Annual Assessment, the Board of Directors of the Association shall appropriate an amount sufficient to pay the costs of insuring, maintaining, replacing, protecting and operating the Common Area and performing the other exterior maintenance required to be performed by the Association under this Declaration including establishing and maintaining adequate reserves. The Board shall fix the date of commencement and the amount of the Assessment against each Lot for each Assessment period (which shall be based on a calendar year), and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment shall thereupon be sent to every Owner subject thereto. In the event that any Lot is subject to an Assessment for only part of a calendar year, then the amount of such Assessment shall be prorated based on the portion of the Assessment period for which such Lot is subject to an Assessment.

The Annual Assessment for a Manor Lot shall be an amount that is Four Hundred Forty and No/100s Dollars (\$440.00) more than the amount of the Annual Assessment levied against all other Lots.

Article II, Section 3, of this Declaration sets forth the Assessment amounts for any Lots combined under that section. Each Annual Assessment shall be fully payable in advance on the 1st day of January each year, but the Board of Directors of the Association shall have the option to permit payments in such installments and at such times as it shall determine. The exact amount of each Annual Assessment shall be fixed by the Board of Directors of the Association.

The Association shall, upon demand at any time, furnish to any Owner liable for any Assessment, a certificate in writing, signed by an officer of the Association or by the Association Manager, setting forth whether said Assessment has been paid. Such certificate shall be in recordable form and shall be conclusive evidence of payment status of any Assessment therein stated to have been paid.

This Section shall not be amended as provided in Article XIV, Section 11 of this Declaration, to eliminate or substantially impair the obligation to fix the Assessment at an amount sufficient to properly maintain and operate the Common Area and perform the exterior maintenance required to be performed by the Association under this Declaration.

Section 3. Special Assessments for Insurance and Capital Improvements. In addition to the Annual Assessments, the Association may levy, in any Assessment year, a special assessment applicable to that year only ("Special Assessment"), for the purpose of defraying unanticipated increases in insurance costs and for unexpected costs associated with the repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto. Provided that any such Assessment shall have the assent of at least fifty-one (51%) percent 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 which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The due date of any specified Assessment shall be fixed in the Resolution authorizing such Assessment.

Section 4. Individual Assessment. The Association may levy an individual assessment upon any Owner to cover the costs incurred by the Association due to that Owner's failure to maintain their Lot and improvements pursuant to the standards set forth in this Declaration, or to reimburse the Association for any damage to any Common Area property caused by any Owner or their tenant or invitee, or for any other purpose permitted by this Declaration or any Supplemental Declaration (the "Individual Assessments"). Individual Assessments shall be due and payable within thirty (30) days after written notice from the Association.

Section 5. Paid Professional Manager. The Board of Directors of the Association may employ a professional manager or managerial firm to supervise all the work, labor, services and material required in the operation and maintenance of the Common Area and in the discharge of the Association's duties. The Association and its professional manager or managerial firm shall have the right to levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any Lot Owner.

Section 6. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner: The Lien. Remedies of Association. If any Assessment (or reimbursement under Article IV Section 2 of this Declaration) is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot(s) which shall bind such Lot(s) in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such Assessment or reimbursement, however, shall remain his personal obligation.

Any Assessment not paid within thirty (30) days after the due date shall be subject to such late charges and shall bear interest at a rate per annum as shall be determined by the Board of Directors of the Association, with interest rate shall not exceed the highest rate of interest allowed by law. The initial late charge imposed for late payment of any Assessment is \$20.00 and shall be charged as to any Assessment that is not paid within 30 days of its due date. The initial interest rate for late payment is 18% per year (1.5% per month) which shall commence to accrue on any Assessment or other account balance that is not paid within thirty (30) days of the date due. The initial date upon which liens may be filed for failure to make payment of Assessments and other charges is thirty (30) days after the due date. The Board of Directors may change the initial late charge, interest rate, due dates and lien Assessment date by majority vote of the directors.

In the event the Owner of any Lot fails and refuses, after demand by the Association, to pay any annual or special Assessment, then the Association may bring legal action against the then Owner personally obligated to pay the same or may enforce or foreclose the lien against the Lot(s) in the same manner as a mortgage is foreclosed; and in the event a judgment is obtained, such judgment shall include interest on the Assessment or reimbursement as above provided and reasonable attorney's fees and late charges together with the costs of the action. The Association may further file a notice of lien in the public records of Onslow County, North Carolina and enforce Assessment obligations as permitted by law, including without limitation, by filing and foreclosing a claim of lien in accordance with the procedures set forth in N.C.G.S. § 47F-3-116, and/or by bringing an action at law against the Owner personally obligated to pay the Assessment. Each Owner, by his acceptance of a deed to a Lot, expressly grants to and vests in the Association or its agents the right and power to bring such action or foreclosure. Foreclosure may be accomplished in an action brought in the name of the Association in the manner that a foreclosure of a mortgage or deed of trust would be brought under Chapter 45 of the North Carolina General Statutes, or as otherwise expressly provided by law, and each Owner grants to the Association a power of sale in connection with any such charge or lien. The Association, acting on behalf of the Owners, shall have the power to bid on any Lot and to acquire and hold, lease, mortgage and convey the same. **NO OWNER MAY WAIVE OR OTHERWISE ESCAPE LIABILITY FOR THE ASSESSMENTS PROVIDED FOR HEREIN BY NON-USE OF THE COMMON AREA OR ABANDONMENT OF HIS LOT.** In accordance with the Association, by and through its Board of Directors, shall have the authority to compromise and settle claims for Assessments upon a majority vote upon good cause shown.

Section 7. Subordination of the Lien to Mortgages. The lien of the Assessments (and reimbursement) provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon any Lot held by a commercial or savings bank, trust

company, credit union, industrial loan association, insurance company, pension fund, or business trust, including but not limited to a real estate investment trust, a private lender, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such lender, or any private or governmental institution or agency which has insured the loan of any such lender, or any combination of any of the foregoing entities; provided, however, that a sale or transfer of any Lot pursuant to a decree of foreclosure or pursuant to any proceeding in lieu of foreclosure, shall not relieve such Lot from liability for any Assessments which thereafter become due, nor form the lien of any subsequent Assessment. Said Assessment liens, however, shall be subordinate to the lien of any such mortgage or mortgages hereafter placed upon the Properties subject to Assessment.

Section 8. Exempt Property. All Common Area subject to this Declaration shall be exempted from the Assessments, charges and liens created herein.

## ARTICLE VIII

### Architectural Standards and Control

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Committee established in Section 1 of this Article VIII. This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

No construction, which term shall include, without limitation, staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements hereof have been fully met and until the written approval of the Architectural Review Committee has been obtained.

Section 1. Architectural Review Committee. The Architectural Review Committee (ARC) shall have exclusive jurisdiction over all construction on any portion of the Properties, including but not limited to the authority to review and approve all proposed Site Plans showing where improvements are to be erected. The ARC shall prepare and, on behalf of the Board of Directors, shall promulgate Architectural Review Guidelines, which include the Application for Preliminary Architectural Review, the Application for Final Architectural Review, Summerhouse on Everett Bay Guidelines Pattern Book, Summerhouse on Everett Bay Approved Plant List and such other Rules and Regulations as the ARC deems necessary. The Guidelines, Pattern Book, Plant List, Review Process and Rules and Regulations shall be those of the Association, and the ARC shall have sole and full authority to prepare and to amend in its sole discretion these documents. It shall make them available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Subdivision and who shall conduct their operations strictly in accordance therewith. As long as Declarant owns any Lots which are subject to this Declaration or retains the right to add additional phases, the Declarant retains the right to appoint all members of the ARC, which shall consist of at least three (3), but no more than five (5) persons. The members of the ARC do not have to be Owners. There shall be no surrender of this right prior to that time except in a

written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the ARC. The ARC shall also have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Lots, Buffer Areas, Private open spaces and Common Areas. The right of approval herein reserved and granted shall include, without limitation, the right to designate or re-designate which Lot line shall be the "front" in the case where a Lot is bordered by more than one street.

The ARC shall promulgate detailed standards and procedures governing its area of responsibility and practice. In addition thereto, the following shall apply: Plans and specifications showing the nature, kind, shape, color, size, materials and location of such modifications, additions, or alterations shall be submitted in advance to the ARC for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his/her Dwelling or to paint the interior any color desired. In the event the ARC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) calendar days after submission, the plans shall be deemed approved; provided, however, that no such failure to act shall be deemed an approval of any matters specifically prohibited by any other provision of this Declaration. Refusal or approval of plans, specifications, and plot plans or any of them may be based on any grounds, including purely aesthetic grounds, which, in the sole and uncontrolled discretion of the ARC, may deem sufficient. The approvals required pursuant to this Article shall be in writing and are in addition to any approvals required by other applicable governmental authority.

Nothing in this Declaration shall be construed to prohibit the ARC from promulgating different Guidelines and/or Procedures for each phase or portion thereof of the Properties and the ARC is specifically authorized to do so. Additionally, all reasonable costs incurred by the ARC in reviewing and approving applications to the ARC shall be the responsibility of the applicant, Unless specifically waived by the ARC, all applications and submissions of plans for approval by the ARC must be accompanied by an Architectural Review Fee as established by the ARC from time to time. Preliminary plan approval is required in every instance and may be obtained by submitting plans accompanied by a Preliminary Review Fee or such other sum as is established by the ARC from time to time. See Architectural Guidelines.

Actual construction of Dwellings and other improvements shall be the responsibility of the Owner of the Lot and the Owner's builder. Any permission granted for construction under this covenant and any designation of approved licensed contractors shall not constitute or be construed as an approval, warranty or guaranty, expressed or implied, by the Declarant or the ARC or its designated agent of the structural stability, design or quality of any building or other improvement or of the contractor who constructs such buildings or other improvements.

Section 2. Buildings, Fences, Walls, Etc. No building, fence, wall, deck, trellis, gazebo, boat house, or other structure, and no change in topography, landscaping, or any other item originally approved by the ARC, shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change be made until the plans and

specifications showing the nature, kind, shape, height, materials, color, and locations of the same shall have been submitted to and approved in writing as to the harmony of the external design and location in relation to the surrounding structures and topography by the ARC. Any change in exterior appearance of any building, wall, fence, or other structural improvements and any change in the appearance of the landscaping shall be deemed an alteration requiring approval.

Section 3. Docks, piers, landings, wharfs and seawall/bulkheads. No piers, docks, landings, wharfs, seawalls/bulkheads, retaining walls, or other structures or barriers shall be constructed on any portion of the ponds or lakes nor shall they be attached to the shoreline or banks thereof, except those that may be constructed by the Declarant or Association.

No piers, docks, landings, wharfs, seawalls/bulkheads, retaining walls or other structures shall be constructed, placed or allowed on Kings Creek or on any Lot in such a manner that the structure is within or connected with the water course of Kings Creek or with the shoreline or banks thereof, except those that may be constructed by the Declarant or Association; provided, however, that this restriction does not prohibit retaining walls or any other structures within the interior of any Lot on Kings Creek.

No piers, docks, landings, wharfs, seawalls/bulkheads, retaining walls or other structures shall be constructed, placed or allowed on the Intracoastal Waterway or on any Lot in such a manner that the structure is within or connected with the water course of the Intracoastal Waterway or with the shoreline or banks thereof, except those that may be constructed by the Declarant or Association; provided, however, that this restriction does not prohibit retaining walls or any other structures within the interior of any waterfront Lot on the Intracoastal Waterway.

To the extent it is not prohibited based on the preceding paragraphs, all bulkheads, retaining walls, or other structures or barriers shall be constructed, placed or allowed to remain on any body of water or water course only with prior approval, in writing, from the Association. The Association may require governmental or regulatory approvals to be submitted to it in connection with any application made to the Association for approval. Nothing in this Section shall be the basis for denial for retaining walls or any other structures within the interior of any Lot away from a body of water.

Section 4. Compliance with Stormwater Management Permit. To ensure ongoing compliance with State Stormwater Management Permit Number SW8 060509 Modification, as issued by the North Carolina Division of Energy, Mineral and Land Resources under NCAC 2H. 1000, the following covenants and restrictions are hereby imposed upon the Subdivision:

- (a) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.
- (b) The covenants set forth in this Section 4 are to run with the land and be binding on all persons and parties claiming under them.
- (c) The covenants set forth in this Section 4 may not be altered or rescinded without the express written consent of the State of North Carolina.

(d) Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division of Energy, Mineral and Land Resources.

(e) The maximum built-upon area per Lot is as follows:

Section	Total Number of Lots	Lots	Maximum Built Upon Area
DA-1	323 Lots	1-37, 300-547, 551-567, and 600-620	4,500
DA-2	55 Lots	888-926 and 937-952	4,500
DA-3	112 Lots	832-887, 927-936, and 953-998	4,500
DA-4	74 Lots	38-76, 548-550, and 568-599	4,500
DA-5	1 Lot	1018	3,200
	68 Lots	77-92, 278-299, 999-1017, and 1019-1029	4,500
	396 Lots	93-277 and 621-831	3,800

The allotted amount includes any built-upon area constructed within the Lot property boundaries, and that portion of the right-of-way between the front Lot line and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina, and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools. This subsection (e) shall apply to all Lots, including Manor Lots and renamed C Lots, R Lots, and Z Lots after combination, subject to the reallocation of maximum built upon area as set forth in Article II, Section 3(e) of this Declaration.

(f) Lots within CAMA's Area of Environmental Concern may be subject to a reduction in their allowable built-upon area due to CAMA regulations.

(g) Within the drainage area of a BMP, all runoff on the Lot must be directed into the permitted system. This may be achieved by piping or grading. Lots that will naturally drain into the system are not required to provide these extra measures.

**Section 5. Compliance with Wetland & Buffer Regulations.** In accordance with Title 15ANCAC2H.500, it has been determined that "A portion of Lot numbers **12, 13, 61-73, 75-79, 85-87, 89, 93--94, 98, 99, 101-103, 105-113, 115-121, 123-130, 133-144, 147, 148, 153-223, 250-252, 259-262, 384-388, 404, 405, 482-485, 499, 500, 501, 502, 515-520, 524-535, 537, 538, 621-651, 655-658, 661-680, 684-710, 716, 717, 721-738, 741-769, 812-821, 842, 850-864,**

868-872, 875, 876, 880, 881, 882-889, 926-929, 933, 934-950, 964, 977-979, 988-991, 999-1029, located in the Summerhouse on Everett Bay Subdivision, Onslow County, North Carolina as shown on plans prepared by Carolina Engineers, P.A. dated June 13, 2006; meet the requirements for designation as a wetland, stream or protected stream buffer. Any subsequent fill or alteration of this area shall conform to the requirements of the state rules adopted by the State of North Carolina in force at the time of the proposed alteration. The intent of this provision is to prevent additional wetland, stream or buffer filling or draining, so the Lot Owner should not assume that a future application for filling or draining would be approved. The Lot Owner shall report the name of the subdivision in any application pertaining to said rules. This covenant is intended to ensure continued compliance with all rules adopted by the State of North Carolina and therefore the State of North Carolina may enforce benefits. This covenant is to run with the land and shall be binding on all Parties and all persons claiming under them". Each Lot Owner understands and acknowledges that the governmental agencies responsible for making designations described herein may re-design or implement changes to their regulations or to their designations on one or more Lots, such that the restrictions on any Lot, including the Lots listed above, may vary from Lot-to-Lot and may change over time.

Section 6. CAMA Minor Permit Program. Any structure located on Lots 165, 170, 171, 172, 185-187, 191, 192, 193, 194, 195, 196, 197, 198, 202, 203, 204-206, 674 and 675 which are located within the 75' buffer located off of the MEAN HIGH WATER LINE are subject to the CAMA Minor Permit Program. Each Lot Owner understands and acknowledges that the governmental agencies issuing applicable permits may re-design or implement changes to their regulations or to permitted conditions on one or more Lots, such that the restrictions on any Lot, including the Lots listed above, may vary from Lot-to-Lot and may change over time.

Section 7. Declarant's right to exercise Architectural Review Authority. Notwithstanding the above sections, Declarant, in Declarant's sole judgment and discretion, reserves the right and option to exercise architectural review authority without establishing an ARC until such time as Declarant relinquishes Class B membership status.

Section 8. Construction Bonds

(a) Contractor Performance Bond. Prior to commencement of work, builders will be required to post a contractor performance bond with the ARC in the amount of \$1,500.00 or such other sum as is established by the ARC from time-to-time, to ensure that the contractor, during construction, keeps the property in a neat, clean, workmanlike manner and to ensure that the contractor completes improvements in accordance with the approved plans and specifications. Should the same not be done at the end of any business day or the end of construction, as appropriate, some or all of the bond may be used to bring the contractor into compliance with approved plans, and for any necessary site maintenance. Any portion of the contractor performance bond remaining at the end of construction and issuance of the certificate of occupancy will be refunded to builder/contractor per the terms of the Guidelines.

(b) Road Bond & Impact Fee. Prior to commencement of construction, the Lot Owner, or a Contractor acting on behalf of the Lot Owner, shall submit a road bond or fee, or such other sum as is established by the ARC from time to time, to ensure that streets and curbs in front of the subject Lot are maintained, throughout the construction process, in the same good

quality condition as they were in when construction began and to ensure the proper reseeded, and clean-up of right-of-ways and drainage swales for any damage caused by contractor and its agents. Any portion of the road bond or fee not applied to necessary repairs will be refunded at the end of construction per the ARC Guidelines.

In addition to the road bond or fee, the Association may impose a nonrefundable impact fee at the time that any Lot Owner submits an application for ARC approval. This impact fee shall be owed by the Lot Owner, or paid by a Contractor on the Lot Owner's behalf. The impact fee exists to offset the wear-and-tear that construction vehicles may have on streets in the Properties outside of a specific instance of damage and to offset the impact that construction or improvement activities may have on the Common Areas in general, including, without limitation, the draining of sand or sediment onto roads or into ponds or drains.

Section 9. Variances. The ARC may authorize variances from compliance with any of the architectural provisions of this Declaration or the Guidelines, including without limitation restrictions upon height, size or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and must be signed by at least two (2) members of the ARC and shall be effective upon delivery to the Owner. If such variances are granted, no violation of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the Guidelines for any purpose except as to the particular Lot and improvements and the particular provision covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Owner's Lot, including but not limited to zoning ordinances and setback requirements imposed by Onslow County.

Section 10. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed Dwelling or other improvement shall be permitted to exist on any Lot except during such reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved by the ARC. Any damage to the roadways, curbs or sidewalks or any part of the Common Area or any utility system caused by an Owner or Owner's builder or his subcontractors shall be repaired by such responsible Owner. Any builder of improvements and his subcontractors on any portion of the Properties shall keep such portion of the Properties free of construction debris, in accordance with the construction rules established by the ARC or, in the absence of such rules, in accordance with standard construction practices, and shall similarly keep the lake and contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of improvements. The Board may levy an Individual Assessment against an Owner's property in the Subdivision to pay for the cost of repairing any damage to roadways, curbs or sidewalks or any part of any roadway, Common Area, or utility system, to pay for the cost of cleaning public and private areas, including the roadways in the Subdivision and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or his subcontractors during the construction of improvements.

Section 11. Flood Zones. Some Lots or portions thereof may be located within various flood zones. Flood zones may shift from time-to-time, and each Lot Owner understands that a Lot's location in a flood zone may change. Construction must comply with all applicable Federal, State and local laws, rules and regulations. Flood insurance may be required.

Section 12. Damage to any Improvements. Lot Owner agrees to be and remain responsible for any damage to any of the improvements to the Subdivision (including, without limitation, damage to street paving, curbing, sidewalks, storm drainage, utility lines and any other improvements) related to or resulting from Lot Owner's acts or omissions and/or those of his contractors or suppliers who work for Lot Owner or make deliveries to the Lot on Lot Owner's behalf.

## ARTICLE IX

### Exterior Maintenance, Reasonable Access and Maintenance of Common Area

Section 1. Exterior Maintenance. The Owner shall maintain the Dwelling, structures and grounds on each Lot at all times in a neat and attractive manner consistent with the Community-Wide Standard. Upon the Owner's failure to do so, the Declarant, or the Association (after the termination of Class B membership status of Declarant) may, at its option, after giving the Owner ten (10) days written notice sent to his last known address, or to the address of the subject premises, have the grass, weeds, shrubs and vegetation cut when and as often as the same is necessary in its judgment, and have dead or diseased trees, shrubs, vegetation or dangerously leaning trees or limbs removed from such Lot, and replaced, and may have any portion of the Lot resodded or landscaped, all of which shall not be deemed a trespass, and all expenses of the Association under this provision shall be a lien and charge against the Lot on which the work is done and the personal obligation of the then Owner of such Lot. The Declarant or the Association, and its assigns, may likewise, after giving the Owner 10 days written notice sent as aforesaid, enter upon such Lot(s) to remove any trash, debris or garbage which has collected on said Lot(s) without such entrance and removal being deemed a trespass, all at the expense of the Owner of said Lot. Upon the Owner's failure to maintain the exterior of any structure in good repair and appearance, the Association may, at its option, after giving the Owner thirty (30) days written notice sent to the Owner's last known address, make repairs and improve the appearance in a reasonable and workmanlike manner. The cost of any of the work performed by the Association upon the Owner's failure to do so shall be immediately due and owing from the Owner of the Lot and shall constitute an Assessment against the Lot on which the work was performed, collectible in a lump sum secured by a lien against the Lot as herein provided.

Section 2. Access at Reasonable Hours. For the purpose of performing its function under this or any other Article of the Declaration, and to make necessary surveys in connection therewith, the Association, by its duly authorized agent and employees, or the Declarant during the period of development, shall have the right to enter upon any Lot at reasonable hours, on any day except Sundays and holidays, on reasonable prior notice.

Section 3. Maintenance of Common Area. It shall be the responsibility of the Association to maintain the Common Area. However, should the Declarant (prior to conveyance

to the Association) or the Association (after the termination of the Class B status of Declarant), decide to transfer any portion or all of the areas designated or to become, by conveyance, Common Area to governmental authority, as they have the right to do, such duty to maintain same shall cease as to that portion so transferred.

Section 4. Removal of Obstructions, Debris, and Materials. The Association may remove any obstructions of any nature located within road right-of-ways or other Common Area including trees and shrubs which, in the opinion of the Association, either might produce a hazard or might interfere with the maintenance of the roads.

## ARTICLE X

### Phased Development

Section 1. Initial Phase. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Onslow County, North Carolina, and is more particularly described on Exhibit "A" to the Original Declaration.

Section 2. Additional Phases. The Declarant may, at its option, from time to time bring other land under the provisions hereof by recording a Supplemental Declaration(s) stating its intention to so incorporate additional real estate. Declarant may incorporate such additional land under the provisions hereof in any number of additional phases as it may so desire and may, in its discretion, change the character or nature of such future phases, including but not limited to changing the architectural theme, building materials, elevations, and minimum square footage requirements for buildings. Such Supplemental Declaration(s) shall not require the vote or consent of the Association or any Owner. Any such Supplemental Declaration(s) shall be effective upon the filing thereof in the public records of Onslow County, North Carolina. Such Supplemental Declaration shall describe the real property to be brought under the provisions hereof. Declarant may bring such additional real estate under the terms hereof either in whole or in part and may do so in multiple phases. Upon the Declarant's election to incorporate additional real estate hereunder, all of such real estate so incorporated shall be as fully covered hereby as if a part of the original Subdivision. All property so incorporated shall be subject to all the declarations, covenants, easements, liens, restrictions and duties as herein contained, together with such additional restrictions and obligations as Declarant may impose on the land being submitted to the provisions of this Declaration by such Supplemental Declaration(s). Declarant shall have the unilateral right to transfer to any other person or entity the said right to submit additional property to the provisions of this Declaration. Declarant shall have no obligation to develop any land adjoining the Subdivision in accordance with this Declaration and may develop same in any manner it may desire and further, Declarant, in the event that it should decide to develop any additional land located adjacent to the Subdivision, in its sole discretion, shall have no obligation to make same a part of the Subdivision or subject to this Declaration. THE DECLARANT SHALL BE UNDER NO OBLIGATION TO DEVELOP ADDITIONAL PHASES AND NONE OF THE REMAINING PORTION OF THE PROPERTY DESCRIBED HEREIN SHALL BE DEEMED A PART OF ANY SCHEME OF DEVELOPMENT UNTIL ACTUALLY BROUGHT UNDER THESE RESTRICTIONS AS HEREIN PROVIDED. THE RIGHT TO ADD FUTURE PHASES SHALL TERMINATE 15 YEARS FOLLOWING THE DATE OF THE ORIGINAL DECLARATION.

Section 3. Reservation of Additional Easements and Rights. Declarant reserves for itself and its successors and assigns as developer (and all conveyances by Declarant to Association of Common Area shall be deemed to automatically reserve) easements over, under and across all Common Area for ingress and egress and for construction, completion, and development of future phases including, without limitation, easements for the installation, construction, reconstruction, repair, maintenance and operation of all utility services; said easements to be in addition to and not in lieu of any other rights or easements reserved by Declarant herein or in any supplement hereto or any other conveyance by or to Declarant or its predecessors in title.

Section 4. Extension of Roads. Declarant shall have the right, but shall have no obligation, to extend any street or road now or hereafter within the Subdivision, without seeking the approval of Association or any other party, for the purpose of serving additional phases of the Subdivision and/or for serving other parcels of property not included within the Subdivision.

Section 5. Voting Rights. As each phase, if any, is added to the Subdivision, the Lots comprising such additional phase shall be counted for the purpose of voting rights.

Section 6. Identification of Additional Phases. Nothing in this Declaration shall prohibit Declarant from naming or identifying any phase or portions thereof by a name other than "Summerhouse on Everett Bay" and any such other designation shall in no way prejudice the rights or obligations under this Declaration of any Owner of any Lot in any such section or phase.

Section 7. Annexation by Association. The Association may subject any property to the provisions of this Declaration with the consent of the owner of such property and the affirmative vote of Owners representing sixty-seven percent (67%) of the votes of the Association, either by written ballot or by vote at a meeting duly called for such purpose. Provided, however, that no other Lots may be created by virtue of the annexation of property into the provisions of this Declaration without the unanimous consent of all Lot Owners; for clarity, this requirement for unanimous Owner approval does not apply to any combination or other changing of lot lines described in Article II or otherwise in this Declaration because those lands are already subjected to the Declaration.

## ARTICLE XI

### Rights of Mortgagees

Rights of Mortgagees or Third Parties. Should a mortgagee or third party acquire the rights of Declarant, by way of foreclosure or otherwise in adjoining or neighboring property contained within the property contiguous to the Properties subject to this Declaration, as same may exist from time to time, it shall be allowed full use of all rights, easements, rights-of-way and utilities contained within the Subdivision for the purpose of serving such adjoining or neighboring areas. These rights shall also inure to the benefit of Declarant should it retain or be the Owner of any portion of said property. Any of such parties may elect to bring additional phases under this Declaration.

## ARTICLE XII

### Insurance and Casualty Losses

Section 1. Insurance. The Association, acting through its Board of Directors or its duly authorized agent, shall obtain and continue in effect, if reasonably available (with cost being considered when determining whether the insurance policy is reasonably available), property insurance on the Common Areas insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The Association is not required to obtain any form of insurance coverage for any bridges or roads. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies.

The Association, acting through its Board of Directors or its duly authorized agent, also shall obtain and continue in effect if reasonably available commercial general liability insurance on the Common Areas, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf and including coverage for non-owned automobile liability. If generally available at reasonable cost, the commercial general liability insurance shall have a limit of at least One Million and No/100 Dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage.

Premiums for all insurance required under this Section shall be common expenses of the Association. This policy may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals eighty percent (80%) of the full replacement cost. The deductible shall be a common expense of Association.

Cost of insurance coverage obtained by Association for the Common Area shall be included in the Assessment.

All such insurance coverage obtained by the Board of Directors shall be written in the name of Association as Trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in North Carolina which holds a Best's rating of A or better as is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating;

(b) All policies on the Common Area shall be for the benefit of the Association and Declarant shall be named as an additional insured;

(c) Exclusive authority to adjust losses under policies in force on the Common Areas obtained by Association shall be vested in Association's Board of Directors;

(d) In no event shall the insurance coverage obtained and maintained by Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners; and

(e) Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against Association's Board of Directors, its manager, and Owners and their respective tenants, servants, agents, and guests;

(ii) that no policy may be canceled, invalidated, or suspended on account of the conduct of any director, officer, or employee of Association or its duly authorized manager without prior demand in writing delivered to Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by Association, its manager, its Owner, or mortgage;

(iii) that any "other insurance" clause in any policy exclude individual Owner's policies from consideration; and

(iv) that no policy may be canceled or substantially modified without at least ten (10) days' prior written notice to Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. However, no fidelity bond shall be required as long as the Class B Member exists. The amount of fidelity coverage shall be determined in the Directors' best business judgment but may not be less than three (3) months' Assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association.

The Association may purchase officers' and directors' liability insurance, if reasonably available, and the Board of Directors of Association approves the purchase of same. However, every director and every officer of the Association shall be indemnified by Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him/her in connection with any proceeding to which he/she may be a party, or in which he/she may be become involved by reason of his/her being or having been a director or officer of Association, whether or not he/she is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interest of Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, shall be retained by and for the benefit of Association and placed in a capital improvements account.

(b) If it is determined, as provided in Section 4 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner provided for excess proceeds in Subsection (a) above. However, repair or replacement of the affected Common Area must be made unless prevented by law or governmental rule or regulation.

Section 3. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the voting Members representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the Common Area damaged or destroyed shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage and destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then, and in that event, the affected portion of the Common Area shall be restored to their natural state and maintained by Association in a neat and attractive condition.

Section 4. Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners in proportion to the number of Lots owned; provided, if the damage or destruction involves a Lot(s), only Owners of the

affected Lot(s) shall be subject to such Assessment. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

### ARTICLE XIII

#### Dispute Resolution and Limitation on Litigation

Section 1. Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all persons subject to this Declaration, any builder, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Subdivision, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Section 2 below ("Claims") shall be resolved using the procedures set forth in Section 3 below in lieu of filing suit in any court.

Section 2. Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 3 below.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 3 below:

- a. any suit by the Association against any Bound Party to enforce the provisions of Article VII (Assessments for the Maintenance and Operation of Common Area and Facilities);
- b. any suit by the Association to obtain a temporary restraining order, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of Article II (Uses of Property) or VIII (Architectural Standards and Control);
- c. any suit by an Owner to challenge the actions of the Declarant, the Association, the ARC, or any other committee, with respect to the approval or disapproval of plans and specifications in accordance with Article VIII;
- d. any suit by an Owner to challenge the enforcement or application of specific use restrictions promulgated in accordance with the procedures set forth in Article II;
- e. any suit in which any indispensable party is not a Bound Party; and
- f. any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 3 below.

Section 3. Mandatory Procedures.

a. Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

1. the nature of the Claim, including the persons involved and Respondent's role in the Claim;
2. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. claimant's proposed remedy; and
4. that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

b. Negotiation and Mediation.

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

2. If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of any North Carolina dispute resolution center or such other independent agency providing similar services upon which the Parties mutually agree.

3. If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided however, nothing herein shall release or discharge Respondent from any liability to any person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five days after the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the

Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

c. Final and Binding Arbitration.

1. If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration of the American Arbitration Association or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided however, nothing herein shall release or discharge Respondent from any liability to persons other than the Claimant.

2. This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of North Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of North Carolina.

Section 4. Allocation of Costs of Resolving Claims.

(a) Subject to Section 4(b), each Party shall bear its own costs, including any attorney's fees incurred, and each Party shall secure equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

Section 5. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation in accordance with Section 3(b) and any Party thereafter fails to abide by the terms of the agreement reached through negotiation, or if, following arbitration, any Party, thereafter fails to comply with the Award, then the other Party may file suit or initiate administrative proceedings to enforce the agreement or Award without the need to again comply with the procedures set forth in Section 3. In such event, the Party taking action to enforce the agreement or Award is entitled to recover from the noncomplying Party (or if more than one noncomplying Party, from all the Parties pro rata) all costs incurred in enforcing the agreement or Award, including, without limitation, attorney's fees and court costs.

Section 6. Litigation. No judicial or administrative proceeding with an amount in controversy exceeding \$25,000.00, will be commenced or prosecuted by the Association unless approved by Members of the Association entitled to vote at a regular or special meeting at which a quorum is present, duly called, in whole or in part, for the purpose of approving the proceeding. This Section will not apply, however, to actions brought by the Association to

enforce the provisions of this Declaration (including, without limitations, the foreclosure of liens); the imposition and collection of Assessments; proceedings involving challenges to ad valorem taxation; counterclaims brought by the Association in proceedings instituted against it; or actions brought by the Association to enforce written contracts with its suppliers and service providers. This Section will not be amended unless the amendment is approved by the requisite percentage of votes of Members of the Association, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision will apply in addition to the negotiation and arbitration provisions of this Article XIII, if applicable.

Section 7. Miscellaneous Alternative Dispute Resolution Provisions.

(a) Conflicting Provisions. Any conflict or discrepancy between the terms and conditions set forth in this Article XIII and any term, condition or procedure of the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein will control.

(b) TIME IS OF ESSENCE. All periods of time set forth herein or calculated pursuant to provisions of this Article XIII will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

ARTICLE XIV

General Provisions

Section 1. Time of Essence. It is agreed that time is of the essence with regard to these restrictions, protective covenants, limitations, and conditions.

Section 2. Enforcement. Subject to the provisions of Article XIII hereof, in the event of a violation or breach of any of these restrictions by any Owner or agent, or agent of such Owner, Owners of Lots in the subdivision, or any of them, jointly or severally, Declarant, and/or Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any such event or to recover damages. In addition to the foregoing, Declarant, its successors and assigns, shall have the right, but shall be under no obligation, whenever there shall have been built on any Lot in the subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of Owner if, after thirty (30) days written notice of such violation, it shall not have been corrected by Owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservation, restriction, or condition contained in this Declaration, however, long continued, shall not be deemed a waiver of the rights to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should Declarant or Association employ counsel to enforce any of the foregoing covenants, condition, reservations, or restrictions because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for Declarant/Association's counsel, shall be paid by Owner of such Lot or Lots in breach thereof. Any amount assessed hereunder shall constitute a lien on such Lot and shall be enforceable as herein provided. Failure of Declarant, Association, or any Owner to enforce any covenant or restriction contained herein shall not be deemed a

waiver of the right to do so thereafter. In addition, the Board of Directors shall have the authority to enforce the Covenants and Restrictions, including reasonable rules and regulations as outlined in the By-Laws.

Section 3. Fines, Association Administrative Proceedings Including Hearings Regarding Fines and Suspension of Services under N.C.G.S. §47F-3-102(11) or (12) and N.C.G.S. § 47F-3-107.1 In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a reasonable fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, lessees or employees to comply with any covenant, restriction, rule or regulation, provided notice and hearing procedures set out in N.C.G.S. § 47F-3-107.1 are followed. Once imposed, fines shall be treated as an Assessment subject to the provisions for the collection of Assessments. The Association may conduct any administrative proceedings permitted or provided for under the Declaration, the Act or as otherwise provided by law, including without limitation, the right of the Association, after notice and an opportunity to be heard, to (1) impose reasonable fines for violations of the Declarations, Bylaws, rules and regulations of the Association, or (2) to suspend privileges or services provided by the Association (except rights of access to Lots) for reasonable periods for violations of the Declaration, Bylaws, and rules and regulations of the Association or during any period that Assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer. Prior to pursuing the imposition of a fine or the suspension of privileges or services as allowed by the Act and as provided herein, the offending Owner will be notified and given ten (10) days in which to cure his violation or nonpayment. In the event the violation or nonpayment is not cured within this ten (10) day period, a hearing shall be held before an adjudicatory panel appointed by the Board to determine if the offending Owner should be fined or if privileges or services should be suspended. If the Board fails to appoint an adjudicatory panel to hear such matters, hearings shall be held before the Board. The offending Owner charged shall be given notice of the charge, an opportunity to be heard and to present evidence and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day following the fifth day after the decision that the violation occurs; provided, however, that fines imposed shall be subject to the following minimums:

(i) The fine for the first violation or the first day of any continuing or repetitive violation shall not be less than \$25.00.

(ii) The fine for the second violation or the second day of any continuing or repetitive violation shall not be less than \$50.00.

(iii) The fine for the third violation or the third day and subsequent days of any continuing or repetitive violation shall not be less than \$100.00.

Fines imposed shall be Assessments secured by liens under N.C.G.S. §47-3-116. If it is decided that a suspension of privileges or services should be imposed, the suspension may be continued without further hearing until the delinquency is paid if imposed pursuant to § 47F-3-102(11) or until one violation is cured or sixty (60) days, whichever is longer, if imposed pursuant to §47F-3-102(12).

The Association may institute actions or proceedings permitted by law or the Act to collect any sums due and owing to it.

Section 4. Responsibility of Declarant. Declarant herein shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself. In addition, nothing contained in this Declaration shall be deemed to be a representation by Declarant with regard to the requirements of any governmental authority and it shall be the duty of each Owner to comply with any such requirements in addition to the provisions of this Declaration.

Section 5. Rule Against Perpetuities. In the event that any of the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then, in the event, such term shall be reduced to a period of time which shall not violate the rule against perpetuities or any other law of the State of North Carolina, and such provision shall be fully effective for said reduced period of time.

Section 6. Binding Effect. All covenants, conditions, limitations, restrictions, easements, and affirmative obligations set forth in this Declaration shall be binding on the Owners of the Lot(s) or multi-family unit(s) and their respective heirs, successors, and assigns, and run with the land. All rights, easements and agreements reserved by or granted to Declarant herein shall inure to the benefit of Declarant, its successors and assigns including, without limitation, the right to develop and submit additional phases. Declarant reserves the right in addition to all other rights of Declarant, to assign its rights of consent and approval as set out in this Declaration and any amendment hereto or supplement thereof, to the Association, or any assignee of Declarant's development rights. At such time as Declarant, its successors and assigns no longer owns any Lots or property in the Subdivision, any right of approval reserved to Declarant by this Declaration shall be exercised by the Association.

Section 7. The Project. The term "Summerhouse on Everett Bay", "Project", "Properties" or any synonymous term shall be deemed to mean the Lots designated as Lots 1 through 1029 on the recorded plats of the Project, together with any Common Areas designated as such. No areas lying outside of these Lots, designated areas and streets shall be considered a part of the Project unless and until such area has been submitted to the terms and provisions of this Declaration in accordance with the terms hereof.

Section 8. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by Declarant, Association, or Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns. The covenants and restrictions of this Declaration may be terminated only by agreement of Owners to which at least ninety percent (90%) of the votes in the Association are allocated.

Section 9. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner of the records of Association at the time of such mailing.

Section 10. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 11. Amendment. This Declaration may be amended as provided in N.C.G.S. § 47F-2-117. These covenants, restrictions, easements, charges, and liens of this Declaration may be amended, changed, added to, derogated, or deleted at any time and from time to time upon sixty seven percent (67%) vote of the membership in the Association, provided, that so long as the Declarant is the Owner of any Lot affected by this Declaration, the Declarant's consent must be obtained. Provided further, that the provisions for voting of Class A and Class B Members as hereinabove contained in this Declaration shall also be effective in voting for changes in this Declaration. No amendment to the Declaration shall be effective until executed on behalf of the Association by any officer designated for that purpose and recorded in the Office of the Register of Deeds.

Section 12. Amendment of Declaration Without Approval of Owners. So long as it owns any portion of the Subdivision, the Declarant, without the consent or approval of any other Owner, shall have the right to amend this Declaration:

(a) to conform to the requirements of any law or any governmental agency having legal jurisdiction or permitting authority over the Subdivision;

(b) to qualify the Subdivision or any Lots and improvements thereon for mortgage or improvement loans; or

(c) to make amendments which are correctional in nature only and do not involve a change which materially and adversely affects the rights, duties or obligations herein.

A letter from an official of any such governmental Agency, including without limitation, the Veterans Administration, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Governmental National Mortgage Association of the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such agency shall be sufficient to conform to such request or suggestion. Such amendment shall become effective upon the date of its recordation in the Office of the Register of Deeds.

Section 13. Amendment to Achieve Tax-Exempt Status. The Declarant, for so long as it is a Class B Member of the Association, and, thereafter, the Board, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, to qualify the Association or the Properties, or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Office of the Register of Deeds.

Section 14. Changes to Plans for the Subdivision. Nothing contained herein shall be deemed to incorporate, by reference or otherwise, any plans or proposals promulgated by Declarant with respect to the development of the Subdivision, and Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Supplemental Declaration and any Supplemental Declaration, reserves the right to change any plans for the

Project at any time and from time to time as Declarant may determine to be necessary based upon Declarant's continuing research and design program and/or market conditions. Any plans for the Project shall not bind Declarant or its successors and assigns to adhere to such plans in the development of the Properties or any part thereof. In addition, Declarant reserves the right to change, from time to time, the uses and densities that exist on any portion(s) of the Properties owned by Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Supplemental Declaration.

Section 15. Assignment of Declarant Rights. Declarant reserves the right to assign its rights to a successor or assign who also assumes Declarant's responsibilities.

Section 16. Effective Date. This Declaration shall become effective upon its recordation in the Office of the Register of Deeds for Onslow County, North Carolina. The Original Declaration was effective June 21, 2006.

Section 17. Plat. References to "plat", "map" or any other terms synonymous therewith shall mean and include all plats of the Subdivision recorded in the Office of the Register of Deeds for Onslow County, North Carolina.

Section 18. Access Control — Recreational Amenities. The Association shall have the right and authority, but not the obligation, to control access to the Common Area and any recreational amenity located thereon ("Recreational Amenity") or any portion thereof by such means as the Board, in its discretion, deems reasonable and appropriate. This authority shall include, but shall not be limited to, the right to construct, install, operate, and staff entrance gates; to require identification for admission to the Common Area and any Recreational Amenity; to videotape or otherwise record and document all persons and vehicles entering or exiting the Common Area or any Recreational Amenity; to screen and/or require registration of vehicles, guests, and others entering the Common Area or any Recreational Amenity; and to deny entry to the Common Area or any Recreational Amenity to unauthorized persons. Unauthorized persons include persons other than Owners, residents, and their guests and invitees; police, fire, and emergency medical personnel in the performance of their official duties; and Association-authorized agents, contractors and service providers.

Section 19. Safety and Security. The Association, the Board, its directors and officers, Declarant, and, their respective agents, assigns, or employees shall not be considered insurers or guarantors of security or safety within Summerhouse on Everett Bay, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security or safety measures undertaken. No representation or warranty is made that any safety measure or security system, including any mechanism, system, or procedure for limiting access to any portion of Summerhouse on Everett Bay, cannot be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which it is designed or intended. Each Owner, resident, guest, and invitee acknowledges and agrees that the Association, the Board, its directors and officers, Declarant, and their respective agents, assigns, and employees are not insurers and that each person using the community assumes all risks for personal injury and loss or damage to property resulting from acts of third parties.

Section 20. Recreational Amenities. The use and enjoyment of any recreational facility involves risk of personal injury or damage to property. Each Owner acknowledges and understands, and covenants to inform its tenants and all occupants of its Lot, that the Association, its Board and committees, and Declarant are not insurers of personal safety and that all such persons assume all risks of personal injury and loss or damage to property resulting from the use and enjoyment of any Recreational Amenity the Association operates or maintains.

**EACH OWNER (INDEMNITOR) AGREES AND DOES HEREBY RELEASES AND DISCHARGES THE DECLARANT, THE ASSOCIATION, THE BOARD AND ANY COMMITTEES, THEIR SUCCESSORS AND ASSIGNS, AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, AND THEIR SUCCESSORS IN OFFICE, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES AND AGENTS, HEREINAFTER COLLECTIVELY AND SEVERALLY REFERRED TO AS "INDEMNITIES" FROM AND AGAINST ALL LIABILITY FOR, AND ASSUMES THE RISK OF ALL LOSSES, EXPENSES, LIENS, CLAIMS, DEMANDS, DAMAGES AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER WHATSOEVER FOR DAMAGE TO THE PROPERTY OF INDEMNITIES AND INDEMNITIES, LESSEES, TENANTS AND INVITEES AND FOR THE PERSONAL INJURY TO OR DEATH OF ANY PERSONS (INCLUDING BUT NOT LIMITED TO INDEMNITOR, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF INDEMNITOR) AND/OR DAMAGE TO ANY PROPERTY (INCLUDING BUT NOT LIMITED TO PROPERTY BELONGING TO INDEMNITOR, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) AND FOR ANY OTHER LIABILITY, DAMAGES, FINES OR PENALTIES (EXCEPT WHERE REIMBURSEMENT FOR FINES OR PENALTIES IS PROHIBITED BY APPLICABLE LAW), INCLUDING COSTS, EXPENSES, PENALTIES AND INTEREST, ATTORNEY FEES AND SETTLEMENTS HEREINAFTER REFERRED TO COLLECTIVELY AND SEVERALLY AS "CLAIMS", ARISING OUT OF OR IN ANY WAY CONNECTED WITH OR RELATING TO THE USE OF ANY RECREATIONAL AMENITY, INCLUDING THOSE CLAIMS CAUSED BY ANY OR ALL OF THE INDEMNITIES. THIS INDEMNITY AGREEMENT SHALL INCLUDE CLAIMS ARISING OUT OF, BROUGHT BY OR CAUSED, IN WHOLE OR IN PART BY INDEMNITIES, ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF INDEMNITIES, AND INDEMNITOR EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD INDEMNITIES, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS, HARMLESS FROM ALL "CLAIMS" OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY INDEMNITIES', (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY**

IN TORT OR BREACH OF WARRANTY, EXPRESS OR IMPLIED, INCLUDING THAT CAUSED BY ANY OF THE INDEMNITIES' OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS ACTIVITIES, DIRECTLY OR INDIRECTLY, RELATED TO THIS SUBDIVISION.

**THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE TOWARD OR ENFORCEABLE IN FAVOR OF ANY INDIVIDUAL INDEMNITEE FOR A PARTICULAR CLAIM, INsofar AS THAT PARTICULAR CLAIM IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION, TO RESULT EXCLUSIVELY FROM THE GROSS NEGLIGENCE OR WILLFUL CONDUCT OF THAT INDEMNITEE SEEKING TO ENFORCE THE INDEMNIFICATION, BUT THE FOREGOING SHALL SPECIFICALLY INCLUDE CLAIMS RESULTING FROM THE NEGLIGENCE AND/OR CONTRIBUTORY NEGLIGENCE AND/OR CONCURRENT NEGLIGENCE OF ANY INDEMNITIES.**

**INDEMNITOR AND INDEMNITIES ACKNOWLEDGE THAT THIS STATEMENT AND THE FOREGOING INDEMNIFICATION UNDER THIS ARTICLE XIV, SECTION 21 COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS AND HAS BEEN REVIEWED AND APPROVED BY EACH INDEMNITOR PRIOR TO THE PURCHASE OF A LOT IN THE SUBDIVISION, AFTER CONSULTING WITH LEGAL COUNSEL OF THEIR CHOICE, PRIOR TO THE PURCHASE OF THE LOT. THE INDEMNIFICATION ARISING HEREIN SHALL SURVIVE THE OWNERSHIP OF A LOT IN THIS SUBDIVISION BY INDEMNITOR.**

Declarant or the Association may, but shall not be obligated to, implement or maintain certain safety measures designed to decrease the chance of injury resulting from use of any Recreational Amenity; provided, neither the Association nor Declarant shall in any way be considered insurers or guarantors of the safety of any person using such facilities. In addition, neither the Association nor Declarant shall be held liable for any loss or damage by reason of failure to provide adequate safety measures or ineffectiveness of safety measures undertaken. No representation or warranty is made that any safety measures undertaken will be undertaken, or if undertaken, will be effective, nor that any such measures will in all cases prevent any personal injury or loss or damage to property that the measure is designed or intended to prevent.

Section 21. Changes in Ownership of Lots. Each Owner is required to keep the Association apprised at all times of the current name of the Owner and its address. Within ten (10) days following the closing of any transfer of title, the Owner desiring to sell or otherwise transfer title to its Lot shall give the Board written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. In addition, within ten (10) days following any change in the name and address of the Lot Owner, the Owner shall give the Board written notice of the changed information and such other information as the Board may reasonably require.

Section 22. Exclusive Rights to Use Name of Development. No person shall use the name "Summerhouse on Everett Bay" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. The Association shall be entitled to use the words "Summerhouse on Everett Bay" in its name.

IN TESTIMONY WHEREOF, the Association and the Declarant, pursuant to the authority above recited, have caused this Declaration to be executed under seal and in such form as to be binding effective the day and year upon recording this Declaration in the office of the Register of Deeds of Onslow County, North Carolina.

SUMMERHOUSE ON EVERETT BAY  
HOMEOWNERS ASSOCIATION, INC.

By: William G. Garner (SEAL)  
William G. Garner, President

STATE OF North Carolina  
COUNTY OF New Hanover

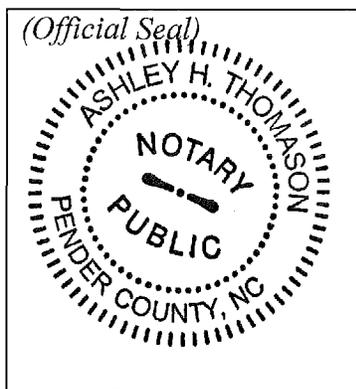
I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: William G. Garner.

Date: 05-05-2021

Ashley H. Thomason  
Signature of Notary Public

Ashley H. Thomason, Notary Public  
Printed or typed name

My commission expires: May 18, 2022



Notary seal or stamp must appear within this box.



R.A. NORTH DEVELOPMENT I, LLC

By: *Randolph M Allen* (SEAL)  
Randolph M Allen, Manager

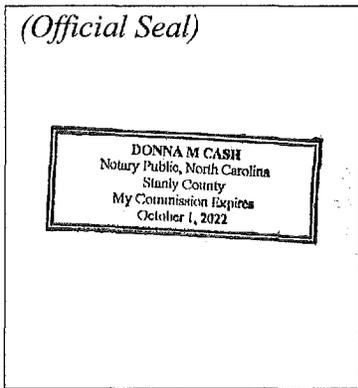
STATE OF North Carolina  
COUNTY OF Mecklenburg

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Randolph M Allen.

Date: 4/23/2021

*Donna M Cash*  
Signature of Notary Public

Donna M Cash, Notary Public  
Printed or typed name  
My commission expires: 10/01/2022



Notary seal or stamp must appear within this box.

ND: 4833-7911-4463, v. 2