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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS FOR SEASIDE BAY

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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR SEASIDE BAY

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS FOR SEASIDE BAY ("Declaration") is made this 3rd day of June, 2019, by SEASIDE BAY HOMEOWNER'S ASSOCIATION, INC., a North Carolina nonprofit corporation ("Association").

W I T N E S S E T H:

WHEREAS, Seaside Bay, LLC caused to be recorded the Declaration of Restrictive Covenants, Easements, and Conditions for Seaside Bay, A Subdivision in Book 3445, at Page 136 in the office of the Register of Deeds of Brunswick County (as amended, the "Original Declaration"). Said Subdivision being certain real property described in Deed Book 3433, Page 533, and in Deed Book 3442, Page 467; and further described in Map Cabinet 80, Pages 5, 6, and 7; Map Cabinet 60, Pages 26, 27, 28 and 29; Map Cabinet X, Pages 134, 135, 136, and 137; Map Cabinet 34, Pages 60, 61, 62, and 63, all of the Brunswick County Registry; and

WHEREAS, pursuant to Section 23 of the Original Declaration, the Original Declaration may be amended by not less than a two-thirds (2/3) vote of the Members at a duly called meeting at which a quorum is present;

WHEREAS, pursuant to N.C. Gen. Stat. § 47F-2-117(a), the Original Declaration may be amended only by affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated; and

WHEREAS, this Declaration has been approved by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated;

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 Brunswick 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 such real estate or who have or may acquire any right or occupancy of or interest upon any portion of the real estate, all subject to the right of the Association to amend this Declaration according to its terms.

Article 1. **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 14 herein, and adopt in its place instead this Declaration.

Article 2. **Definitions.** The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

2.1 "Act": Chapter 47F of the General Statutes of North Carolina designated as the North Carolina Planned Community Act.

2.2 "Articles of Incorporation": The Articles of Incorporation of Seaside Bay Homeowner's Association, Inc., as filed with the North Carolina Secretary of State.

2.3 "Assessment": Assessments levied on all Lots to fund the Common Expenses as provided for in this Declaration.

2.4 "Association": Seaside Bay Homeowner's Association, a North Carolina nonprofit corporation, its successors and assigns.

2.5 "Association Documents": Collectively the Articles of Incorporation of the Association, the Bylaws of the Association, this Declaration, the Rules and Regulations, and any resolutions adopted by the Board, all as may be amended, restated, and revised from time to time. Any exhibit, schedule or amendment to an Association Document shall be considered a part of that document.

2.6 "Benefited Assessment": Assessments levied under Section 11.4.

2.7 "Board of Directors" or "Board": The body responsible for administration of the Association selected as provided in the Bylaws.

2.8 "Bylaws": The Bylaws of the Association as they may be amended from time to time.

2.9 "Common Elements": All real and personal property in which the Association now or hereafter owns, leases or otherwise holds possessory or use rights for the common use and enjoyment of the Owners, including easements held by the Association for those purposes. The term shall include, without limitation, any Recreational Facilities (hereinafter defined), signage and/or landscape easements as the same may be depicted on recorded maps of the Property, landscape medians, roads, cul-de-sac, lakes, ponds, rivers, streams, wetlands, and preservation areas. The term shall also include any and all permits and other such intangible property including, but not limited to, the Stormwater Management Permit. Notwithstanding this definition, to the extent that the provisions of the Act apply to "Common Elements," including without limitation, the provisions of the N.C. Gen. Stat. § 47F-3-112, those provisions shall only apply to Common Elements as defined in the Act.

2.10 "Common Expenses": Any and all expenditures made by or financial liabilities and obligations of the Association, together with any allocations to reserves.

2.11 "Community-Wide Standard": The standard of conduct, Upkeep, or other activity generally prevailing throughout the Property. The standard shall be determined by the Board of Directors and the Architectural Committee (as defined in Section 12.2). 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 Property change.

2.12 "Declaration": This Declaration, any Supplemental Declaration as may be applicable to separate portions of the Property, any exhibit, schedule or amendment thereto, all as may be amended, restated and revised from time to time.

2.13 "Design Guidelines": The architectural, design, development, and other guidelines, standards, controls, and procedures including but not limited to, application and review procedures, adopted pursuant to Article 12 and applicable to the Property.

2.14 "Dwelling Unit": Any building or structure or portion of a building or structure situated upon a Lot which is intended for use and occupancy as a detached residence for a single family.

2.15 "Landscaping": Living plants, shrubs, trees, vegetation, ground coverings (including grass and sod) and appurtenant live/growing vegetative materials, straw, mulches, composting materials, pools (other than swimming pools), ornamental ponds, ornamental structures and any other living or non-living material or structure reasonably constituting a part of any or all of the foregoing installed upon a Lot.

2.16 "Limited Common Elements": A portion of the Common Elements allocated by this Declaration or by operation of law for the exclusive use of one (1) or more but fewer than all of the Lots. Limited Common Elements may also be shown on any map of the Property recorded in the Register of Deeds.

2.17 "Lot ": A portion of the Property, whether improved or unimproved, other than Common Elements and property dedicated to the public, which may be independently owned and conveyed and which is separately identified on a map of all or any portion of the Property recorded in the Register of Deeds. This term shall refer to any one or more of the Lots or other tracts or parcels created within the Property or added to the Property, the land, if any, which is part of the Lot as well as any improvements thereon including but not limited to the Dwelling Unit.

For all purposes set forth in the Association Documents, a Lot comes into existence on the later of recordation in the Register of Deeds of (i) a map or plat depicting said Lot or (ii) a Supplemental Declaration defining and subjecting the proposed Lot to the same and this Declaration.

2.18 "Member": A Person having membership in the Association consistent with Section 4.2 of this Declaration. Any Member who has assessments in arrears or is in violation of the Association Documents shall not serve as a member of the Board of Directors, the Architectural Committee or other Association committee.

2.19 "Member Approval": A majority vote of Owners present and entitled to vote at a duly called meeting, at which a quorum is present, or by majority vote cast by written ballot pursuant to Section 3.9 of the Bylaws.

2.20 "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

2.21 "Mortgagee": A beneficiary or holder of a Mortgage.

2.22 "Owner": One or more Persons who hold the record title to any Lot, except Persons holding an interest merely as security for the performance of an obligation in which case the equitable owner will be considered the Owner.

2.23 "Permit": North Carolina Stormwater Management Permit No. SW8 050557 issued for the Property and any additional North Carolina Stormwater Management Permits, applicable to the Property, and any amendments, additions or replacements thereof.

2.24 "Person": A natural person, corporation, limited liability company, partnership, trust, or any other legal entity.

2.25 "Property": All of the property previously made subject to the Original Declaration, together with such additional property as is subjected to this Declaration in accordance with Article 10, including without limitation, the following property: those tracts or parcels of land lying and being situate in Brunswick County, North Carolina, and being more particularly shown and described on maps recorded in Map Cabinet 10, Page 48; Map Cabinet 80, Pages 5–7; Map Cabinet 60, Pages 26–29; Map Cabinet X, Pages 134–37; and Map Cabinet 34, Pages 60–63, all in the office of the Register of Deeds of Brunswick County, North Carolina.

2.26 "Register of Deeds": The office of the Register of Deeds of Brunswick County, North Carolina.

2.27 "Stormwater Management Facilities": All areas consisting of ditches and swales, retention ponds and other improvements which are constructed pursuant to, and regulated by, the Permit.

2.28 "Supplemental Declaration": An amendment or supplement to this Declaration filed pursuant to Article 10 which subjects additional property to this Declaration and identifies the Common Elements within the additional property, if any, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein.

2.29 "Upkeep": Care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

2.30 "Use Restrictions": The rules and use restrictions are more fully defined as set forth in Article 13.

2.31 "Utility Company": A public or private company or entity duly licensed and authorized by the North Carolina Utilities Commission to provide utility services within a specified franchise area and any entity providing utility services on behalf of a body politic, municipality or other governmental body or entity.

Article 3. Property Rights.

3.1 Common Elements: Every Owner shall have a right and nonexclusive easement, in common with all other Owners, of use, access, and enjoyment in and to the Common Elements, subject to:

a. The Association Documents and any other applicable covenants;

b. Any restrictions or limitations contained in any deed conveying such property to the Association;

c. All applicable provisions of the Act including, but not limited to, the following:

i. The right of the Board to establish and impose reasonable requirements and charge use fees, for the use of any Recreational Facility or other improvements situated upon the Common Elements;

ii. The right of the Board to adopt rules, regulations or policies regulating the use and enjoyment of the Common Elements, including rules restricting use of Recreational Facilities (as hereinafter defined) within the Common Elements to Owners, their families, lessees and guests; and to establish rules limiting the number of occupants and guests who may use the Common Elements;

iii. The right of the Association to dedicate or transfer all or any part of the Common Elements to governmental entities pursuant to Section 5.3;

iv. The right of the Association to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred by the Association; and

v. The right of the Association to convey or encumber portions of the Common Elements as provided in the Act.

d. The right of the Board to suspend the privilege of an Owner, their families, lessees and guest, to use Recreational Facilities within the Common Elements.

e. The right of the Association to rent or lease portions of the Common Elements including the Recreational Facilities (as defined in Section 3.2 herein) on a short-term basis to any Owner for the exclusive use of such Owner and such Owner's family and guests.

3.2 Recreational Facilities. Community centers, tennis courts, pools, piers, gazebo cookout area and boat launching facilities, etc. ("Recreational Facilities") exist for the benefit of Owners of Lots, their families, tenants and guests within the Property. The Recreational Facilities shall be maintained as part of the Common Elements out of assessments imposed on all Owners who have the right of access to and the use of the Recreational Facilities in accordance with the provisions of Section 3.1. The Association may impose reasonable regulations regarding the use of any such Recreational Facilities to insure accessibility, safety, harmony and

preservation of any such Recreational Facilities. The cost of the management, operation, maintenance, repair, servicing, replacement and renewal of the Recreational Facilities shall be deemed Common Expenses as to all Owners who have the right of access to and use of said Recreational Facilities.

The Association may offset the cost of the management, operation, maintenance, repair, servicing, replacement and renewal of the Recreational Facilities, by majority vote cast by written ballot pursuant to Section 3.9 of the Bylaws; pursuant to a rental or lease agreement, may permit the use of any Recreational facilities situated on the Common Elements by persons other than Owners, their family and guests. The term as stated, "persons other than Owners" shall specifically refer to individual Ruffin River Landing Owners.

Article 4. Association Function, Membership and Voting Rights.

4.1 Function of Association. The Association shall be the entity responsible for management, Upkeep, operation and control of the Common Elements. The Association shall be the primary entity responsible for enforcement of the Association Documents. The Association shall perform its functions in accordance with the Association Documents and North Carolina law. The Association shall have all powers reasonably necessary to perform its functions and obligations described in the Association Documents including, but not limited to, all powers set forth in Chapter 55A of the North Carolina General Statutes and the Act.

4.2 Membership. Every Owner shall be a Member of the Association. If a Lot is owned by more than one Person, all co-Owners shall be Members and share the privileges of such membership, subject to reasonable Board regulation, such reasonable fees as may be established under Section 3.1, and the restrictions on voting set forth in Section 4.3 and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is a corporation, limited liability company, partnership or other legal entity may be exercised by any officer, director, manager, partner, or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

4.3 Voting. All Owners shall have one (1) equal vote for each Lot in which they hold the interest required for membership under Section 4.2, provided, there shall be only one (1) vote per Lot. Except as otherwise specified in this Declaration or the Bylaws or as required by law, the vote for each Lot shall be exercised by the Owner. In any situation in which there is more than one Owner of a particular Lot, the vote for such Lot shall be exercised as such co-Owners determine among themselves. Absent such notice to the Association, the Lot vote shall be suspended if more than one Person seeks to exercise it. If the co-Owners are unable to agree on how the vote should be cast, it will be disregarded.

Article 5. Association Rights, Obligations and Services.

5.1 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property.

5.2 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Association Documents or which may be reasonably

implied from, or reasonably necessary to effectuate, any such right or privilege. Except as otherwise specifically provided in the Association Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

5.3 Dedication of Common Elements. The Association may dedicate or grant easements over portions of the Common Elements to any local, state, or federal governmental entity or any Utility Company.

5.4 Disclaimer of Liability. Notwithstanding anything contained herein or in the Association Documents or the Act, neither the Association, the Board, shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner of any Lot or any tenant, guest or invitee of any Owner or for any property of any such Persons. Each Owner of a Lot and each tenant, guest and invitee of any Owner shall assume all risks associated with the use and enjoyment of the Property.

5.5 Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees, and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. This paragraph shall be specifically construed to allow the Association to enter into a contract for the overall management of the Association with any individual or corporation. The Association or its managing agent shall also be permitted to provide services to any Owners where it deems it to be in the interest of the Association to do so.

5.6 Change of Use of Common Elements. Upon adoption of a resolution by the Board stating that, in the Board's opinion, a service provided by the Association pursuant to Section 5.5 or the then present use of a designated part of the Common Elements is no longer in the best interest of the Owners or is no longer necessary or appropriate for the purposes intended, the Board shall have the power and right to terminate such service or change the use of any Common Elements (and, in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided that any such new use (i) shall be for the benefit of the Owners, and (ii) shall be consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Common Elements.

5.7 View Impairment. The Association neither guarantees nor represents that any view over and across any property, including any Lot, from adjacent Lots will be preserved without impairment. The Association shall have no obligation to prune or thin Landscaping except as set forth in Article 6. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

Article 6. Maintenance.

6.1 Association's Responsibility. The Association shall provide Upkeep for the Common Elements, which shall include, but may not be limited to:

a. all Common Elements, all improvements upon the Common Elements, and the Stormwater Management Facilities;

b. all Landscaping, signage, and improvements, including any parks, structures, piers, docks, bike pathways and trails situated upon the Common Elements;

c. all private streets, including any asphalt repairs thereto, situated upon the Common Elements;

d. Landscaping, sidewalks, street lights, irrigation systems, and signage within public streets or other rights-of-way abutting the Property;

e. Landscaping within any public utility easements and scenic or access easements within the Common Elements (subject to the terms of any easement agreement relating thereto); and

f. any additional property included within the Common Elements as may be dictated by this Declaration, any Supplemental Declaration, any plat of any portion of the Property, or any contract or agreement for maintenance thereof entered into by the Association.

The Association may, at least twice per calendar year, mow and if appropriate, bush hog, open grassy areas such as lawns and meadows, depending upon the location or unique characteristics of the Lot. After a Dwelling Unit is constructed on a Lot, the Association shall no longer provide the above-described maintenance to the Lot and the Owner shall provide for the Upkeep of his or her Lot as set forth in Section 6.2 herein.

The Association may also maintain and improve other property which it does not own, including, without limitation, property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law.

Except as otherwise specifically provided herein, all costs for Upkeep of the Common Elements shall be a Common Expense allocated among all Lots as part of an Assessment, without prejudice to the right of the Association to seek reimbursement from the Persons responsible for such work pursuant to this Declaration, other recorded covenants, or agreements with such Persons.

6.2 Owner's Responsibility. Each Owner shall provide for the Upkeep of his or her Lot and Dwelling Unit, other structures and any other improvement upon Lot; parking areas; Landscaping, including but not limited to removal of accumulation of shoreline debris; removal of fallen trees, tree limbs, brush and/or other naturally occurring debris, in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such responsibility for Upkeep is otherwise expressly assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her Upkeep responsibility, the Association may perform such work for Upkeep and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section

11.4. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

6.3 Standard of Performance. Upkeep may include irrigation as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All Upkeep shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, as determined by the Board.

Notwithstanding anything to the contrary contained herein, neither the Association, nor any Owner shall be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

Article 7. Insurance and Casualty Losses.

7.1 Association Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect, if reasonably available, the following types of insurance:

Blanket property insurance covering risks of physical loss on an "all-risk" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Elements to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at a reasonable cost, then "broad form named perils" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full insurable replacement cost of the insured property. This provision for Blanket property insurance shall not be construed to require the Association to obtain coverage for any structure owned by any party other than the Association. The Association may elect to provide insurance for said structures with the approval of a majority of the Owners or if such individual coverage is not available;

Commercial general liability insurance on the Common Elements, 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;

Such additional insurance, including but not limited to workers compensation insurance, employers liability insurance, directors' and officers' liability insurance, flood, earthquake and hurricane insurance, as the Board in its best business judgment determines advisable; and

The Association shall have no insurance responsibility for any portion of any Lot except as stated in paragraph 7.1.a.

If the insurance described in subsection (a) of this Section is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Owners.

7.2 Association Policy Requirements. Prior to the renewal of any insurance policy, the Association shall arrange for a review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be familiar with insurable replacement costs in the Brunswick County, North Carolina, area.

Premiums for all insurance on the Common Elements shall be Common Expenses and shall be included in an Assessment. In the event that insurance costs increase during the fiscal year, the Board may levy an Assessment for the increased costs pursuant to Article 11 herein, and such Assessments shall become effective upon approval by the Board.

The policies may contain a reasonable deductible as determined by the Board and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful conduct of one or more Owners, their family members, guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots in accordance with Section 11.4.

The Association's insurance policies shall comply with and be consistent with the provisions of the Act.

7.3 Owner's Insurance. By virtue of owning a Dwelling Unit upon a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance covering risks of physical loss for both the Dwelling Unit and any other insurable improvements on the Lot for the full insurable replacement cost thereof, less a reasonable deductible. Such property insurance shall include windstorm and hail coverage, and, if full insurable replacement cost is not reasonably available for such coverage, actual cash value may be substituted. Each Owner shall, upon request from the Association, provide evidence of insurance coverage to the Association.

Each Owner further covenants and agrees that in the event of damage to or destruction of the Dwelling Unit or any other structures on or comprising his or her Lot, he or she shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 12 of this Declaration. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

7.4 Loss Adjustment, Repair and Proceeds. With respect to any loss covered by the policy (or policies) of the Association, it shall be adjusted by the Association and matters

pertaining to the disbursement of proceeds of such insurance and the repair or replacement shall be governed by the provisions of Chapter 47F-3-113(d) and (g) of the Act.

Article 8. Partition.

Except as permitted in this Declaration, the Common Elements shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof without the written consent of all Owners and Mortgagees.

Article 9. Permit SW8-050557: Responsibilities and Covenants.

9.1 Administration of Permit. The oversight, supervision, management and administration of the Permit shall be the sole responsibility of the Association. The Association's duties with respect to the Permit shall be carried out in accordance with the terms and conditions of the Association Documents, and the Permit.

9.2 Easement for Upkeep and Enforcement. The Association hereby is granted and conveyed an easement over, under and upon each Lot, now existing or later added to the Association, for the purpose of access to and Upkeep of all Storm Water Management Facilities and to enforce all requirements of the Permit.

9.3 Permit Covenants. To ensure ongoing compliance with the Permit as issued by the North Carolina State Division of Water Quality under NCAC 2H.1000, the following covenants and restrictions are hereby imposed upon the Property:

a. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with Storm Water Management Permit SW8-050557.

b. The covenants set forth in this Section 9.3 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 9.3 may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.

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

e. The maximum built-upon area per Lot shall be no more than 4300 square pursuant to the Seaside Bay storm water Permit. This 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 payment. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina, driveways, and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

f. Filling in, piping, or altering any 3:1 vegetated conveyances (ditches, swales, etc.) associated with the Property except for average driveway crossings, is prohibited by any persons.

g. Lots located within the Coastal Area Management Act area of environmental concern may have the permitted built-upon area reduced due to CAMA jurisdiction, within the lot's Architecture, Engineering and Construction plan. Filling in, piping, or altering any 5:1 curb outlet swale or vegetated area associated within the Property is prohibited by any persons.

h. A thirty (30) foot vegetated buffer must be maintained between all built-upon area and the Mean High Water line of surface waters.

i. All roof drains shall terminate at least thirty (30) feet from the Mean High Water Mark.

j. Each designated curb outlet swale or one-hundred (100) foot vegetated area shown on the approved plan must be maintained at a minimum of one-hundred (100) feet long, maintain 5:1 (H:V) side slopes or flatter, have a longitudinal slope no steeper than five percent (5%), carry the flow from a ten (10) year storm in a non-erosive manner, maintain a dense vegetated cover, and be located in either a dedicated Common Element or a recorded drainage easement.

9.4 Drainage Tile. It shall be the responsibility of each Lot Owner to maintain a twelve inch (12") or larger drain tile on any portion of the Owner's Lot where a driveway crosses or any other activity obstructs a drainage ditch. All soil disturbing activities, including without limitation, grading house sites, constructing driveways, and Landscaping must conform to prevailing laws and regulations regarding erosion control, both during construction and afterwards, and must not impair any existing erosion control measures. Any alteration of drainage must comply with Section 9.3(d).

Article 10. Annexation. 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. Such annexation shall be accomplished by recording a Supplemental Declaration in the Register of Deeds describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President of the Association and by the owner of the annexed property. Any such annexation shall be effective upon the recording unless otherwise provided therein. Any property annexed into the Association by the provisions of this Declaration shall be subject to all conditions and privileges of the Association and Owners of any such annexed property shall be members of the Association.

Article 11. Assessments.

11.1 Creation of Assessments.

a. The Association shall levy assessments against each Lot for Common Expenses as the Board may specifically authorize from time to time. There shall be three (3)

types of assessments for Association expenses: (a) Annual Assessments to fund Common Expenses for the general benefit of all Lots; (b) Benefited Assessments as described in Section 11.4; and (c) Special Assessments as described in Section 11.10. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Lot within any portion of the Property is deemed to covenant and agree to pay these assessments.

b. All assessments, together with interest from the due date of such assessment at a rate determined by the Association (not to exceed the highest rate allowed by North Carolina law), late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment is levied until paid, as more particularly provided in Section 11.6. Each such assessment, together with interest, late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment was levied. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable with the grantor for any assessments and other charges due at the time of conveyance. No first Mortgagee which obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

c. All assessments shall be paid in such manner and by such dates as the Board may establish. Unless the Board otherwise provides, an Annual Assessment for each Lot shall be due and payable in advance each year on the first day of the fiscal year of the Association.

d. The Association shall, upon request by an Owner, furnish to any Owner a certificate in writing signed by an officer of the Association setting forth whether assessments for such Owner's Lot have been paid and any delinquent amount. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

e. No Owner may exempt himself or herself from liability for assessments, by non-use of Common Elements, abandonment of his or her Lot or Dwelling Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it or for inconvenience or discomfort arising from repairs or improvements or other action taken by it.

11.2 Computation of Annual Assessment. Not less than sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget covering the Common Expenses estimated to be incurred during the coming year. The budget may include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 11.3. In determining the budget, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment under Section 11.5 on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to

assessment during the fiscal year. The maximum allowable annual assessment shall not exceed more than ten percent (10%) of the previous year's assessment amount.

Within thirty (30) days after adoption of any proposed budget by the Board, the Board shall provide to all Owners a summary of the budget and notice of a meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary of the budget and notice of the meeting. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless, at that meeting, a majority of all the Owners in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The Assessment for the fiscal year shall be determined based upon the budget adopted by the Board and ratified by the Owners.

11.3 Reserve Fund. The Association shall maintain a reserve fund for periodic maintenance, repair, and replacement of Common Elements and the improvements thereto. The Board shall prepare and approve, on an annual basis, a reserve budget for general purposes. Such reserve budget may anticipate making capital improvements and purchasing capital assets. The Board shall include a reserve fund contribution in the annual budget.

The Board may adopt resolutions regarding the expenditure of reserve funds, including policies designating the nature of assets for which reserve funds may be expended.

11.4 Benefited Assessments. The Board may levy Benefited Assessments against particular Lots for expenses incurred or to be incurred by the Association, as follows:

a. to cover the costs, including overhead and administrative costs, of Upkeep and replacement of any Limited Common Elements;

b. to cover costs incurred in bringing the Lot into compliance with the terms of the Association Documents and the Act or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their family members, tenants, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing before levying a Benefited Assessment under this subsection.

11.5 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the first day of the month following (a) the date the Lot is made subject to this Declaration, or (b) the date the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Assessments against each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

11.6 Lien for Assessments. All assessments authorized in this Article shall constitute a lien against the Lot against which they are levied, as provided in N.C. Gen. Stat. § 47F-3-116, as amended, until paid unless otherwise specifically precluded in this Declaration. The lien shall also secure payment of interest (subject to the limitations of North Carolina law), late charges, and costs of collection (including attorneys' fees, lien fees and administrative costs). Such lien

shall be superior to all other liens, except (a) those superior by law, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Association may enforce such lien, when any assessment or other charge is delinquent, by suit, judgment, and foreclosure.

The Association may, accept the transfer of an Owner's Lot deed in lieu of foreclosure or may bid for the Lot at the foreclosure sale. The Association may then hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following acquisition: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, a Mortgagee holding a first Mortgage of record or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 11.5, including such acquirer, its successors and assigns.

11.7 Acceleration. In any case where an assessment or other charge is payable in installments, upon a default by such Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessment or other charge may be accelerated, at the option of the Board, and the entire balance of the assessment or other charge may be declared due and payable in full by the service of such notice to such effect upon the defaulting Owner.

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

11.9 Exempt Property. The following property shall be exempt from payment of Assessments:

a. all Common Elements; and

b. all property dedicated to and accepted by any governmental authority or Utility Company.

In addition, the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

11.10 Special Assessments. In addition to Assessments for the fiscal year, the Board may, levy, in any year, special assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such Assessments shall be levied by majority vote cast by written ballot pursuant to Section 3.9 of the Bylaws. Such Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which such Assessment is approved. The amount of each Assessment shall be levied equally against all Lots.

Article 12. Architectural Design Guidelines.

12.1 General. The purpose of the Architectural Design Guidelines is to provide all Lot Owners a detailed set of standards, for the purpose of planning and preparation for the construction of new Dwelling Units or modifications to an existing structure. All exterior improvements or modifications on any Lot or parcel located within the property shall take place in compliance with this Article, the Use Restrictions as outlined in Article 13, the Architectural Design Guidelines and with the approval of the committee under Section 12.2. Association violation fines or delinquent Assessments must be paid in full in order for new Construction Plans or Modification submittals, to be reviewed by the ARC.

This Article shall not apply to improvements to the Common Elements by or on behalf of the Association.

12.2 Architectural Design Review.

a. Construction. The Board shall create and appoint an Architectural Review Committee ("ARC"). The ARC shall consist of at least three (3), but not more than five (5), persons who shall serve and may be removed in the Board's discretion. The Board and the ARC shall have authority to administer and enforce architectural standards under this Article and to review and act upon all applications for construction (including modifications to existing structures) within the Property.

b. Fees. The ARC may establish and charge reasonable refundable and non-refundable fees which may include fees for review of application, construction bond to be utilized for the payment of any fines and cost of any enforcement in accordance with Section 12.8 herein and road fee to offset construction traffic wear and tear on Association maintained private roadways. These fees shall be paid in full, by the Owner, prior to review of any application.

12.3 Guidelines and Procedures. The ARC shall prepare the initial Design Guidelines and submit to the Board for adoption. After the initial Design Guidelines are adopted by the Board, those guidelines shall apply to all construction activities within the Property, except as provided in Article 12. Following the adoption of the initial Design Guidelines, the ARC, with Board approval, shall have the authority to amend the Design Guidelines. Within thirty (30) days after the adoption of any amended section of the initial Design Guideline, the Association shall provide a copy to all owners.

The Design Guidelines shall establish the minimum total square footage (enclosed, finished, heated floor space) of each Dwelling Unit constructed on a Lot. The Design

Guidelines may contain general provisions applicable to all of the Property, as well as specific provisions which vary from one portion of the Property to another depending upon the location, unique characteristics, intended use, and any other applicable zoning ordinances. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern in considering applications hereunder.

Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines. The ARC, with Board approval, is expressly authorized to amend the Design Guidelines to add or remove requirements previously imposed or to make the Design Guidelines more or less restrictive.

The Association shall make the Design Guidelines available to Owners (including builders) and contractors who seek to engage in development or construction within the Property and all such Persons shall conduct their activities in accordance with such Design Guidelines.

All structures and improvements constructed upon a Lot shall be constructed in strict compliance with the Design Guidelines in effect at the time the plans for such improvements are submitted to and approved by the ARC, unless the ARC has granted a variance in writing pursuant to Section 12.6. So long as the ARC has acted in good faith, its findings and conclusions with respect to appropriateness of, applicability of, or compliance with the Design Guidelines and this Declaration shall be final.

12.4 Submission of Plans and Specifications.

a. No activities within the scope of Section 12.1 shall commence on any Lot until an application for approval of the proposed work has been submitted to and approved by the ARC. Such application shall be in the form required by the ARC and shall include Plans and specifications (The term, "Plans" shall refer to site layout, structural design, exterior elevations, exterior materials and colors, , landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefore and other features of proposed construction, as applicable). The Design Guidelines shall set forth the procedure and any additional information for submission of the Plans.

b. In reviewing each submission, the ARC may consider quality of workmanship and design, visual and environmental impact and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures.

The ARC shall, within the period specified in the Design Guidelines, advise the party submitting the Plans, in writing, at an address specified by such party at the time of submission; or electronic delivery to an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines, the reasons for such finding, and suggestions for the curing of such

objections. In the event the ARC fails to advise the submitting party by written notice within the period specified in the Design Guidelines of either the approval or disapproval and suggestions for curing the objections of the committee of the Plans, approval shall be deemed to have been given. Electronic delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the submitting party. An Owner may appeal the decision of the ARC to the Board, electronically via the PMO (Property Management Office). The appeal must be in writing and must be submitted to the PMO within thirty (30) days of the Owner's receipt of the ARC's rejection of the Plans. The Board will inform the Owner of its decision in writing within the period specified in the Design Guidelines. The Board's decisions shall be final.

c. If construction does not commence on a project for which Plans have been approved within twelve (12) months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the ARC for reconsideration provided that the ARC may grant a longer time period for expiration of the approval at the time the approval is granted. If construction or Landscaping is not completed on a project for which Plans have been approved within the period set forth in the Design Guidelines or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Article.

12.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the ARC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

12.6 Variances. The ARC may authorize variances in writing from its guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations; (b) when unique circumstances dictate such as unusual topography, natural obstructions, hardship or aesthetic or environmental considerations; and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. Inability to obtain, or the terms of, any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance.

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

12.8 Enforcement. Any construction, alteration or other work done in violation of this Article or the Design Guidelines shall be deemed to be nonconforming. Upon written request from the ARC or the Board, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure any nonconformity to the satisfaction of the requester or restore the property, Lot, and/or Dwelling Unit to substantially the same condition as existed prior to the nonconforming work. After providing Owner with due process in accord with Article 16.3; notice, hearing and appeal, the Association or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. Such entry shall not constitute a trespass. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Benefited Assessment unless otherwise prohibited in this Declaration.

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the Bylaws.

All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. The Owner is responsible for all fines and sanctions levied by the Association, in connection with any new construction or modification of an Owner Dwelling. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Property, subject to the notice and hearing procedures contained in the Declaration. In such event, neither the Association, its officers, nor directors shall be held liable to any Person for exercising the rights granted by this section.

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

Article 13. Plan of Development and Use Restrictions.

13.1 Plan of Development: Applicability: Effect. The Property is subject to Design Guidelines as set forth in Article 12 and other restrictions governing land development, architectural and design control, individual conduct and uses of or actions upon the Property. This Declaration, and the rules and resolutions adopted by the Board establish affirmative and negative covenants, easements, and restrictions on the Property. All provisions of this Declaration and any rules shall apply to all Owners, their contractors, family members, occupants, tenants, guests, and invitees of any Lot.

13.2 Authority to Promulgate Rules.

a. Subject to the terms of this Article and in accordance with its duty of care and undivided loyalty to the Association and its Members, the Board may adopt rules not

inconsistent with the Use Restrictions set forth in Section 13.4 hereof, and other such rules and regulations permitted by, and not inconsistent with, the Act, including such rules and regulations relating to the use of, and parking and traffic, on public and private streets located within the Property.

b. The Board shall send a copy of the rule to each Owner specifying the effective date of such rule, within a reasonable period of time, as determined by the Board, prior to the effective date of the rule. The Association shall provide, without cost, a copy of the rules then in effect to any requesting Member or Mortgagee.

c. Nothing in this Article shall authorize the Board to modify, repeal, or expand the Declaration, the Bylaws, the Articles, or the Design Guidelines. Such documents may only be amended as provided therein.

13.3 Owners' Acknowledgment. All Owners are subject to the Use Restrictions and are given notice that: (a) their ability to use their privately owned property is limited thereby; and (b) the Board may adopt, delete, modify, create exceptions to, or amend the rules.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Restrictions and rules may change from time to time.

13.4 Use Restrictions. The Property shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Association consistent with this Declaration and any Supplemental Declaration), subject to applicable laws.

The following restrictions shall apply to all of the Property unless amended, modified, repealed, or limited pursuant to the Declaration:

a. Each Lot shall be used for permanent residential purposes only, and no manufacturing establishment, marina, factory, public garage, sanitarium or hospital, motel, hotel, trailer park, apartment building, condominium, multi-family housing building, or any building of similar nature may be maintained on the same, and no unsanitary, offensive or unsightly conditions shall be allowed thereon. No house trailer, mobile home, travel trailer, manufactured home, enclosed garage or any type of temporary housing shall be placed or located upon any Lot as a permanent residence. No modular dwelling or other fully or partially pre-constructed dwelling may be placed on any Lot without the express prior written permission of the ARC. No storage building, enclosed garage or ancillary building of any kind may be constructed on any Lot until after primary residence is built.

b. No dock or pier may be constructed on a Lot until a Dwelling Unit is completely constructed on the Lot and the plans for the dock or pier are approved pursuant to Article 12.

c. No Lot(s) shall be subdivided. No Lot(s) shall be combined without the written consent of the Association. Only one single-family Dwelling Unit may be constructed per combined Lot. No outbuildings of any kind may be constructed, except that for each single

family Dwelling Unit constructed, a detached garage may be constructed, and one small storage building may be constructed as long as that matches the single family Dwelling Unit. Owners who wish to combine contiguous Lots shall provide the Association with a certified survey showing new Lot lines and location of all easements. Combined Lot easements shall be consistent with Association Documents, including but not limited to all utilities easements, storm water management system and access easements on other Lots, parcels or tracts within the Property. Combined Lots shall continue to pay current annual assessment in amount which is equal to number of Lots assessed, prior to being combined. All cost associated with combining Lots shall be the responsibility of the Lot owner.

d. Upon construction of a Dwelling Unit, the Lot shall be connected to the Brunswick County utilities and no individual septic systems or wells are allowed without a permit from Brunswick County. No outside toilets shall be built upon any Lot except during active home construction.

e. No Dwelling Unit or any other structure shall be built or maintained within five (5) feet from any side Lot line, twenty-five (25) feet from the front Lot line or Lot line adjacent to the right of way, and nine (9) feet from the rear Lot line as noted on the recorded surveys. This restriction shall not apply with respect to the interior boundaries between Lots that are combined.

f. No Lot or any part thereof shall be used for a junk yard or for any unsightly or obnoxious purposes. No items of personal property of any kind, except for operating licensed noncommercial motor vehicles, may be kept or stored on any Lot outside the Dwelling Unit. Activities which may tend to cause disorderly, unsightly or unkempt conditions shall not be pursued or undertaken on any Lot, or in any driveway, garage, carport, or other place where such condition is visible from any road or from any other Lot. No derelict vehicles may be kept on any Lot unless kept in an enclosed garage. No more than one boat trailer may be kept on the Lot at any time, unless in an enclosed garage. If a boat trailer is outside of the garage, it must be tagged and titled by the North Carolina Department of Transportation (or the appropriate governmental agency of the state in which the boat trailer is registered), be in working order, and not be unsightly.

g. All trash, garbage, and waste shall be kept in sanitary, closed receptacles. All garbage cans and similar receptacles shall be kept in an enclosed or screened area, so that the same will not be visible from other Lots or roads in the Property except on the days garbage is picked up. No burning of garbage shall be permitted on any Lot.

h. No fuel tanks or similar storage receptacles may be maintained on any Lot unless the same are installed within a building, are buried under ground, or are otherwise installed so that they are not visible from any place outside the Lot. Commercial wood harvesting is prohibited. Excavation and selling of surface or subsurface material is prohibited.

i. No commercial breeding of any animal is permitted. No animals may be kept and maintained on any Lot, except that this restriction shall not prohibit the keeping of no more than five (5) usual household pets such as dogs and cats, provided said usual household pets are at all times confined to the Owner's Lot or are allowed outside the Owner's Lot only in

the control of the Owner. No animal may be maintained on any Lot if it makes such an amount of noise as to frequently or habitually disturb Owners of other Lots.

j. No commercial or business activities may be carried out on any Lot. This provision prohibits the use of any dwelling as a lodging business, including short-term vacation rentals but shall not otherwise prohibit long-term leasing or renting of any Dwelling Unit on any Lot. This provision shall also not prevent an Owner from conducting business activities within the Dwelling Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (ii) the business activity conforms to all zoning requirements for the Property; (iii) the business activity does not involve door-to-door solicitation of residents of the Property; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Property which is noticeably greater than that which is typical of Dwelling Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

k. It shall be the responsibility of each Lot Owner to provide adequate parking space for motor vehicles on his or her Lot. Parking on the roads or within the rights of way thereof is prohibited. All parking areas and driveways on all Lots must be surfaced completely, immediately upon installation, and thereafter maintained, with concrete, asphalt or other appropriate paving material as stated in the Design Guidelines. No unlicensed or inoperable vehicles may be maintained or kept on any Lot. The Association may tow any vehicles that are in violation of the Association's parking rules and regulations in accordance with any applicable ordinance(s) of Brunswick County, North Carolina

l. All Members and guests are allowed unlimited use of the launching and related Recreational Amenities. However, no boat shall be moored for more than 12 hours unattended in the launching area. No boat trailers shall be parked overnight for any reason whatsoever and no vehicles shall obstruct access to the launching area, including an adequate turning area for vehicles with boat trailers. Vehicles parked in violation of this restriction may be towed by the Association. All users of the boat launching area shall remove all trash, debris, or other upon vacating the launching area.

m. Common access piers and boat launching facilities are Recreational Facilities and shall be for the use of Lot Owners, occupants, and their guests. The Association reserves unto itself, assigns and successors a perpetual right of way across subdivision roads and legal right-of-way easements to access Recreational Facilities.

n. Private piers may be allowed on individual Lots if the Owner first obtains the written consent of the ARC and the appropriate permit(s) from the State of North Carolina. Only one pier may be constructed on a Lot and no more than two boats may be docked at a pier at any time. Private piers must be constructed and maintained pursuant to the applicable provisions in the Design Guidelines and all Coastal Area Management Act (CAMA) guidelines and regulations.

o. Satellite dishes, and similar devices for the transmission of television, radio, satellite, or other signals of any kind may only be installed provided that the Owner first obtains the written consent of the ARC and any such device is placed in accord with the Design Guidelines, except that the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Property. All such devices shall not be in the view of adjacent Dwelling Units, streets and Common Elements in a manner consistent with the Design Guidelines.

p. No sign of any kind shall be displayed on a Lot that is visible from other Dwelling Units, streets and Common Elements, except a sign displaying the Owner's name and/or the property address or Lot number, or temporary contractor's signage or a sign advertising the Dwelling Unit or Lot for sale; provided the Owner must obtain the Board's written consent prior to displaying a "For Sale" sign. The Board may adopt reasonable place, size and manner of display restrictions regulating signs that are permitted on Lots.

q. Hunting of wildlife is prohibited on the Property. Firearms, explosives and/or arrows shall not be shot or discharged on the Property.

13.5 Rights of Owners. Owners, their families, lessees and guests shall not be discriminated against on the bases of race, color, religious creed, ancestry, national origin, age, gender, or disability. Furthermore, except as may be specifically set forth in the Use Restrictions and the Design Guidelines, the Board may not adopt any rule in violation of the following provisions:

a. Flags. The rights of Owners and occupants to display the flag of the United States of America or the flag of the State of North Carolina, of a size no greater than four (4) feet by six (6) feet, which is in accordance with or in a manner consistent 4 U.S.C. §§ 5-10, as amended.

b. Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots normally displayed in residential neighborhoods, except that the Association may adopt reasonable time, place, and manner of displays which are visible from outside the Lot.

c. Household Composition. The freedom of occupants of Dwelling Units to determine the composition of their households, except that the Association may require all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Dwelling Unit on the basis of the size and facilities of the Dwelling Unit.

d. Activities within Dwelling Units. The rights of Owners and occupants in regards to activities carried on within the confines of Dwelling Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Dwelling Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Dwelling Unit, or that create an unreasonable source of annoyance.

The limitations in this Section 13.5 shall apply to rules only; they shall not apply to amendments to this Declaration or Board resolutions adopted in accordance with Section 16.2.

Article 14. Easements.

14.1 Easements in Original Declaration. Notwithstanding the replacement of the Original Declaration with this Declaration, all easements created and described in the Original 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.

14.2 Easements for Utilities, etc. The Association reserves a perpetual easement for the purpose of access and Upkeep upon, across, over, and under all of the Property to the extent reasonably necessary to install and provide Upkeep for cable television systems, master antenna systems, internet connections, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity. The Association may assign these easements and rights to any Utility Company providing a service or utility to Seaside Bay, subject to the limitations herein. Reservation of utility easements or the absence thereof does not obligate the Association to provide utility services to any Lot.

This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

The Association specifically grants to the Utility Companies easements across the Property for ingress, egress, installation, reading, and providing Upkeep of meters and boxes.

However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Board.

14.3 Easements for Cross-Drainage. Every Lot and the Common Elements shall be burdened with easements for natural drainage of stormwater runoff from other portions of the Property; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Property without the consent of the Owner(s) of the affected property and the Board.

14.4 Easements for Gate Access. Every Owner shall have an easement over the Common Elements roads and through the gates, if any, to access their Lots and other portions of the Property. These easements extend to permitted guests, tenants, agents, employees, or contractors of the Owners so long as such entry is in compliance with any rules promulgated by the Board. The Association is hereby granted an easement over the Property for the installation and operation of gates with locks across the roads and access easements within the Property;

provided that Members shall be provided with means of access through any gates, if any. The Association is not obligated to construct or install gates on the Property.

14.5 Right of Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Property, including each Lot, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association, its Board, officers or committees, and by all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to the Owner thereof. This easement includes the right to enter any Lot to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but does not authorize entry into any Dwelling Unit without permission of the Owner, except by emergency personnel acting in their official capacities.

14.6 Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Property, including each Lot to (a) perform its Upkeep responsibilities under Article 6, and (b) make inspections to ensure compliance with the Association Documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense. Such entry shall not constitute a trespass.

The Association also may enter a Lot, after reasonable notice to the Owner, to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Declaration, any Supplemental Declaration, the Bylaws, the Design Guidelines, or the rules. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Benefited Assessment.

The Property is hereby burdened with perpetual, non-exclusive easements in favor of the Association for overspray of water from any irrigation system serving the Common Elements. The Association may use treated effluent in the irrigation of any Common Elements. Under no circumstances shall the Association be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

14.7 Rights to Stormwater Runoff, Effluent and Water Reclamation. The Association hereby reserves for itself and its designees all rights to ground water, surface water, water within ponds, lakes, rivers, streams, and wetlands located with the Property, stormwater runoff, and effluent located or produced within the Property, and each Owner agrees, by acceptance of a deed to a Lot, that the Association shall retain all such rights. Such right shall include perpetual easements over the Property for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and effluent.

Article 15. Compliance and Enforcement.

15.1 General Remedies. Every Owner and occupant of any Lot shall comply with the Association Documents and the Act. Failure to comply shall be grounds for an action by the Association to recover sums due, for damages, injunctive relief, or any other remedy available at law and equity or under the Act. In the event of an action instituted to enforce any of the provisions contained in the Association Documents; as the prevailing party in such action, the Association shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs, including administrative and lien fees, of such suit shall be a Benefited Assessment with respect to the Lot(s) involved in the action.

15.2 Enforcement/Sanctions. The Board, or such other Association agent with the Board's approval, may impose sanctions for violations of Association Documents after notice and a hearing in accordance with the procedures set forth in the Declaration. Such sanctions may include, without limitation:

a. Imposing reasonable monetary fines which shall constitute a lien upon the Lot of the violator;

b. Suspending an Owner's right to vote;

c. Suspending any Person's right to use any Recreational Facilities within the Common Elements; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from the Lot;

d. Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association; and

e. Levying Benefited Assessments to cover costs incurred in bringing a Lot into compliance in accordance with Section 11.4.

15.3 Cumulative Remedies/Attorneys' Fees. The Association shall have all powers and remedies under the Act and the Association Documents which shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Association Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorney's fees and court costs, reasonably incurred in such action. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Benefited Assessment with respect to the Lot(s) involved in the action.

15.4 Association's Right Not to Take Action. The Association shall not be obligated to pursue enforcement action in any particular case, such decisions to be within the discretion of the Board, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case: (a) the Association's position is not strong enough to justify taking any or further action; or (b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or (c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a

reasonable person or justify expending Association funds; or, (d) it is not in the best interest of the Association, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such covenant, restriction, rule, or provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, rule, or provision.

Article 16. General Provisions.

16.1 Term. This Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of ten (10) years, unless the Owners of Lots to which at least sixty seven percent (67%) of the votes in the Association are allocated agree to terminate this Declaration pursuant to N.C. Gen. Stat. § 47F-2-118.

16.2 Amendment. Except as otherwise specifically provided in this Declaration, this Declaration may be amended only by the affirmative vote of, or written agreement signed by, Owners of Lots to which at least sixty-seven percent (67%) of the total votes in the Association are allocated.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

Amendments to this Declaration shall become effective upon recordation in the Register of Deeds unless a later effective date is specified therein. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

16.3 Hearing Procedures. Except as may be otherwise authorized by the Association Documents, the Board shall not (i) impose a fine or penalty, (ii) undertake permitted remedial action, or (iii) suspend voting or infringe upon other rights of a Member or other occupant of a Lot or Dwelling Unit for violations of the Association Documents, or for assessments or other amounts due and owing to the Association remaining unpaid for a period of thirty (30) days, or longer, unless and until the following procedure is completed:

Written demand to cease and desist from an alleged violation shall be served upon the Responsible Person specifying (i) the alleged violation; (ii) the action required to abate the violation; and (iii) a time period, not less than five (5) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any

further violation may result in the imposition of a sanction after notice and hearing if the violation is not continuing.

a. Notice. At any time within twelve (12) months following receipt of notice of the alleged violation, the Board, or an adjudicatory panel appointed by the Board, shall serve the Responsible Person (for purposes of this Section 16.3, the "Responsible Person" shall be any Member, Owner, or occupant of a Lot or Dwelling Unit) with a written notice of a hearing to be held by the Board of the Association in closed session or an adjudicatory panel appointed by the Board; provided, however, any adjudicatory panel appointed by the Board shall be composed of members of the Association who are not officers of the Association or members of the Board.

The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which shall not be less than ten (10) days from the giving of the notice; (iii) an invitation to attend the meeting and produce any statement, evidence and witness on his or her behalf; and (iv) the possible sanction to be imposed. The notice prescribed herein may be served by mailing a copy of said notice to the alleged violator by placing said notice in the United States mail, postage prepaid, by any method as permitted for the service of summons as set forth in Rule 4 of the North Carolina Rules of Civil Procedure or by the delivery of said notice by an officer, director or agent of the Association to the Responsible Person or to any person who may be served on the Responsible Person's behalf as provided in said Rule 4.

b. Hearing. The hearing shall be held in closed session of the Board or an adjudicatory panel appointed by the Board pursuant to the notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the Responsible Person appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. In addition, a written statement of the results of the hearing and the sanction, if any, imposed shall be mailed by the United States mail, postage prepaid, by the Association to the violator.

c. Appeal. If the hearing is held before an adjudicatory panel, following such hearing and notice of a decision adverse to the violator, the Responsible Person shall have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the managing agent of the Association, President or Secretary of the Association within fifteen (15) days after the date of the decision, said written notice to contain information by which the Board may notify the Responsible Person of the date of the appeal hearing. If no adjudicatory panel is appointed by the Board, no right of appeal shall exist.

d. Sanction as Assessment. Pursuant to the provisions of this Section, a fine may be imposed by the Association in an amount not exceeding One Hundred and No/100 Dollars ($100.00) (or any greater amount as may be provided otherwise by law or the Act) per violation of the Association Documents and without further hearing, for each day after five (5) days after the decision to impose such fine that the violation occurs. Any such fine shall be an assessment as set forth in this Declaration and the Act. If it is decided pursuant to the provisions

of this Section that a suspension of privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured.

16.4 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

16.5 Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Association prior 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. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title. The Association may require the payment of a reasonable administration or registration fee by the transferee.

IN WITNESS WHEREOF, the undersigned Association has executed this Declaration this 10 day of JUNE, 2019.

SEASIDE BAY HOMEOWNER'S ASSOCIATION, INC.,
a North Carolina nonprofit corporation

(SEAL)

CONNIE B. MOORE NOTARY PUBLIC BRUNSWICK COUNTY, NC

By: Helen M. Hunt, Vice-President

STATE OF NORTH CAROLINA
COUNTY OF Brunswick

I certify that Helen M. Hunt personally appeared before me this day, acknowledging to me that he/she signed the foregoing document for the purpose(s) stated therein and, if other than in an individual capacity, in the capacity indicated next to his/her signature, having been first authorized to do so.

Date June 10, 2019

Connie B. Moore
Signature of Notary Public
(OFFICIAL SEAL)

Connie B. Moore, Notary Public
Printed or typed name

My commission expires: August 14, 2021