

STATE OF NORTH CAROLINA
COUNTY OF CRAVEN

**MASTER DECLARATION OF
FAIRFIELD HARBOUR**

This Master Declaration of Fairfield Harbour, made and entered into this the **23rd** day of **October, 1979**, by and between FAIRFIELD HARBOUR, INC, a North Carolina corporation with its principal place of business in Craven County, North Carolina (hereinafter referred to as "FHI"); and PROSPECTIVE PURCHASERS of such properties or interests therein, including interval ownership interests, now or hereafter owned by FHI as may be subjected to all or any portion of the provisions hereof (hereinafter referred to as "Purchasers");

W I T N E S S E T H

WHEREAS, FHI is the owner of certain properties in Number Two Township, Craven County, North Carolina, a portion of which properties were conveyed to FHI by deed from Treasure Lake of North Carolina, Inc. dated December 9, 1977, and recorded in Book 901, at Page 504, in the office of the Register of Deeds of Craven County; and,

WHEREAS, a portion of the aforesaid properties, together with certain properties adjacent or contiguous thereto, or in the general vicinity thereof, comprise a development known as "Fairfield Harbour";and,

WHEREAS, to insure the orderly development of Fairfield Harbour, FHI desires to set forth certain provisions in a master declaration, all or any portion of which provisions may be made applicable to the aforesaid properties and to such other properties adjacent or contiguous thereto or in the general vicinity thereof as now or hereafter may be owned by FHI and which FHI may choose to subject to the provision of such master declaration.

NOW, THEREFORE, for an in consideration of the premises and the mutual benefits to accrue to FHI and purchasers by the subjecting of such properties as FHI shall subject to the provisions hereof, FHI declares that any such property so subjected to the provisions of this Master Declaration of Fairfield Harbour shall be held, conveyed, hypothecated or

encumbered, leased, rented, used, occupied and improved subject to such of the following restrictions as such property may be subjected to by an instrument in writing executed by FHI and duly recorded in the office of the Register of Deeds of Craven County, North Carolina, all of which provisions are declared and agreed to be in furtherance of the general plan of Fairfield Harbour, and all of which provisions shall be deemed to be restrictions running with the land and binding on Purchasers, their heirs, successors and assigns; provided, however, that until such time as FHI shall subject such properties to the provisions hereof in the manner above provided, such properties shall be held by FHI, its successors and assigns, free from the provisions hereof.

For each property subjected to the provisions of the master declaration, the provisions to which such property is subjected shall be applicable to each subdivided lot therein, each unit in a tract of land submitted to the provisions of the Unit Ownership Act (Chapter 47A of the North Carolina General Statutes) or to any similar act providing for condominium or unit ownership of property, and to such other divisions of land or interests therein, including interval ownership interests, as FHI shall specify, and the terms "property" and "properties" as used herein shall be deemed to include all such interests.

The restrictions referred to above are as follows:

ARTICLE I RECREATIONAL AMENITIES CHARGE

1. FHI shall have the power to levy an annual charge, the amount of said charge to be determined solely by FHI after consideration of current and future needs of FHI for the reasonable and proper operation, maintenance, repair and upkeep of all recreational amenities owned by FHI and actually provided for the use of Purchasers at the date of levy of such charge, such recreational amenities to include but not be limited to dams, marinas, beaches, river and canal access tracts, golf courses, tennis courts, swimming pools, campgrounds, clubhouses and adjacent clubhouse grounds.

2. The power to levy such a charge as provided, in paragraph 1 of this Article shall inure also to the successors and assigns of each such recreational amenity; provided, however, that no charge shall be levied by any such successor or assign within twelve (12) months following the date of levy by FHI, or by the predecessor in title to such successor or assign, of a charge as provided herein for the maintenance, repair and

upkeep of the recreational amenity or amenities acquired by such successor or assign.

3. No such charge ever shall be levied against properties owned by FHI, by Fairfield Harbour Property Owners Association, Inc. or by an corporation or corporations that may acquire title to or operate any water or sewer utilities serving the area, or any dams, marinas, beaches, river and canal access tracts, golf courses, tennis courts, swimming pools, campgrounds, clubhouses and adjacent clubhouse grounds or other like recreational facilities, regardless of whether such facilities are used by persons other than Purchasers.

4. Charges to be levied by FHI, its successors and assigns, for the operation, maintenance, repair and upkeep of the recreational amenity or amenities during the ensuing year shall be determined on or before the first day of April of each year.

5. Each such charge shall become a lien or encumbrance upon the property upon which same is levied as of the aforesaid first day of April, and acceptance of each deed for such property or the execution of a contract for the purchase of such property upon which such a charge has been levied shall be construed to be a covenant to pay each such charge. Any property acquired shall be taken subject to the lien for any unpaid prior charges, and every person who shall become the owner of the title, legal or equitable, to any property subject to such a charge by any means whatsoever (other than a mortgagee under a mortgage or a trustee under a deed of trust) shall be deemed conclusively to have covenanted to pay to FHI, its successors or assigns, any such charge or charges; provided, however, that in the event of property which has been submitted to the provisions of the Unit Ownership Act or to any similar act providing for condominium or unit ownership of property, where the mortgagee of a first mortgage of record or other purchaser obtains title to the property together with the interest in the common elements attributable to said property as a result of foreclosure of the first mortgage, such acquirer of title, his or its successors and assigns, shall not be liable for such charges which became due prior to the acquisition of title as a result of the foreclosure. Such unpaid charges shall be deemed to be common expenses collectible as provided in the applicable declaration submitting the property to the provisions of such act; and in such event, such acquirer of title shall be responsible for payment of such charges only to the extent that such acquirer of title is responsible for the payment of other common expenses.

6. Each such charge shall become due and payable on the first day of

May of the year in which such charge is levied, and each such charge shall bear interest from its due date at the rate of six percent (6%) per annum, which interest until paid also shall constitute a lien or encumbrance upon the property to which said charge is applicable.

7. Payment of all charges provided for herein, whether levied by FHI, its successors or assigns, shall be made to FHI, its agents, successors or assigns at Fairfield Harbour, Inc., P.O. Box 1738, New Bern, North Carolina 28560, or at such replacement address or addresses of FHI, its agents, successors or assigns as may be indicated hereafter by an instrument or instruments in writing, executed by FHI, its successors or assigns, and duly recorded in the office of the Register of Deeds of Craven County, North Carolina, with a marginal entry made upon this instrument as recorded in the office of the Register of Deeds of Craven County, North Carolina.

8. The lien of each charge as provided for hereunder may be foreclosed by FHI, its successors or assigns, at any time following the due date of the charge levied. In addition and as an alternative to the remedy of lien foreclosure, FHI, its successors and assigns, shall have the right and option to sue the owner of the property against which such charge was levied and any successor owner or owners of same for any and all unpaid charges, interest, costs and reasonable attorneys' fees in any court of competent jurisdiction as for a debt owed by such owner or successor owner to FHI, its successors or assigns.

9. Upon written request signed by the owner of the property from which a certificate hereunder is requested, by the prospective purchaser of such property, or by the attorney of either, which request is in the form provided on Attachment A attached hereto and incorporated herein by reference, and is mailed to FHI, its agents, successors or assigns, at the address or respective addresses last recorded in the office of the Register of Deeds of Craven County, North Carolina, as provided in Paragraph 7 of this Article, and which request is accompanied by a check in the sum of Five Dollars (\$5.00) made payable to the entity upon which such request is made, FHI, its agents, successors or assigns, shall furnish a certificate in writing signed on behalf of FHI, its successors or assigns, certifying either that all charges levied by such entity on a specified property have been paid or enumerating therein all such charges and interest thereon which remain unpaid. Such certificate shall be conclusive evidence of payment of all charges levied by the entity issuing same other than those enumerated therein as remaining unpaid.

10. In the event that the request for a certificate pursuant to Paragraph 9 of the Article is mailed by certified mail, return receipt requested, and such request actually is received by FHI, its agents, successors or assigns, as evidenced by the return receipt therefor, the failure of FHI, its agents, successors or assigns, to furnish such certificate to the requesting party at the address stated in such written request within thirty (30) days following the receipt of such request by FHI, its agents, successors or assigns, shall extinguish any charge theretofore levied by such non-responding entity upon the property for which such certificate is requested or any such charge levied upon the property for which such certificate is requested with thirty (30) days subsequent to the date of actual receipt of such request by FHI, its agents, successors or assigns.

11. Any and all liens as provided for herein shall be subordinate to the lien of a bona fide mortgage or deed of trust representing a first lien at any time placed upon any property for the purpose of permanent financing and/or financing of the construction of a residence or other improvement thereon and recorded in accordance with the laws of the State of North Carolina.

12. All funds accumulated from the charges levied hereunder by FHI, its successors and assigns, shall be separately reflected on the books of account of the owner or owners of said amenities pertaining to the recreational facilities of Fairfield Harbour.

13. FHI, its agents, successors or assigns, shall have the right to publish a list of properties subject to charges hereunder, which charges are in a delinquent status; and FHI, its successors and assigns, shall have the right to suspend the use of all recreational amenities owned by FHI, its successors and assigns, by any person or persons basing the right of use of such recreational amenities upon the ownership or possession of any property upon which charges provided for hereunder are delinquent.

14. Nothing contained herein shall be interpreted or construed to prevent FHI, its successors or assigns, from contracting with persons other than Purchasers for the use of any amenities owned or operated by them, or any of them, and from charging any user, including Purchasers, for the use of any such amenities, including charges for individual services or goods provided users through such facilities.

15. The term "Successors and assigns" as used herein shall be deemed to include any and all successors and assigns of FHI in and to the recreational amenities herein above referred to, other than the Fairfield Harbour Property Owners Association, Inc., it being understood and agreed

that the right to levy charges for the maintenance, repair and upkeep of such recreational amenities as may be conveyed to the Fairfield Harbour Property Owners association, Inc. shall be as provided for in Article II and not as provided for in this Article.

ARTICLE II
FAIRFIELD HARBOUR PROPERTY OWNERS ASSOCIATION, INC

1. Every person upon acquiring title, legal or equitable, to any property in Fairfield Harbour subjected to the provisions hereof shall become a member of the Fairfield Harbour Property Owners Association, Inc., a North Carolina non-profit corporation (hereinafter referred to as the "Association"), and as long as he is the owner of any such property, he must remain a member of the Association; provided, however, that there shall be only (1) regular membership per property regardless of the manner or number of names in which title to same may be held with the exception of property submitted to the provisions of the Unit Ownership Act or to any similar act providing for condominium, unit, or interval ownership of property, in which event and if it is otherwise provided in the declaration submitting such property to the provisions of such act membership shall be as so provided. Such membership is not intended to apply to those persons who hold an interest in any property merely as security for the performance of an obligation to pay money, e.g., mortgages, deeds of trust, or real estate contract purchases. However, if such a person should realize upon his security and become the real owner of a property, he then will be subject to all the requirements and limitations imposed in this Article on owners of properties within Fairfield Harbour and on members of the Association, including those provisions with respect to payment of all charges.

2. The general purpose of the Association is to further and promote the community welfare of property owners in Fairfield Harbour.

3. The Association shall be responsible for the operation, maintenance, repair and upkeep of the parks and other common areas or amenities now or hereafter owned by it within Fairfield Harbour. The Association also shall promulgate and enforce all regulations necessary for the use and enjoyment of such parks, common areas and such other properties as it from time to time may own.

4. The Association shall have all the powers that from time to time are set out in its Articles of Incorporation and all other powers that belong to it by operation of law, including but not limited to the power to levy against every member of the Association an annual charge per property subjected to the provisions of this Article or per associate member, the amount of said charge to be determined by the Board of Directors of the Association after consideration of current maintenance needs and future needs of the Association for the purposes set forth in its Articles of Incorporation. No such charge ever shall be made against, or be payable by FHI, the Association itself, or any corporation or corporations that may be created to acquire title to or operate any water or sewer utilities serving the area, or any dams, marinas, beaches, river and canal access tracts, golf courses, tennis courts, swimming pools, campgrounds, clubhouses and adjacent clubhouse grounds, or other like recreational facilities, regardless of whether such facilities are used by persons other than the owners of property subjected to the provisions of this Article. The Association also may charge any user or member fees for the use of any amenities owned or operated by it, including charges for individual services or goods provided members through such facilities.

(a) Every annual charge so made shall be paid by the member to the Association or its designee on or before the first day of May of each year for the ensuing year. The Board of Directors of the Association shall fix the amount of the annual charge per property or per associate member on or before the first day of April of each year, and written notice of the charge so fixed shall be sent to each member; provided, however, that fees for usage and charges for individual services or goods received by members through the facilities of the Association shall be paid at least monthly or more often as may be required.

(b) If any annual charge shall not be paid when due, it shall bear interest from the date of delinquency at the rate of six percent (6%) per annum.

The annual charge, if unpaid within thirty (30) days of its due date, shall become a lien or encumbrance upon the property and acceptance of each deed for such property or the execution of a contract for the purchase of such property shall be construed to be a covenant to pay the charge. The Association may publish the names of the delinquent members, and every such lien may be foreclosed at any time. Any property acquired is taken subject to the lien for any unpaid prior charges, and

every person who shall become the owner of the legal or equitable title to any property subjected to the provisions of this Article by any means shall be held conclusively to have covenanted to pay the Association or its designee any such charge or charges; provided, however, that where the property has been submitted to the provisions of the Unit Ownership Act or to any similar act providing for condominium, unit, or interval ownership of property, where the mortgagee of a first mortgage of record or other purchaser obtains title to the property together with the interest in the common elements attributable to said property as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for such charges which became due prior to the acquisition of title as a result of the foreclosure. Such unpaid charge shall be deemed to be common expenses collectible as provided in the applicable declaration submitting the property to the provisions of such act; and in such event, such acquirer of title shall be responsible for payment of such charges only to the extent that such acquirer of title is responsible for the payment of other common expenses.

In addition and as an alternative to the remedy of lien foreclosure for such annual charge, the Association shall have the right and option to sue for any and all unpaid charges, interest, costs and reasonable attorneys' fees in any court of competent jurisdiction as for a debt owed by any delinquent member to the Association.

(c) The Association upon demand at any time shall furnish a certificate in writing signed by an officer of the Association certifying that the charges on a specified property have been paid or that certain charges against said property remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any charges therein stated to have been paid.

5. The fund accumulated as the result of the charges levied by the Association shall be used exclusively to promote and operate the recreational facilities of, and the health, safety and welfare of the members and associate members of the Association and for the improvement and maintenance of those areas designated as parks, and other property and facilities within Fairfield Harbour which shall have been conveyed to or acquired by the Association.

6. In the event an owner of property subjected to the provisions of this Article shall fail to maintain the property and/or the improvements situated thereon in a manner satisfactory to the Board of Directors of the

Association, the Association shall have the right, through its agents and employees, to enter upon said property and clear, clean, repair, maintain and restore the property and the exterior of any building and any other improvements erected thereon. Such right shall not be exercised unless two thirds (2/3) of such Board of Directors shall have voted in favor of its being exercised. The cost of such maintenance shall be added to and become part of the annual charge to which such property is subject and shall constitute a lien on such property.

7. The Board of Directors of the Association shall have the right to suspend the voting rights, if any, and the right to use of any member of the recreational facilities of the Association or of FHI or of any other corporation owning or operating such facilities:

(a) For any period during which any Association charge of any kind whatsoever owed by the member remains unpaid;

(b) During the period of any continuing violation by the member of any restrictive covenant of Fairfield Harbour applicable to the property of the member, after the existence of the violation shall have been declared by the Board of Directors of the Association; and,

(c) During the period that any bill for water, sewer, garbage, cable TV or any other utility or service rendered to the member by FHI, its successors or assigns, shall remain unpaid.

8. The lien of a mortgage or deed of trust representing a first lien placed upon any property for the purpose of permanent financing and/or constructing a residence or other improvement thereon recorded in accordance with the laws of North Carolina, from the date of recordation, shall be superior to any and all such liens provided for in this Article.

ARTICLE III RECREATIONAL AMENITIES

1. Every park, recreational facility, and other amenity within Fairfield Harbour is a private park, facility or amenity and neither FHI's execution or recording of any plat nor any other act of FHI with respect to Fairfield Harbour is or is intended to be or shall be construed as a dedication to the public of any of said parks, recreational facilities and amenities other than as reflected herein. An easement for the use and enjoyment of each of the areas designated as parks is reserved to FHI, its successors and assigns; to the persons who are from time to time members or associate members of the Fairfield Harbour Property Owners

Association, Inc. (hereinafter referred to as the "Association"); to the members and owners of any recreational facility; to the residents, tenants and occupants of any multi-family residential building, guest house, inn or hotel facility and all other kinds of residential structures that may be erected within the boundaries of Fairfield Harbour; and to the invitees of all of the aforementioned persons, the use of which shall be subject to such rules and regulations as may be prescribed by FHI or the Association, if the Association is the owner of the facility or property involved.

2. The ownership of all of the recreational amenities within Fairfield Harbour which may include but shall not be limited to dams, marinas, beaches, river and canal access tracts, golf courses, tennis courts, swimming pools, campgrounds, clubhouses and adjacent clubhouse grounds shall be in FHI or its successors, grantees, or assigns, and the use and enjoyment thereof shall be on such terms and conditions as FHI, its successors, grantees or assigns, from time to time shall license; provide, however, that any and all of such amenities may be conveyed to the Association, which conveyance shall be accepted by it, provided the same is free and clear of all financial encumbrances.

ARTICLE IV PROPERTY CONTROL COMMITTEE

1. All plans and specifications for any structure of improvement whatsoever to be erected on or moved upon or to any property, and the proposed location thereof on any property, the construction material, the roofs and exterior color schemes, any later changes or additions after initial approval thereof and any remodeling, reconstruction, alterations, or additions thereto on any property shall be subject to and shall require the approval in writing before any such work is commenced of the Property Control Committee (hereinafter referred to as the "Committee"), as the same from time to time is composed.

2. The Committee shall be composed of three (3) members. The Board of Directors of the Fairfield Harbour Property Owners Association, Inc. (hereinafter referred to as the "Association") shall have the right to appoint and remove members of the Committee.

3. There shall be submitted to the Committee two (2) complete sets of the final plans and specifications for any and all proposed improvements, the erection or alteration of which is desired, and no structures or improvements of any kind shall be erected, altered, placed or maintained upon any property unless and until the final plans,

elevations, and specifications therefor have received written approval as provided in this Article. Such plans shall include plot plans showing the location on the property of the building, wall, fence or other structure proposed to be constructed, altered, placed or maintained, together with the proposed construction material, color schemes for roofs and exteriors thereof and proposed landscape planting. A filing fee of \$30.00 shall accompany the submission of such plans to defray Committee expenses. No additional fee shall be required for resubmission of plans revised in accordance with Committee recommendations.

4. The Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt thereof. One (1) set of said plans, specifications and details with the approval or disapproval endorsed thereon shall be returned to the person submitting them and the other copy thereof shall be retained by the Committee for its permanent files.

5. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with any of the provisions of the restrictions applicable to such property, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such property or with the adjacent buildings or structures; if the plans, specifications and details submitted are incomplete, or in the event the Committee deems the plans, specifications or details or any part thereof, to be contrary to the interests, welfare or rights of all or any part of the property subject to the provisions of this Article, or the owners thereof. The decisions of the Committee shall be final and not subject to appeal or review.

6. Neither FHI, the Association, the Committee nor any architect or agent thereof shall be responsible in any way for any defects in any plans, specifications or details submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans, specifications and details.

7. No pier, dock, float, boat shelter or other structure shall be constructed or placed on or extending into any river, creek, waterway or canal except with the written approval of the Committee, and in the event that the Committee shall approve plans, specifications and details for any such structure, such approval shall constitute a mere revocable license from FHI or its successor or successors in interest to the said river, creek, waterway or canal for the construction, placement and maintenance

of the proposed structure; and the Committee may order removal thereof by such licensee at any time and without cause therefor. Additionally, the Committee shall not be responsible in any way for the securing of any necessary governmental permits for any such structure.

8. Prior to commencement of construction, a building certificate must be obtained from the Committee; and prior to occupancy, an occupancy permit must be obtained from the Committee. The Committee or its agents shall have the right to inspect all construction to insure that the structure is in accordance with the approved plans, specifications and details. No structure or improvement shall be made unless it conforms strictly to the approved plans, specifications and details.

9. Notwithstanding any provision of this Article to the contrary, neither this Article nor any provision thereof shall be applicable to properties owned by FHI so long as FHI shall remain the owner thereof, but each and every provision of this Article shall become effective immediately upon the conveyance of such property to a Purchaser.

ARTICLE V REFUSE AND GARBAGE COLLECTION

In order to enhance the appearance and orderliness of Fairfield Harbour, FHI hereby reserves for itself, its successors and assigns, the exclusive right to operate, or from time to time to grant an exclusive license to a third party to operate, a commercial scavenging service for the purpose of removing garbage, trash and other like household refuse. Such refuse collection and removal service shall be provided not less often than once each week on a day or days designated by FHI or its successors or assigns. When such service shall be made available, all owners of property subjected to the provisions hereof shall utilize same, the rate therefor to be commensurate with the rates charged by commercial scavengers serving other developments of high standards in the area, such rate to be subject to change from time to time.

ARTICLE VI RIVERS, CANALS AND PROPERTIES CONTIGUOUS THERETO

As between FHI and Purchasers, their heirs and assigns, the water in and land under rivers, creeks, waterways and canals as shown on any plat is and shall be owned by FHI, its successors and assigns. The title that will be acquired by any grantee of FHI to any property fronting on a

river, creek, waterway or canal (and by the successors and assigns of such grantee) shall extend only to such point as is designated on such plat and in no event shall it extend beyond the shoreline (i.e., high water mark) or edge of the river, creek, waterway or canal to which such property is fronting or contiguous. No such grantee, nor any of such grantee's successors or assigns, shall have any right with respect to any river, creek, waterway or canal, the land thereunder, the water therein, or its elevation, use, or condition, and none of said properties shall have any riparian rights or incidents appurtenant; provided, further, that title shall not pass by reliction or submergence or changing water elevations.

ARTICLE VII EASEMENTS

1. FHI reserves for itself, its successors and assigns, for purposes it deems incident to Fairfield Harbour, the following easements and/or rights of way:

(a) A fifteen-foot wide easement and right of way over each property as FHI may deem necessary for the use and maintenance of storm and sanitary sewers and the installation of utility services.

(b) A ten-foot wide easement along each side of all road rights of way and a seven and one-half-foot wide easement along each side of all other property boundary lines for the purpose of installing, operating and maintaining utility lines and mains.

(c) The right to trim, cut and remove any trees and brush and to locate guy wires and braces wherever necessary for the installation, operation and maintenance of, together with the right to install, operate and maintain, utility lines, gas, water and sewer mains and other services for the convenience of the property owners and appurtenances thereto.

2. FHI reserves for itself, its successors and assigns, an exclusive easement for the installation and maintenance of radio and television transmission cables within the rights of way and easement areas reserved and defined in this Article.

3. On each property, the rights of way and easement areas reserved by FHI or dedicated to public utility purposes shall be maintained continuously by the property owner but no structures, plantings or other materials shall be placed or permitted to remain or other activities undertaken which may damage or interfere with the installation or maintenance of utilities, which may change the direction of flow of drainage channels in the easements, which may obstruct or retard the flow

of water through drainage channels in the easements or which damage or interferer with established slope ratios or create erosion or sliding problems; provided, however, that where the existing location of a drainage channel would hinder the orderly development of a property, the drainage channel may be relocated, provided such relocation does not cause an encroachment on any other property in Fairfield Harbour. Improvements within such areas also shall be maintained by the respective property owners except those for which a public authority or utility company is responsible.

4. Every property in Fairfield Harbour that lies contiguous to a river, creek, waterway or canal shall be subject to a flowage easement to an elevation on the lot equal to the high water elevation of such river, creek, waterway or canal.

ARTICLE IX REMEDIES

1. FHI, the Fairfield Harbour Property Owners Association, Inc. (hereinafter referred to as the "Association"), any owner of property or any party to whose benefit these restrictions inure may proceed at law or in equity to prevent the occurrence, continuation or violation of any provision hereof; and the court in any such action may award the successful party reasonable expenses in prosecuting such action, including attorneys' fees.

2. The remedies herein specified are cumulative, and this specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law, in equity, or under any statute. No delay or failure on the part of FHI, the Association or an aggrieved party to invoke an available remedy in respect to a violation of any provision hereof shall be held to be a waiver by that party of, or an estoppel of that party to assert, any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

ARTICLE X GRANTEE'S ACCEPTANCE

1. The grantee of any property subject to the provisions hereof, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from FHI or a subsequent owner of such property, every provision hereof applicable to such property and

the agreements herein contained, and also the jurisdiction, rights and powers of FHI, and by such acceptance for himself, his heirs, successors and assigns, shall covenant, consent and agree to and with FHI, and to and with the grantees and subsequent owners of each of the properties within Fairfield Harbour, to keep, observe, comply with and perform such provisions.

2. Each such grantee also agrees, by such acceptance, to assume, as against FHI, its successors and assigns, all of the risks and hazards of ownership or occupancy attendant to such property, including but not limited to its proximity to any recreational facility.

ARTICLE XI SEVERABILITY

Each of the provisions hereof hereby is declared to be independent of, and severable from, the rest of the provisions and of and from every other one of the provisions and of and from every combination of the provisions. Therefore, if any of the provisions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability, or "running" quality of any other one of the provisions hereof.

ARTICLE XII CAPTIONS

The captions preceding the various provisions hereof are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this Declaration.

ARTICLE XIII CONFLICTING PROVISIONS

To the extent that any provision hereof shall conflict in any manner with a provision set forth in the instrument by which the provisions of this Declaration are made applicable to any property of FHI, the provision set forth in such instrument shall control.

IN WITNESS WHEREOF, FHI has caused this instrument to be executed in its corporate name by its _____ President, attested by its Asst. Secretary, and its corporate seal to be hereto affixed, all by order

of its Board of Directors first duly given, this the day and year first above written.

FAIRFIELD HARBOUR, INC. (SEAL)

By _____
_____ President

Note: Signatures not available. Retyped for clarity.

B24-58