

PREPARED BY & HOLD: GARY S. LAWRENCE

NORTH CAROLINA

BRUNSWICK COUNTY

AMENDED
DECLARATION OF COVENANTS FOR
HARBOR OAKS SUBDIVISION

THIS AMENDED DECLARATION, made and entered into this 16th day of January, 2000,
by SOUTHERN SHORES DEVELOPMENT, LLC, hereinafter referred to as DECLARANT.

WITNESSETH:

WHEREAS, the DECLARANT is the owner of the real property described in Deed recorded
in Book 1294 at Page 904 and the twenty-eight (28) lots described in Deed recorded in Book 1294
at Page 906, Brunswick County Registry; and,

WHEREAS, Declarant recorded Amended Declaration of Covenants in Book 1311, Page
630, Brunswick County Registry; and

WHEREAS, Declarant is desirous of amending the Declaration of Covenants for Harbor
Oaks Subdivision, subjecting said real property to the Covenants, Conditions and Restrictions
hereinafter set forth, each and all of which is and are for the benefit of such property and for each
owner thereof, and shall inure to the benefit of and pass and run with said property, and each and
every lot or parcel thereof, and shall apply to and bind the successors in interest and any owner
thereof;

NOW, THEREFORE, the DECLARANT hereby amends the Declaration of Covenants for
Harbor Oaks Subdivision recorded in Book 1311, Page 630, Brunswick County Registry, as follows:

1. Paragraph 8. **EASEMENTS**; Sub-paragraph 8.2 **Common Driveway Easement**,
Section (a), as described on Page 11 of the Amended Declaration of Covenants dated June 21, 1999,
is hereby deleted.

2. Paragraph 8. **EASEMENTS**, Sub-paragraph 8.2 **Common Driveway Easement**,
Section (d), as described on Page 12 of the Amended Declaration of Covenants dated June 21, 1999,
is hereby deleted.

3. Paragraph 10. **ARCHITECTURAL CONTROL AND USE RESTRICTIONS**;
Sub-paragraph 10.13 **Vehicles**, as described on Page 18 of the Amended Declaration of Covenants
dated June 21, 1999, is hereby deleted and the following is substituted therefor:

10.13. **Vehicles**. No boats, recreation vehicles, campers, motorcycles, tractors, trucks (other
than one pick-up truck rated three-quarter ton or less), or trailers (the "Vehicles") of any
Owner or member of his family, his tenants, or contract purchasers shall be parked within

TOTAL 10.00 REV 10.00 TC#
REC# 28 CK AMT 10.00 CK# 1001
CASH REF BY

the Common Areas, or within the right-of-way of any public street in or adjacent to the subdivision. All Vehicles shall be stored either within the Owner's garage or other facilities not located on the subdivision. No Owner shall park or store an inoperative or abandoned Vehicle or automobile on any Lot or on the public or private streets or Common Areas in the subdivision.

3. Except as hereinabove set forth, the Amended Declaration of Covenants for Harbor Oaks Subdivision as recorded in Book 1311, Page 630, Brunswick County Registry, shall remain in full force and effect.

IN WITNESS WHEREOF, Southern Shores Development, LLC has caused this instrument to be signed by its duly authorized Managing Partner, this day first above written.

SOUTHERN SHORES DEVELOPMENT, LLC

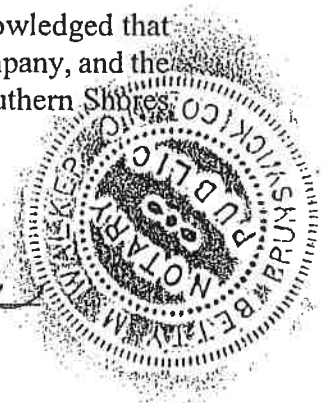
By: Barry Martin
Barry Martin, Managing Partner

NORTH CAROLINA
BRUNSWICK COUNTY

I, Betty M. Walker a Notary Public for the County of Brunswick, State of North Carolina, certify that Barry Martin personally appeared before me this day and acknowledged that he is Managing Partner of Southern Shores Development, LLC, a limited liability company, and the foregoing instrument was signed by him in his capacity as Managing Partner of Southern Shores Development, LLC.

Witness my hand and notarial seal, this 18th day of January, 2000.

Betty M Walker
Notary Public



My Commission Expires: June 1, 2003

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

The Foregoing (or annexed) Certificate(s) of BETTY M WALKER

Notary(ies) Public is (are) Certified to be Correct.
This Instrument was filed for Registration on this 28th Day of January, 2000
in the Book and Page shown on the First Page hereof.

Robert J. Robinson
ROBERT J. ROBINSON, Register of Deeds

Brunswick County—Register of Deeds
Robert J. Robinson
Inst #17046 Book 1311 Page 630
06/21/1999 11:57am Rec# 17069RJ

PREPARED BY & HOLD: GARY S. LAWRENCE

NORTH CAROLINA

AMENDED
DECLARATION OF COVENANTS FOR
HARBOR OAKS SUBDIVISION

BRUNSWICK COUNTY

THIS AMENDED DECLARATION, made and entered into this 21st day of June, 1999, by SOUTHERN SHORES DEVELOPMENT, LLC, hereinafter referred to as DECLARANT.

WITNESSETH:

WHEREAS, Harbor Oaks Development Corporation, as owner and developer of certain real property located in Smithville Township, Brunswick County, North Carolina, as described in Deed Book 1171 at Page 800, Brunswick County Registry, recorded a map in Map Book 19 at Page 337 titled "Section One Harbor Oaks Subdivision"; which map contained twenty-three (23) lots, and thereafter recorded Restrictive Covenants in Book 1202 at Page 659, Brunswick County Registry, subjecting said property to certain Covenants, Conditions and Restrictions; and

WHEREAS, Harbor Oaks Development Corporation filed an amendment to the above Restrictive Covenants by instrument recorded in Book 1266 at Page 293, Brunswick County Registry; and

WHEREAS, Harbor Oaks Development Corporation also recorded a map in Map Book 20 at Page 80 titled "Section Two Harbor Oaks Subdivision", which map contained sixteen (16) lots, and thereafter recorded Restrictive Covenants in Book 1233 at Page 145, Brunswick County Registry, subjecting said property to certain Covenants, Conditions and Restrictions; and

WHEREAS, Harbor Oaks Development Corporation filed an amendment to the above Restrictive Covenants by instrument recorded in Book 1266 at Page 295, Brunswick County Registry; and

WHEREAS, Harbor Oaks Development Corporation sold seven (7) lots in Section One Harbor Oaks Subdivision and four (4) lots in Section Two Harbor Oaks Subdivision; and

WHEREAS, Harbor Oaks Development Corporation has now conveyed to SOUTHERN SHORES DEVELOPMENT, LLC, title to the remaining sixteen (16) lots in Section One Harbor Oaks Subdivision and the remaining twelve (12) lots in Section Two Harbor Oaks Subdivision and all remaining land in Harbor Oaks Subdivision, by deeds recorded in Book 1294 at Page 906 and Book 1294 at Page 904, Brunswick County Registry and SOUTHERN SHORES DEVELOPMENT, LLC, as current Developer of Harbor Oaks Subdivision is the Successor In Interest of Harbor Oaks Development Corporation; and

Gary Lawrence
TOTAL 46.00
RENT 0.17
DEED 50.00
1679
Cly

WHEREAS, the aforementioned Restrictive Covenants provide that said Covenants may be amended. The Covenants may be amended by the joinder of owners of seventy-five (75%) percent of the owners of all lots in the Subdivision; and SOUTHERN SHORES DEVELOPMENT, LLC, is the owner of more than seventy-five (75%) percent of all lots in the Subdivision; and

WHEREAS, the DECLARANT is the owner of the real property described in Deed recorded in Book 1294 at Page 904 and the twenty-eight (28) lots described in Deed recorded in Book 1294 at Page 906, Brunswick County Registry; and is desirous of amending the Restrictive Covenants for Harbor Oaks Subdivision subjecting said real property to the Covenants, Conditions and Restrictions hereinafter set forth, each and all of which is and are for the benefit of such property and for each owner thereof, and shall inure to the benefit of and pass and run with said property, and each and every lot or parcel thereof, and shall apply to and bind the successors in interest and any owner thereof;

NOW, THEREFORE, the DECLARANT hereby declares that the real property hereinafter described is and shall be held, transferred, sold, and conveyed subject to the Covenants, Conditions and Restrictions set forth below.

1. DEFINITIONS

1.1. **"Additional Properties"** shall mean all or any portion of the real property which may be annexed to this Declaration.

1.2. **"Amenities"** means the facilities, if any, constructed, erected or installed on the Common Areas.

1.3. **"Association"** means Harbor Oaks Homeowners Association, Inc.

1.4. **"Board of Directors"** or "Board" mean those persons elected or appointed and acting collectively as the Directors of the Association.

1.5. **"Building"** means a single family residential structure, constructed or erected on the Property.

1.6. **"Common Areas"** shall mean all real property owned by the Association and the easements granted thereto for the common use and enjoyment of the Owners. The Common Areas to be owned by the Association shall be described in deeds to the Association and designated as such on each recorded map of the Property. Common Areas include, but are not limited to private streets, storm drainage facilities serving more than one Lot, and any parks located within the Subdivision.

1.7. **"Common Expenses"** means:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of administration, maintenance, repair or replacement of the Common Areas;

(c) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws:

(d) Expenses agreed by the members to be Common Expenses of the Association;

(e) Expenses for maintenance of the private streets, septic fields and well lot, if any, and storm drainage facilities serving more than one lot and located outside of public streets rights of way, if any, as provided in this Declaration;

(f) Hazard, liability or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase;

(g) Ad valorem taxes and public assessment charges lawfully levied against Common Areas; and,

(h) Unpaid assessments resulting from the purchase of a Lot at a foreclosure sale (such assessment shall be collectible from all members of the Association, including the purchaser at the foreclosure sale, his successors and assigns).

1.8. **"Declarant"** shall mean and refer to **Southern Shores Development, LLC.**, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development or if such successors or assigns should acquire more than one Lot, whether developed or undeveloped, pursuant to foreclosure or a deed in lieu of foreclosure.

1.9. **"Declaration"** means this Declaration of Covenants, Conditions and Restrictions.

1.10. **"Improvement"** shall mean any structures built, reconstructed or altered upon a Lot, Restricted Common Area or Common Area.

1.11. **"Lot"** shall mean and refer to any plot of land approved to contain a single family home described by a metes and bounds description shown upon any recorded subdivision map of the Property with the exception of the Common Areas.

1.12. **"Lot in Use"** shall mean any Lot owned by any person other than Declarant and as to those Lots owned by Declarant, any Lot on which a dwelling unit has been fully constructed and for which a certificate of occupancy has been issued by the appropriate governmental agency. In no event shall it mean a Lot owned by the Declarant on which no dwelling unit has been constructed.

1.13. **"Member"** shall mean and refer to every person or entity who holds membership in the Association. There shall be two classes of voting membership in the Association.

A. "Class A Members" shall be all those Owners as defined in Article III herein, with the exception of the Declarant. Declarant may, however, be a Class A member upon termination of

Class B membership.

B. "Class B Member" shall be the Declarant as defined herein.

1.14. **"Owner"** shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.15. **"Person"** means any individual, corporation, partnership, association, limited liability company, trustee, or other legal entity.

1.16. **"Property"** shall mean and refer to that certain real property hereinafter described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

2. DECLARATION

2.1 Intent of Declaration: The real property hereinafter described is subjected to the Covenants, Conditions and Restrictions hereby declared to insure the best and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on lots; to prevent haphazard and inharmonious improvements on lots; to secure and maintain proper setbacks from streets, and adequate free spaces between structures; and, in general to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of lots therein. These Covenants, Conditions and Restrictions shall supercede the Covenants, Conditions and Restrictions previously recorded and referred to above.

2.2 Property Description: The real property which is, and shall be held, transferred, sold, and conveyed subject to these Covenants, Conditions and Restrictions set forth in Articles of this Declaration is located in the County of Brunswick, State of North Carolina, Smithville Township, and is more particularly described as follows:

Beginning all of that 55.76 acre tract according to plat recorded in Map Cabinet 21 at Page 107 and being the same property conveyed by deed recorded in Book 1294 at page 904, Brunswick County Registry and all of the twenty-three (23) lots contained in the map in Map Book 19 at Page 337 titled "Section One Harbor Oaks Subdivision" and all of the sixteen (16) lots contained in the map in Map Book 20 at Page 80 titled "Section Two Harbor Oaks Subdivision".

3. PROPERTY RIGHTS.

3.1. **Title to Common Areas:** The Declarant shall convey fee simple title in the Common Areas to the Association, subject to these Protective Covenants, current and subsequent years ad valorem taxes, rights-of-way, drainage and utility easements. Conveyance of title of the Common Areas to the Association shall be done after the recording of the final plat reflecting the particular Common Areas.

3.2. **Owners' Easement of Enjoyment:** Every Owner shall have a right and easement of use and enjoyment in and to the Common Areas (the "Owners' Easement"), including specifically an easement for access, ingress and egress from and to public streets, common parking, private streets and walkways. The Owners' Easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

A. **Dedication and Transfer of Common Areas:** Subject to all applicable governmental ordinances, the Association's right to dedicate or transfer fee simple title to all or any part of the Common Areas to any public agency, authority or utility company. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each Class of Members agreeing to the dedication or transfer has been recorded in the appropriate County Registry. Any dedication or transfer shall be made subject to that portion of the Owners' Easement providing for access, ingress and egress to public streets, parking, private streets and walkways.

B. **Borrowing for Improvements:** The Association's right, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and Amenities and to mortgage those properties to secure those borrowings; provided the mortgage is subordinate to the rights of the Owners and the Association.

C. **Rules and Regulations.** The Association's right to impose and enforce rules and regulations which may restrict the use and enjoyment of the Common Areas and/or Amenities.

D. **Additional Easements.** Declarant (for so long as it holds Class B membership) shall have the authority to grant and/or establish upon, over, under and across the Common Areas further easements (including, but not limited to those provided in these Protective Covenants) as are required for the convenient use and enjoyment of the Property.

E. **Exchange of Common Areas:** The Common Areas may be exchanged for other properties subject to all applicable governmental ordinances and approval of City of Southport Planning Director.

4. MEMBERSHIP AND VOTING RIGHTS.

4.1. Ownership of a Lot shall be the sole qualification for membership in the Association. The Association's Board may make reasonable rules relating to the proof of ownership of a Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

4.2. The Association shall have two classes of voting membership:

(a) Class A Members shall be all Owners with the exception of the Declarant. Declarant may, however, be a Class A member upon the termination of Class B membership. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any one Lot, all such Persons shall be Members. The vote of that Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Fractional voting is prohibited.

(b) The Class B Member shall be the Declarant. Class B Members shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the earlier of:

(I) the date the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; provided that the Class B membership shall be reinstated with all rights, privileges, responsibilities and voting power if, after conversion of the Class B membership to Class A membership, additional lands are annexed to the Property by the Declarant as provided in the Declaration; or

(ii) December 31, 2005; or

(iii) the effective date of the Declarant's 's written consent to termination.

5. ANNEXATION OF ADDITIONAL PROPERTIES.

5.1. **Annexation by Members:** Except as provided in 5.2, Additional Properties may be added and annexed to the Property only if two-thirds (2/3) of each class of all the votes entitled to be cast in such class by Members are cast in favor of annexation. The annexation will be accomplished by recording with the Brunswick County Register of Deeds a Declaration of Annexation, duly executed by the landowners, describing the lands annexed and incorporating the provisions of this Declaration. No other action or consent shall be necessary. Upon annexation, the Additional Properties shall be deemed part of the Property and shall be subject to this Declaration.

5.2. **Annexation by Declarant:** Prior to December 31, 2005, the Declarant may, from time to time, annex Additional Properties to the Property without the consent of the Members, if the Declarant should develop an additional tract or tracts of land consisting of any property contiguous to the Property. The annexation will be accomplished by recording with the Brunswick County Register of Deeds a Declaration of Annexation, duly executed by Declarant, describing the lands annexed and incorporating the provisions of this Declaration. No other action or consent shall be necessary. Upon annexation, the Additional Properties shall be deemed part of the Property and shall be subject to this Declaration.

5.3 Conveyance of Common Areas and Common Areas in Newly Annexed

Additional Properties: Subsequent to recondition of the Declaration of Annexation, but prior to the sale of the first Lot in the Additional Property, the landowner shall deliver to the Association one or more deeds conveying any property that will be designated as Common Areas within the Additional Properties. Title to these Common Areas shall be conveyed subject to the same exceptions noted in Section 3.1.

5.4. **Reserved Declarant and Successor Declarant Rights.** Subject to all applicable governmental ordinances, as long as Class B membership exists, the Declarant reserves the following development rights: (I) to add real estate to the Property in accordance with Section 5.2 of this Declaration; (ii) to add Common Areas; (iii) to reallocate Lots within the Property; and (iv) prior to a conveyance of that real estate to an Owner, to withdraw real estate from the Property.

6. **COVENANT FOR MAINTENANCE ASSESSMENTS.**

6.1. **Lien of Assessments:**

6.1.1. The Declarant, for each Lot, covenants, and each Owner of any Lot by acceptance of a deed therefore (whether or not it shall be so expressed in such deed) is deemed to covenant and agree to pay the Association Annual Assessments, Special Assessments, and Initial Assessment, all as described below, (together the "Assessments"). The Association shall also have the authority, through the Association's Board, to establish, fix and levy an individual assessment on any Lot to secure the liability of that Owner to the Association arising from Owner's breach of any of the provisions of this Declaration.

6.1.2. The Assessments shall be set on a calendar year basis (the "Annual Assessment Period") by the Association's Board and may be collected on a monthly or yearly basis as determined by the Association's Board. Annual Assessments shall be charged to each Owner of a Lot in Use. Special Assessments shall be charged to each Lot without regard as to whether or not it is a Lot in Use. Assessments, together with interest thereon and the costs of collection (including reasonable attorney fees), shall be a lien on the applicable Lot from the due date for the Assessment as set by the Association's Board, continuing until paid in full, as well as a personal obligation of the Person who was the Owner of the Lot at the time the Assessment became due. While any unpaid amounts shall remain a lien on the applicable Lot, the personal obligation shall not pass to that Owner's successors in title unless expressly assumed by the successor.

6.2. **Purpose of Assessments:** The Assessments shall be used exclusively for the purposes of these Protective Covenants as described in the Recitals, the payment of Common Expenses, the health, safety and welfare of the Owners, and the improvement and maintenance of the Common Areas, including private streets, drives and payment of expenses for street lights and irrigation of the common areas and the entranceway to the subdivision. The Association shall maintain a reserve fund for periodic maintenance, repair, and replacement of improvements to the Common Areas.

6.3. **Annual Assessments:**

6.3.1. On or before December 1, 2003 and December 1st of each year thereafter, the Association's Board of Director's shall adopt the Budget (as defined below) for the upcoming Annual Assessment Period. The annual budget for the Association shall include all anticipated revenues (including revenues from Annual Assessments to be charged in the next Annual Assessment Period - the "Anticipated Annual Assessments") and anticipated costs for the Association for the upcoming Annual Assessment Period (together the "Budget"). The Anticipated Annual Assessments for the approved Budget shall be the basis for calculating the Annual Assessment to be charged each Owner for the upcoming Annual Assessment Period.

6.3.2. Notwithstanding the above to the contrary:

(a) Until January 1, 2004, the maximum Annual Assessment shall be \$200.00; and

(b) An annual increase in the Annual Assessments shall not be more than twenty (20%) percent except by approval by two-thirds (2/3) of each class of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

6.4. **Special Assessments:** In addition to the Annual Assessments, the Association may levy in any Annual Assessment Period a special assessment applicable to that year only (the "Special Assessment") for the purpose of defraying in whole or in part the cost of any expenditures (including capital improvements and property acquisition costs) not otherwise included in the Budget. A Special Assessment, but not including fines levied pursuant to Paragraph 5.6, shall require the assent of two-thirds (2/3) of each class of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

6.5. **Initial Assessment:** At the closing of each sale by the Declarant of a Lot in Use, the sum of \$150.00 (the "Initial Assessment") shall be collected from the purchaser and contributed to the Association as working capital. The Initial Assessment shall be used in the manner specified for Annual Assessments. The Initial Assessment shall not be considered an advance against Assessments to become due on and after transfer of title to the purchaser.

6.6. **Fines.** The Association's Board may impose fines against any Lot for a failure to comply with the Protective Covenants. These fines shall be treated as a Special Assessment otherwise due to the Association from that Owner. Fines shall be paid not later than thirty (30) days after notice of the assessment is given to the offending Owner. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled. Any fine paid by the offending Owner shall nevertheless be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from that Owner. Fines shall be as follows:

(a) First non-compliance or violation: a fine not in excess of Fifty Dollars (\$50.00).

(b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).

- (c) Third and subsequent non-compliance or violation, or violations that are of a continuing nature: a fine not in excess of One Hundred Dollars (\$100.00) for each week of continued violation or non-compliance.

6.7. **Uniform Rate of Assessment.** Both Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots in Use or Lots, as the case may be. Provided, however, that the Association shall also have the authority, through the Board of Directors, to establish, fix and levy a Special Assessment on any Lot to secure the liability of that Owner to the Association arising from that Owner's breach of any of the provisions of this Declaration.

6.8. **Date of Commencement of Annual Assessment/Due Dates.** The Annual Assessments shall commence as to each existing Lots in Use on the first day January of each year, beginning January 1, 2000. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. These certificates shall be conclusive evidence of payment of any Assessment as to third parties acting in reliance on the statement.

6.9. **Non-Payment of Assessment Remedies of the Association.** Any Assessments which are not paid when due shall be delinquent. The Association shall have the option to declare the outstanding balance of any Assessment due and payable if any installment thereof becomes delinquent. If the Assessment is not paid within thirty (30) days after the due date, the assessment shall incur a late charge of \$25.00 and bear interest from the date of delinquency at the greater of the rate set by the Association's Board and eight percent (8.0%) per annum. The Association may bring an action at law against the responsible Owner and/or foreclose the lien against the applicable Lot. Interest, costs, and reasonable attorney fees of any such action shall be added to the amount of the delinquent Assessment. Each Owner, by the acceptance of a deed to a Lot, expressly vests in the Association, its agents or assigns, the right and power to bring all actions against the Owner personally liable for the collection of a debt and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property. Each Owner also expressly grants to the Association a power of sale in connection with foreclosure of a lien for Assessments. The lien provided for in this Article shall be in favor of the Association acting on behalf of the Owners, which shall have the power to bid in at foreclosure and to acquire and hold, lease, mortgage and convey the foreclosed Lot. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Areas or abandonment of his Lot.

6.10. **Subordination of the Lien.** The lien of the Assessments shall be subordinated to the lien of the first mortgage on a Lot. Except in those instances described below, the sale or transfer of a Lot shall not release or otherwise affect the lien of delinquent Assessments. Provided the Association is given prior written notice of such, the sale or transfer of a Lot pursuant to the foreclosure of a first mortgage or pursuant to a deed in lieu given in satisfaction of a first mortgage shall extinguish the lien of the delinquent Assessments for that Lot. In no event, however, shall a sale or transfer relieve the Lot from liability for any Assessments subsequently becoming due or from the lien thereof.

For all Lots which have access via a common driveway, such Lots shall not have access from the street to the front of any Improvement on said Lots. There shall be no "curb cuts" or driveways leading from the streets within the Subdivision on these Lots. Vehicular access to Lots served by common drives shall be restricted to the common drives. Use of the common drives shall be restricted to ingress and egress. Vehicles may not be parked on the common drives; nor shall the common drives be blocked in any manner. Residences without access via rear entry common drive shall have driveways from the streets to the garages and/or parking areas.

8.3. **Association Easement.** An easement is granted to the Association, its officers, agents, employees, contractors, and to any management company retained by the Association to enter in or to cross over the Common Areas. Every Lot shall be subject to an easement for entry by the Association (and the Persons described above) for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any improvement or portion of the Common Areas.

8.4. **Temporary Construction Access and Disturbance Easement.** An easement over, through and to the Common Areas is reserved and established in favor of Declarant, for so long as it holds Class B membership, and all Owners for purposes of ingress, egress, regress, conduct of construction activity, storage of construction materials and the necessary disturbance of land for construction on any Lot. This easement shall be used only as and when necessary to facilitate the construction of improvements at any time on a Lot by Declarant or Owner as well as the extension of driveways, sidewalks, underground drainage and utility conduit and hookups to any dwelling structure situated on a Lot. In each instance, the Person exercising these easement rights shall use its best efforts to minimize any soil or land disturbance activities, and shall restore the land to a condition which is graded smooth, seeded and in harmony with surrounding areas. Should that Person fail to restore the disturbed land as required, the Association may restore the land to the required condition and that Person shall indemnify the Association for the reasonable expense incurred in performing that restoration. This easement shall be limited to that Common Areas which shall be reasonably serviette and proximate to the Lot(s) upon which the construction is taking place.

8.5. **Drainage Easement.** For a period of thirty - six (36) months following the initial conveyance of a Lot to an Owner by the Declarant, that Lot shall be subject to an easement for entry and encroachment by the Declarant for the purpose of correcting any grading or drainage problems with respect to that Lot or adjoining Lots. After such an entry, the Declarant, at its expense, shall, to the extent reasonably practicable, restore the affected Lot(s) to their original condition.

9. ARCHITECTURAL REVIEW COMMITTEE.

9.1. **Members.** The Architectural Review Committee (ARC) shall consist of one (1) or more persons designated by the Declarant. At such time as Declarant no longer owns any real property within the Property, or until December 31, 2005, whichever first occurs (or earlier if the Declarant shall surrender this right in a written instrument in recordable form executed by Declarant), the Declarant shall assign to the Association the rights, powers, duties and obligations of the Architectural Review Committee. Upon this assignment or termination of Class B Membership, the Board shall appoint three (3) or more persons as the members of the Architectural Review

Committee. Prior to December 31, 2005, this provision shall not be amended or revoked without the Declarant's written consent.

9.2. **Powers.** The Architectural Review Committee shall have the right to refuse to approve any plans and specifications for Improvements proposed to be constructed on a Lot (the "Plans & Specifications") which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving Plans & Specifications, the Architectural Review Committee shall consider the purposes of the Protective Covenants as discussed in the Recitals, including the suitability of the proposed Improvements and color and materials to be used in those Improvements, the site upon which it is proposed to be erected, and the effect of the Improvements on adjacent or neighboring property. There is specifically reserved unto the Architectural Review Committee the right of entry and inspection upon any Lot for the purpose of determining whether there exists any construction of any Improvements which violates the terms of any approval by the Architectural Review Committee or the terms of this Declaration or of any other applicable covenants, conditions and restrictions. The Architectural Review Committee and the Board of Directors is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorney's fees).

9.3 **Submission Of Plans And Specifications:** Except for original and initial construction and subsequent modification of improvements by the Declarant on any Lot which such construction is and shall be exempt from the provisions of this subsection, no improvement, building, wall, fence, landscaping, berm or hedge which acts as a fence or privacy inducing structure, ornamentation, or other structure or improvements of any nature shall be erected, placed, maintained, or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping have been approved in writing by the Architectural Review Committee. Neither the Association, the Association's Board, the Declarant, the Architectural Review Committee or any officer, employee, director or members thereof shall be liable for damages to any persons by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any Plans & Specifications. Every person who submits Plans & Specifications for approval agrees, by submission of such Plans & Specifications, that it will not bring any action or suit to recover any such damages.

The Declarant initially, and thereafter, the Association Board of Directors, may adopt from time to time Architectural Guidelines for use by the Architectural Review Committee and such guidelines shall be mandatory for use by the Architectural Review Committee except as the Board of Directors shall authorize upon appeal of the Committee decision.

Each building, wall, fence or other structure or improvements of any nature, together with any ornamentation or landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved. Any change in the appearance of any building, wall, fence or other structure or improvements and any change in the

appearance of the landscaping (excepting the planting of flowers and shrubs indigenous to the area), shall be deemed an alteration requiring approval.

9.4 Procedure:

(a) The Architectural Review Committee shall make all efforts to cooperate with the Owner or agent in effecting a prompt and reasonable response to any submission. Within thirty (30) days after receipt of all required information, the ARC shall submit in writing to the Owner of the Lot a response stating whether or not the requested improvements are approved. Unless a response is given by the ARC within thirty (30) days, the plan shall be deemed approved. The ARC shall have the power to promulgate reasonable rules and regulations designed to carry out the provisions and intent of this paragraph. After the Declarant surrenders control of the ARC, any such rules and regulations shall be approved by the Board of Directors prior to implementation.

(b) Action of the Architectural Review Committee may be based upon any reasonable ground, including aesthetic grounds. Requirements of any governmental authority shall not be considered by the Committee. The response of the Architectural Review Committee must be:

1. An approval; or
2. An approval with conditions; or
3. An approval with conditions together with a request for additional information; or
4. A denial.

A denial is an extreme response and not to be made unless an approval with conditions can not be made. A denial prohibits or delays construction of the proposed improvements.

A request for additional information shall be made only with a conditional approval and will not delay construction unless the information requested involves a matter which will need to be approved prior to construction. If an approval with conditions is granted and thereafter construction begins, the construction shall be deemed approved by the owner of the lot of the conditions imposed.

(c) The Architectural Review Committee may not deny the submission unless it makes at least one of the following findings:

(1) That the improvements sought to be constructed will have a negative economic impact on any other lot within the subdivision.

(2) That a required specific buildings standard or other condition contained within the Restrictive Covenant or Design Guideline documents have not been met.

(3) That the improvements are architecturally incompatible with proposed or constructed improvements on other lots within the subdivision.

(4) That the natural features of the lot will be disturbed to an extent more than reasonably necessary to construct the proposed improvements.

10. ARCHITECTURAL CONTROL AND USE RESTRICTIONS.

10.1. **Building Sites.** Each Lot, as approved by the appropriate governmental entity, shall constitute a building site (a "Building Site") and shall be used for single-family, residential purposes only. The lay of the Lots as shown on the recorded plat shall be substantially adhered to; provided, however, that with the prior written approval of the Declarant (as long as Class B Membership exists), or, thereafter, the Association's Board or the Architectural Review Committee, and the appropriate governmental authority, the size and shape of any Lot may be altered. More than one Lot may be used as one Building Site provided the location of any structure permitted thereon is approved in writing by the Architectural Review Committee or the Declarant, its successors or assigns, and said Lot is recombined as provided in N.C. General Statute 160A-376(1). In no event, however, shall a Lot or group of Lots be re-subdivided or recombined in violation of any applicable zoning or other laws in force at the time of the change.

10.2. **Setbacks.** No structure shall be located on any Building Site nearer than twenty-five (25) feet, as currently required as a minimum setback for the City of Southport. Side setbacks shall, at a minimum comply with the City of Southport restrictions. Houses on Lots with rear common driveways shall be located as close to the twenty-five (25) foot setback as possible. Houses without rear common driveways shall be in accordance with the minimum requirements of the City of Southport; subject to Architectural Review Committee approval. Provided it otherwise complies with the applicable zoning ordinances and the setbacks, if any, shown on the applicable recorded plat, the Declarant as long as Class B membership exists, and thereafter the Architectural Committee may approve by written waiver a violation of these requirements.

10.3. **Structures.** Improvements on any Building Site shall be restricted solely to residential dwellings for residential use, storage sheds, detached garages and fences. All Improvements erected upon a Lot shall be of new construction and no building or structures, other than the Amenities constructed by the Declarant, if any, or the Association and single-family buildings joined by a common exterior roof and foundation, shall be constructed. No residential structure, which has a minimum area of less than 1700 square feet of heated area exclusive of porches, basement and garage, shall be erected or placed on any Building Site. No building or structures shall exceed two (2) stories in height; provided, basements for any houses shall not be considered in determining the height. No structures of a temporary character, manufactured home, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any portion of the Property at any time as a residence, either temporarily or permanently.

10.4. **Porches:** Each dwelling shall include, as part of the front elevation attached at the roof line, an attached and roofed (non screened) porch which should be compatible with the setting and reflective of Lowcountry traditions. The front porch should occupy a minimum of 50% of street front elevation at the first floor and shall be a minimum depth of 8 feet. Corner lots are required to have a porch follow the street wall around the corner to occupy, in addition to the 50% front street elevation, a minimum of 25% of the side yard elevation facing the adjoining street. No porch which shall adjoin the front of any dwelling shall be screened but an attached roofed rear or back porch may, subject to Architectural Review Committee approval, be screened.

10.5 **Garages**: All garage shall be constructed of similar material as the main dwelling and all garage opening shall face either a side yard or the rear yard of the main dwelling. Except as otherwise provided herein, the entrance to all garages shall be from a common driveway across the rear property line of each said Lot. No garages shall be located nearer to the property line than the twenty (20) foot setback.

10.6 **Mailboxes**. The Declarant shall establish and install a cluster of mailboxes at the entrance way to each common driveway. The mailboxes so established shall be for the use and benefit of all lots accessed by each individual common driveway. Mailboxes for residences not served by common driveways shall be clustered in common areas in close proximity to the residences served by said mailboxes. There shall not be individual mail boxes located in front of the individual dwellings or on individual Lots.

10.7. **Declarant Facilities**. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Lots, the Declarant is permitted, subject to the laws of the applicable governmental authority, to maintain such facilities and conduct such sales activities as Declarant deem reasonably required, convenient, or incidental to the development and sale of the Lots. These facilities/activities shall include but not be limited to sales tours, sales parties and promotions at the Amenities, a business/sales office, storage area, construction yards, model units, and signs. Prior to December 31, 2005, this provision shall not be amended or revoked without the Declarant's written consent.

10.8. **Animals**. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Lots, except that a reasonable number of domesticated, household pets may be kept, provided they are not maintained for commercial purposes.

10.9. **Screening**. All outside equipment, air conditioning units, gas tanks, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate Improvements so as to screen them from view from the street and adjoining Lots. All garbage, trash, or rubbish shall be regularly removed from the Lot and shall not be allowed to unreasonably accumulate. No clothes lines, whether screened or not, shall be allowed outside of the Owner's Building. All garbage containers shall be moved to the street in front of each residents in order to be picked up by the appropriate entity.

10.10. **Leasing**. No Lot or any portion of the Improvements thereon shall be leased for transient or hotel purposes, except that an Owner may lease not less than the entire residential structure on its Lot; provided that each lease must be in writing, must be for a period of not less than one (1) year, and must provide that it is subject to this Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease. The Owner shall promptly provide the Association with copies of any and all leases entered into by the Owner.

10.11. **Utility Devices**. Without the prior written approval and the authorization of the Declarant (as long as Class B Membership exists), the Association's Board or the Architectural Review Committee, no exterior television or radio antennas, satellite dishes or solar panels or other utility devices, of any sort shall be placed, allowed or permitted upon any portion of the exterior of

the Improvements to be located upon the Property. The Declarant and the Association, for the common benefit of the Owners, reserves the right to install within the Property such utility devices necessary to provide cable TV or similar services.

10.12. **Business/Obnoxious Activity.** No business activity of any kind or any obnoxious or offensive activity shall be carried on the Property or Improvements thereon, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood. Nor shall the Property be used in any way or for any purpose which may endanger the health or unreasonably disturb an Owner or his tenants or invitees. No "For Sale" signs (except as otherwise specifically authorized by the Declarant), advertising signs or rent signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, and in no event in the Common Areas. The foregoing covenants shall not, however, apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its agent and assigns, during the construction and sales period for the Lots.

10.13. **Vehicles.** No boats, recreation vehicles, campers, motorcycles, tractors, trucks (other than one pick-up truck rated one-half ton or less), or trailers (the "Vehicles") of any Owner or member of his family, his tenants, or contract purchasers shall be parked within the Common Areas, or within the right-of-way of any public street in or adjacent to the subdivision. All Vehicles shall be stored either within the Owner's garage or other facilities not located on the subdivision. No Owner shall park or store an inoperative or abandoned Vehicle or automobile on any Lot or on the public or private streets or Common Areas in the subdivision.

10.14. **Tanks .** Other than hot tubs or similar devices approved by the Architectural Committee, no above or below-ground tanks or pools will be permitted for the storage of fuel or water or any other substance. The installation of such tanks shall be subject to reasonable screening requirements established by the Architectural Review Committee. There shall be no above-ground swimming pools.

10.15. **Lawn Ornaments.** No decorative lawn ornaments shall be placed on any Lot without the prior written approval of the Architectural Review Committee.

10.16. **Parking.** Adequate off-street parking shall be provided by the Owner of each Lot for the parking of automobiles and Vehicles owned by that Owner. Owners shall not be permitted to park their automobiles and Vehicles on the streets or Common Areas in the subdivision, except in designated parking spaces.

10.17. **Governmental Regulations.** Each Owner shall comply with all laws, ordinances, governmental building codes, health regulations, CAMA permits and requirements, storm water management, zoning restrictions and the like applicable to its Lot and/or Common Areas. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

10.18. **Additional Restrictions.** The Declarant (as long as it hold Class B Membership) and thereafter, the Association, the Association's Board, or the Architectural Review Committee

shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the architectural control and use of the Property.

10.19. **Anti-Discrimination.** No action shall at any time be taken by the Declarant, the Association, the Association's Board, or the Architectural Committee in the enforcement or interpretation of these Protective Covenants which in any manner would unfairly discriminate against any Owner in favor of any of the other Owners.

10.20. **Waiver.** Notwithstanding anything above to the contrary, the Declarant (as long as Class B Membership exists), the Association's Board, or the Architectural Review Committee shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Article. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Lot in question or any other Lots subject to this Declaration. No waiver shall be effective if it shall cause the Lot or structures thereon to be in non-conformance with any applicable governmental ordinances.

11. GENERAL PROVISIONS.

11.1. **Enforcement.** The Declarant (as long as Class B Membership exists), the Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, the terms of the Protective Covenants. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

11.2. **Remedies.** In the event of any default in and/or breach of any of the terms, conditions and provisions of this Declaration (either actual or threatened) the party or parties who are thereby aggrieved shall have the right to specific performance and/or injunction in addition to any and all other rights and remedies at law or in equity. The right and remedies provided by this Declaration are distinct and cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. No delay or omission of a party to exercise any right or power arising from any default on the part of the other shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein. The rights and remedies provided herein are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

11.3. **Severability.** Invalidation of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

11.4. **Amendment.** Southern Shores Development, L.L.C., specifically reserves the right to amend or change any part or all of these restrictive covenants and conditions by filing in the Office of the Register of Deeds of Brunswick County, a Declaration of Amended Restricted Covenants which shall be made applicable only to Lots conveyed after the recording of such Amended Declaration. Additional amendments to all or any portion of Harbor Oaks Subdivision may be accomplished with the joinder of owners of seventy-five (75) percent of all Lots in the Subdivision.

11.4.2. If an amendment is executed, each such amendment shall be delivered to the Association's Board which shall, within thirty (30) days:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots (for this purpose, the Board may rely on its roster of Members, and shall not be required to cause the title to any Lot to be examined); and

(b) Attach the following certification:

CERTIFICATION

By authority of its Board of Directors, Harbor Oaks Homeowners Association, Inc. certifies that the foregoing instrument has been duly executed by the Owners of seventy-five percent (75%) of the Lots in the Property and is therefore a valid amendment to the Declaration recorded at Book _____, Page _____, Brunswick County Registry.

HARBOR OAKS HOMEOWNERS ASSOCIATION, INC.

BY: _____

ATTEST: _____
President

Secretary

Inst # 17046 Book 1311Page: 648

(Corporate Seal)

Within the thirty (30) day period, the Association's Board shall cause the amendment to be recorded with the Brunswick County Register of Deeds. All amendments shall be effective from the date of recondition in the Brunswick County Register of Deeds; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association.

11.5 **Binding Effect.** All covenants, restrictions, reservations, easements and privileges contained herein shall run with the land and the grantee, by accepting any Deed to any portion of such land described herein, accepts the same subject to these protective covenants and its terms and conditions and agrees for himself, his heirs, successors and assigns, to be fully bound by each and all of the terms and conditions of these covenants, jointly, separately, and severely. However, nothing herein contained shall create a violation of these covenants with regard to any Lot previously conveyed by Harbor Oaks Development Corporation, and upon which a structure exists as of the date of the filing of these amended Declaration of Covenants for Harbor Oaks Subdivision. Any structure existing on the date of the recording of these amended Declaration of Covenants for Harbor Oaks Subdivision shall be allowed to remain; however, any addition or improvement made after recording of this instrument to any structure currently existing on a Lot in Harbor Oaks Subdivision must be done in accordance with the restrictions and conditions contained herein.

11.6. **Disputes.** In the event of any dispute arising concerning a provision of this Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual

agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of that committee.

11.7. **Voting.** Voting by Members of the Association shall be in accordance with the applicable provisions set forth in this Declaration and the Bylaws.

11.8. **Member Addresses.** Each Member agrees to keep the Association informed of his address at any time and any notice sent or delivered to that address shall be sufficient. Each new Member agrees to provide the Association with evidence of his ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as to the ownership of each Lot.

11.9. **Gender and Grammar.** All words and phrases in this Declaration shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires.

11.10. **Owner Responsibility.** Notwithstanding anything in this Declaration to the contrary, an Owner shall be responsible for any and all violations of these Declarations by his employees, agents, tenants, contractors, guests and invitees. When a party to this Declaration consists of more than one individual or entity, such party's liability hereunder shall be joint and several.

11.11. **Construction.** This Declaration shall be construed in accordance with the laws of North Carolina without giving effect to its conflict of laws principles. In case of any conflict between the Declaration and the Articles or the Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, Southern Shores Development, LLC., has caused this instrument to be signed by its duly authorized Managing Partner, this day first above written.

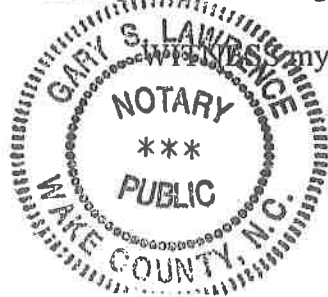
SOUTHERN SHORES DEVELOPMENT, LLC.

BY: *Barry Martin*
Barry Martin / Managing Partner

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

Inst # 17046 Book 1311 Page: 649

I, a Notary Public for the County of Wake and State of North Carolina, certify that Barry Martin, personally appeared before me this day and acknowledged that he is Managing Partner of Southern Shores Development LLC., and the foregoing instrument was signed by him in his capacity as Managing Partner of Southern Shores Development, LLC.



in my hand and notarial seal, this 21st day of June, 1999.

Gary S. Lawrence
Notary Public

My Commission expires: 9-18-99

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK