

12.4 Easements for Maintenance, Emergency, and Enforcement. – Declarant grants to the Association easements over Queens Harbor as necessary to enable the Association to fulfill its maintenance responsibilities under Section 8.2. Specifically, the Association shall have the right of entry upon and easement of access through every Unit, but not through a structure, for the purpose of maintaining any property or improvement for which the Association has maintenance responsibility. The Association also shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Any member of the Board and its duly authorized agents or assignees, and all emergency personnel in the performance of their duties may exercise such rights. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

12.5 Easements for Wetland Maintenance and Flood Water. –

- a. Declarant reserves for itself, its successors, assigns, and designees, during the Declarant Control period, and grants to the Association and its successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area Of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any of Queens Harbor abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.
- b. Declarant further reserves for itself, its successors, assigns, and designees, so long as Declarant owns any property described in Exhibit “A” or “B” and grants to the Association and its successors, assigns, and designees in perpetuity, a nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 30 feet of bodies of water and wetlands within Queens Harbor, in order to (1) temporarily flood and back water upon and maintain water over such portions of Queens Harbor; (2) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; (3) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercised of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damages resulting from the flooding due to heavy rainfall or other natural occurrences.
- c. No Person shall exercise an easement pursuant to this Section in violation of, or for any purpose which violates local, state, or federal laws or regulations.

12.6 Easements for Irrigation System. – Declarant reserves for itself, its successors, assigns and designees, so long as Declarant owns any property described in Exhibit “A” or “B”, and grants to the Association and its successors, assigns, and designees, in perpetuity, the nonexclusive right and easement, but not the obligation, to enter upon every Unit and the Common Area to install, operate, maintain, and replace irrigation systems or portions thereof, including irrigation ditches, head gates, and siphons. Declarant, the Association, and their successors, assigns, or designees shall have an access easement over and across any of Queens Harbor abutting or containing irrigation systems, and to exercise their rights under this Section. Notwithstanding above, Unit Owners are responsible for maintaining irrigation systems primarily serving the Unit.

12.7 Reserved.

12.8 Easement for Use of Private Streets. – Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the private streets within the Community for

law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service to the Community; however such easement shall not authorize any such Persons to enter the Community except while acting in their official capacities. The existence of this easement shall not preclude the Declarant and /or the Association from maintaining gates or other devices or systems designed to limit general vehicular access to the Community, provided that the Association at all times maintains systems and/or procedures to permit the uncontested entry of Persons authorized to exercise the easements granted in this Section without unreasonable interference or delay. Notwithstanding the provisions of this Section, Declarant and/or the Association shall have the right to relocate any street in the Community, but such relocation shall not deprive the owner of any Unit of reasonable access to such Unit from the streets of the subdivision.

12.9 Easement for Maintenance of Waterways. – Declarant and the Association shall have an easement to maintain any pond, stream, canal, or other waterway within or adjacent to the Community.

12.10 Utility Easements. –

- a. The Declarant reserves unto itself and the Association, their successors and assigns, a perpetual, alienable easement and right on, over, and under the ground of the Community to erect, repair replace, maintain, and use electric, cable television, and telephone, wires, cables, conduits, drainage ways sewers, wells, irrigation lines, and systems, pumping stations, tanks, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, irrigation, cable television, drainage, or other public conveniences or utilities on, in, or over those portions of the Community as may be reasonable required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of the Community as may (a) have been used prior to the installation of such utilities for the construction of a building whose plans were approved pursuant to these Covenants by the Company; or (b) such portion of a Unit as may be designated as the site for a building on a plot plan or for erection of a building which has been filed with the Architectural Review Board and which has been approved in writing by said Architectural Review Board.
- b. Declarant further reserves unto itself and the Association, their successors, and assigns, a perpetual, alienable easement and right on, over, and under the ground to erect, maintain, repair wires, cables, conduits, sewers, irrigation lines and systems, drainage line or ditches, water mains, and other suitable equipment for the conveyance and use of electricity, cable television, security, cable equipment, telephone equipment, gas sewer, water, irrigation, drainage way or other public conveniences or utilities, as follows: within fifteen (15') feet of any street, within ten (10') feet of the rear lot line of any lot, and within seven and one-half (7.5') feet of any interior lot line of each lot, and such other areas as are shown on the applicable plats or noted in any Supplemental Declaration.
- c. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety, and appearance.
- d. The Declarant further reserves to itself, its successors and assigns, the right to locate pumping stations, siltation basins and tanks within any Common Area, on any other area owned by Declarant or the Association, or to locate same upon any property with the permission of the respective Owner.

12.11 Walking Trail/ Sidewalk and Alley Easements. Declarant further reserves unto itself and the Association, their successors, and assigns, a perpetual, alienable easement and right to install walking paths or sidewalks through the Community within fifteen (15') feet of any street, provided, that Declarant or the Association, as applicable, shall have the right, by written

agreement with any Owner, to limit the location of any easement with respect to any Unit, or release same.

ARTICLE XIII: Reserved

ARTICLE XIV: Private Amenities

- 14.1 **General.** – Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such Persons, and on such terms, as may be determined time to time by the respective Owners of the Private Amenities. The Owners of the Private Amenities shall have the right in their sole discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and terminate use rights, subject to the terms of any written agreements with their respective members.
- 14.2 **Conveyances of Private Amenities.** – All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant, the Association, any builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity. No purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenity. The ownership or operation of the Private Amenity may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Amenity by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to a, an “equity” club or similar arrangement whereby the members of the Private Amenity or an entity owned or controlled by its members becomes the owner(s) and/or operator(s) of the Private Amenity; or (c) the conveyance of any Private Amenity to one or more of Declarant’s affiliates, shareholders, employees, or independent contractors. Consent of the Association or any Owner shall **not** be required to be effectuate any change in ownership or operation of any Private Amenity, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance.
- 14.3 **Shared Costs.** – In consideration of the fact that the Private Amenity will benefit from maintenance of the roads, right-of-way, and Common Areas within Queens Harbor, the Association may enter into a contractual arrangement or covenant to share costs with any Private Amenity obligating the Private Amenity to contribute funds for, amongst other things, shared property or services and/or a higher level of Common Area maintenance.

ARTICLE XV: Reserved

ARTICLE XVI: Changes in Common Area

- 16.1 **Condemnation.** – If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain, or conveyed in lieu of and under threat of condemnation by the Association, such award or proceeds shall be payable to the Association to be disbursed or utilized as determined by the Board.
- 16.2 **Transfer, Partition, or Encumbrance of Common Area.** –
- a. Except as this Declaration otherwise specifically provides, the Common Area shall not be judicially partitioned or subdivided into Units, nor shall the ownership of the Common Area be otherwise divided or encumbered in any manner after conveyance to the Association, except upon approval by a 67% Vote of the Association, including a majority of the votes held by Members other than Declarant, and the consent of Declarant during the Declarant Control Period.

- b. The Association shall have the Authority (1) subject to approval by a majority Vote of the Members, and the consent of Declarant, during the Declarant Control Period, to transfer portions of the Common Area and improvements thereon to appropriate governmental entities or tax-exempt organizations for the maintenance, operation, and preservation thereof, or (2) with the approval by a 67% Vote of the Members, and the consent of the Declarant, while Declarant owns any of the property described on Exhibit "A" or Exhibit "B" hereof, to lease, sell, or convey any portion of the Common Area and improvements thereon to any third party, in which case same shall cease to be used as Common area of Queens Harbor. Notwithstanding the foregoing, the Board shall have the right to enter into short-term leases and concessions having the duration of less than five (5) years with the respect to the Common Area. For instance, the Board could grant a food concession at a Community Swimming pool to a third party concessionaire, without the necessity of approval by the Members.

16.3 Actions Requiring Owner Approval. – If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Unit, then, during the Declarant Control Period, the following actions shall require the prior approval of Members representing not less than 67% of the total votes in the Association and the consent of the Declarant: Merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "A" or "B"; and dedication, conveyance, or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 16.2 or this Section, the Association may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the membership's approval.

ARTICLE XVII: Miscellaneous

17.1 Amendment. –

- a. This Declaration may be amended upon a affirmative two-thirds (2/3) Vote of the Members; provided, that is long as Declarant owns any property in the Community, or has the right to annex additional property into Queens Harbor, Declarant's consent shall be required for any such amendment. All proposed amendments shall be submitted to the vote of the Members at a duly called meeting of the Association for which notice of the proposed amendment has been given to the Members in the official Notice for the meeting, subject to the quorum requirements set forth in the Bylaws. The notice of meeting shall specifically notify the Members that the proposed amendment shall be voted on at the meeting, and the nature of such amendment. The secretary of the Association shall make the text of the proposed amendment available to the Members, upon request of any member, at least 24 hours prior to the meeting.
- b. Provided that no such amendment shall render title to any Unit unmarketable, this Declaration may also be amended unilaterally at any time by Declarant:
 - i. If such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation, judicial determination which shall be in conflict therewith;
 - ii. If such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration.
 - iii. if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, the Department of Housing and Urban

Development, the Veterans Administration, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on Units subject to this Declaration;

- iv. if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Units subject to this Declaration; or
 - v. in order to permit or facilitate condominium, townhouse, zero lot line, or similar development within any parcel annexed into Queens Harbor.
- c. Further, during the Declarant Control period, Declarant may unilaterally amend this Declaration for any other purpose which is in the opinion of the Declarant in the best interest of the Community; however, any such amendment shall not adversely affect title to any Unit without the consent of the affected Owner(s).
- d. In the event that this Declaration is amended, the text of such amendment, together with the certification of the Secretary of the Association attesting to the adoption of such amendment, and containing the consent of the Declarant, if necessary, shall be Recorded.

17.2 Validity and effective Date of Amendment. –

- a. No amendment may revoke, remove, or modify any Declarant right or privilege without Declarant's written consent (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration or the By-Laws, it shall be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party shall affect the validity of such amendment.
- b. Any amendment shall become effective upon recording, unless it specifies a later effective date. Any procedural challenge to an amendment must be made within one year of its Recording of such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstance operate to amend any provisions of this Declaration.

17.3 Enforcement and Severability. –

- a. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Declaration by any Owner or Members or agents of such Owner or Member, the Declarant or any other Owners or Members, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.
- b. In addition to the foregoing and any other remedy set out in these Covenants, the Association shall have the right to proceed at law or in the equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.
- c. The Association may engage a person or persons to respond to complaints received as to violations of the Covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Declarant or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these Covenants. Violators shall be obligated to reimburse the Declarant and/or the Association in full for all their direct and indirect costs, including but not limited to, legal fees incurred by the Association and/or Declarant in maintaining compliance with these Covenants in the event the Association and/or the Declarant, as the case may be, prevails in such proceedings.

- d. The obligations and benefits prescribed by the Covenants shall run with the property and shall be enforceable against any Owner or other person whose activities bear a relation to the Community when the aforesaid parties engage in activities (including omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.
- e. Should any covenants and restrictions herein contained, or any part, ARTICLE, Section, paragraph, sentence, clause, phrase, or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no ways affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.
- f. In all cases, the provisions of this Declaration shall be given that interpretation of construction, which will best result in the consummation of the general plan of development of the Property. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning or similar ordinance which allows a less restricted use of the Property.
- g. All action, which the Association is allowed to take under this instrument, shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.
- h. Whenever the Association, and/or the Declarant are permitted by these Covenants to preserve, correct, repair, clean, clear out, or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

17.4 Attorney's Fees and Costs. –

- a. In the event that the Association becomes involved in litigation with any Owner or Member with respect to this Declaration, the other Governing Documents, or the Community, then if the Association is the prevailing party in such litigation, it shall be entitled to recover from the other parties to said litigation (other than Declarant) the attorney fees, costs and expenses incurred by the Association in said litigation.
- b. In the event that Declarant, or any officer, or director of Declarant, becomes involved in litigation with any Owner, Member, or the Association with respect to this Declaration, the other Governing Documents, or the Community, then if Declarant or such officer or director is the prevailing party in such litigation, Declarant and/or such officer or director, as the case may be, shall be entitled to recover from the other parties to said litigation the attorneys fees, costs and expenses incurred by Declarant and/or such officer or director, as the case may be, in said litigation.

17.5 Exhibits. – Exhibit "A" and "B" attached to this Declaration are incorporated by this reference and this Article shall govern amendments of such exhibits. Exhibit "C" is incorporated by this reference and may be amended in accordance with Articles IV or in accordance with this Article. Exhibit "D" is attached for informational purposes and may be amended as provided therein.

ARTICLE XVIII: Storm Water Runoff Requirements

- 18.1 The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 050504 as issued by the Division of Water Quality under NCAC 2H.1000.

- a. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the storm water management permit.
- b. These covenants are to run with the land and be binding on all persons and parties claiming under them.
- c. The covenants pertaining to storm water may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.
- d. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.
- e. The maximum allowable built-upon area is as listed below. The allotted amount includes any built-upon area constructed with the lot property boundaries, and that portion of the right-of-way between the front Lot line and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

<u>Lots</u>	<u>Built Upon Areas per Lot</u>
6	4000 Sq. Ft
7	4000 Sq. Ft
8	4000 Sq. Ft
9	4000 Sq. Ft
10	4000 Sq. Ft
11	4000 Sq. Ft
22	4000 Sq. Ft
23	4000 Sq. Ft
24	4000 Sq. Ft
30	4000 Sq. Ft
31	4000 Sq. Ft
32	4000 Sq. Ft
33	4000 Sq. Ft
34	4000 Sq. Ft
35	4000 Sq. Ft
102	4000 Sq. Ft
103	4000 Sq. Ft
104	4000 Sq. Ft
105	4000 Sq. Ft
106	4000 Sq. Ft

Property Owners Association Lot: 1270 Sq. Ft
(also know as Common Area):

- f. Filling in or piping of any 3:1 vegetable conveyances (ditches, swales, etc.) Associated with the development except for average driveway crossings, is strictly prohibited by any persons.
- g. A thirty foot wide vegetated buffer must be maintained between all built-upon areas and the mean high water line of surface waters.
- h. All roof drains shall terminate at least thirty (30) feet from the mean high water mark of surface waters.
- i. Filling in, piping, or altering any designated 5:1 curb outlet swale associated with the development is prohibited by any person.
- j. This project proposes a curb outlet system. Each designated curb outlet swale or one hundred (100) feet vegetated area shown on the approved plan must be maintained at a minimum of one hundred (100) feet long with 5:1 (H:V) side slopes or flatter, have a longitudinal slope no steeper than five percent (5%), carry the flow from a ten (10) year storm in a non erosive manner, and maintain a dense

vegetated cover, and be located in either a dedicated common area or a recorded drainage easement.

18.2 Amendment of Maximum Built-Upon Area Per Lot.

The Developer and the Owner(s) of any lot may by an amendment to this Declaration signed only by the Developer and the Owner(s) of the Lot, reduce or increase the maximum built-upon area allotted to the Lot, provided that the total maximum built-upon area of Lots does not exceed the maximum built-upon area allowed by State Storm water management permit Number SW8 050504 Water Quality under NCAC 2H.1000, and the Division of Water Quality concurs in such amendment and notification is given to the Division of Water Quality.

18.3 Dwelling Quality and Size.

The heated space for each Dwelling area, exclusive of porches, decks, and garages shall be no less than the heated square footage on each of the following lots:

<u>Lots</u>	<u>Heated Space for Each Dwelling</u>
6	2,200 Sq. Ft
7	2,200 Sq. Ft
8	2,200 Sq. Ft
9	2,200 Sq. Ft
10	2,200 Sq. Ft
11	2,200 Sq. Ft
22	2,400 Sq. Ft
23	2,400 Sq. Ft
24	2,400 Sq. Ft
30	2,600 Sq. Ft
31	2,600 Sq. Ft
32	2,600 Sq. Ft
33	2,600 Sq. Ft
34	2,600 Sq. Ft
35	2,600 Sq. Ft
102	2,200 Sq. Ft
103	2,200 Sq. Ft
104	2,200 Sq. Ft
105	2,200 Sq. Ft
106	2,200 Sq. Ft

IN WITNESS WHEREOF, Declarant has affixed its Hand and Seal this 16th day of August, 2007.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

DECLARANT
KEYSTONE CONTRACTORS INC.

By: [Signature]

Name: Barden Lanier

Title: President

STATE OF NORTH CAROLINA

)

ACKNOWLEDGMENT

COUNTY OF ONSLOW

)

I, the undersigned notary, do hereby certify that Barden Lanier, President of Keystone Contractors Inc, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal this 16 day of August, 2007.

[Signature]
Notary Public



Commission Expires: 2/22/2011

CONSENT OF MORTGAGEE

Cooperative Bank a corporation organized and existing under the laws of the State of North Carolina and the holder of a deed of trust recorded in the Office of the Onslow County, North Carolina Register of Deeds, in Book 2851, Page 785, and Frederick Willetts, III, in his capacity as trustee under the aforesaid deed of trust, hereby consent to the execution and delivery of the foregoing Declaration of Covenants, Conditions and Restrictions, with exhibits thereto (the "Declaration"), and to the filing thereof, in the office of the Register of Deeds of Onslow County, North Carolina, and further subject and subordinate the above-described deed of trust to the provisions of the foregoing Declaration with attached exhibits (including, without limitation, any easements reserved therein).

IN WITNESS WHEREOF, Cooperative Bank a corporation organized and existing under the laws of the State of North Carolina, by its authorized officer, and the undersigned Trustee have caused this Consent to be executed this 22nd day of August, 2007.

Cooperative Bank a corporation organized and existing under the laws of the State of North Carolina.

By: Frederick Willetts III
Name: Frederick Willetts III
Title: President

Frederick Willetts III (SEAL)
Name: Frederick Willetts, III
Title: Trustee under the aforesaid Deed of Trust

STATE OF North Carolina)
COUNTY OF New Hanover) ss:

I, Patricia K. O'Quinn, a Notary Public of New Hanover County, State of North Carolina, certify that Frederick Willetts, III, personally came before me this day and, being duly sworn, acknowledged that he/she is President of Cooperative Bank a corporation organized and existing under the laws of the North Carolina and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that said writing was signed and sealed by him/her in behalf of said corporation by its authority duly given. And the President acknowledged the said writing to be the act and deed of said corporation.

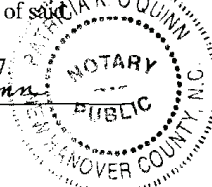
Witness my hand and official stamp or seal this 22nd day of August, 2007.

My Commission Expires:

1-3-2012

[NOTARY SEAL]

Patricia K. O'Quinn
Notary Public



STATE OF North Carolina)
COUNTY OF New Hanover) ss:

I, Patricia K. O'Quinn, a Notary Public of New Hanover County, State of North Carolina, do hereby certify that Frederick Willetts, III, Trustee, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

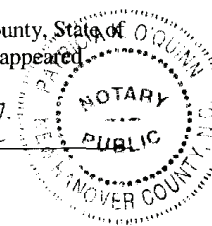
Witness my hand and official stamp or seal this 22nd day of August, 2007.

My Commission Expires:

1-3-2012

[NOTARY SEAL]

Patricia K. O'Quinn
Notary Public



LIST OF EXHIBITS

- Exhibit "A" – Land Initially Submitted as Queens Harbor Section I
- Exhibit "B" – Land Subject to Annexation
- Exhibit "C" – Initial Rules and Regulations
- Exhibit "D" – By-Laws of Queens Harbor Property Association, Inc.

Exhibit "A" - Land Initially Submitted

Section I

Being all the numbered Lots, together with the Home Owners Association Lot, and the streets that serve the Lots as shown on a map entitled "Final Plat for Queens Harbor Section I, Swansboro Township" prepared by Lanier Surveying Company, and recorded in Map Book 53 Page 230 Slide M-104 as it appears in the Onslow County Registry of Deeds Office.

Exhibit "B" – Land Subject to Annexation

All of the 58.26 Acre Tract of land as shown on a map entitled "Final Plat For Keystone Contractors, Inc, Swansboro Township" prepared by Lanier Surveying Company and recorded in Map Book 46, Page 78, Slide L-222 as it appears in the office of the Onslow County Registry of Deeds Office;

and

Any and all real property lying and being within one-half (1/2) mile from any boundary of the 58.26 Acre Tract described herein.

Exhibit "C" – Initial Rules and Regulations

The following covenants and restrictions shall apply to all of Queens Harbor until such time as they are amended, modified, repealed, or limited pursuant to Article IV or Article XVII of the Declaration:

1. **General.** – Except as specifically otherwise provided herein, Queens Harbor shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or sales office for Declarant to assist in the sale of property situated in Onslow County, North Carolina, offices for any property manager retained by the Association, and business offices for the Declarant or the Association) consistent with this Declaration and any Supplemental Declaration
2. **Restricted Activities.** – The following activities are prohibited within Queens Harbor unless expressly authorized in writing by the Board, and then subject to such conditions as the Board may impose:
 - a. **Vehicles, Boats, Etc.** – Parking any vehicle on streets or thoroughfares within the community, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, campers, trucks, golf carts, boats, and other watercraft, trailers, snowmobiles, stored vehicles, or inoperable vehicles in places other than enclosed garages; however, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to [provide service or to make delivery to a unit or the Common Area; provided, however that nothing herein shall prevent Declarant from maintaining one or more mobile homes/trailers on any Unit or Common Area of the Community during Development, for use as an office or otherwise.

The term "truck" as used herein is intended to refer to those vehicles of various sizes and designs for transporting goods, moving heavy articles or hauling quantities of cargo and which are normally used in a trade or business in which the truck is used because of its commercial capabilities and not merely as a means of transportation. This is not intended to include such dual-purpose vehicles as station wagons, jeeps, "scouts", "vans", "Waggoner", "Bronco", "Blazer" or Land Rover type vehicles or sport trucks, vans, pickup trucks, and attractive vehicles driven and maintained primarily as a means of transportation, and do not have exposed equipment, signage or supplies. No automobile or other vehicle shall be parked in any front yard or any other portion of a Unit, other than in its garage or in its driveway. Boats, watercraft and their trailers shall be stored out of sight of neighbors and the community; they may be stored in a garage.

- b. Vehicle Maintenance. – No automotive, boat, or vehicle repair or maintenance (other than washing or waxing vehicles) may take place or be performed within any Unit, parking Area, driveway, easement, Common Area, or street at any time. No derelict automobiles, vehicles, boats, equipment, or machinery may be placed or kept on any Unit at any time.
- c. Animals. – Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats (the combined number of dogs and cats not to exceed three), or other common household pets may be permitted in Unit; however, those pets which are permitted to roam free, or, in the Board's judgment, make objectionable noise, endanger the health and safety of, or constitute a nuisance or inconvenience to the occupants of other Units, shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law. No dangerous dog or other dangerous animal may be kept or maintained within the Community, including but not limited to, Bouviers des Flandres, Rottweiler, and any and all "pit bulldog" breeds. In order to preserve the aesthetic qualities of the Community, to maintain sanitary conditions of the Community, to prevent the spread of worms and infectious diseases on the Community, and to maximize the overall use and enjoyment of the Community, each person who keeps a pet within a Unit shall abide by rules and regulations established by the Declarant or the Association from time to time. The breach of any of these rules and regulations shall be a noxious and offensive activity constituting a nuisance.
- d. Objectionable Activities. - No noxious or offensive activity shall be carried on within the Community, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. There shall not be maintained any plants or device or thing of any sort, including excessively barking dogs, whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the other property in the neighborhood by the Owners thereof. Further, while it is understood that the owners will have garbage receptacles, such receptacles shall be for domestic garbage only and the Owner shall not be authorized to dispose of any hazardous waste materials on a Unit or within a Community. The term "hazardous waste materials" shall mean any substance, material, waste, gas, or particular matter which is regulated by any local government authority, the State of North Carolina, or the United States Government as a "hazardous waste", "hazardous material", "hazardous substance", or restricted "hazardous waste".
- e. Violation of Laws. – Any activity which violates local, state, or federal laws or regulations; provided, the Board shall have no obligation to take enforcement action in the event of a violation.
- f. Outside Burning. – Outside burning of trash, leaves, debris, or other materials forbidden, except during the normal course of constructing a dwelling on a Unit.

- g. Excessive Noise. – Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes. Owners shall use reasonable efforts to avoid false alarms with respect to their security systems, and shall also set alarms so that the external, audible noise made by said alarm shall terminate automatically after 15 minutes.
- h. Fireworks. – Use and discharge of firecrackers and other fireworks.
- i. Dumping. – Dumping grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within Queens Harbor, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff.
- j. Service Yards. – Each dwelling Unit shall have a visually screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks, or similar storage receptacles, electric and gas meters, air conditioning equipment, and other unsightly objects must be placed or stored in order to conceal them from the road, and other adjacent properties. Household fuel tanks must be permitted from the proper authorities and may be located outside such screened area only if located underground. Plans for such fence or screening; delineating the size, design, color, texture, appearance, and location, must be approved by the Architectural Review Board prior to construction.
- k. Obstructing Drainage. – Obstruction or re-channeling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonable interfere with the use of any Unit without the Owner's consent.
- l. Waterways. – Swimming, use of personal floatation devices, or other active use of bodies of water within Queens Harbor will not be allowed. Fishing or crabbing from the shore shall be permitted with appropriate licenses. Neither the Declarant nor the Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of bodies of water within and adjacent to Queens Harbor. (Boat Dock information pertains to Day Dock)
- m. Timesharing. – Use of any Unit for operation of a timesharing, fraction-sharing, or similar program, whether formal or informal, whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of time, except the Declarant and its assigns may operate such a program; provided, however, that this provision shall not prevent up to three (3) families from sharing a vacation home in the Community.
- n. Firearms. – Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge.
- o. Petroleum Products. – On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article V.
- p. Commercial Activities. – Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or Occupant residing in a Unit may conduct business activities within the Unit so long as: (i.) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Unit; (ii) the business activity conforms to all zoning requirements for Queens Harbor; (iii) the business activity does not involve door-

to-door solicitation of residents of Queens Harbor; (iv) the business activity does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within Queens Harbor which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the community and does not constitute a nuisance, or hazardous, or offensive use, or threaten the security or safety of other residents within Queens Harbor, as may be determined in the sole discretion of the Board. The term "business" and "trade shall be construed to have their generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of an Owner's Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Person authorized by Declarant with respect to its development, sale, or resale of real property situated in Onslow County, North Carolina, or Declarant's use of any Units which Declarant owns within Queens Harbor.

- q. Hunting or Trapping. – Capturing, trapping, or killing of wildlife within Queens Harbor, except in circumstances posing an imminent threat to the safety of persons using Queens Harbor, except that Declarant and/or the Association shall have the right to thin out the deer population or remove any animals within the neighborhood which have become, in the opinion of Declarant or the Association, undesirable or a nuisance.
- r. Damage to Environment. – Any activities that materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within Queens Harbor.
- s. Garage Conversion. – Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article V.
- t. Motorized Vehicles to be use only on Roads. – Operation of motorized vehicles on pathways or trails maintained by the Association, except that this provision shall not apply to properly authorized personnel of Declarant or the Association.
- u. Architectural Review. – Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article V of Declaration. This shall include, without limitation, landscaped or grassed areas, signs, basketball hoops, swing sets, and similar sports and play equipment; clothesline; garbage cans; woodpiles; in ground swimming pools; docks, piers, and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind. Under no circumstances shall the Architectural Review Board approve the replacement of all or a majority of the grassed area of a Unit with mulch or stone.
- v. Lighting. – Use of exterior decorative lights with a light bulb color other than white will not be permitted, except for temporary holiday displays. Temporary holiday lighting and other decorations shall be in good taste and not overdone. Furthermore, if a holiday display creates a significantly increased traffic flow within the community, the Unit's Owner or occupant responsible for such display shall remove it upon request of the Board. If the Owner or Occupant does not remove such display within a reasonable time, the Board may remove the display.
- w. Camping. – No camping shall be permitted on any Unit.

- x. Laundry. – In order to preserve the aesthetic features of the architecture and landscaping, each Owner, his or her family, his or her guests, or his or her tenants, shall not hang laundry from any area within public view.
- y. Subdivision of Lots. –
 - 1) No lot shall be subdivided, or its boundary lines changed, except with the written consent of the Architectural Review Board. However, the Declarant hereby expressly reserves to itself, its successors and assigns, the right to re-plat any lot and to take such other steps as are reasonably necessary to make such re-platted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, right-of-way, private roads, bridges, parks, recreational facilities, and other lots.
 - 2) The provisions of this section shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot or dividing a lot between adjacent properties so long as the effect of subdividing does not create an additional lot for building purposes. Following the combining of two (2) or more lots into one (1) larger lot, or dividing adjacent lots, only the exterior boundary lines of the resulting larger lots shall be considered in the interpretation of these covenants. Consolidation of lots, as described above, must be approved by the Architectural Review Board and shall be subject to one Association Membership.
- z. Residential Height. – No residential dwelling shall exceed three (3) stories in height.
- aa. Driveways. – All driveways shall have a surface of concrete, asphalt, or brick, unless otherwise approved by the Architectural Review Board.
- bb. Garage Doors. – All garages must have garage doors, which shall be kept closed except for entering and exiting.
- cc. Limited Access to Lots. – The Owner, in accepting title to property conveyed subject to the covenants and restrictions of this Declaration, waives all rights of uncontrolled and unlimited egress and ingress to such property (and waives such right for any person claiming entry rights by virtue of any relationship or permission of such Owner and successors-in-title) and agrees that such ingress and egress to its property shall be limited to roads, driveways, alleys, etc., built by the Declarant. No Owner may use its Unit, or allow the use of the Unit, as an access to the streets of the Community from adjoining property, except with the written consent of the Association and, during the Declarant Control Period, the consent of the Declarant.
- dd. Roadway Regulation. – In order to provide for safe and effective regulation of traffic, the Declarant reserves the rights to dedicate any street in the Community to public use, and or to convey such street to any government entity.
- ee. Vehicles to Be Licensed. – All motorized vehicles, except golf carts, must be licensed; and a licensed operator must operate all motorized vehicles.
- ff. “No Parking” Zones. – The Declarant, or the Association after title to the struts and roadways has passed to it from the Declarant, may post “no parking” signs along the streets and roadways within Queens Harbor where it, in its sole discretion, determines appropriate to do so. Violators of said “no parking” signs are subject to having their vehicles towed away and shall be required to pay the cost of such towing and storage before their vehicle may be recovered. The act of towing said vehicle shall not be deemed a trespass or a violation of the Owner’s property rights, because the Owner shall be deemed to have consented to such action by accepting the right to use the roads and streets within Queens Harbor.

- gg. Minimize Construction Disturbances. – During any construction on a Lot, the owner and the contractor shall maintain the construction site in a clean and uncluttered condition, and construction may not commence before 7:00 a.m. or be continued after 7:00 p.m. Monday through Saturday, and is not permitted on Sunday. Declarant may promulgate rules governing construction activities that may limit construction activities at certain times e.g. holidays, tournaments and promotional events.
- hh. Temporary Structures, Outbuildings, and Construction Site Cleanup: – No structure of a temporary character shall be placed upon a Lot at any time; provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of any main building; it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or be permitted to remain on said Lot after completion of construction and must, during construction, be subject to continuous cleanup. After completion of construction, it shall be the sole responsibility of the Owner to insure that all temporary structures are removed immediately and that the site is cleaned up and placed in good order. The design size and color of structures temporarily placed on said Lot by a contractor or subcontractor shall be subject to the reasonable aesthetic approval of the Architectural review Board.
- ii. Flags. – The flying of the American flag shall be permitted, so long as it is of a reasonable size. The flying of any other flags is subject to the approval of the Architectural review Board.
- jj. Landscaping Maintenance. – No weeds, underbrush, or other unsightly vegetation shall be permitted to grow or remain upon any Unit and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All Units and any improvements placed thereon shall at all times be maintained in a neat and attractive condition. Landscaping shall be maintained in a neat, attractive, and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake/conservancy/water/marsh maintenance. In order to implement effective control, Declarant and/or Association, their agents and assigns, shall have the right to enter upon any Unit for the purpose of mowing, pruning, removing, clearing, or cutting underbrush, weeds, or other unsightly growth and trash, which in the opinion of the Architectural Review Board detracts from the overall beauty and safety of the Community, in accordance with the provisions of these Covenants, and, further, to conduct such landscaping and landscaping maintenance activities as may be authorized as a common expense under these Covenants and the By-Laws. In the event that Declarant or the Association deems it necessary to enter upon any Unit to correct an unsightly, unkempt, or unsafe condition, as set forth above, all expenses incurred in such corrective action shall be the responsibility of the Owner, and such expenses may be charged and collected in like manner against such Owner as an assessment obligation. Further Declarant may enter upon any unimproved unit and mow it as needed. As an additional assessment, all Owner's of unimproved Units shall pay the sum of ONE HUNDRED FIFTY DOLLARS (\$150.00) PER YEAR to the Association, said sum to be specifically used to have unimproved Units mowed, and said mowing assessment shall be secured by a lien on the affected Unit(s), and which shall be subject to collection, in the same manner as the other assessments provided for herein,. Said sum may be increased from time to time, as the Board deems necessary.
- kk. Use of Trademark. – Each Owner, by acceptance of a deed to any lands, tenements or hereditaments within the Property hereby acknowledges that "Queens Harbor", "Queens Harbor Property Owners Association" and designs are service marks and trademarks of the Declarant. Each Owner agrees to refrain from misappropriating or infringing these service marks or trademarks.

- 3. Prohibited Conditions. - The following shall be prohibited within Queens Harbor:

- a. Nuisances. – Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Queens Harbor;
 - b. Disrepair. – Structures, equipment, or other items on the exterior portions of a Unit, which have become rusty, dilapidated, or otherwise fallen into disrepair;
 - c. Wells. – Installation of any sprinkler or irrigation systems or wells of any type, other than those installed by Declarant or a Declarant approved builder, which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Queens Harbor, except that Declarant and the Association shall have the right to draw water from such sources. Owners shall have the right to install irrigation systems, which do not draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Queens Harbor;
 - d. Satellite Dishes; Antennas. – Satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit for all or a portion of Queens Harbor; and (i) satellite dishes designed to receive direct broadcast satellite service which are two feet or less in diameter; (ii) satellite dishes designed to receive video programming services via multi-port distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennas designed to receive television broadcast signals (i), (ii), and (iii), collectively, “Permitted Devices”) shall be permitted; provided, however, any such Permitted Devices must be placed in the least conspicuous location on the Unit (generally being the rear yard) at which an acceptable quality signal can be received and is not visible from the street, Common Area, or neighboring property or is screened from the view of Adjacent Units in a manner consistent with the Community-Wide Standards and the Architectural Guidelines; and
 - e. Exterior Decorations. – Installation of exterior decorative items, including but not limited to statuary or foundations and “yard art”, unless specifically approved by the Architecture Review Board.
4. Leasing of Units. – “Leasing”, for purposes of this paragraph, is defined as regular, exclusive occupancy of a Unit or a detached guest house or garage apartment by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term; however, in no case shall such term be shorter than six months. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Governing Document.
5. Construction Requirements. –
- a. All work on any structure in the subdivision must be performed by a building contractor properly licensed by the State of North Carolina and in good standing as the time of construction. All construction must meet all county and state building codes, and in no event shall a structure be placed within the subdivision that does not meet, at a minimum, the requirements as set forth by the Council of American Building Officials (CABO).
 - b. Easements for the installation and maintenance of utilities and drainage facilities will be reserved along all front, rear and side lot line. The Supplemental Declaration filed to annex each phase into the Community shall designate such easements, or the same may be shown on the subdivision plat(s).
 - c. Each Owner is Responsible for requiring the general contractor or subcontractor working on his property to keep all construction debris, including mud from construction vehicles, from fouling the public streets. The Owner at the Owner's

expense will remove any such debris deposited on the streets within (24) twenty-four hours. Any damage caused by the Unit owners action or his contractor shall be replaced or repaired to the satisfaction of the Architectural Review Board, and in the event that the homeowners fail to do so within a reasonable time, the Association may make such repairs or replacements and charge same to the homeowner. In the event the payment for such repairs/replacement shall be secured by a lien on the homeowner' property in favor of the Association, this lien shall include reasonable attorney fees for enforcing the provisions of this subparagraph.

- d. All sewage disposal systems will be designated, located, and constructed in accordance with the requirements, standards, and recommendations of the Onslow County Health Department and the State of North Carolina. The Owner will obtain all necessary approvals and permits prior to installing such septic tank. When Public sewer becomes available to any Unit, such Unit shall, within One (1) year thereafter, connect to public sewer. Each Owner shall be responsible for the sewer tap fee or other connection charge with respect to its connection to such public sewer.
 - e. No Unit or Common Area shall be used or maintained as a dumping ground for rubbish. Each Owner is required to keep his property in a neat manner, free of trash, rubbish, and debris. All waste shall be kept in containers and such containers shall be screened so as not to be visible from the streets or public areas.
6. Garbage and Refuse Disposal. – No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be burned or disposed of on any Lot and shall be kept in sanitary containers approved by the Architectural Committee. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be approved by the Architectural Review Committee and, in any event, shall be kept in an enclosed area not subject to view from any person, from any direction. The Declarant reserves the right for itself, its successors and assigns, to contract for garbage services to the company providing the same.
 7. Common Control Area. – The Association shall govern any and all repairs, replacements, maintenance, and painting of the Common Control Areas.
 8. Sight Distances at Intersections. – No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the site triangular area formed by the street property lines and a line connection from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property line extended as shown on the recorded plat. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain with such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
 9. Street Lighting Agreement. – The developer reserves the right to subject the real property in this subdivision to a contract with an electric utility company for the installation of underground electric cables, and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to an electric utility company by the owner of each dwelling.

Exhibit "D" – By-Laws of Queens Harbor Property Owners Association, Inc.

ARTICLE I: NAME, OFFICE, AND DEFINITIONS

- 1.1 Name. – Queens Harbor Property Association, Inc. ("Association").
- 1.2 Principal Office. – The Association's principal office shall be located in Onslow County, North Carolina. The Association may have such other offices, either within

or outside the state of North Carolina, as the Board of Directors may determine or as the Association's affairs require.

- 1.3 **Definitions.** – The words used in these By-Laws shall be given their commonly understood definitions. Capitalized terms shall have the same meaning as in that Declaration of Covenants, Conditions, and Restrictions for Queens Harbor filed in the Office of the Clerk of the Circuit Court of Onslow County, North Carolina, as it may be amended or supplemented from time to time ("Declaration"), unless the context indicates otherwise.

ARTICLE II: ASSOCIATION, MEMBERSHIP, MEETING, VOTING

2.1 Membership. –

- a. The Association shall have two (2) types of regular voting memberships:
- 1) **TYPE "A"** – Type "A" Members (also known as Class "A" Members) shall be all those Owners of Units other than the Declarant. A Type "A" Member shall be entitled to one (1) vote for each Unit which he owns; provided, that in the event that more than one lot has been consolidated into one building site, such lots, in the aggregate, shall be considered one Unit for voting purposes, and shall entitle the owner thereof to only one vote, for so long as such additional lot is a part of such consolidated building site.
 - 2) **TYPE "B"** – Type "B" Members (also known as Class "B" Members) shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Unit owned by Declarant, plus one (1) additional vote:
- b. **EXCEPT AS SPECIFICALLY PROVIDED IN ARTICLE III OF THE BY-LAWS OF THE ASSOCIATION, DURING THE DECLARANT CONTROL PERIOD, ALL VOTES BY TYPE "A" MEMBERS SHALL BE ADVISORY ONLY, AND SUCH ADVISORY VOTES SHALL NOT BE COUNTED IN DETERMINING ANY VOTE OF THE MEMBERS, CONSENT BY THE MEMBERS, OR OTHER ACTION OR DETERMINATION BY THE MEMBERS. DURING SUCH DECLARANT CONTROL PERIOD, ONLY VOTES BY TYPE "B" MEMBERS SHALL BE COUNTED IN DETERMINING ANY VOTE OF THE MEMBERS, CONSENT BY THE MEMBERS OR OTHER ACTION OR DETERMINATION BY THE MEMBERS. UPON THE EXPIRATION OF THE DECLARANT CONTROL PERIOD, BOTH TYPE "A" AND TYPE "B" MEMBERS SHALL BE ENTITLED TO HAVE THEIR VOTES COUNTED IN DETERMINING ANY VOTE OF THE MEMBERS, CONSENT BY THE MEMBERS, OR THEIR ACTION OR DETERMINATION BY THE MEMBERS.**
- c. At no time shall any Type "A" membership vote be exercised for any property that is exempt from assessment under Section 9.9.
- d. In any situation where a Member is entitled to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the Vote for such Unit shall be exercised as the Co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice the Unit's Vote shall be suspended if more than one Person seeks to exercise it.
- e. Other provisions in the Declaration regarding the voting by Members are incorporated herein by reference.
- 2.2 **Place of Meetings.** – Association meetings shall be held at the Association's principal office or at such other suitable place convenient to the Members as the Board may designate.
- 2.3 **Annual Meetings.** – The first Association meeting, whether a regular or special meeting, shall be held not later than one year after the first sale of a Unit within the Community to an Owner other than a Builder or Developer purchasing primarily for development or resale in

the ordinary course of such Person's business. Meeting shall be of the Members. Subsequent regular annual meetings shall be held each year at a time set by the Board.

2.4 Special Meetings. – The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association is so directed by resolution of the Board or upon a petition signed by at least 25% of the Members (the consent of the Declarant shall not be required). The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

2.5 Notice of Meetings. –

- a. It shall be the duty of the Secretary to mail or to cause to be delivered to the Owner of each Unit (as shown in the records of the Association), as well as the Declarant, a notice of each annual or special meeting of the Association stating the time and place where it is to be held and in the notice of a special meeting, the purpose thereof. If an Owner wishes notice to be given at an address other than the Unit, the Owner shall designate by notice in writing to the Secretary such other address. The mailing or delivery of a notice of a meeting in the manner provided in this Section shall be considered service of notice. Notices for annual and special meetings shall be served at least 15 days but not more than 60 days in advance of such meeting.
- b. If mailed, the notice of a meeting shall be deemed to be delivered upon the earliest of: (a) the date received; (b) five (5) days after its deposit in the United States Mail, as evidenced by its postmark, if mailed by first class postage affixed; (c) the date shown in the return receipt, if mailed by registered or certified mail, return receipt requested, and signed by or on behalf of the addressee or (d) fifteen (15) days after its deposit in the United States Mail, as evidenced by the postmark, if mailed with other than first class, registered, or certified postage affixed, or (e) one (1) day after being accepted by an overnight delivery service such as Federal Express, properly addressed and with proper and complete arrangements made for overnight delivery of same, including arrangements acceptable to such overnight delivery service for payment.
- c. A written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to Members constitutes a written notice or report if addressed or delivered to the Member's address shown in the Association's current list of Members, or in the case of Members who are residents of the same household and who have the same address in the corporation's current list of Members, if addressed or delivered to one of such members, at the address appearing on the current list of Members.

2.6 Waiver of Notice. – Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice either before or after such meeting. Member attendance at a meeting shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7 Adjournment of Meetings. – If any meetings of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business, which might have been transacted at the meeting originally called, may be transacted without further notice.

2.8 Voting. – The Declaration shall set forth the Members' voting rights; such voting rights provisions are specifically incorporated by this reference.

2.9 Proxies. – At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of

each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of such member's Unit, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of 11 months from the date of the proxy.

- 2.10 Majority. – As used in these By-Laws, the term “majority” shall mean those votes, members, or other group as the context may indicate totaling more than 50% of the total eligible number.
- 2.11 Quorum. – The presence, in person or by proxy, of 20% of the total eligible Association vote shall constitute a quorum at all meetings of the Association. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.
- 2.12 Conduct of Meetings. – The President shall preside over all Association meetings, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.
- 2.13 Action Without a Meeting. – Any action to be taken at a meeting of the Members, or which may be taken at a meeting of the Members, may be taken without a meeting if written consents setting forth the action so taken are signed by Members eligible to vote on the question holding at least 80% of the Association's voting power with respect to such question. Action taken without a meeting shall be effective on the date that the last consent is executed or, if required, the date Declarant consents to the action, unless a later effective date is specified therein. Each signed letter of consent shall be delivered to the Association and shall be included in the minutes of the meetings of Members filed in the permanent records of the Association.
- 2.14 Action by Ballot. –
- a. Any Action that may be taken at any annual, regular, or special meeting of Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. Written notice describing the matter to be voted upon, a ballot, and other material necessary to insure voting control and Member privacy shall be sent by mail to all Members eligible to vote not less than twenty (20) days, nor more than forty (40) days before the date established by the board for counting votes. Notice shall be deemed complete and delivered when deposited in the United States Mail, with appropriate and necessary postage affixed, addressed to the Member at his or her address as it appears on the records of the Association.
 - b. A written ballot shall:
 - 1) Set forth each proposed action; and
 - 2) Provide an opportunity to vote for or against each proposed action.
 - c. Approval by written ballot pursuant to this section is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total numbers of votes cast was the same as the number of votes cast by ballot.
 - d. All solicitation for votes by written ballot shall:
 - 1) Indicate the number of responses needed to meet the quorum requirements;
 - 2) State the percentage of approvals necessary to approve each matter other than election of directors; and
 - 3) Specify the time by which a ballot must be received by the Association in order to be counted.

- e. A written ballot may not be revoked after it is submitted.
- f. Members shall cast their votes subject to their voting rights as defined in the Declaration and Section 2.1 of the By-Laws. They shall record their vote by marking and returning the ballot as instructed thereon. Specific voting instructions and materials shall insure that only ballots from eligible voters are counted, and that the privacy of the individual Member is maintained.
- g. Ballots marked and returned in accordance with instructions shall be counted, and totals certified, either:
 - 1) By a volunteer group of Members not currently serving on the board of Directors and selected by the Nominating Committee; or
 - 2) By a professional firm employed for that purpose.
- h. Voting results shall be given to the Board that will announce the results to the Membership.

ARTICLE III: BOARD OF DIRECTORS: NUMBER, POWERS MEETINGS

- 3.1 Governing Body; Composition. – A board of directors, each of whom shall have one equal vote, shall govern the Association's affairs. Except with the respect to directors Declarant appoints during the Declarant Control Period, the directors shall be Members or residents; however, no two Owners or residents representing the same Unit may serve on the board at the same time. A "resident" shall be any person 18 year of age or older whose principal residence is a Unit within the Community. In the case of a Member which is not an individual, any officer, director, partner, member, or manager of a limited liability company, or trust officer of such Member shall be eligible to serve as a director unless a written notice to the Association signed by such Member specifies otherwise; however, no Member may have more than one such representative on the Board at a time, except in the case of directors Declarant appoints.
- 3.2 Number of Directors. – The Board shall consist of three to seven directors, as provided in Section 3.3 below. The initial Board shall consist of three (3) directors and shall be appointed by the Declarant.
- 3.3 Nomination and Election Procedures. –
 - a. Notwithstanding any other provision hereof, during the Declarant Control Period, the following provisions shall apply to the election of directors of the Association:
 - 1) Until the Declarant has sold **50 lots in the Community**, Declarant shall have the right to appoint all three directors of the Association.
 - 2) Upon the sale of **75 lots** in the Community, the Members (both Class "A" Members and Class "B" Members, in the aggregate) shall be entitled to vote to elect one (1) director, and the Declarant shall be entitled to appoint the remaining two (2) directors.
 - 3) Upon the sale of 100 lots in the Community, the number of directors shall be increased to five (5). The Members (both Class "A" Members and Class "B" Members, in the aggregate) shall be entitled to vote to elect two (2) directors, and the Declarant shall be entitled to appoint the remaining three (3) directors.
 - 4) At the end of Declarant Control period, the number of directors shall be increased to seven (7), all of who shall be elected by the Members (both Class "A" Members and Class "B" Members, in the aggregate).
 - 5) Declarant shall be entitled to remove any director appointed by it, and to appoint such director's replacement.

- 6) Directors elected by the Members (Class “A” Members and Class “B” Members, in the aggregate) shall be known as “Member-Elected Directors”.

- b. Nomination of Directors. – Except with respect to directors Declarant appoints during the Declarant Control Period, a “Nominating Committee” shall make nominations for election to the Board. The Nominating Committee shall consist of a Chairman, who shall be a Board Member, and three or more Members or representatives of Members. The Board shall appoint the Nominating Committee not less than 30 days prior to each election to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such election. The nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled as provided in Section 3.3(a) above. Nominations shall also be permitted from the floor. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity that exists within the pool of potential candidates. All candidates shall have the reasonable opportunity to communicate their qualifications to the Members and solicit votes.
- c. Election procedures. – Each Member may cast the entire vote assigned to his Unit for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Nothing herein shall prohibit any director from being re-elected.

3.4 Election and Term of Office. – Member-elected directors shall be elected and hold office as follows:

- a. Member-elected directors shall be elected at the Association’s annual meeting. All eligible members of the Association shall vote on all directors to be elected, and the candidate(s) receiving the most votes shall be elected.
- b. The initial Member-elected director shall be elected for a two-year term. At such time as the Members are permitted to elect a second director, that director shall be elected for either a one or a two-year term. Whether such initial term shall be a one or a two-year term shall be determined by the Board in a manner so as to stagger the terms of the first and second Member-elected directors. Similarly, when additional Member-elected directors are added as specified in Section 3.3(a) above, their initial terms shall be for either one or two year terms, as determined by the Board in order to provide for staggered terms. At the expiration of the initial term of office of each respective member-elected director, a successor shall be elected for his seat, to serve for a term of two years. The directors shall hold office until the Association has elected their respective successors.

3.5 Removal of Directors and Vacancies. –

- a. At any regular or special meeting of the Association duly called, any one or more of the Member-elected directors may be removed, with or without cause, by a vote of the majority of the members and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Members shall be given at least ten days notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.
- b. In the event of the death, disability, or resignation of a Member-elected director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.
- c. This Section shall not apply to directors appointed by Declarant. Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director it has appointed. Declarant shall

also be entitled to remove any director appointed by Declarant and appoint a successor for the director so removed.

- 3.6 Organizational Meetings. – The Board shall hold an organizational meeting within 10 days following each annual Association meeting at such time and place the Board shall fix.
- 3.7 Regular Meetings. – The Board may hold regular meeting at such time and place a majority of the directors shall determine, but the Board shall hold at least four such meetings during each fiscal year with at least one per quarter. The Board shall give notice of the time and place of a regular meeting to each of the directors not more than six days prior to the meeting; provided, the Board need not give notice of a meeting to any director who has signed a waiver of notice or a written consent to holding the meeting.
- 3.8 Special Meetings. – The Board may hold special meetings when called by written notice signed by the President, the Vice President, or any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonable be expected to communicate such notice promptly to the director; (d) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission, or (e) by recognized overnight delivery service such as Federal Express. All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by First Class Mail shall be deposited into a United States mailbox at least six business days before the time set for the meeting. Notices given by personal delivery, telephone, or electronic communication shall be delivered or communicated at least 72 hours before the time set for the meeting. Notices given by overnight delivery service shall be deposited with such delivery service at least 4 days prior to the date of the meeting, with arrangements made for overnight delivery of the same.
- 3.9 Waiver of Notice. – The transaction of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.
- 3.10 Telephonic Participation in Meetings. – Members of the Board or any committee the Board designates may participate in a meeting of the board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section shall constitute presence at such meeting.
- 3.11 Quorum of Board of Directors. – At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless the By-Laws or the Declaration specifically provide otherwise. A meeting at which a quorum is present initially may continue to transact business, notwithstanding the withdrawals of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the board cannot hold a meeting because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time no less than five or more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact without further notice any business which it might have contracted at the original meeting.

- 3.12 Compensation. – Directors shall not receive any compensation from the Association for acting as such. The Association may reimburse any director for expenses incurred on the Association's behalf. Nothing herein shall prohibit the Association from compensating a director, or any entity with which the director is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director makes his or her interest known to the Board prior to entering into such contract and a majority of the Board, excluding the interested director, approves such contract.
- 3.13 Conduct of Meetings. – The President shall preside over all Board meetings, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.
- 3.14 Open Meetings. – Subject to the provisions of Section 3.15, all Board meetings shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless a director requests permission for that person to speak. In such case, the President may limit the time such person may speak. Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive sessions, and may exclude persons other than directors. Only the following matters are open for discussion in executive session:
- a. Matters pertaining to Association employees or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the Association;
 - b. Consultation with legal counsel regarding disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
 - c. investigative proceedings concerning possible or actual criminal conduct;
 - d. matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure; and
 - e. any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.
- 3.15 Action Without a Formal Meeting. – Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.
- 3.16 Powers. – The Board shall have all of the powers and duties necessary for managing the Association's affairs and for performing all responsibilities and exercising all of the Association's rights as set forth in the *Governing Documents* as provided by law. The Board may do or cause to be done all acts and things as are not by the *Governing Documents* or North Carolina Law directed to be done and exercised exclusively by the Members or the membership generally.
- 3.17 Duties. – The Board's duties shall include, without limitation:
- a. causing to be prepared and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses and any Neighborhood Expenses;
 - b. levying and collecting assessments from the Owners;
 - c. providing for the operation, care, upkeep, and maintenance of the Area of Common responsibility and entering into agreements with adjacent property owners to allocate maintenance responsibilities and costs of certain public rights-of-way and other property within or adjacent to Queens Harbor.

- d. designating, hiring, and dismissing the personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- e. depositing funds received on the Association's behalf in a bank depository which it shall approve, and using such funds to operate the Association; provided, and reserve fund may be deposited, in the director's business judgment, in depositories other than banks;
- f. making and amending Rules and Regulations in accordance with the Declaration;
- g. opening of bank accounts on behalf of the Association and designating the signatories required;
- h. making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;
- i. enforcing the Governing Documents and bringing or defending any proceedings which may be instituted on behalf of or against any Owner(s) concerning the Association or the Community; provided, the Association's obligation in this regard shall be conditioned in the manner provided in Section 8.5 of the Declaration;
- j. obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying costs thereof, and filing and adjusting claims, as appropriate;
- k. paying for services rendered to the Association;
- l. keeping books with detailed accounts of the receipts and expenditures of the Association;
- m. making available to any prospective purchaser of a Unit, and Owner, and the holders, insurers, and guarantors of any mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- n. permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Community;
- o. indemnifying an Association director, officer, or committee member, or former Association director, officer, or committee member to the extent such indemnify is required by North Carolina law, the Articles of Incorporation, or the Declaration.

3.18 Right of Declarant to Disapprove Actions. – So long as Declarant has the right unilaterally to annex property under Section 10.1 of the Declaration, Declarant shall have the right to disapprove any action, policy, or program of the Association, the Board, and any committee which in the Declarant's sole judgment, would tend to impair rights of Declarant or Builders under the Declaration or these By-Laws. Interfere with the development or construction of any portion of the Community, or diminish the level of services the Association provides.

- a. The Association shall give Declarant written notice of all meetings and proposed actions approved at meetings 9or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Section 3.7, 3.8, 3.9, and 3.10 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

- b. The Association shall give Declarant the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.
- c. No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsection (a) and (b) above have been met.
- d. Declarant, its representatives, or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. Declarant, acting through any officer, director, agent, or authorized representative, may exercise its right to disapprove at any time within 15 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 15 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of the Board, the Association, or any committee. Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.19 Management. – The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. Declarant or an affiliate of Declarant may be employed as managing agent or manager. The Board may delegate to one of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

3.20 Accounts and Reports. – The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- a. accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- b. accounting and controls should conform to generally accepted accounting principles;
- c. the Association's cash accounts shall not be commingled with any other accounts;
- d. the managing agent and employees of the Association shall accept no remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;
- e. the managing agent shall disclose to the Board promptly any financial or other interest which the managing agent may have in any firm providing goods or services to the Association;
- f. an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant. During the Declarant Control Period, the annual report shall include certified financial statements.

3.21 Borrowing. – The Association shall have the power to borrow money for any legal purpose; however, the Board shall obtain Member approval in the same manner provided in Section 9.2 of the Declaration for Special Assessments if the purposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year. No Mortgage

lien shall be placed on any portion of the Common Area without and affirmative 67% Vote of the Association.

- 3.22 Right to Contract. – The Association shall have the right to contract with any Person for the performance of various duties and functions. The right shall include, without limitation, the right to enter into common management, operational, or other agreements with residential or nonresidential owners' associations within and outside the Community; however, any common management agreement shall require the Board's consent.
- 3.23 Enforcement. – In addition to such rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonably monetary fines, which shall constitute a lien upon the Unit of the violator, and to suspend an Owner's right to vote for a violation of a duty imposed under the Governing Documents. In addition, the Board may suspend any services the Association provides to an Owner or an Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, tenant, employee, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the Association shall first assess the fine against the occupant, tenant, employee, guest, or invitee; however, if the occupant does not pay the fine within the time period the Board sets, the Owner shall pay the fine upon notice from the Association. The Board's failure to enforce any provision of the governing Documents shall not be deemed a waiver of the Board's right to do so thereafter.
- a. Notice. – Prior to imposition of certain sanctions requiring notice under the Declaration, the Board or its delegates shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice may be imposed; however, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.
- b. Hearing. – If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirements shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.
- c. Additional Enforcement Rights. – Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, towing vehicles that are in violation of parking rules) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all the costs, including reasonable attorney's fees actually incurred. Any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed as trespass.
- d. In no event shall the Declarant be subject to any fine or other action sanction under this Section.

3.24 Board Standards. –

- a. While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a director from personal liability so long as the director (a) serves in a manner the director believes to be in the best interests of the Association and the Members; or (b) serves in good faith.
- b. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.
- c. The burden of proof in any challenge to an action or inaction by a director shall be on the party asserting liability.
- d. The operational standards of the Board and any committee the Board appoints shall be the requirements set forth in the Governing Documents or the minimum standards which Declarant, the Board, and the Architectural Review Board may establish.

3.25 Board Training Seminar. – Each director is encouraged to complete a board training seminar within such director's first six months of directorship. Such seminar shall educate the directors about their responsibilities and duties. The seminar may be in live, video, or audio tape, or other format.

ARTICLE IV: OFFICERS

- 4.1 Officers. – The Association's officers shall be a President, Vice President, Secretary, and Treasurer, all of whom shall be appointed by the board. The President and Secretary shall be elected from among the Board Members; other officers may, but need not be Board Members. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it deems desirable, such officers to have such authority and perform such duties as the Board prescribes. The same person may hold any two or more offices, except the offices of President and Secretary. Moreover, the Secretary shall be responsible for preparing minutes of all directors' and members' meetings and for authenticating records of the corporation.
- 4.2 Elections and Term Office. – The Board shall elect the officers of the Association at the first Board meeting following each annual meeting of the Members, to serve until their successors are elected.
- 4.3 Removal and Vacancies. – The Board may remove any officer whenever in its judgment the Association's best interest will be served, with or without cause, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.
- 4.4 Powers and Duties. – The Association's officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Secretary shall prepare, execute, certify, and Record Amendments to the Declaration as provided in Article XVII of the Declaration. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.
- 4.5 Resignation. – Any Officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- 4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. – All agreements, contracts, deeds, leases, checks, and other Association instruments shall be executed by at least two officers or by such other person or persons as a Board resolution may designate.

- 4.7 Compensation. – Officer's compensation shall be subject to the same limitations as director's compensation under Section 3.12.

ARTICLE V: COMMITTEES

The Board may appoint such committee as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

ARTICLE VI: MISCELLANEOUS

- 6.1 Fiscal Year. – The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.
- 6.2 Parliamentary Rules. – Except as may be modified by Board resolution, Robert's Rules of Order (the then current edition) shall govern the conduct of Association proceedings when not in conflict with North Carolina law or the Governing Documents.
- 6.3 Conflicts. – If there are conflicts between the provisions of North Carolina law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of North Carolina law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.
- 6.4 Books and Records. –
- a. Inspection by Members and Mortgagees. – The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first mortgage on a Unit, any Member, or the duly appointed representative of any foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, including and amendments, any supplemental Declarations, the rules and regulations, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the Association's office or at other place within the community as the Board shall designate.
 - b. Rules for Inspection. – The Board shall establish rules with respect to:
 - 1) Notice to be given to the custodian of the records;
 - 2) Hours and days of the week when such an inspection may be made; and
 - 3) Payment of the cost of reproducing copies of the documents requested.
 - c. Inspection by Directors. – Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties the Association owns and control. The director's right of inspection included the right to make a copy of relevant document at the Association's expense.
- 6.5 Notices.
- a. Unless the Declaration or these By-Laws otherwise provide, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally, if sent by United States Mail, first class postage prepaid, or if sent by recognized overnight delivery service, such as Federal Express:
 - 1) If to a Member, at the address which the member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member; or

- 2) If to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.
- b. If mailed, the notice shall be deemed to be delivered upon the earliest of:
- 1) The date received;
 - 2) Five (5) days after its deposit in the United States mail, as evidenced by its postmark, if mailed with first class postage affixed;
 - 3) The date shown on the return receipt, if mailed by registered or certified mail, return receipt requested, and signed by or on behalf of the addressee;
 - 4) Fifteen (15) days after its deposit in the United States mail, as evidenced by the postmark, if mailed with other than first class, registered, or certified postage affixed; or
 - 5) One (1) day after being accepted by an overnight delivery service such as Federal Express, properly addressed and with proper and complete arrangements made for overnight delivery service for payment.
- c. A written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to Members constitutes a written notice or report if addressed or delivered to the Member's address shown in the Association's current list of Members, or in the case of Members who are residents of the same household and who have the same address in the corporation's current list of Members, if addressed or delivered to one of such members, at the address appearing on the current list of members.

6.6 Amendment. –

- a. By Declarant. – During the Declarant Control period, Declarant unilaterally may amend these By-Laws for any purpose. Thereafter, Declarant or the Board (with Declarant's consent) unilaterally may amend the By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; provided, any such amendment shall not adversely affect the title to any Unit unless the owner shall consent thereto in writing.
- b. By Members Generally. – Except as provided above, these By-Laws may be amended upon approval by majority Vote of the members, and, during the Declarant Control Period, the consent of Declarant. In addition, the approval requirements set forth in Article XVI of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.
- c. Validity and Effective Date of Amendments. – Amendments to these By-Laws shall become effective upon recordation, unless the amendment specifies a later effective date. Any Procedural challenge to an amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws. The Secretary shall prepare, execute, certify, and record amendments to the By-Laws. No amendment may remove, revoke, or modify any of Declarant's Rights or privileges without its written consent.