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Register of Deeds  
BOOK 385 PAGE 783

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
ORIENTAL HARBOR VILLAGE MARINA,  
A Condominium

RETURNED TO *Paul Creech*  
DATE RETURNED 10-18-02

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**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
(hereinafter the "Declaration") is made this 9<sup>th</sup> day of October, 2002 by **ORIENTAL HARBOR MARINA, INC.**, a North Carolina corporation (hereinafter the "Declarant").

**STATEMENT OF PURPOSE**

WHEREAS, Declarant is the owner of certain real property in Oriental, Pamlico County, North Carolina, more particularly described in EXHIBIT A attached hereto and incorporated herein by reference (the "Real Property"); and,

WHEREAS, Declarant is also the lawful grantee and owner of that certain easement which encompasses the Marina Basin, defined below, including riparian rights on, over and under the waters of Smith Creek, which easement was granted by the State of North Carolina and recorded August 16, 2002 in Deed Book 383, Page 141, Pamlico County Registry, (referenced herein and defined below as the "Deed of Easement" or "Marina Basin Easement"); and,

WHEREAS, Declarant desires to build a marina and other related facilities and improvements that may be permitted on, over, under, and within the Deed of Easement area of Smith Creek, including but not necessarily limited to docks, piers, pilings, boat slips, boardwalks, utilities, and other improvements and amenities serving the marina Project (defined below) together with any other property on land or water owned or which may be acquired by Declarant and made subject to this Declaration by annexation; and,

WHEREAS, the project name is "Oriental Harbor Village Marina," a condominium (hereinafter referred to for convenience as "Oriental Harbor"); and,

WHEREAS, Declarant desires to insure the attractiveness of Oriental Harbor and to prevent any future impairment thereof, and prevent nuisances, and preserve, protect and enhance the values and amenities of all properties and facilities within the marina Project and to provide for the maintenance and upkeep of all Common Areas and easement areas as part of Oriental Harbor; and ,

WHEREAS, for these reasons, the Declarant desires to submit and subject the Property (defined below), together with such additions or deletions of other property hereafter made subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set

forth, each and all of which is and are for the benefit of the Project and the benefit of each Boat Slip Owner as herein defined; and, **BOOK 365 PAGE 787**

WHEREAS, Declarant has retained the right to submit and to subject the entire Real Property described in Exhibit A (or that portion of the Real Property Save and Except Tract A described therein which may be reserved in Declarant's discretion) to this Declaration for the benefit of the Project and the Boat Slip Owners; and,

WHEREAS, Declarant further desires to create an incorporated association of Boat Slip Owners (defined below) to which will be delegated and assigned the powers of owning, maintaining and administering the Common Areas, facilities and easements serving or benefiting Oriental Harbor, as well as governing, administering, and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the property values and amenities at Oriental Harbor and to insure the enjoyment by Association Members of specific rights and privileges in their Boat Slips, facilities, Common Areas, and easement areas and to provide for the maintenance and upkeep of the same; and,

WHEREAS, for these purposes, Declarant has or will cause to be incorporated an association under North Carolina law named "Oriental Harbor Village Marina Association, Incorporated," as a non-profit corporation for the purpose of exercising and performing the aforesaid rights, powers, duties and functions.

NOW THEREFORE, Declarant hereby declares that all of the property described in Condo Book 1, Pages 78-79 Pamlico County Registry and such additions thereto, as may be hereafter made pursuant to the terms herein, is and shall be held, owned, transferred, sold, conveyed, and occupied pursuant to North Carolina General Statute 47C (North Carolina Condominium Act) and subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration (including the preambles contained in the Statement of Purpose above which are made a part of this Declaration) which shall run with the land for the term herein and which shall inure to the benefit of and shall be binding on each Boat Slip Owner and/or Member, his heirs, successors and assigns.

## ARTICLE I

## DEFINITIONS

**Section 1.1.** "Act" shall mean North Carolina General Statute Chapter 47C, the North Carolina Condominium Act.

**Section 1.2.** "Association" shall mean and refer to Oriental Harbor Village Marina Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

**Section 1.3.** "Board" or "Board of Directors" shall mean the executive, governing board of the Association.

**Section 1.4.** "Boat Slip" or "Slip" shall mean and refer to a wet boat slip space for separate ownership and occupancy, the boundaries of which lie on the surface of the waters of Smith Creek and lie between the areas or planes defined (a) in length, by the inside vertical edge surface, of the dock facing the Slip and running at a 90 degree angle more or less away from the dock's inside edge to a vertical plane measured between the center points of the two outside mooring pilings at the opposite end of the Slip and (b) in width, on one side of the Slip by the center line of the access finger pier serving the Slip extending outward from the dock to the center point of the outward mooring piling located on the finger pier side of the Slip, and on the other side of the Slip, the plane measured from the center point of the outward mooring piling located on that side of the Slip and running at a 90 degree angle more or less to the inside edge surface of the dock, but not including any part of the dock. Notwithstanding the foregoing, some Boat Slips may not be served by finger piers or pilings but are designed in length parallel to the dock. In such cases, those Slips shall be shown in length and width measurements on the Condo Plat recorded in the Pamlico County office of the Register of Deeds. All Boat Slips shall be a part of the Marina Facilities and shown by diagram with given Dock and Boat Slip numbers on the Condo Plat. For purposes herein and the Act, Boat Slip or Slip shall have the same meaning as "Unit" defined in the Act. Notwithstanding anything stated herein to the contrary, if the definition of a Boat Slip includes a portion of a piling or finger pier, said pilings and finger piers shall for all purposes be deemed and treated as Limited Common Areas for use by the adjacent Slip Owners but shall be repaired and maintained by the Association. No Slip owner shall obstruct or deny the adjacent Slip Owner joint access and use of the entire finger pier and pilings serving the two adjacent Slips. To that end each Boat Slip Owner, by acceptance of a deed to his Slip, grants an easement for access, ingress, egress and use over that portion of the finger pier

included within his Slip to the adjacent Slip Owner sharing use of the same finger pier and use to each piling which is intended for shared use by the adjacent Slip Owner.

**Section 1.5.** "Common Area" or "Common Areas" shall mean all property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Members of the Association. The Common Area will include but will not necessarily be limited to the Marina Facilities (other than Boat Slips), and other areas deeded or to be deeded in fee simple or for a term of years to the Association or granted by temporary easement to the Association such as private streets and roads, walkways, boardwalks, parking areas, utility buildings and other areas, if any, marked as Common Area on the Condo Book Plat. Unless otherwise expressly provided or specifically indicated, Common Area shall also include Limited Common Area which is separately defined below. Common Area may include other areas of the land described in Exhibit A if (the "Real Property") and when the Real Property (save and except any portion thereof) is deeded to the Association. The Real Property need not be deeded to the Association in fee simple or for term of years provided Declarant grants an easement in writing to be recorded in Pamlico County Registry to the Association describing such land or portion thereof for nonexclusive use, access, ingress and egress both for pedestrian and vehicular travel to and from the Marina. In such case the easement areas lying within the Real Property shall be treated as if it were Common Areas for purposes of such use, and the obligations for maintenance and repairs, taxes, insurance and improvements to the Real Property and other related Common Expenses shall be borne solely by the Association.

**Section 1.6.** "Common Expenses" shall mean all financial expenses and expenditures made or incurred by the Association, together with allocations for reserves.

**Section 1.7.** "Condo Plat" or "Condo Book Plat" shall mean and refer to the plat and plans recorded in Condo Book 1, Pages 78-79, in the Pamlico County, North Carolina, Public Registry and any other maps describing modifications, additions and deletions to the existing property which may be recorded in the condominium books by Declarant in the Pamlico County, North Carolina, Public Registry hereafter, including all modifications, changes, additions or deletions to any subsequently recorded Condo Plat. Said Condo Plat may show the phases of development of the Project and is subject to any amendments, changes, or modifications to the Project made by the Declarant.

Section 1.8. "Declarant" shall mean and refer to Oriental Harbor Marina, Inc., a North Carolina corporation with its principal offices and place of business at 518 Water Street, Oriental North Carolina 28571, its successors and/or assigns.

Section 1.9. "Deed of Easement" shall mean the Easement recorded in Book 383, Page 141 Pamlico County Registry and shall mean the same as Marina Basin Easement.

Section 1.10. "Developer" shall mean and refer to Oriental Harbor Marina, Inc., its successors and/or assigns and also shall mean and refer to any person, firm, corporation or other entity who may be designated as "Developer" by Oriental Harbor Marina, Inc., its successors and/or assigns.

Section 1.11. "Development" shall mean and refer to the Oriental Harbor Village Marina, including excavation and development of the Marina Basin and construction of docks, piers and piling, and other improvements for a maximum number of 125 Boat Slips and development and construction of boardwalks, streets, parking areas water detention areas, landscaping and other land improvements as shown on the Condo Plat referred to herein and/or as shown on a separate survey plat recorded in Plat Cabinet A, Slide 131-3 Pamlico County Registry, (the "Real Property" defined below) or as permitted by CAMA Permit No. 10-02, and such may include future development of additional Boat Slips and/or other permitted uses, and/or other properties annexed thereto.

Section 1.12. "Institutional Lender" shall mean and refer to a bank or savings and loan association or an insurance company or a title insurance company or a pension trust or real estate investment trust, or any other private or governmental institution which is regularly engaged in the business of mortgage financing, or a subsidiary of any of the foregoing or a designee of any of the foregoing, which owns a beneficial mortgage interest in one or more Boat Slips or any of the foregoing which acquires an institutional mortgage as herein defined by assignment from a non-institutional lender.

Section 1.13. "Institutional Mortgage" shall mean and refer to a mortgage or deed of trust originally executed and delivered to or held through assignment, or assignments, by a bank or saving and loan association, or an insurance company, or a title insurance company, or a pension trust, or a real estate investment trust, or any other private or governmental institution which is regularly engaged in the business of mortgage financing, or a subsidiary of any of the foregoing.



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**Section 1.14.** "Limited Common Area" or "Limited Common Areas" shall include finger piers, pilings, power posts and other utility connections, cleats and dock box areas and other areas designated as "Limited Common Area" on the Condo Plat located immediately adjacent to one or two Slips and which are intended to serve one or two designated Boat Slips and intended for limited access, ingress and egress to a Member's boat or other watercraft, and which serve the purpose of securing a Member's boat or watercraft in his or her Boat Slip. For purposes herein any dock box which is provided by the Declarant or a Boat Slip Owner in connection with the development, use, or operation of the Marine Facility shall be uniform in size, shape, color and appearance and designated for use for only one Slip and its use shall be subject to applicable Rules and Regulations adopted by the Association.

**Section 1.15.** "Marina Basin" or "Marina Basin Easement" shall mean and refer to all of the area encompassing the Marina including all riparian rights on, over and under the waters of Smith Creek described in that certain Deed of Easement recorded in Book 383, Page 141, Pamlico County Registry.

**Section 1.16.** "Marina" or "Marina Facilities" shall mean and refer to the Marina Basin area described in the Marina Basin Easement and all pilings, piers, docks, Boat Slips, and all utilities, easements, navigational markers, aids, appurtenances, improvements, and amenities thereto lying within the Marina Basin area and located in the navigable waters of Smith Creek which is immediately adjacent to the mean high water mark running along the land shown on the Condo Plat.

**Section 1.17.** "Member" shall mean and refer to every person or entity who holds membership in the Association. Every person or entity owning a Boat Slip shall be a Member.

**Section 1.18.** "Owner" or "Boat Slip Owner" or "Slip Owner" shall mean and refer to a titled owner of record of a Boat Slip.

**Section 1.19.** "Phase One" shall be the project as shown on the Condo Plat designated "Phase One" which will consist of the Marina Facilities and improvements to the Property. "Phase Two," if shown at all, will be the area on the Condo Plat or any amendment to the Condo Plat designated as "Phase Two" where townhouses, condominiums and/or other residential or commercial buildings and additional boat slips and docks, swimming pool and other amenities may or will be constructed if approved by the North Carolina Division of Coastal Management and the North Carolina Coastal Resource Commission, pursuant to the North Carolina Coastal

Area Management Act ("CAMA"), and by other governmental authorities. There is no specific number of boat slips planned for Phase Two at this time, but the maximum number of Slips for Phase II shall be thirty if made a part of this Declaration and Project. Nothing herein shall be construed to require the Declarant to build Phase Two or to make Phase Two a part of or subject to this Declaration if built. If Phase II is shown on the Condo Plat or any amendment to the Condo Plat it shall be marked "NEED NOT BE BUILT."

**Section 1.20.** "Project" shall mean the same as Development.

**Section 1.21.** "Property" or "Properties" shall mean and refer to the property described in the Condo Plat but excluding the Real Property unless the Real Property or a portion thereof is added by Declarant to the Project by fee simple deed or deed for term of years or by deed of easement to the Association for use as Common Area.

**Section 1.22.** "Real Property" shall mean and refer to the entire property owned by Declarant described in Exhibit A or that portion of the described property, save and except Tract A described therein, if so excepted by Declarant in its discretion.

**Section 1.23.** "Transient Boat Slip(s)" shall mean all Boat Slip(s) owned by Declarant and selected to be used from time to time for rent overnight or on a weekly basis to transient boaters in general who need not be Members. No Boat Slip Owner, other than Declarant shall have the right to rent or lease his Slip as a Transient Boat Slip but may rent or lease his Slip on a monthly basis or longer periods to any person who need not be a Member. Any Member who rents or leases his Boat Slip agrees to be fully responsible for the conduct of his tenant or leasee including compliance by the tenant or leasee with this Declaration and all Rules and Regulations adopted by the Association. Failure of the Member or tenant or leasee to comply with such rules and requirements shall authorize the Declarant or the Association to terminate the lease or tenancy by any lawful means and the costs thereof (including court costs and attorney fees if incurred) shall be borne by the Member.

## ARTICLE II

### PROPERTY

**Section 2.1.** Property. The Property as defined above, which is and shall be held, transferred, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located in Pamlico County, North Carolina, and is more particularly described on the plat and plans in Condo Book 1, Pages 78-79 Pamlico County Registry. Said Property

includes the Marina Basin area described in the Deed of Easement granted by the State of North Carolina, recorded in Book 383, Page 141, Pamlico County Registry, including the Marina Facilities and all modifications and/or amendments to the legal description of the Property and Marina Basin Easement as necessary, or desirable by Declarant, as well as any additions or deletions to the Property permitted herein.

**Section 2.2. Additions to Property.**

(a) For a period of 5 years commencing on the date of recording this Declaration in the Pamlico County Registry, additional land or tract of land which is adjacent or contiguous to the Property or adjacent or contiguous to any public or private street, right of way, walkway, or easement serving the Property or land which is no more than 200 yards by direct line from any of the foregoing may be brought within the scheme of this Declaration and within the jurisdiction of the Association by Declarant, in future stages of development. Specifically and without limiting the generality of the foregoing, Declarant reserves the right (but not the obligation) to add to the Property by deed or other instrument of conveyance, the Real Property described in Exhibit A.

(b) The additions authorized under subsection (a) above shall be made by Declarant by filing supplementary or amended Declarations of Covenants, Conditions and Restrictions with respect to the additional property or properties in the Pamlico County, North Carolina, Public Registry which shall extend the scheme of this Declaration and the jurisdiction of the Association to such additional property or properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein, including, but not limited to, assessments as herein determined. The Declarant specifically reserves the right to amend or modify any portion or portions of these covenants, conditions, and restrictions as the same may be applicable to such additional properties.

**Section 2.3. Withdrawal of Property.** For a period of 5 years commencing on the date of recording this Declaration in the Pamlico County Registry, Declarant reserves the right to withdraw any Common Area(s) or Limited Common Area(s) located outside the Marina Basin or to create or redesign or reconfigure such new or additional areas including any easement areas located on land for common use or limited use, including but not limited to, vehicle parking areas, sidewalks, boardwalks, streets, water detention areas as well as other areas on land as may be designated on the Condo Plat as Common or Limited Common Area(s) or areas described in

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Plat Cabinet A, Slide 131-3 Pamlico County Registry. If any vehicle parking areas are withdrawn however, Declarant shall be required to substitute other Common Area(s) or easement areas for vehicle parking, if necessary to meet the minimum number of parking spaces for the Project required by local ordinance.

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### ARTICLE III

#### DISCLOSURES BY DECLARANT

**Section 3.1. Compliance with Permits.** The Marina Facilities are located upon navigable waters and exist solely in accordance with the terms of such permits, consents, approvals, and easements (collectively the "permits") as have been issued by agencies of the United States of America and the State of North Carolina. All rights interests and privileges in and to said Marina Facilities are subject to the terms and conditions of all such permits including any modifications, extensions or renewals of such permits if requested or required. In accordance with State and Federal rules, regulations and permits, and in addition to other restrictions and conditions of such permits, the Marina Facilities is a "closed-head," marina as defined by CAMA. Each Slip Owner, by acceptance of title to any Boat Slip acknowledges these disclosures by Declarant and agrees to accept his interest in the Boat Slip and Membership in the Association subject to the permits and agrees to comply with the permits and all rules, regulations and restrictions as required by the permits.

**Section 3.2. Limitation of Interest.** Notwithstanding anything to the contrary contained herein or in any deed or other instrument of transfer, each Slip Owner acknowledges and agrees that its interest in a Boat Slip (including an undivided interest in the Common Areas lying within the Marina Basin Easement) is limited for a maximum term of 100 years as specified in the Marina Basin Easement, which is fifty (50) years beginning July 31, 2002, which period may be extended in accordance with terms of the recorded Marina Basin Easement for one additional fifty (50) year period ending July 30, 2102. The legal interest of any Owner in a Boat Slip shall be a leasehold interest for the term(s) stated in the Marina Basin Easement, plus any extensions thereby as permitted by the provisions of the Marina Basin Easement or by law. Upon expiration of the Marina Basin Easement no individual Slip Owner shall have the right to redeem or remove any of the improvements. The interest of a Slip Owner in the Real Property, (or a portion thereof) if and when added by deed to the condominium regime will be an undivided interest in fee simple or for a term of years to be described in the deed. If any conveyance of a Boat Slip

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refers to fee simple interest in general, such interest shall necessarily be limited to a leasehold interest for the term of the Marina Basin Easement regarding the Boat Slip itself and the Marina Facilities.

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**Section 3.3. Interest in Common Areas and Expenses.** The interest of a Slip Owner in the Common Areas and the Common Expenses shall be a fraction, the numerator of which is the number of Boat Slips owned by the Slip Owner and the denominator being the total number of Boat Slips finally constructed in the Marina Basin. Since the Condo Plat presently shows a total of 78 Slips for Docks B and C and since Declarant reserves the right to add up to 47 more Slips (or such maximum number allowed by the CAMA Permit, as may be refined or amended within the time limit stated in the CAMA Permit) to be located within the Marina Basin, the formula for reallocating the interests of the Slip Owners in the Common Areas and Common Expenses shall be calculated on a straight pro rata basis so that the interests of all Slip Owners are reduced equally for each additional Slip added or increased equally for each Slip deleted. Upon final construction of all docks and Slips, if the total number is more or less than presently shown in Condo Book 1, Pages 78-79, Declarant shall record an amended Condo Plat showing all Slips and record an amendment to this Declaration in the Pamlico County Registry stating the total number of Slips finally constructed and stating the revised fractional interest for each Slip Owner. All Association expenses, therefore, shall be allocated equally among the total number of Boat Slips shown on the Condo Plat, which is subject to amendment, and shall be apportioned to the Slip Owners based on the number of Boat Slips owned by the Owner.

**ARTICLE IV**

**MEMBERS AND RIGHTS OF MEMBERS**

**Section 4.1. Membership.** Initially, there is only one (1) class of Members in the Association known as Class A. Class A membership in the Association shall be evidenced by a deed, or other instrument of transfer of a Boat Slip to a new Member. Change of ownership in a Boat Slip and consequently a change in the membership in the Association shall be established by recording in the Office of the Register of Deeds of Pamlico County, North Carolina, a deed or other instrument transferring record title to a Slip(s) and delivery to the Association of a copy of such recorded instrument. The membership of the prior owner of the Boat Slip shall be then terminated as of the date of recording of the deed. In the case of death of a Boat Slip Owner, his or her interest shall pass to his or her beneficiaries named in a validly probated Last Will and

Testament, a copy of which must be recorded in the office of the Clerk of Court in Pamlico County or in case of intestacy then in accordance with the laws of intestate succession, and in any case written proof of death and certified copies of probate proceedings shall be provided to the Association. In the case of dissolution of a corporate Boat Slip Owner, its interest shall pass to its successors in interest as provided by law, in which case adequate proof of a successor's interest shall be provided to the Association. [Declarant, however, reserves the right to create additional classes of membership as it deems appropriate, provided any new or additional class of membership shall not diminish the fractional interest of any Member in the Common Areas or the voting rights of existing Members who have acquired membership prior to the date of recording any amendment to this Declaration regarding the new or additional membership class.]

Each Class A Member is entitled to membership in the Association and shall have the exclusive right, subject to the provisions of this Declaration and the provisions of the Bylaws and Rules and Regulations issued pursuant hereto, to occupy, possess, and lawfully use his or her particular Boat Slip(s) identified on such Member's deed. Each Class A Member shall also have those Common Area rights and voting rights set forth below in this Declaration and as prescribed in the By-Laws.

**Section 4.2. Voting Rights of Members.** The voting rights of a Member at any meeting of Members shall be one (1) vote for each Boat Slip owned by the Member. There shall be one person with respect to each Slip who shall be entitled to vote at any meeting of the Association, and such person shall be known and is hereafter referred to as the "Voting Member." If a Slip is owned by more than one person, the Owners of the Slip shall designate one of them as the Voting Member, or in the case of a corporate owner, a designated officer or employee of the corporation shall be the Voting Member. The Voting Member may also designate some person to vote pursuant to proxy on his behalf who need not be an Owner. The designation of the Voting Member by an Owner shall be made in writing to the Board of Directors or to the President of the Association and shall be revocable by the Owner at any time by actual notice given by the Owner to the Board of Directors or to the President of the Association.

**Section 4.3. Quorum For Any Action.**

(a) Unless the By-laws provide otherwise, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast not less than one third of the votes which

may be cast for election of the Board are present in person or by proxy at the beginning of the meeting.

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(b) Unless the By-laws specify a larger percentage, a quorum is deemed present throughout any meeting of the Board if persons entitled to cast not less than fifty one (51%) percent of the votes on the Board are present at the beginning of the meeting.

**ARTICLE V**

**RESERVATION OF DEVELOPMENT RIGHTS**

**Section 5.1. Retention of Control.** Declarant shall retain control of the Association, pursuant to North Carolina General Statutes § 47C-3-103 and shall have the right to appoint and remove officers and directors of the Association at any time or from time to time, until the earlier of the occurrence of (a), (b), or (c) below:

(a) One Hundred twenty days (120) days after conveyance of a Slip, by Declarant, to an Owner (other than the Declarant,), which Slip when combined with the number of Slips previously conveyed to Owners (other than to Declarant,) makes a total number of Slips so conveyed equal to or greater than seventy-five (75%) percent of the then total number of Slips in the Project which may be created pursuant to this Declaration.

(b) Two years after Declarant has ceased to offer Slips for sale in the ordinary course of business.

(c) Two years after any development right to add new Slips was last exercised.

Declarant shall have the right to surrender his right to appoint and remove officers and directors before termination of the period referenced above; provided, however, in the event Declarant does surrender control, Declarant may, at its option, require that specified actions by the Association, specifically detailed in an instrument to be executed and recorded by Declarant at the term of such surrender, must be approved by Declarant, in writing, before same shall become effective. The retention of control by Declarant shall be subject to the provisions of North Carolina General Statutes § 47C-3-103(e).

**Section 5.2. Special Rights.** In addition to the right of control reserved generally in Section 5.1 above, Declarant reserves the right to do or perform any one or more of the following acts, without limitation, during the period of control:

(a) To assign other class Members who are non-Slip Owners the right to non-exclusive use of the Property and Marina Facilities. Such non-Slip Owners may be charged periodic dues as determined in the discretion of the Declarant or Association.

(b) To limit the number of guests, tenants and social and business invitees of Members using the Marina Facilities and Common Areas.

(c) To dedicate or transfer all or any part of the Common Area to any public body, agency, authority or utility for such purpose, subject to such conditions as may be agreed to by the Association. No such dedication or transfer by the Association shall be effective unless approved by consent of the membership based upon an affirmative vote of sixty-seven percent (67%) of the total votes cast by Members present or absent but voting by proxy at a meeting called for such purposes.

(d) To establish Rules and Regulations regarding permitted uses and prohibited uses of the Boat Slips and Common Areas and regarding the rights and privileges of a Member's interest in the Association and the transferability of such interest in the Association, including without limitation, to suspend all rights of any Member during a time period which an assessment against such Member remains unpaid or, for a period not to exceed sixty (60) days, for an infraction of its published Rules and Regulations; and to license or otherwise lawfully use all rights of any such Member during any such period of suspension.

(e) To sponsor celebrations, festivals, promotions, sailing regattas, boat shows, and other commercial and social activities and events on the Property and Marina Facilities from time to time at no charge to Declarant and to allow temporary public access and use of the Common Areas and Marina Facilities for such activities and events.

(f) To use and to allow its employees, contractors and agents to use any part of the Property and Marina Facilities in connection with completion of the Development or the exercise of development rights, including but not limited to, the rights to install signs and do all things necessary or appropriate in the Developer's discretion to market, sell and/or lease Boat Slips.

(g) To sub-divide any Boat Slips or delete existing Boat Slips or create new or additional Boat Slips (but no more than allowed by CAMA Permit No. 10-02 and within the time limit of said Permit or allowed by any governmental approved modification of said Permit); provided however, the allocable interests of Members in the Common Areas and in the Common Expenses shall be re-allocated among the Members on a straight pro-rata basis as a consequence



of any additional or deleted Boat Slips, and to record any amendment to this Declaration and the Condo Plat showing such changes, additions or deletions. **BOOK 385 PAGE 799**

(h) To make minor modifications, adjustments, corrections, and other technical changes in the plat and plans recorded in Condo Book 1, Pages 78-79 Pamlico County Registry, this Declaration, By-Laws, and any other documents related to the Project, in order to more accurately describe the Property, the Common Areas, the rights and interests of the Declarant and the Members, or to conform any related documents, as reasonably necessary, with any and all governmental requirements, authorizations, approvals, and permits, and with the overall intended development scheme for the Property and Marina.

(i) To relocate pilings or add or remove pilings, and place or relocate utilities serving the Property and Marina, and to grant easements for the same, and to make adjustments in the support structures and boundaries of the Boat Slips as necessary for structural integrity or improvement of the Marina Facilities and to file any amended Condo Plat to reflect such changes.

(j) To install or display any navigational aids, hazard markers, signals, warnings, caution signs, rescue devices, instruction signs, rules and regulations, and legal notices as recommended or deemed necessary by the United States Coast Guard, North Carolina Wildlife Resources Commission, North Carolina Marine Fisheries, CAMA or other governmental authority or as deemed necessary or appropriate by Developer.

**Section 5.3. Assignment of Development Rights.** If the Declarant shall lease, transfer, or assign the Property or the development rights in such Property or if Declarant is succeeded by another person or entity in the development of such Property, then such transferee, assignee, or successor shall be vested with all rights, powers, privileges or authorities given said Declarant herein. The foregoing provisions of this Section shall be automatic, but the Declarant may execute an instrument to evidence the vesting of the rights, powers, privileges, and authorities in such transferee, assignee or successor. In the event the Declarant contemplates or is in the process of dissolution, merger or consolidation, the Declarant may transfer and assign to such person, firm or corporation as it may select any part or all rights, powers, privileges and authorities given the Declarant herein, whether or not the Declarant also transfers or assigns the entire development of such Property. In the event of Declarant's dissolution at any time hereafter and there is no person, firm, corporation, or entity designated to exercise the rights,

powers, privileges and authorities of Declarant under the provisions hereof, then such rights, powers, privileges and authorities shall be vested in and exercised by a Committee to be elected or appointed by the Board of Directors. In such event, the Committee shall then have the same rights, powers, privileges and authorities as are given to the Declarant herein. Nothing herein shall be construed as conferring any rights, power, privileges, and authorities in the Committee except in the event described above.

## ARTICLE VI

### COMMON AREAS

**Section 6.1. Ownership of Common Areas.** Declarant shall convey the Common Areas to the Association as such time as all amenities and future development have been constructed and completed. Except for the boardwalk, parking and other easement areas and improvements located therein located along the waterfront as shown on plat recorded in Plat Cabinet A, Slide 131-3 Pamlico County Registry, and except for Transient Boat Slips, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public, unless a specific easement or other dedication for public use is conveyed by Declarant or by the Association and recorded in the Pamlico County Registry.

**Section 6.2. Use of Common Areas.** The Marina Facilities and Common Areas and Limited Common Areas shall not be used in any manner except as approved or specifically permitted by this Declaration. Subject to the provisions of this Declaration, the Declarant and the Board of Directors of the Association shall have the power to formulate, publish, and enforce reasonable Rules and Regulations concerning the use and enjoyment of the Property, Common Areas, and Marina Facilities and other property owned or leased by the Association, including any other property or facilities which may be constructed and hereafter conveyed to the Association for use as Common Area.

**Section 6.3. Delegation of Use.** Any Member may delegate, in accordance with this Declaration and the Bylaws of the Association, his right of use and enjoyment to the Common Areas and Marina Facilities to the members of his immediate family, guests, tenants, or social or business invitees; provided however, the Member shall always be responsible for the conduct of his family members, guests, tenants, and social or business invitees, and the Member may lose some or all privileges of use and enjoyment for misconduct of his family members, guests,

tenants and invitees when such misconduct is in violation of this Declaration, the By-Laws or the Rules and Regulations adopted by the Declarant or Association. **BOOK 385 PAGE 801**

**Section 6.4. Use of Boat Slips and Marina Facilities.** The Boat Slips shall be used only for the docking of boats or watercraft. No more than one boat is allowed per Slip. Any boat in the Boat Slip may be used for personal and recreational purposes or for charter purposes, provided however, any boat which is used for charter purposes shall not be open for hire to more than 20 people for any single charter unless otherwise approved in writing by the Association. Declarant and/or the Association reserves the right to make special Rules and Regulations applicable to business use of Boat Slips and the right to designate certain Slips for boats which are engaged in business/charter purposes. In addition to abiding with Rules and Regulations promulgated from time to time, by the Declarant or Association, pertaining to the use and enjoyment of Boat Slips, Marina Facilities, and other Common Areas, each Member, for himself, his guests, tenants, lessees, licensees, contractors, family Members, and social and business invitees agrees not to allow, participate in, or suffer anything to be done which would:

(a) Violate any authorization, consent, approval or permit issued by any Federal, State or local governmental authority or violate any environmental, health, safety and/or welfare law, regulation, or ordinance issued by any such authorities having jurisdiction over the Marina Facilities or the Property, including, without limitation, CAMA Permit No. 10-02 applicable to the Project and any future modifications or amendments thereto.

(b) Discharge any fuels, sewage, or other contaminants, waste or hazardous materials into the waters of the Marina Basin or on any property of the Association.

(c) Create a fire hazard, explosion or other dangerous, harmful or risky situation or condition as determined by the management of the Association.

(d) Create any additional and unacceptable risks for injury or damage to property to the Association or to other Members, or cause an increase in insurance premiums or cancellation of insurance coverages.

(e) Obstruct or interfere with the rights of other Boat Slip Owners, or Members or cause a nuisance or distraction which unreasonably interferes with the peaceful possession, use and enjoyment of Marina Facilities and Common Areas by other Owners or Members.

(f) Constitute immoral, disorderly, improper, offensive or unlawful conduct as determined by Declarant or the Association. **BOOK 385 PAGE 802**

**Section 6.5. Maintenance of Common Areas and Marina Facilities.** The Association shall provide maintenance of all of its Properties, including casement areas, private roads, Marina Facilities, bulkheads, parking lots, curbs, walkways, boardwalks, and shoreline, as well as maintenance dredging of the submerged lands of the Marina Basin. The cost of such maintenance shall be added to the Common Expenses and shall become a part of the total, annual assessment as specified herein and in the By-Laws.

#### ARTICLE VII

#### COVENANT FOR ASSESSMENTS

**Section 7.1. Purpose and Obligation for Assessments.**

(a) Each Member agrees to pay the Association (1) regular assessments, (2) special assessments, (3) assessments for violations of this Declaration, the Bylaws, or Rules and Regulations, and (4) assessments for repairs of damage caused by fault, all of which assessments are to be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and lien on each Boat Slip, the vessel within the Slip and each membership and shall be a continuing lien against each until paid. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person or entity who was the Owner or Member at the time the assessment was made. The Slip Owner's/Member's personal obligation for delinquent assessments shall not pass to his transferee or successor in title unless (i) expressly assumed by the transferee or such successor or (ii) the transferee or successor is a spouse or lineal descendant of the transferor or (iii) the transfer is voluntary and without consideration to the transferee or successor.

(b) Notwithstanding anything herein to the contrary, due to the expenditure of funds for the costs of Development and operations, the Declarant shall be exempt from all regular and special assessments until after seventy-five percent (75%) of all Boat Slips have been sold or December 31, 2005 whichever comes first.

**Section 7.2. Assessments for Maintenance.** Each Slip Owner will have the responsibility for paying his share of the operating expenses and capital expenditures and other Common Expenses of the Marina Facilities for dredging the basin, and for maintaining,

repairing, improving, and insuring the docks, piers, piling, and electrical, telephone, cable and water and other utilities serving the Common Areas, easement areas and amenities associated with all Common Areas and paying ad valorem taxes thereon. In addition to the foregoing, the purposes for which Common Expenses may be incurred include the following by illustration, but not by limitation:

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(a) to maintain all roads and walkways constructed within the Common Areas and easement areas to the standard of maintenance which would be required by the Town of Oriental as if the town were accepting such roads and walkways for maintenance;

(b) to maintain the Marina Facilities, including dredging as necessary, and keeping all pilings, piers and docks and other improvement and appurtenances thereto structurally sound and in good condition;

(c) to keep all amenities in the Common Areas, and easement areas including drainage, utility, and parking areas and access easement areas free of pollution and debris and to maintain all amenities and easements in a clean, neat, orderly and good working condition.

(d) to maintain and improve the lawn and landscaping of the Real Property in accordance with the highest standards as would be applicable for a private residential community including removal and replacement of landscaping;

(e) to provide security services as may be deemed reasonably necessary for the protection of the Property from trespassers and to protect against theft, vandalism, fire and damage, abuse and destruction;

(f) to provide garbage removal and clean up services on the Property;

(g) to provide lighting of the Common Areas and easement areas;

(h) to pay all ad valorem taxes levied against all Common Areas and any other property owned by the Association or property in which the Association has an easement interest for use and enjoyment.

(i) to pay premiums on all hazard insurance carried by the Association on the Common Areas and other Property owned or used by the Association or on land in which the Association has easement rights and all public liability insurance and other insurance to be carried by the Association with regard to such Property or land or easement areas.

(j) to maintain, insure, operate, and pay ad valorem taxes, rent and other expenses on any clubhouse, dockmaster's office, and on other property serving as access or an

amenity to the Marina, including restrooms, showers, laundry rooms, and if any such amenities are leased by the Association, then to pay such lease(s) in amounts and in accordance with the terms of such leases to avoid default;

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(k) to enforce the covenants under this Declaration, By-Laws and Rules and Regulations of the Association;

(l) to pay for full-time and part-time hired help, including a dockmaster and attendants, and pay for legal, accounting and other professional services incurred by the Association;

(m) to pay any and all other reasonable expenses related to the ownership and operation of the Marina, Common Areas and the Property and for the continued existence of the Association as the Board of Directors deems appropriate; and

(n) to accumulate and subsequently maintain a contingency reserve in an amount reasonably determined by the Board of Directors for those expenses and purposes described in subsections (a) through (m) above in order to fund the same as well as other unanticipated expenses of the Association.

**Section 7.3. Determination of Regular Assessments.** The Board is specifically empowered on behalf of the Association to make and collect regular assessments in advance to replace, maintain, improve and repair all property of the Association for the purposes enumerated above. In doing so the Board shall determine the regular amount of assessments which shall be payable periodically as determined by the Board, but no more frequently than monthly and prorated for partial periods to any new purchaser of a Slip if transfer of the Slip occurs other than on the first day of the regular assessment period. The Board of Directors shall fix the amount of the regular assessment at least thirty (30) days in advance of each fiscal year, and written notice of the regular assessment shall be sent to the Member(s) at the last known address given by the Member to the Board. The payment due dates, including late payment dates for which a late charge may be assessed, shall be established by the Board of Directors.

**Section 7.4. Special Assessments.** In addition to the regular assessments authorized above, the Board may levy in any fiscal year, a special assessment or assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any new construction or reconstruction, unexpected repair or replacement of capital improvements upon any of the Common Areas and Limited Common Areas, and easement areas serving the Project and upon

fixtures and personal property related thereto, or for the purpose of defraying the expenses of operation, maintenance or renovation not adequately funded by regular assessments. Except as specified herein, all special assessments shall be determined, imposed, levied and collected in the manner allowed in the By-Laws, provided that, if such special assessment exceeds ONE THOUSAND DOLLARS (\$1,000.00) per Member in any fiscal year, the Board shall first obtain the approval of the special assessment by a majority of the votes eligible to be cast at a meeting duly constituted for this purpose, written notice of which shall have been sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the time, date, place and purpose of the meeting.

**Section 7.5. Assessments for Violations.** If any Member or his family member, tenant, guest or invitee violates any Rule or Regulation adopted by the Board or breaches any By-Law, or breaches any provision of this Declaration, the Board shall have the right, power and authority to impose an assessment penalty against any Member not to exceed FIVE HUNDRED DOLLARS (\$500.00) for each occurrence. The assessment shall be in addition to and not in lieu of any other right or remedy to which the Association is entitled at law or in equity for such breach, nor shall it be considered payment for the privilege of breaching any By-law, Rule or Regulation or this Declaration.

**Section 7.6. Certificate.** The Association, upon request at any reasonable time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments against a Member have been paid. A reasonable charge, not to exceed Twenty-five Dollars (\$25.00) may be made by the Board for issuance of these certificates. The certificate, when signed by an authorized officer of the Association and delivered to the requesting party, may be relied upon by the requesting party as evidence of payment of any assessment therein stated to have been paid.

**Section 7.7. Assessments for Repairs of Damage Caused by Fault.** If a Member or his assignee, tenant, lessee, licensee, guest, or invitee damages or destroys by his or her fault, as determined by the Board, any property of the Association, including, but not limited to, the roads, walkways, landscaping, bulkheads, piers, docks, pilings or other Marina Facilities and Common Areas, the Member shall have personal liability for such damages, and each Member appoints and authorized the Association to repair the damage or replace the destroyed property as soon as practical and to levy an assessment chargeable to the Member for the full cost of repair

or replacement including interest thereon at legal rate from date of payment by the Association and if not fully paid by the Member upon demand by the Association, then interest at one-and-half percent per month until paid in full.

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**Section 7.8. Effect of Non-Payment of Assessments and Remedies of the Association.**

Recognizing that proper operation and management of the Property require the continuing payment of costs and expenses, and that such proper operation and maintenance result in benefit to all of the Members, and that the payment of such Common Expenses represented by the assessments levied and collected by the Board is necessary in order to preserve and protect the Property, the Association is hereby granted a lien upon each Member's Boat Slip and Membership as provided by Article 8 of Chapter 44 of the North Carolina General Statutes, or any other lawful, applicable section, (and a common law possessory lien upon the Owner's vessel) which lien shall secure the monies due for all assessments now or hereafter levied against the Member which lien shall also secure chargeable interest, at the maximum legal rate which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including court costs and reasonable attorney's fees, which may be incurred by the Association in securing the payment of such assessment or enforcing this lien upon the Member's interest. The lien granted to the Association may be foreclosed in the manner provided by Article 2A of Chapter 45 or other applicable section of the North Carolina General Statutes. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens, taxes, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the maximum legal rate prescribed above on any such advances made for such purposes.

**Section 7.9. Claim of Lien and Foreclosure.** The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the public records of Pamlico County, North Carolina. The lien claim shall state the description of the Boat Slip encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default, and the lien shall continue in effect until all sums secured by that lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and pay prior encumbrances and



interest thereon, all as provided above. Such claims of lien shall be signed and verified by an officer or authorized agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The Association shall be authorized to foreclose on such lien or claim of lien in any manner allowed by law. The lien provided for herein shall be subordinate to the lien of any first mortgage or pledge. Any person, firm or corporation acquiring title to any Boat Slip by virtue of any foreclosure, transfer in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable thereafter. After satisfaction of the lawful claims of such first mortgagee, the net proceeds from any foreclosure sale or private sale shall first be applied to the payment of all lien claims of the Association, and the balance of such sale proceeds, if any, shall then be paid to the Member.

**Section 7.10. Lien Not Exclusive Remedy.** Institution of a suit at law to attempt to collect delinquent assessments attorney's fees, interest and costs shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a lawsuit to collect any sums owed to the Association.

#### ARTICLE VIII

##### EASEMENTS

**Section 8.1. Easement Affecting Common Areas.** The Common Areas are hereby declared to be subject to a perpetual, non-exclusive easement in favor of all Slip Owners and other potential members for their use and for the use of their immediate families, tenants, guests and invitees, for all proper purposes, and for the furnishing of services and facilities for which they are intended and for the enjoyment of the Slip Owners and Members. Notwithstanding the foregoing, the Association (or Declarant during the period of control) shall have the right to establish Rules and Regulations pursuant to which the Slip Owners and Members, and their family members, tenants, guests and invitees may be entitled to use the Slips and the Common Areas, including the right to assign parking spaces and to establish regulations concerning their use and maintenance, consistent with the terms hereof. The Declarant and/or Association shall have the right to grant permits, licenses and easements over the Common Areas for utilities,

roads, waterways, parking and other purposes reasonably necessary or useful for the proper maintenance and/or operation of the Marina, its amenities and the Property.

In addition to the foregoing, all of the Property of the Association shall be subject to cross easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, cablevision and electric power lines and other utilities, and the Declarant or the Association shall have the right, power and authority to grant and establish upon, over and under and across any portion of the Property and Marina Facilities such further easements as are appropriate for the convenient maintenance, repair, use and enjoyment of such Property and Marina Facilities.

**Section 8.2. Easement for Developer.** Declarant reserves an easement for access and under and over the Property and within any Boat Slip in the Property, as well as over and under the Common Areas as is reasonably necessary for Declarant to discharge its rights, privileges and obligations in completing the Development and for exercising development rights specifically or generally reserved herein or in the By-Laws.

**Section 8.3. Easement over Boat Slips and Vessels.** The Declarant and the Association reserve the right, privilege, license and easement to enter into any Boat Slip, and to board any boat or watercraft within a Boat Slip, without fear of committing trespass, in case of fire, rescue or other emergency, or the case of protecting the Marina Facilities, or if reasonably necessary for health, safety or welfare reasons, or if necessary for the Declarant or Association to carry out any of their duties under this Declaration or By-Laws, including but without limitation, repair and maintenance of Marina Facilities, or to enforce any Rule or Regulation adopted by Declarant or the Association. This easement for public safety is extended to personnel of the United States Coast Guard and other public safety personnel to enter the Project and into any Boat Slip and to board any vessel therein but only for the limited purpose of fire fighting or prevention or protection of persons, or other health, safety or public welfare reasons.

**Section 8.4. Easement for Encroachments.** To the extent any Boat Slip or Common Area or Limited Common Area encroaches on any other Boat Slip or Common Area, or Limited Common Area, a valid easement is hereby reserved for such encroachments. Nothing herein, however, shall be construed to permit any Member to create an encroachment by docking an oversized boat or watercraft in his Boat Slip. An oversize boat or watercraft docked within any Boat Slip is prohibited absent prior written approval of the Association's management, and if

approved is given such approval shall be only for temporary purposes not to exceed 30 continuous days. For purposes herein, an oversized boat or watercraft is one which any part of the boat including any temporary or permanent attachment to the boat extends in overall length more than 10% of the Slip length and in width more than the actual width of the Boat Slip as may be limited by physical structures which are part of the Boat Slip.

ARTICLE IX

INSURANCE

Section 9.1. Association and Common Areas. The Board of Directors on behalf of the Association, as an operational expense, shall at all times keep all improvements upon the Property including but not limited to the Marina Facilities (but not separate property of any Member) insured against loss or damage by fire, wind, water, hail, and other hazards or risks normally insured against in an amount equal to one hundred (100%) percent of the replacement costs thereof as determined by the Board. In addition the Board shall purchase insurance for such other risks, including public liability insurance, workers compensation and/or longshoreman's coverages, fidelity and other coverages upon such terms and for such amounts as may be reasonably necessary from time to time to protect the interests and risks of the Association. The Board of Directors of the Association or its duly appointed officer or agent shall have the sole authority to deal with the insurer in the settlement of claims.

Such insurance shall be obtained without prejudice to the right of each Member to insure his boat and personal property for his own benefit at his own expense. All policies purchased by the Association shall be for the benefit of the Association and the Slip Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of any losses shall be paid to the Association unless otherwise agreed to by the Association.

Section 9.2. Mortgage Endorsement. In the event a mortgage endorsement has been issued as to a Boat Slip, the interest of the Slip Owner shall be held for the mortgagee and the Boat Slip Owner as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine, or to participate in the determination of, reconstruction or repairs.

Section 9.3. Use of Insurance Proceeds. Proceeds of insurance policies received by the Association may be held or distributed to or for the benefit of the Slip Owners as provided

herein. If pursuant to Section 10.1. below, damage to property for which insurance proceeds are received is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying such costs may be kept by the Association in its discretion as part of its operating expenses or capital reserve or may be distributed to the Slip Owners, and their respective mortgagees jointly. If it is determined that the damage for which the proceeds are received are not to be reconstructed or repaired, the proceeds shall be distributed to the Slip Owners and their respective mortgagees jointly.

**Section 9.4. Boats and Watercrafts.** All boats and other watercrafts docked in any Boat Slip at the Marina Facilities shall be covered by liability insurance providing, at a minimum, \$250,000.00 single limit coverage. Proof of such insurance shall be provided to the Association by the Slip Owner at any time, and from time to time, upon request of the Association or its agent, property manager or dockmaster as the Association shall appoint.

#### ARTICLE X

##### RECONSTRUCTION OR REPAIR AFTER CASUALTY DAMAGE

**Section 10.1. Determination to Reconstruct or Repair.** If any part of the Marina is damaged by casualty, the Association must reconstruct or repair such damage as promptly as possible and apply all available insurance proceeds for such purpose unless more than two-thirds of all Slip Owners determine by written vote not to proceed with repair or restoration, then the procedure set forth in North Carolina General Statute § 47C-3-113(h) which is incorporated by reference, shall be followed.

**Section 10.2. Plans and Specifications.** Any reconstruction or repair of damaged property must be made substantially in accordance with the plans and specifications as existed prior to such damage and made in compliance with all existing permits.

**Section 10.3. Estimate of Costs.** Immediately after a determination to rebuild or repair damage to property for which the Association has a responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to repair or rebuild. Such costs may include professional fees and premiums for such bonds as the Board of Directors shall deem appropriate.

**Section 10.4. Assessments.** If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the

payment of the cost thereof are insufficient, the excess costs of such repairs shall be a Common Expense and subject for special assessment.

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## ARTICLE XI

### SALES, MORTGAGES AND PLEDGES

**Section 11.1. Sale of Boat Slip.** In the event that any Slip Owner, desires to sell or transfer a Boat Slip and consequently his Membership, he shall give notice to the Association of the transferee's name, address and telephone number, and the proposed date of the transfer and subsequent proof of transfer. Any transfer or sale of any Boat Slip and Membership by any Member shall be subject to all the terms, covenants, limitations and provisions of this Declaration, as well as the Bylaws and Rules and Regulations issued pursuant hereto, which shall be binding on the transferee.

**Section 11.2. Pledging of Boat Slips.** As to all Members, other than Declarant, there shall be no assignment or pledge of any Boat Slip or any interest therein as collateral without the prior approval of the Board of Directors following such procedures as may be adopted by the Board, except any Member may assign, pledge or grant a security interest in his Boat Slip or in any interest therein without the Board's prior written consent, provided (a) the assignee, pledgee or secured party is a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or (b) the purpose of the assignment, pledge or security interest is to secure a loan to finance or refinance all or a portion of the purchase price of a Boat Slip. The Association agrees to exercise reasonable efforts to maintain a record of all assignments, pledges, and security interests of which it is notified by the Slip Owner in writing.

## ARTICLE XII

### UTILITIES

The Association shall provide access to town water for all Boat Slips and lighting in general for all Common Areas and easement areas. Payment of all water bills and electricity for lighting of the Marina, Common Areas, the Property and all easement areas for use by the Association and/or its Members shall be a Common Expense of the Association. Electrical services shall be supplied by a public utility company to a point of service on the Property. The Association agrees to extend and maintain such service to each Slip to be separately sub-metered and charged to each Slip Owner. The Developer or Association may also install conduits for telephone, T.V. and computer cable lines. Connections for each service shall be the

responsibility of each Slip Owner. Payment for dockside electric service, telephone, T.V. and/or computer service shall also be the sole responsibility and obligation of each Slip Owner which may be billed by the Association on a regular basis and which shall be due and payable by the Slip Owner upon receipt of the bill. The bill shall be the personal obligation of each Slip Owner and failure of a Slip Owner to pay for utilities when due may result in termination of such services by the Association or by the third party provider and may result in a late charge, penalty and a lien upon the defaulting Owner's Boat Slip, vessel and membership interest which is collectible by any means authorized, pursuant to Article VII above.

ARTICLE XIII

GENERAL PROVISIONS

**Section 13.1. Enforcement.** The provisions hereof shall be liberally construed to effect the purpose of creating, preserving and maintaining the development and operation of the Marina at its highest quality. In the event of any violation or attempted violation of any of the restrictions, conditions, covenants, reservations, and provisions hereof, then the Declarant, the Association, and/or any Member or Institutional Lender shall have the right to enforce the same by maintaining or prosecuting proceedings at law for the recovery of damages and/or proceedings in equity for the purpose of preventing such violation. The remedies set forth herein shall be construed as cumulative of all other remedies now or hereafter provided by law or equity and there shall be, and there is hereby, created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages. Any defaulting party shall be liable for the costs of enforcement of such covenants and restrictions, including, without limitation, attorney's fees and court costs. Failure to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

**Section 13.2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity or enforceability of any other provisions, which shall remain in full force and effect.

**Section 13.3. Rules and Regulations.** Rules and Regulations governing the use and appearance of the Common Areas and Limited Common Areas, conduct of Members, their family members, tenants, guests, and invitees and use and care of the Marina Facilities and other

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property in which the Association has an interest may be made by the Declarant and/or the Board of Directors and thereafter amended at any time and from time to time in furtherance of the purposes of this Declaration and the By-laws. **BOOK 385 PAGE 813**

**Section 13.4. Proprietary Rights.** The Association and all Members acknowledge and agree that the trade name "Oriental Harbor" and "Oriental Harbor Village Center and Marina" and its dragon logo and/or trademark are the proprietary rights belonging solely to Declarant and have a unique value to Declarant, the loss of which may not adequately be compensated by damages in an action of law. While Declarant agrees to license to the Association use of the trade name "Oriental Harbor Village Marina" and the dragon logo and/or trademark, the Association shall not seek to profit monetarily by using the name and logo or any similar variation thereof. The Declarant reserves exclusive rights to promote the name and logo for profit through advertising and sales of merchandise and products and by any other method or means. The Association therefore shall not directly or indirectly in any manner appropriate the use of the names, "Oriental Harbor," "Oriental Harbor Village Marina" or "Oriental Harbor Village Center and Marina," or the dragon mark or logo used therewith, any facsimile or phonetically similar or abbreviated word, phrase, or marker or logo for use with the name, in promotion of, or in any manner connected with or related with the Marina except as expressly approved by the Declarant herein or pursuant to a separate written license agreement.

**Section 13.5. Duration and Binding Effect.** Each owner, by the acceptance of a deed or other instrument of conveyance for a Boat Slip, accepts the interest in the Boat Slip and interest as a Member in the Association subject to all restrictions, conditions, covenants, reservations, liens, and charges, as authorized herein and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, or reserved or declared. All impositions, and obligations hereby imposed shall be deemed to be covenants running with the land for the duration of the Deed of Easement, (unless sooner terminated as provided herein) and shall bind any person having at any time any interest or estate in the condominium regime, and shall inure to the benefit of such persons in the like manner as if the provisions of this Declaration were recited and stipulated at length in each and every deed or other instrument of conveyance.

**Section 13.6. Amendment.** This Declaration may be amended either (i) by the Declarant, acting alone, if for the purposes of excising development rights or special

development rights reserved to Declarant herein or (ii) by the Association upon an affirmative vote of not less than sixty-seven (67%) of all Members entitled to vote. In either case the amendment shall be in writing and recorded in the Pamlico County Registry; provided, however, if any such amendment by the Association attempts to adversely change or affect the development rights or other special rights, powers and authority of Declarant, the amendment shall require the written consent of Declarant. **BOOK 365 PAGE 814**

**Section 13.7. Substantial Completion.** The engineer's certificate of substantial completion as required by N.C.G.S. 47C-2-101(b) is attached hereto as Exhibit C.

**Section 13.8. Effective Date.** This Declaration shall become effective when recorded in the Pamlico County Registry.

IN WITNESS WHEREOF, the Declarant, by authority duly given by its Board of Directors has caused this instrument to be executed the day and year first above written.

ORIENTAL HARBOR MARINA, INC.

By:   
President

ATTEST:

By:   
Secretary

(SEAL)





STATE OF NORTH CAROLINA

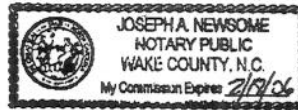
COUNTY OF WAKE

I, Joseph A. Newsome, a Notary Public in and for the State and County above do hereby certify that Paul P. Creech, personally came before me this day and acknowledged that he is the Secretary of ORIENTAL HARBOR MARINA, INC., a North Carolina corporation, and by authority duly given and as an act of the corporation, the foregoing Declaration of Covenants, Conditions and Restrictions was signed in its name by GEORGE A. DOBSON, President, sealed with its corporate seal, and attested by him as its Secretary.

Witness my hand and official stamp or seal this 9<sup>th</sup> day of October, 2002.

Joseph A. Newsome  
Notary Public

My Commission Expires: 2/18/06



PAMLICO COUNTY NORTH CAROLINA

The Foregoing Certificate(s) of Joseph A. Newsome, Wake Co, NC

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof

By: Lynn H. Lewis Sue H. Brinson  
Register of Deeds  
Deputy/Assistant

## LEGAL DESCRIPTION OF REAL PROPERTY

Commencing at a point at the foot of the Robert Scott Bridge which spans over Greens Creek, said point being in the center line of NC Highway 55 (Broad Street), said point also being South 52° 22' 43" West 391.00 feet to the center line crossing of Broad Street and New Street; thence, North 76° 22' 49" East 98.24 feet to an iron pin found in the intersection of the eastern right-of-way of NC Highway 55 and the southern right-of-way line of Water Street, being the point and place of BEGINNING; thence, from said beginning point South 42° 21' 00" East 101.83 feet to an iron pin set in the cul-de-sac right-of-way of Water Street, thence; along with said cul-de-sac South 47° 42' 00" West 30.82 feet to a point; thence, South 12° 18' 06" East 38.11 feet along a curve to the left having a Delta angle of 120° 00' 12", a Radius of 22 feet and Length of 46.08 feet; thence, South 72° 18' 12" East 74.32 feet to a point, thence, North 47° 39' 00" East 12.79 feet to a point in the southern right-of-way line of Water Street; thence, along said right-of-way line, South 42° 21' 00" East 286.05 feet to a point in the southern right-of-way line of Water Street; thence, South 46° 11' 16" 18.41 feet to a point at the average high water line of the mouth of Smith Creek; thence, following along the average high water line at the mouth of Smith Creek the following courses and distances: North 76° 06' 08" West 110.28 feet to a point; thence, North 44° 47' 41" West 167.45 feet to a point; thence, North 70° 47' 22" West 123.10 feet to a point; thence, North 77° 52' 03" West 79.27 feet to a point; thence, South 68° 01' 22" West 73.66 feet to a point; thence, North 72° 00' 24" West 14.12 feet to a point; thence, North 25° 31' 30" West 38.91 feet to a point lying in the eastern right-of-way line of Broad Street intersecting at the average high water line of Smith Creek; thence, leaving Smith Creek and running along said eastern right-of-way line of Broad Street, North 52° 22' 43" East 257.14 feet to the point and place of BEGINNING and being all of the property of Oriental Harbor Marina Inc. For further reference see Deed Book 377, Page 787 and Quitclaim Deed recorded in Book 385, Page 779 Pamlico County Registry. For further reference see Cabinet Plat A, Slide 131-3, Pamlico County Registry.

TRACT A: The following is a described tract of land lying within the entire Real Property described above which Declarant has the right to reserve and exclude from the legal description in a future deed should Declarant exercise its rights to convey to the Association less than the entire real property described above:

Commencing at a point at the foot of the Robert Scott Bridge which spans over Greens Creek, said point being in the center line of NC Highway 55 (Broad Street), said point also being South 52° 22' 43" West 391.00 feet to the center line crossing of Broad Street and New Street; thence, North 76° 22' 49" East 98.24 feet to an iron pin found in the intersection of the eastern right-of-way of NC Highway 55 and the southern right-of-way line of Water Street, being the point and place of BEGINNING; thence, from said beginning point South 42° 21' 00" East 101.83 feet to an iron pin set in the cul-de-sac right-of-way of Water Street, thence; along with said cul-de-sac South 47° 42' 00" West 30.82 feet to a point; thence, South 22° 43' 26" West 18.58 feet along a curve to the left having a Delta angle of 49° 57' 08", a Radius of 22 feet and a Length of 19.18 feet; thence leaving said cul-de-sac and running South 11° 34' 14" West 29.43 feet to a point; thence, South 42° 10' 54" West 8.96 feet to a point; thence, South 17° 44' 10" West 7.82 feet to a point; thence, South 6° 35' 47" West 39.73 feet to a point, thence, South 51° 51' 13" West 7.32 feet to a point in the average high water line at the mouth of Smith Creek; thence, running along the average high waterline the following courses and distances: North 70° 47' 22" West 44.13 feet to a point; thence, North 77° 52' 03" West 79.27 feet to a point; thence, South 68° 01' 22" West 73.66 feet to a point; thence, North 72° 00' 24" West 14.12 feet to a point; thence, North 25° 31' 30" West 38.91 feet to a point lying in the eastern right-of-way line of Broad Street intersecting at the average high water line at the mouth of Smith Creek; thence, leaving Smith Creek and running along said eastern right-of-way line of Broad Street, North 52° 22' 43" East 257.14 feet to the point and place of BEGINNING and being 27,821 square feet more or less.

EXHIBIT B

BYLAWS  
OF  
ORIENTAL HARBOR VILLAGE MARINA ASSOCIATION, INCORPORATED,  
A North Carolina Non-Profit Corporation

ARTICLE I

IDENTIFICATION

These Bylaws of Oriental Harbor Village Marina Association, Inc. (the "Association") apply to that certain marina project known as Oriental Harbor Village Marina (hereinafter the "Project"), as described in the Declaration of Covenants, Conditions and Restrictions of Oriental Harbor Village Marina (hereinafter the "Declaration") which are or shall be recorded in the office of the Register of Deeds of Pamlico County, together with these By-Laws. The general purpose of the Association is for the management of operations, maintenance and regulation of the marina Project which is a condominium development.

ARTICLE II

MEMBERSHIP AND VOTING

2.1. The membership of the Association shall consist of all titled Boat Slip Owners of record and other possible class members who are non-Slip Owners as permitted by the Declaration.

2.2. Each Member shall have one vote for each Boat Slip owned by the Member. If a Boat Slip is owned by more than one person or is owned by a corporation or other entity, the vote shall be cast by one person designated as the Voting Member. The Voting Member shall be designated by the Owner, in writing, filed with the Secretary of the Association. Such designation shall remain in effect until revoked or amended by subsequent designation, in writing, so filed.

2.3. Votes may be cast in person or by written proxy. Proxies shall be valid only for the meeting designated therein and must be filed with the Secretary prior to such meeting.

2.4. Except where otherwise required by these Bylaws or by the Declaration, the affirmative vote of the persons entitled to cast a majority of the votes at any duly called Members' meeting at which a quorum is present shall be the authorized act of the Association and shall be binding upon all Members.

ARTICLE III

ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP

3.1. The annual meeting of Members shall be held at a time and place designated by the Board of Directors on the first Saturday in October of each year for purposes of electing Directors for the succeeding calendar year, for adopting a budget, and for transacting other business.

3.2. Special meetings shall be held whenever called by the President or by two or more Directors.

3.3. Notice of all Members' meetings shall be given in writing by the Secretary to each Member, unless waived in writing, such notice to state the time and place of the meeting, and the purpose of the meeting. Notice shall be given not less than 10 nor more than 50 days prior to the meeting date. Such notice shall be deemed given when delivered personally, or when

deposited in the U.S. Mail, postage prepaid, to the last know address of such Member or sent by facsimile if receipt of the facsimile is confirmed by the Member.

BOOK 385 PAGE 818

3.4. A quorum at any regular or special meeting of Members is deemed present throughout the entire meeting if persons entitled to cast one third or more of all votes of the Membership are present in person or by proxy at the beginning of the meeting.

37 / (111 slips)

3.5. The order of business at each meeting, as far as practical, shall be:

- (a) Calling of roll and certifying of proxies.
- (b) Proof of notice of meeting (or of waivers thereof).
- (c) Reading and vote on prior unapproved minutes.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Unfinished old business.
- (g) New Business.
- (h) Election of Directors.
- (i) Report on Elections.
- (j) Adjournment.

#### ARTICLE IV

#### BOARD OF DIRECTORS

4.1. There shall be no less than three (3) nor more than seven (7) Directors of the Association, who shall be elected from the Members subject to the rights of Declarant to appoint Directors set forth in the Declaration. The initial Directors are set forth in the Articles of Incorporation who shall serve until their successors are duly elected.

4.2. Election of Directors shall be by vote of the Members, with those nominees receiving the highest number of votes being elected for the number of vacant Board seats. Each Member shall cast no more than one vote for each Boat Slip owned by the Member for each vacancy to be filled. Cumulative voting is not permitted.

4.3. In the event of vacancy on the Board of Directors, the remaining Directors shall elect a new Director to fill the unexpired term of the vacated seat.

4.4. The annual meeting of Directors shall take place immediately after the annual meeting of Members, and no separate notice shall be required for such meeting.

4.5. Regular or special meetings of Directors shall be held at such times and places as determined by a majority of Directors. Notice of such meetings shall be given by mail, telephone or facsimile with confirmed receipt at least five (5) days prior to the date of such meeting. Any Director may waive notice of any meeting.

4.6. A quorum of Directors at any meeting shall be a majority of the Directors then serving, and the majority vote of Directors at any such meeting shall constitute the authorized act of the Board, except where otherwise provided by these Bylaws or the Declaration. A meeting may be adjourned, from time to time, for lack of quorum, until a quorum is present. Notwithstanding anything herein to the contrary, a quorum at any regular or special meeting of the Board of Directors is deemed present throughout the entire meeting if a majority of Board Members are present in person or by proxy at the beginning of the meeting.

4.7. The Chairman or President of the Board (or in their absence, the vice-chairman or vice-president) shall preside at any such meeting of Directors.

4.8. All powers and duties of the Association shall be exercised by the Board of Directors, which powers and duties are enumerated in the Declaration and in North Carolina General Statutes Chapter 47C. Provided, however, when certain acts by the Association are required to be voted upon by the membership of the Members pursuant to the Declaration, such provisions of the Declaration shall take

precedence. The Association may delegate and pay a managing agent or contractor to perform administrative duties in behalf of the Association such as collecting assessments, paying Common Expenses and carrying on day-to-day management, operation and maintenance of the Project.

4.9. Any one or more Directors, other than those appointed by Declarant, may be removed by vote of Members owning a majority of Boat Slips at any annual meeting or at any special meeting of Members called for such purpose.

4.10. Notwithstanding the foregoing provisions in these By-laws, Declarant shall have the right to appoint at least three members and in no event less than a majority of the Board, and may from time to time, with or without cause, remove and replace any Director(s) during the time of Declarant's retention of control as expressly provided in the Declaration.

#### ARTICLE V

#### OFFICERS

5.1. The officers of the Association shall be the President, Vice President, Secretary and Treasurer and any assistants to such positions as the Board may elect. The President shall also serve as Chairman of the Board of Directors.

5.2. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Members and of the Board of Directors. He may sign, with or without the Secretary or any other proper officer of the Association, certificates of membership in the Association, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

5.3. In the absence of the President or in event of his death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers and authorities of the President. The Vice-President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

5.4. The Secretary shall: (a) keep the minutes of the meetings of the Members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-laws or as required by law; (c) act as custodian of the Association's records and of the seal, if any, of the Association and see that the seal of the Association is affixed to all documents if the seal is required (d) keep a register of the last known mailing address of each Member which shall be furnished to the Secretary by such Member; (e) sign with the President, if so requested, certificates of Membership in the Association, the issuance of which shall have been authorized by resolution of the Board of Directors; (f) have general charge of the books of the Association; and (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

5.5. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for money due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these By-laws; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine.

5.6. All officers shall serve at the pleasure of the Board of Directors and may be removed, with or without cause, at any time by a vote of a majority of Directors.

## FISCAL MANAGEMENT

The fiscal management of the Association shall be as set forth in the Declaration, supplemented by the following:

6.1. The Board of Directors shall adopt a budget for each year, which shall contain estimates of costs of performing the functions of the Association as set forth in the Declaration, and shall propose assessments, based thereon, against each Member. A copy of the budget shall be sent to each Member prior to, or along with, notice of the annual assessment.

6.2. The Board of Directors shall, from time to time, designate such depository banks as may be necessary. Withdrawal from accounts shall be by such persons as are authorized by the Directors.

6.3. The financial books and records shall be available for inspection by all Members and their lenders or agents during normal business hours.

6.4. The fiscal year of the Association shall be the calendar year, except the first fiscal year shall commence as of the date of recordation of the Declaration in the Pamlico County office of Register of Deeds.

## ARTICLE VII

## AMENDMENT TO BYLAWS

To be effective, any amendments to these Bylaws shall be proposed and adopted in the following manner:

7.1. Amendments may be proposed by Declarant or by vote of a majority of Directors or by Members of the Association owning a majority of the Boat Slips.

7.2. Upon proposal of an amendment to which the Members are entitled to vote, the President shall call a special meeting of the membership for a date not more than 50 nor less than 10 days from date of such proposal. The Secretary shall give each Member written notice of such meeting, and the stated purpose for the meeting, in the same form and manner as for call of a special meeting of Members. A meeting of the membership and notice thereof is not required for any amendment which Declarant has right to make pursuant to the Declaration without approval of the Members.

7.3. Any amendment proposed by Directors or the Members must be approved by not less than sixty-seven (67%) percent vote of Members, whether in person or by proxy, at a meeting of Members at which a quorum is present. Upon approval, such amendment shall be executed by the President and Secretary and shall be recorded in the office of the Register of Deeds of Pamlico County.

7.4. Any amendment to which Declarant has right to make without approval of the Board or the Members shall be executed by Declarant and recorded in the office of the Pamlico County Registry.

7.5. Notwithstanding anything contained herein to the contrary, no amendment shall be adopted which shall abridge the right of Declarant to appoint Directors as set out herein or which affects any other rights reserved to Declarant in the Declaration, and no amendment shall be adopted by the Members without prior written approval by the Declarant prior to the date when Declarant relinquishes control pursuant to Article V of the Declaration.

ARTICLE VIII

GENERAL PROVISIONS

8.1. Although no seal shall be required, if a seal of the Association is adopted by the Board of Directors it shall consist of two concentric circles between which is the name of the Association, and in the center of which is the word "SEAL."

8.2. No loan shall be contracted for by the Association without resolution by the Board of Directors.

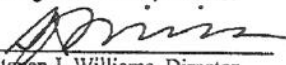
8.3. These Bylaws are intended to comply with N.C.G.S. Chapter 47C, and the Declaration. In the event of conflict of these Bylaws with the Declaration or with Chapter 47C, the provisions of the Declaration, which is subject to Chapter 47C, shall take precedence.

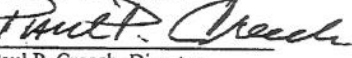
8.4. These By-laws have been approved and adopted by the initial Directors of the Association at its initial organization meeting. The names and signatures of the initial Directors set out below are evidence of such approval.

8.5. Capitalized terms used herein, if not defined herein, shall have the meanings given such terms as set forth in the Declaration.

Approved as of 8<sup>th</sup> day of October 2002.

By:   
George A. Dobson, Director

By:   
Steven J. Williams, Director

By:   
Paul P. Creech, Director

NORTH CAROLINA  
PAMLICO COUNTY

CERTIFICATE OF SUBSTANTIAL  
COMPLETION

I, John Kevin Avolis, a licensed engineer under North Carolina General Statues Chapter 89C and principal in Avolis Engineering, P.A. hereby certify that the improvements of the Units (Boat Slips) of Oriental Harbor Village Marina, a Condominium, have been substantially completed as shown on the plat and plans prepared by Atlantic Surveying & Design, P.A. dated September 6, 2002 and recorded in Condo Book 1 pages 78-79, Pamlico County Registry.

This the 9<sup>th</sup> day of October, 2002.

Avolis Engineering, P.A.

By: [Signature]  
John Kevin Avolis, P.E.

Title: VICE PRESIDENT / SECRETARY

North Carolina  
Craven County

Sworn to and subscribed before me this  
9<sup>th</sup> day of October 2002.

[Signature]  
Notary Public

My Commission Expires: 4-22-04

