

DECLARATION FOR SEA HARBOUR MARINA, INC. & SEA HARBOUR
CONDOMINIUM YACHT CLUB, INC

THIS DECLARATION, made this 24th day of May, 1990 by SEA HARBOUR MARINA, INC. a North Carolina Corporation with its principal place of business located in the County of Pamlico, State of North Carolina, hereinafter referred to as "Declarant";

W I T N E S S E T H:

THAT WHEREAS, Declarant is the owner of record of the fee simple title to certain real property in the County of Pamlico, State of North Carolina, which is more particularly described in Article I herein: and that

WHEREAS, it is the desire and intention of Declarant to establish an ownership yacht club organized under the provisions of Chapter 47C of the North Carolina General Statutes entitled "North Carolina Condominium Act"; and that

WHEREAS, it is the desire and intention of Declarant in the recordation of this Declaration in the Office of the Register of Deeds of Pamlico County, North Carolina to submit said condominium project to the provisions of said Chapter 47C;

NOW, THEREFORE, Declarant does hereby declare that the real property as hereinafter set forth, as well and all of the improvements constructed thereon and to be constructed thereon, is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to the following Articles of Covenants, Conditions, Restrictions, Uses, Limitations and Obligations, all of which are declared to be in furtherance of a plan for the condominium units and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns, and a burden and benefit to any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I

SUBMISSION OF PROPERTY

Pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, Section 47C-101, et seq., Declarant does hereby submit the real property and the adjacent riparian area as hereinafter described with all improvements thereon and described herein, to the provision of the "North Carolina Condominium Act" of the State of North Carolina, which is codified as Chapter 47C of the General Statutes of the State of North Carolina. It is further the intention to dedicate said property for the development of boatslips and said boatslips shall be conveyed as boatslips as described in Article II of this Declaration. The maximum number of boatslip condominium units is seventy-eight (78), subject to Article XI, Section A hereof. Said property being more particularly described in Exhibit A and Exhibit B attached hereto, and any other property annexed into Sea Harbour Condominium Yacht Club, Inc.

ARTICLE II

DEFINITIONS

For the purposes of this Declaration and the Bylaws of the Association, hereinafter defined, the following definitions for the terms used herein and therein shall apply unless otherwise defined by the context thereof:

- A. ACT shall mean and refer to the North Carolina Condominium Act, Chapter 47C of the General Statutes of the State of North Carolina, as such may be supplemented or amended from time to time.
- B. ASSESSMENTS or DUES shall mean and refer to a share of the funds required for the payment of the common expenses, hereinafter defined, of the Association which from time to time shall be levied or assessed against a member by the Association, all as provided for below.
- C. ASSOCIATION shall mean and refer to SEA HARBOUR CONDOMINIUM YACHT CLUB, INC., a club which will be a non-profit corporation and shall consist of members/owners as is more particularly described in Article II, Section H hereof.
- D. BOARD shall mean and refer to the Board of Directors of the Association.
- E. BOATSLIP or SLIP shall be that area which would be located between the pilings or stringers or along the wharfs, exclusive of any wooden structure, as designated on the recorded map for the mooring of a boat. The terms "unit" and "boatslip" within this declaration shall have the same meaning and may be used interchangeable.
- F. BOATSLIP NUMBER shall mean and refer to the number designation of a boatslip within the area as shown on the recorded map.
- G. BYLAWS shall mean and refer to those Bylaws of the Association providing for the government of the Association and the Club as they are duly adopted and amended from time to time by the members. A copy of the initial Bylaws are attached hereto as Exhibit D and made a part hereof by reference.
- H. CLUB shall mean and refer to the entire condominium development consisting of all the real property, together with all other improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for common use in connection therewith, which are intended to be submitted to the provisions of the Act by this Declaration, and the supplements and amendments hereto, as are provided for hereinbelow.
- I. COMMON AREAS and FACILITIES generally shall mean and refer to all of the real property and appurtenant riparian rights, as described above, and all of the improvements and facilities thereof, which are not boatslips, as owned, held and maintained jointly by all members. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to, the following:
1. All bulkheads, docks, piers and wharfs adjoining said property.
 2. All of the real property, to include all channels, and areas as contained in the above-described area.
 3. All piling, decking and supporting members
 4. All passageways and decks
 5. All installation of and facilities, apparatus, conduits and equipment for the provision of all utility services, including but not limited to all water, sewer and electricity.
 6. All other portions of the real property and the improvements thereon which are not specifically part of the units themselves as hereinafter defined, or owned by boatslip or unit owners as personal property, shall be common areas and facilities intended for the common and necessary or convenient use and enjoyment, existence, maintenance or safety of the condominium project.

J. COMMON EXPENSES shall mean and refer to the total cost and expense incurred by the Association (as hereinafter provided) for the administration, maintenance, operation enjoyment, safety, repair and replacement (including a capital reserve for repair, maintenance and replacement) of the common areas and facilities as well as any other expenses incurred by the Association pursuant to the fulfillment of its obligations and purposes as stated herein and labeled as common expenses. Common expenses is additionally intended to mean and refer to any expense incurred by the Association as shall be hereinafter agreed upon by the Association members as common expenses of the Club.

K. CONDOMINIUM UNIT or UNIT shall mean and refer to any one (1) of the seventy-eight (78) subdivisions or boatslips or docking spaces, and which are intended to or will be sold as boatslips pursuant to this Act and this Declaration. The terms "unit" and "boatslip" within this Declaration shall have the same meaning and may be used interchangeably.

Each "unit" or "boatslip" shall be inseparable from its one-seventy-eighth (1/78) undivided interest in the common area and one-seventy-eighth (1/78) of the voting rights in Sea Harbour Condominium Yacht Club, Inc.

L. DECLARANT shall mean and refer to Sea Harbour Marina, Inc., its successors and assigns.

M. DECLARATION shall mean and refer to this instrument and as it may from time to time be lawfully amended or supplemented.

N. DOCKS shall mean and refer to those docks and wharfs as shown on the attached exhibits, and any revisions or additions made thereto.

O. MAJORITY or MAJORITY OF MEMBERS shall mean and refer to the owners of fifty-one percent (51%) of the aggregate interest in the common areas and facilities, as established by this Declaration hereinbelow, assembled at a duly called meeting of the members, i.e. unit owners.

P. MEMBER shall mean and refer to a person (and, if applicable, his spouse), corporation or partnership in whose name the title to any boatslip is vested, excluding those who own or hold such title or interest under the terms of any mortgage or deed of trust or other similar instrument for the purposes of securing the payment of an indebtedness or the performance of an obligation.

Q. MEMBERSHIP COMMITTEE shall be a committee of the members appointed by the President having those powers and duties assigned it by this Declaration and the Bylaws, and such other responsibilities as the Board shall require.

R. REAL PROPERTY AND RIPARIAN AREA described herein shall mean and refer to all of the real property described herein, and includes any property which hereafter is annexed into the jurisdiction of the Association.

S. RECORDED MAP or MAP shall mean and refer to the map entitled "A Survey For Sea Harbour Marina", prepared by A. Hugh Harris, Jr., PE-RLS, dated December 6, 1989, which was revised on February 8, 1990 and May 24, 1990, and which is recorded, or to be recorded, in the Office of the Register of Deeds of Pamlico County, North Carolina.

T. SINGULAR, PLURAL, GENDER. Whenever the context so permits, the use of the plural shall include the singular, the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

Any word not defined herein, unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in the North Carolina General Statutes 47C-1-103.

ARTICLE III

PLAN AND DEVELOPMENT AND SCOPE OF DECLARATION

The name by which this condominium project shall henceforth be known is "SEA HARBOUR CLUB, A CONDOMINIUM". Declarant has caused to be constructed upon the property described in Article I, seventy-eight (78) boatslips, as well as the common areas and facilities of the adjacent areas as shown on the recorded map. All sales shall be pursuant to the provisions of Chapter 47C of the General Statutes of the State of North Carolina subject to the covenants, conditions, restrictions and obligations stated in the articles of this Declaration, the Articles of Incorporation of the Association, its duly adopted Bylaws and its Rules and Regulations.

It is further agreed, understood and declared that the undivided fractional percentage of ownership owned by each member of Sea Harbour Condominium Yacht Club, Inc. in the common areas and facilities of Sea Harbour Club is as stated in Article IV hereof.

ARTICLE IV

THE NATURE AND INCIDENTS OF MEMBER OWNERSHIP

A. Each boatslip shall be conveyed and treated as an individual real property unit capable of restricted independent use and fee simple ownership, subject to covenants and bylaws and the rights of the State of North Carolina and the U. S. Government, and the owner of each boatslip shall also own, as an appurtenance to each of the seventy-eight (78) units of the condominium, a one-seventy-eighth (1/78) undivided interest in the common areas and facilities.

The proportional interest in the common areas and facilities that is appurtenant to each boatslip is directly proportional to the maximum number of boatslips. Additional property, including common area and boatslips, may be annexed into the Club pursuant to Article IX hereof.

B. No boatslip may be divided or subdivided into a smaller unit, nor shall any portion thereof be added to or incorporated into any other unit. The undivided interest in the common areas and facilities declared to be an appurtenance to each boatslip shall not be conveyed, devised, encumbered or otherwise dealt with separately from said boatslip, and the undivided interest in common areas and facilities appurtenant to each boatslip shall be deemed conveyed, devised, encumbered, or otherwise included with the membership even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such membership. Any conveyance, mortgage or other instrument which purports to grant any right, interest or lien in, to or upon a boatslip shall be null, void and of no effect insofar as the same purports to affect any interest in a boatslip and its appurtenant undivided interest in common areas and facilities unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire boatslip. Any instrument conveying, devising, encumbering or otherwise dealing with any boatslip, which described said boatslip by the numerical designation assigned thereto on the recorded map without limitation or exception, shall be deemed and construed to affect the entire boatslip and its appurtenant undivided interest in the common areas and facilities.

C. The common areas and facilities shall be, and the same are hereby declared to be, subject to a perpetual, non-exclusive easement in favor of all of the members of Sea Harbour Club for their use and the use of their immediate families, guests or invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said members, subject to the rules, regulations and limitations specified herein.

D. Recognizing that the proper use of a boatslip by an owner or owners is dependent upon the use and enjoyment of the common areas and facilities in common with the other owners, and that it is essential that the ownership of the common areas and facilities be retained in common by the owners, it is therefore hereby declared that the proportional undivided interest in the common areas and facilities appurtenant to each boatslip shall remain undivided and no boatslip owner shall bring or have any right to bring any action for partition or division.

ARTICLE V

USE RESTRICTION

A. Each boatslip is hereby restricted to marine mooring occupancy for a single non-commercial pleasure boat. No sign indicating commercial uses for a boatslip may be displayed. A pleasure boat is defined as a registered pleasure boat under the licensing laws of North Carolina or Federal Government, not licensed for carrying passengers or cargo for hire, and operated by its owner on a non-profit, non-commercial basis.

B. No boats berthed within condominium units may be used for a year-round residence or for a residence for periods of greater than one month at one time without written permission of the Board of Directors. All boats must be equipped with sanitary holding tanks or portable toilet facilities, and they may not discharge household sewage, trash, petroleum products or other waste into the water.

C. From time to time, piers and boats may be required to be removed for maintenance, repairs and dredging, at which time the boatslip unit may be entered for such periods as may be necessary. To the extent fill is removed from the boatslip, it will be treated as the property of the Club.

D. No immoral, improper, offensive or unlawful use may be made of the Club or a boatslip and members should comply and conform to all applicable laws and regulations of the United States and the State of North Carolina and all ordinances, rules and regulations of the Town of Oriental. Any violating member, his guests or invitees, shall hold the Association and other members harmless from all fines, penalties, costs and prosecutions from the violation thereof or noncompliance therewith.

E. No electrical device creating electrical overloading of standard circuits may be used. Misuse or abuse of appliances or fixtures within a boatslip which affects other boatslips or the common areas is prohibited. Any damage resulting from such misuse shall be the responsibility of the member from whose boatslip it shall have been caused. Total electrical usage in any boatslip shall not exceed the capacity of the circuits as labeled on the circuit breaker boxes or as specified to each member. Any use of utilities by any member that, in the sole discretion of the Board of Directors, might be considered excessive will require installation of utility meters at such slip at the expense of the member and thereafter such member shall be charged for all utility usage by such meter in addition to the Association's dues.

Absent the owner, any electrical heating unit shall be operated from a thermostat set no higher than 35 degrees Fahrenheit.

F. Each member shall keep his boatslip in a good state of preservation and cleanliness. No storage of trash will be permitted in or outside any boatslip.

G. No noxious, offensive, dangerous or unsafe activity shall be carried on in any boatslip nor shall anything be done therein either willfully or negligently, which may be or become an annoyance or nuisance to the other members or occupants. No member or occupant shall make or permit any disturbing noises by himself or herself, his or her family, servants, employees, agents, or visitors, nor do or permit anything to be done by such persons that will interfere with the right, comforts or convenience of other members or occupants. No member or occupant shall cause noise or play, or suffer to be played, any musical instrument or operate or suffer to be operated, a phonograph, television set, stereo system, CD player or radio at such high volume or in such manner that it shall cause disturbances to other members or occupants.

H. It is difficult to maintain pets in a marina club atmosphere without intruding on the rights, sensibilities and enjoyment of fellow members. The Board of Directors through their appointed manager must prohibit from the common area certain pets which have been the subject of complaint. A violation of that prohibition shall, regrettably, lead to exclusion of such pet from the club area. Seeing eye dogs and hearing ear dogs will be permitted for those persons holding certificates of necessity.

I. Notwithstanding the foregoing, as long as the Declarant is a unit owner, the Declarant and its duly authorized agents, representative and employees may maintain the present office as a sales office. The Declarant reserves the right to maintain management offices and signs and displays advertising the condominium.

J. Swimming in the dock area is dangerous. No swimming shall be permitted.

K. The docks shall be kept free of obstructions at all times. Dock boxes shall only be in assigned shore areas.

L. There shall be a "no wake" policy in effect in the area around the boatslips.

M. The use of common areas and facilities by a member or all members and all other parties authorized to use the same, shall be at all times subject to such ongoing reasonable rules and regulations as may be prescribed and established governing such use by the Board of Directors of the Association.

N. No member shall permit any structural modification or alteration to be made to his boatslip without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in its sole discretion, that such structural modifications or alterations would adversely affect or in any manner endanger the boatslip in part or in its entirety. Any unauthorized modification may be removed by the Association, and the violating member shall be assessed for all charges reasonably incurred therein.

O. No member may place a "for sale" sign or a "for rent" sign, or any type of sign on said boatslip or in front of said boatslips.

ARTICLE VI

LEASE AND TRANSFER OF BOATSLIPS

Declarant desires to create an exclusive and private development, and in connection therewith desires to reasonably restrict the transfer of possession and/or ownership of the boatslips and reserves the right in the Association to limit the lease, sale or resale of any boatslip to individuals determined by the Board of Directors, in their

sole discretion, to be compatible with the family-oriented, recreational, low key and non-commercial profile proposed and intended by Declarant.

The Association shall from time to time advertise the availability of boatslips in the Club for sale or lease. In the event the number of interested buyers or lessees exceeds the number of boatslips available, the Association shall develop and maintain a "waiting list" of compatible individuals.

Any boatslip may be leased or sold by a member subject to the following requirements:

A. In the event any member desires to lease or to sell his boatslip, said member having received a bonafide offer from a prospective lessee or purchaser, the Association shall be given written notice thereof, together with an unexecuted copy of such offer and the terms thereof, by said member by certified or registered mail. The Association shall submit the name of the prospective lessee or purchaser to the membership committee for approval.

If the prospective lessee or purchaser is rejected for membership by the membership committee, the Association shall then have the option to do any of the following:

1. Secure a buyer or lessee from the approved "waiting list:" who shall purchase or lease the boatslip on the same terms and conditions set forth.
2. Purchase or lease the boatslip on the same terms and conditions set forth.
3. Decline to exercise any rights under this Article VI, Section A.

B. The Association shall have sixty (60) days following the receipt of said written notice in which to exercise its rights herein described. In the event the Association elects to exercise option (1) or (2) in the foregoing Section A, the transaction will be closed within ninety (90) days of receipt of the said written notice from the member..

C. If the Association does not have a qualified buyer or lessee on the "waiting list", or should the Association elect not to purchase or lease within sixty (60) days of the receipt of said written notice, which delivery shall be evidenced by a receipt for certified or registered mail, then the selling or leasing member shall be released from the restrictions contained in this Article. Upon written request of any prospective purchaser or tenant, the Association shall be required to forthwith issue a written and acknowledged certificate, in recordable form, evidencing the Association's or member's election not to exercise its right of first refusal.

D. The rights of any lessee of any boatslip (under a lease the current term, current renewal or extension of which commences on or after the date of recordation of this Declaration) shall be subject to, and each such lessee shall be bound by, the covenants, conditions and restrictions contained in this Declaration, and the Bylaws and Rules and Regulations of the Association, and a default thereunder shall constitute a default under such lease; provided, however, that the foregoing shall not impose any direct liability on any such lessee to pay any assessment on behalf of the owner of such boatslip. Use of the Club's facilities shall be limited to the lessee during the term of the member's lease.

E. The rights of the grantee of any boatslip (whose deed is delivered on or after the date of recordation of this Declaration shall be subject to each condition and restriction contained in this Declaration, the Bylaws and the Rules and Regulations of the Association, provided, however, that the foregoing shall not impose any direct

liability on any such grantee to pay any assessments on behalf of the previous owner of such boatslip.

F. The selling or leasing member agrees to co-operate with the Association in connection with the Association's rights under this Article VI, and to execute any instruments required of him to perfect or convey title to the boatslip.

G. These restrictions upon transfer shall not be applicable to the transfer of title of a deceased owner or an interest in a boatslip either by Will or Intestate Succession. Likewise, nothing herein shall interfere with the right of a member to subject his boatslip to a deed of trust or mortgage or other security instrument. Likewise, any lender or mortgagee holding a lien on a boatslip upon which default has occurred, shall be free and clear of the provisions of this Article with regard to the foreclosure and the sale of said boatslip, except that the purchaser following the foreclosure sale shall be subject to the terms and conditions of this Article.

ARTICLE VII

EASEMENTS

In addition to easements and rights established and/or reserved elsewhere in this Declaration, the following easements and rights are hereby established as covenants and burdens running with the real property and the improvements thereto:

A. In case of any emergency originating in or threatening any boatslip, regardless of whether the member/unit owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter such boatslip for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

B. Each member shall have an easement in common with the other owners of all boatslips to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities which pass through in any of the other boatslips and serving his slip. Each boatslip shall be subject to an easement in favor of the owners of all other boatslips to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other boatslips and located in such slip. The Board of Directors of the Association or its designees shall have the right of access to each slip to inspect the same, to remove violations therefrom and to maintain, repair, or replace the common facilities contained therein or elsewhere in the Club.

C. The initial and subsequent Boards may grant or assume easements, leases or license for utility purposes for the benefit of the condominium, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits and wires over, under, along and on any portion of the slips and/or common areas and facilities and limited common areas and facilities; and, each member hereby grants to the Board, or its designee, the irrevocable power of attorney to execute, acknowledge and record for or in the name of the Association or each member such instruments as may be necessary to effectuate the foregoing.

D. Ingress and egress is reserved for pedestrian traffic over, through and across bulkheads, docks, piers, sidewalks, paths, walks and lanes as the same from time to time may exist upon the common areas and facilities; and for vehicular traffic over, through and across such portions of the common areas and facilities as from time to time may be paved and intended for such purposes, for all members, their guests, families, invitees, lessees, the Association, the Declarant, its successors and assigns.

E. In the event that any unit shall encroach upon any of the common areas and facilities, or any other unit or units for any reason not caused by the purposeful or negligent act of the unit owner, or agents of such owner, than an easement appurtenant to such unit shall exist for the continuance of such encroachment upon the common areas and facilities or upon a unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the common areas and facilities shall encroach upon any unit, then an easement shall exist for the continuance of such encroachment of the common areas and facilities upon any unit for so long as such encroachment shall naturally exist. If any unit boatslip or common areas and facilities shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such unit and/or common areas and facilities in accordance with this Declaration, there exist encroachments of portions of the common areas and facilities upon any unit, or of any unit upon any other unit or upon any portion of the common areas and facilities, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

F. Water, sewer and electrical lines serving the property of Declarant and serving the Club run across the property of the Declarant and of the Club. The Declarant and Club shall have and hereby are granted easements in the location of those water, sewer and electrical lines to use the area now occupied by such lines for the purposes for which same presently are used and to repair, maintain, service, replace, and enlarge those lines to serve the Club or the property of the Declarant. Declarant, its successors and assigns, shall have the right from time to time to alter the location of any such lines and the easements for same, unilaterally, by physically altering the location of the lines to a reasonable location and reconnecting such lines; repairing the areas from which such lines were removed and the area to which such lines are moved; and executing and recording an amendment to this Declaration and the recorded map removing any such easements from their former location and granting an easement for the lines of identical character in the new location. The Association constitutes Declarant attorney-in-fact for the Association for the limited and specific purpose of taking the actions authorized by this paragraph. This power of attorney is irrevocable. These easements shall run with the land and the location of certain of said easements is shown on the recorded map. If any such act disturbs the surface area, the surface area immediately shall be repaired by the party disturbing the area to the same condition as existed prior to the disturbance. Each party agrees to grant a more specific easement for such lines in the width requested by the utility furnishing the service upon demand by the other party.

G. Notwithstanding any other grant of easements in this instrument, Declarant, for itself and its successors and assigns in the ownership of the property described in Exhibit C and retained by Declarant, reserves the right and easement to travel over and upon and to cross and recross the pedestrian and parking easements described in Exhibit B for the purposes of serving, and as an appurtenance to, the property retained by Declarant. This reserved easement shall be for the purposes of ingress, egress, regress, access and the installation and maintenance of utilities.

H. The Association may grant easements for utility purposes for the benefit of the Club over, along, under and through any common area located within the Club. Each member hereby grants to the Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of the member, such instruments as may be necessary to effectuate the granting of such easement. The rights of any mortgagee in any portion of the Club shall be subject to and subordinate to such

easements as are provided in this paragraph. It is provided, however, that no such grant of easement shall have a material adverse effect on the use, enjoyment or value of any boatslip.

ARTICLE VIII

THE ASSOCIATION

To efficiently and effectively provide for the administration and maintenance of the condominium by the unit owners, a non-profit North Carolina corporation known and designated as SEA HARBOUR CONDOMINIUM YACHT CLUB, INC. (herein called the "Association"), has been organized, and a true copy of its Articles of Incorporation having been recorded in Book _____ at page _____, in the Office of the Register of Deeds of Pamlico County, North Carolina. The Association shall administer the operation and management of the condominium/club, and shall undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation ;and its duly adopted Bylaws, including, and specifically, the responsibility for enforcing conformity to requirements of the bylaws, covenants and the rules and regulations of the Board of Directors. A true copy of the original Bylaws are attached hereto as Exhibit D and expressly made a part hereof by reference.

A. DECLARANT CONTROL PERIOD: Declarant's control terminates no later than the earlier of: (i) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the boatslips to members other than Declarant, or (ii) two (2) years after Declarant has ceased to offer boatslips for sale in the ordinary course of business.

B. DECLARANT CONTROL: Declarant reserves the following rights:

1. Declarant shall appoint and remove members of the Board of Directors of the Association during the Declarant Control Period, as set forth in the Bylaws of the Association and limited by the provisions of N.C.G.S. 47C-103(d), (e) and (f).

2. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Declarant Control Period, but in that event, Declarant may require for the duration of the period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

3. Not later than sixty (60) days after the recording of this Declaration in the Office of the Register of Deeds of Pamlico County, North Carolina, at least one member and not less than twenty-five percent (25) of the members of the Board of Directors shall be elected by members other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the boatslips (including boatslips which may be created pursuant to special Declarant rights) to members other than the Declarant, not less than thirty-three percent (33%) of the members of the Board of Directors shall be elected by members other than the Declarant.

4. Upon the termination of any period of Declarant Control, the members shall elect a Board of Directors of at least five (5) members, at least a majority of which must be members. The Board of Directors shall elect the officers of the Association. The members of the Board of Directors and the officers shall take office upon election.

C. MEMBERSHIP AND VOTING RIGHTS: The owner of each boatslip shall automatically become a member of the Association upon his acquisition of any

ownership interest in title to any boatslip, and the membership of owner shall terminate automatically upon being divested of such ownership interest. Each boatslip shall have one (1) vote and the total number of votes or voting members shall be seventy-eight (78). Rights to vote and to use proxies will be as set forth in 47C-3-110 of the North Carolina General Statutes.

In the event a boatslip is owned by more than one (1) individual, or by a corporation, then those owners, or that corporation, shall designate a representative to cast their, or its, vote. Further, notice by the Association on said representative shall be deemed notice on all of the owners, or on the corporation.

D. POWERS: The Association shall have all powers granted to it as provided in Section 3 of the Articles of Incorporation.

E. COMMON EXPENSES: The common expenses of the Association incurred in operating the Club shall be shared by the members in the same proportions that the undivided interest in the common areas and facilities appurtenant to each member's boatslip bears to the total of all undivided interests in the common areas and facilities appurtenant to all boatslips, and as assessments against the member and his boatslip as provided for hereinbelow.

F. MANAGEMENT AND MAINTENANCE:

1. The Association, as a common expense, shall be responsible for the maintenance, repair and replacement of all pilings, docks, and bulkheads located on the property described herein. Further, the Association shall have the authority to maintain or repair any other facilities on the property the lack of maintenance of which would be detrimental to the Club. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a member, his immediate family, guests or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the member who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair and replacement as shall exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

2. The Association shall have the right to make or cause to be made such alterations or improvements to the common areas and facilities which do not prejudice the rights of the member in the use and enjoyment of his boatslip, provided the making of such alterations and improvements are approved by the Board of Directors of the Association. If such alterations or improvements are exclusively or substantially for the benefit of the owner or owners of a certain boatslip or boatslips requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the owner or owners of the boatslip or boatslips exclusively or substantially benefited, the assessment to be levied equally among the members involved as presented by N.C.G.S. 47C-3-115.

3. The Association may enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance and management of the property. In addition, the Association may enter into a contract for any professional services necessary in the operation and management of the Association. All the powers and duties of the Association necessary or convenient for such maintenance and management may be delegated to and vested in the manager by the Board of Directors, except such as are specifically required by this Declaration, the Bylaws or the North Carolina Condominium Act to have the approval of the Board of Directors of the Association. The manager is hereby further authorized to recommend the annual budget and, upon approval thereof by the Board of Directors, make assessments for common expenses and collect such assessments as provided in this Declaration and the Bylaws, subject always to the supervision and right of approval of the Board of Directors. It is recognized that holding office in a non-profit organization is difficult and a great burden to the generous individuals willing to so serve. It is the full intention of these covenants and the Bylaws to give the greatest possible latitude and powers to such office holders as is consistent with the North Carolina Condominium Act.

4. The Association shall promptly repair any damage to a boatslip or any other part of the Club which is caused by a particular member and/or his guests, invitees, licensees, etc. and then assess that member for those expenses. All parts of a slip shall be kept in good condition and repair by and at the expense of the owner. The slip shall be maintained in a clean and safe condition, free of nuisance. Each boatslip owner will promptly comply with any requirements of the insurance underwriters of the insurance for the common areas and facilities when so requested in writing by the Board or its designated agent. Any failure of a member to repair, maintain or replace as may be required pursuant to this Declaration, or a determination by the Board or its designated agent that such failure will endanger or impair the value of the common areas and facilities or any slip may be, upon written notice to the member of the nature of the required repair, maintenance or replacement, repaired or replaced by the Association at the expense of the member, to be collected by special assessment as provided herein and in the Bylaws. Such assessment may include the cost the Association incurred in the abatement of any nuisance maintained by the unit owner therein.

5. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to members for injury or damage caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other members or persons.

G. INSURANCE:

1. The following insurance coverage shall be maintained in full force and effect by the Association covering the operation and management of the Club, meaning the boatslips and common areas, to wit:

(a) Casualty insurance covering the buildings, the docks and piers, and all improvements upon the land and appurtenant riparian area and all personal property included within the Club except such personal property as may be owned by the members, shall be procured in an amount equal to the maximum insurable replacement value thereof (exclusive of land, excavation, foundations, streets

and parking facilities) as determined annually by the insurance company affording such coverage; and provided that such policies may be written on a co-insurance basis of not less than ninety percent (90%). Such coverage shall afford protection again: (i) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and (ii) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief. Casualty insurance obtained for the buildings and improvements shall provide such coverage commonly known as "all inclusive building" coverage and/or "completed condominium unit" coverage as such terms are used in the insurance industry.

(b) Public liability and property damage insurance in such reasonable amounts and covering all occurrences commonly insured against including, death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common areas, and in such forms as shall be required by the Association, including, but not limited to, legal liability, hired automobiles, non-owned automobile and off-premises employee coverage. All liability insurance shall contain cross-liability endorsements to cover liabilities of the members as a group to a member. The policy shall provide coverage of at least One Million Dollars (\$1,000,000) for bodily injury and property damage for any single occurrence.

2. Premiums upon insurance policies purchased by the Association shall be paid by the Association as common expenses to be assessed and collected from all of the members.

3. Any loss covered by the property insurance maintained by the Association shall be adjusted with the Association; provided, however, all insurance policies purchased by the Association shall be for the benefit of the Association and the members and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association as Trustee. The Trustee shall hold such proceeds in trust for the benefit of the members and their respective mortgagees as their interests may appear.

4. In the event a mortgage endorsement has been issued for a boatslip, the share of any insurance proceeds of the unit owner shall be held for the mortgagee and unit owner as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.

5. Proceeds of insurance policies received by the Association shall be disbursed first for the repair, reconstruction, or restoration of the damaged property, and unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Club is terminated.

6. Insurance policies carried pursuant to this Article VIII shall provide that:

(a) Each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common areas or membership in the Association;

(b) The insurer waives its right to subrogation under the policy against any unit owner or members of his household, if applicable;

(c) No act or omission by any unit owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy;

(d) If, at the time of any loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the Association's policy provides primary insurance; and

(e) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each unit owner and each mortgagee or beneficiary under a deed of trust to whom certificates or endorsements have been issued at their respective last know addresses.

7. If the insurance described in this Article is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all members.

8. The Association shall maintain flood insurance, if required and available, on the buildings and all improvements upon the land, the common elements, and all personal property of the Club (except personal property of the members).

H. DAMAMGE AND DESTRUCTION:

1. Any portion of the Club for which insurance is required pursuant to Article VIII, Section G hereof, which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Club is terminated, (ii) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (iii) the members decided not to rebuild by an eighty percent (80%) member vote. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a common expense. If the entire Club is not repaired or replaced, (i) the insurance proceeds attributable to the damaged common areas shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, and (ii) the remainder of the proceeds shall be distributed to all of the members or lien holders, as their interests may appear, in proportion to their common area interest. If the members vote not to rebuild any boatslip, that boatslip's allocated interests shall automatically be reallocated upon the vote as if the boatslip had been condemned pursuant to N.C.G.S. 47C-1-107(a), and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this Article, N.C.G.S. 47C-2-118, as modified by Article XIII of this Declaration, shall govern the distribution of insurance proceeds if the Club is terminated.

2. Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional

fees and premiums for such bonds as the Board of Directors deems necessary or appropriate.

3. When the damage is to both common areas and boatslips, the insurance proceeds shall be applied first to the costs of repairing the boatslips and dockings and the balance to the remaining common areas.

4. Each member shall be deemed to have delegated to the Association his right to adjust with insurance companies all losses under policies purchased by the Association.

I. PLANS AND SPECIFICATION: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, or, if not then according to plans and specifications approved by the Board of Directors of the Association and if the damaged property is a boatslip or slips, by the owners of all damaged slips therein, which approvals shall not be unreasonably withheld.

Immediately after a determination to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Board of Directors or its manager shall at its, or his, sole discretion and best efforts arrange to rebuild or repair.

If the proceeds of insurance are not sufficient to defray the costs 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 or the payment of the costs thereof are insufficient, assessments shall be made against the member who owns the damaged boatslip, and against all members in the case of damage to common areas and facilities in sufficient amounts to provide funds for the payment of such costs. Such assessments against members for damage to boatslips shall be in proportion to the costs of reconstruction and repair of their respective slips as can be best determined by the Board of Directors in its sole discretion. Such assessments on account of damage to common areas and facilities shall be in proportion to the member's share in the common areas and facilities.

J. ASSOCIATION TO MAINTAIN REGISTER OF MEMBERS AND MORTGAGEES: The Association shall at all times maintain a register of members setting forth the names of the owners of all of the boatslips. In the event of the sale or transfer of any boatslip to a third party, the Association shall record such information as shall be pertinent to identify the instrument by which such purchases or transferee has acquired his interest in any boatslip. Further, the owner of each boatslip shall notify the Association of the names of the parties holding any mortgage or mortgages on any boatslip, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify that mortgage or mortgages. The holder of any mortgage or mortgages upon any boatslip may notify the Association of the existence of any mortgage or mortgages held by such party on any boatslip and, upon receipt of such notice, The Association shall register in its records all pertinent information relating thereto.

K. DUES, ASSESSMENTS, LIABILITY, LIEN AND ENFORCEMENT: The Association has been given the authority to administer the operation and management and regulation of the condominium, it being recognized that the delegation of such

duties to one entity is in the best interest of all the members. To properly administer the operation and management and enforcement of regulations of the condominium, the Association will incur for the mutual benefit of all of the members, costs and expenses which are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation, management and capital improvement, the Association has heretofore been granted the right to set, levy and collect dues against the members and their boatslips. In furtherance of this grant of authority to the Association to make, levy and collect dues and assessments to pay the costs and expenses for the operation, management of and capital improvements to the condominium, the following provisions shall be operative and binding upon all the members:

1. All dues and assessments levied against the members and their boatslips shall be uniform and, unless specifically otherwise provided for in this Declaration, all dues and assessments made by the Association shall be in such an amount that any such amount levied against a member and his boatslip bear the same ratio to the total dues and assessments made against all members and their boatslips as the undivided interest in common areas and facilities appurtenant to each boatslip bears to the total undivided interest in common areas and facilities appurtenant to all boatslips.

2. Dues provided for herein shall be payable as required by the Board of Directors. Special assessments as provided for hereinafter shall be due and payable at such times as may be determined by the Board of Directors of the Association.

3. The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the condominium, the fiscal year shall commence with the closing of the sale of the first boatslip). Such budget shall project estimated expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Sea Harbour Club, excluding an allowance for contingencies and reserves. Upon operational independence, the Board shall become responsible for establishing budgets including reserves and the Board shall be fully responsible for operation of and all expenses of the Club. The Board of Directors shall keep separate, in accordance with the following Section K, Paragraph 4 of this Article, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such annual budget by the Board of Directors, copies of said budget shall be delivered to each member and the dues for said year shall be established based upon such budget, although the delivery of a copy of said budget to each member shall not affect the liability of any member for such dues. Should the Board of Directors at any time determine, in its sole discretion, that the dues levied are, or may prove to be, insufficient to pay the costs of operation and management of the condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary. In the event that said additional assessment would be more than fifteen percent (15%) of the prior year's dues/assessment, then the additional assessment may not be levied by the Board of Directors without an affirmative vote of fifty-one percent (51%) of the membership, by person or proxy, at a meeting called for such purpose.

4. The Board of Directors of the Association, in establishing the annual budget for operation, management and maintenance of the condominium, may

designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the common areas and facilities, which capital improvement and replacement fund (capital improvement fund) shall be for the purpose of enabling the Club to replace structural elements and mechanical equipment constituting a part of the common areas and facilities, as well and the replacement of personal property which may constitute a portion of the common areas and facilities. The amount collected for the capital improvement fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to common areas and facilities. Any interest earned on monies in the capital improvement fund may not be expenses for current operation and maintenance.

5. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Board to the payment of any expense of operating and managing the condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the Bylaws of the Association. As monies for any assessment are paid into the Association by any member, the same may be co-mingled with monies paid to the Association by the other members. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of common areas and facilities, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his boatslip. When the owner of a slip shall cease to be a member of the Association by reason of his divestment of ownership of such boatslip, by whatever means, the Association shall not be required to account to such owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such owner, as all monies which any owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the condominium.

6. The payment of any dues or assessment shall be in default if it is not paid to the Association within fifteen (15) days of the due date for such payment. When in default, the delinquent dues or assessment due to the Association shall bear interest at eighteen percent (18%) per annum until such delinquent dues or assessment and all interest due thereon has been paid in full to the Association. All monies owing to the Association shall be due and payable at the main office of the Association in the State of North Carolina. Further, the Board of Directors may create charges for late payments and fines in addition to the eighteen percent (18%) interest as set forth above, as provided in 47C-3-107A of the North Carolina General Statutes.

7. Each member shall be personally liable, jointly and severally, to the Association for the payment of all dues or special assessments, which may be levied by the Association against his boatslip while such member is the owner of a boatslip. In the event that any member is in default in payment of any dues or assessment owed to the Association, such member shall be personally liable, for interest on such delinquent dues or assessment as above provided, and for all costs of collecting such amounts and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.

8. No member may exempt himself from liability for any dues or assessment levied against him or his boatslip by waiver of the use or enjoyment of any of the common areas and facilities, or by abandonment of the boatslip or in any other way.

9. Recognizing that proper operation and management of the condominium requires the continuing payment of costs and expenses therefore, and that such proper operation and maintenance results in benefit to all of the members, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each member, the Association is hereby granted a lien upon each boatslip and its appurtenant undivided interest in the common areas, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the owner of each such boatslip, which lien shall also secure interest, if any, 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 reasonable attorneys' fees, which may be incurred by the Association in enforcing the lien provided for herein. The lien granted to the Association may be foreclosed in the same manner as foreclosure of real estate mortgages and deeds of trust may be foreclosed under power of sale in the State of North Carolina. In the event of such foreclosure, the Association shall be entitled to a reasonable rental from the owner of any boatslip from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a receiver for said boatslip. The Association shall be entitled to bid at any foreclosure sale and may apply as cash credit against its bid all sums due as provided herein. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens 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 rate of ten percent (10%) per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any boatslip, or who may be given or may acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any boatslip expressly subject to such lien rights.

10. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Office of the Clerk of Superior Court of Pamlico County, North Carolina, which claim shall state the description of the boatslip encumbered thereby, the name of the record owner, the amount due, the date when due and shall comply with any other requirements under N.C.G.S. 47C-3-116. The claim of lien shall be recordable at any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid, but shall be extinguished unless a proceeding to enforce the lien is instituted within three (3) years after the docketing thereof. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided and all fees, charges, late charges, fines and interest as set forth in N.C.G.S. 47C-3-116. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien provided for herein shall be prior to all liens and encumbrances on a boatslip except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust to the boatslip) recorded before the docketing of the lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments or charges against the boatslip. This subsection does not affect the priority of mechanics' or material men's liens.

If the holder of a first mortgage or first deed of trust of record, or other purchaser of the boatslip, obtains title to the boatslip as a result of foreclosure or deed in lieu of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the assessments against such boatslip which became due prior to acquisition of title to such boatslip by such purchaser. Such unpaid assessment shall be deemed to be common expenses collectible from all of the members including such purchaser, and its heirs, successors and assigns although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

11. Whenever any boatslip may be leased, sold or mortgaged by the owner thereof, the Association, upon written request of the boatslip owner, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the association for such boatslip. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment 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 suit at law to collect any sum then remaining owing to the Association.

ARTICLE IX

RESERVATIONS BY DECLARANT

A. Declarant reserves the right to annex into the Club and Association, at any time without the consent of the Association or members, additional property within the area described in Exhibit C and the adjacent riparian areas, and the owners of the annexed property shall automatically have the right and easement to use the common areas of the Association. No such areas may be annexed unless the docks, piers and boatslips within the area are in a condition of repair at least as good as that of the docks, piers and boatslips then in the Club. In the event all nine (9) boatslips are annexed into the Club, the undivided interest described in Article IV, Section A hereof shall be reduced on a pro-rata basis to a one-eighty-seventh (1/87) undivided interest. Upon annexation, the annexed area automatically shall become a part of the Club as that term is defined in Article II hereof. Nine (9) additional boatslips is the maximum number which the Declarant reserves the right to create.

B. Prior to annexation, Declarant reserves the right to lease the said nine(9) boatslips and to allow the lessees thereof to utilize all the facilities of the Club. Declarant shall pay semi-annually all dues assessed by the Association for each leased boatslip as if each lessee were a member of the Association.

C. Declarant reserves the right to relocate Pedestrian Easements numbered "2" and "3", as described in Exhibit B attached hereto.

D. Declarant reserves those easements described in Article VII hereof.

ARTICLE X

RIPARIAN RIGHTS

Declarant hereby conveys to the Association the right to construct and reconstruct the docks and piers into the waters of Pierce Creek, Dolphin Creek and Bonito Channel in the location presently existing as shown in the recorded map. However, the Association shall not increase the size of the docks and piers or relocate them without the prior written consent of the Declarant. Declarant hereby conveys to the Association the riparian rights of Declarant in said waters appurtenant to the land described in Exhibit A and adjacent to the docks as shown on the recorded map. All that is included in this conveyance is the riparian right to build docks in the location as shown on the map and the right to travel to and from the channel of Pierce Creek to and from those docks. Declarant expressly reserves all rights and easements as specified in this Declaration notwithstanding any provision of this Article. Declarant also reserves and excepts from any conveyance under this Article the docks, described in Exhibit C attached hereto, and the right to maintain, repair, construct, reconstruct, use, and have ingress and egress to and from Pierce Creek to and from such docks.

ARTICLE XI

MISCELLANEOUS OBLIGATIONS OF DECLARANT

A. Declarant agrees to have the entrance of Pierce Creek dredged subject to the following conditions:

1. Declarant's Board of Directors shall determine, in its sole discretion, when the dredging shall be conducted, but said dredging shall not take place later than March 31, 1993, and
2. Declarant's obligation to dredge said entrance of Pierce Creek shall be limited to one time.

B. Should Declarant receive a bona fide offer to purchase the entire tract described in Exhibit C attached hereto, and should Declarant decide to sell said tract, Declarant shall promptly notify the Association in writing of such offer, setting forth the terms of the offer and stating Declarant's willingness to sell for such price. The Association shall thereupon have the right of first refusal of purchasing said tract at such

price, provided it shall exercise such right by hand delivering to the Declarant its written notice of acceptance of offer within fifteen (15) days after receipt of Declarant's notice. If the Association shall not give the Declarant said notice of acceptance of offer within the fifteen (15) day period, the Association shall not be obligated to buy and Declarant may thereafter sell said land to the third party making the offer.

Nothing in this Article shall prevent or restrict the Declarant from encumbering, developing or subdividing said tract and selling it in individual parcels, and the trustee in any deed of trust from Declarant shall take title to said land free and clear of the aforementioned right of first refusal.

ARTICLE XII

TERMINATION OF SPECIAL DECLARANT RIGHTS

Unless a different time period is set forth in this Declaration, or the Bylaws, all special Declarant rights shall terminate on January 1, 2010.

ARTICLE XIII

TERMINATION OF CONDOMINIUM

The termination of the condominium shall be controlled by North Carolina General Statute 47C-2-118, which Statute is incorporated herein by reference.

ARTICLE XIV

AMENDMENT OF DECLARATION OF CONDOMINIUM

An amendment or amendments to this Declaration of Condominium may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors or by the members of the Association owning a majority of the boatslips, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a special meeting of the members of the Association for a date not later than sixty (60) days from receipt by him of the proposed amendment or amendments. It shall be the duty of the Secretary to give to each member written or printed notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than fourteen (14) days nor more than thirty (30) days before the date set for such special meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his post office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the amendment or

amendments proposed must be approved by an affirmative vote of at least sixty-seven percent (67%) of the membership of the Association in order for such amendment or amendments of this Declaration of Condominium to be adopted. Any such amendment or amendments as adopted shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such amendment or amendments, so certified and executed with the same formalities as a deed, shall be recorded in the public records of Pamlico County, North Carolina, such amendment or amendments to specifically refer to the recording data identifying this Declaration. Thereafter, a copy of said amendment or amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to each member of the Association, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

ARTICLE XV

REMEDIES IN EVENT OF DEFAULT

The members of the Association shall be governed by and shall comply with the provisions of this Declaration, and the Bylaws of the Association, as any of the same are now constituted or as they may be amended from time to time. A default by any member shall entitle the Association or an individual member to the following relief:

1. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including, without limitation, actions to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an individual, aggrieved member of the Association.

2. Each member shall be liable for the expense of any maintenance, repair or replacement rendered necessary by this act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a boatslip or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

3. If any proceeding arising because of an alleged default by a member, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court, but in no event shall any member be entitled to such attorneys' fees except as otherwise provided in N.C.G.S. 47C-3-116(e).

4. The failure of the Association or any member to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or the member to enforce such right, provision, covenant or condition in the future.

5. All rights, remedies and privileges granted to the Association or any member pursuant to any terms, provisions, covenants or conditions of this Declaration

or other above-mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the part thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

6. The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or the other above-mentioned documents shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition in the future.

7. The failure of a first mortgagee to enforce any right, provision, privilege, covenant or condition which may be granted by the Declaration or the other above-mentioned documents shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

8. The failure of an institutional lender or institutional lenders to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by this Declaration or other above-mentioned documents shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

9. The Association shall also have all those rights as provided for default in North Carolina General Statute 47C-3-107 and 47C-3-107A.

ARTICLE XVI

SEVERABILITY

In the event that any of the terms, provisions or covenants of this Declaration are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

ARTICLE XVII

LIBERAL CONSTRUCTION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of compatible condominium owners. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

ARTICLE XVIII

DECLARATION OF CONDOMINIUM BINDING ON

ASSIGNS AND SUBSEQUENT OWNERS

The restrictions and burdens imposed by the Articles of this Declaration are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each boatslip and its appurtenant undivided interest in common areas and facilities. This Declaration shall be binding upon the Declarant, its successors and assigns, and upon all parties who may subsequently become owners of units in the condominium, and their respective heirs, devisees, legal representatives, successors and assigns. This Declaration and the exhibits attached hereto and

amendments hereof shall be construed and controlled by and under the laws of the State of North Carolina.

ARTICLE XIX
COMPLIANCE WITH
NORTH CAROLINA CONDOMINIUM ACT

Nothing in this Declaration shall be deemed to be contrary to North Carolina General Statute 47C in its entirety, and any of the provisions as contained in this Declaration which are at variance with North Carolina General Statute 47C will be controlled by the language and requirements as specified in North Carolina General Statutes, Chapter 47C.

ARTICLE XX
PROCESS AGENT

The following named individual is designated as the person to receive service of process for Sea Harbour Condominium Yacht Club, Inc.: Bernard B. Hollowell, Jr.

ARTICLE XXI
WARRANTIES AND REPRESENTATIONS

The Declarant specifically disclaims any intent to have made any warranty or representation in connection with the condominium except as specifically set forth herein, and no person shall rely upon any warranty or representation not so specifically made herein. Any estimates of common expenses, taxes or other charges are deemed accurate, but no warranty or guaranty is made or intended, nor may one be relied upon.

IN WITNESS WHEREOF, _____
has caused this Joinder and Consent to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors this _____ day of _____, 19____, and the Declarant, SEA HARBOUR MARINA, INC., has caused this Declaration of condominium to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

EXHIBIT A

BEGINNING at an iron stake which is located the following two courses and distances from the southeast corner of the end of Harbor Way (a Town street): North 09 degrees 55' East 15.15 feet; South 75 degrees 20' East 240.38 feet; thence from said POINT OF BEGINNING South 40 degrees 06' 17" East 17.22 feet; thence South 09 degrees 55' West 85.00 feet; thence South 78 degrees 36' 55" East 15.19 feet; thence South 11 degrees 23' 05" West with the eastern edge of a wooden walkway 96.70 feet to the northern edge of "D" Dock; thence South 59 degrees 08' 48" East 13.76 feet to the southern edge of "D" Dock; thence with the edge of said dock the following three courses and distances: South 89 degrees 49' 06" East 158.44 feet; thence North 85 degrees 47' 30" East 79.88 feet; thence North 52 degrees 36' 00" East 104.26 feet; thence North 55 degrees 57' 27" East 53.40 feet to the southeast corner of "B" Dock; thence North 44 degrees 16' 44" East 324.52 feet to the southeast corner of the "Fuel

Dock”; thence with the eastern edge of said dock North 16 degrees 26’ 26” West 97.00 feet; thence South 71 degrees 18’ 32” West 248.63 feet to the northeast corner of “C” Dock; thence with the northern edge of “C” Dock North 75 degrees 31’ 56” West 293.27 feet; thence North 28 degrees 59’ 59” West 22.61 feet; thence south 28 degrees 59’ 59” East 22.61 feet; thence south 13 degrees 50’ 46” East 7.79 feet to the southern edge of “C” Dock; thence South 12 degrees 09’ 45” West 40.21 feet; thence South 20 degrees 56’ 33” West 123.90 feet; thence South 14 degrees 06’ 16” East 68.45 feet to the POINT OF BEGINNING, as shown on the map entitled “A Survey For Sea Harbour Marina” and prepared by A. Hugh Harris, Jr., PE-RLS, dated December 6, 1989, which was revised on February 8, 1990 and May 24, 1990, and which is recorded, or to be recorded, in the Office of the Register of Deeds of Pamlico County, North Carolina. Said map is incorporated herein by reference.

IN ADDITION to the above-described tract the following is included: Boatslips numbered 1 through 58 and 68 through 87 and all “finger piers” and pilings adjacent thereto.

EXHIBIT B

- I. **DRIVEWAY EASEMENT:** A non-exclusive perpetual right of way and easement for the purpose of ingress, egress and regress and installation and maintenance of utilities over the area depicted as “30’ Easement” on the map entitled “A Survey For Sea Harbour Marina”, prepared by A. Hugh Harris, Jr., PE-RLS, dated December 6, 1989, which was revised on February 8, 1990 and May 24, 1990, and is recorded, or to be recorded, in the Office of the Register of Deeds of Pamlico County, North Carolina. Said map is incorporated herein by reference for a more perfect description of said driveway easement.
- II. **PEDESTRIAN EASEMENTS:** A non-exclusive easement and right of way for the purposes of pedestrian ingress, egress and regress over the following areas:

Pedestrian Easement #1: An area 6 feet wide the east and northeast line of which is described as follows:

BEGINNING at a point which is the following five courses and distances from the southeast corner of Harbour Way:

North 09 degrees 55’ East 15.15 feet; South 75 degrees 20’ East 240.38 feet; South 14 degrees 06’ 17” East 17.22 feet; South 09 degrees 55’ West 85.00 feet; South 78 degrees 36’ 55” East 15.19 feet to the point of beginning, thence from said POINT OF BEGINNING with the edge of a wooden walkway South 11 degrees 23’ 05” West 96.70 feet; thence South 59 degrees 09’ 48” East 13.76 feet to the northwest corner of Boatslip 58.

Pedestrian Easement #2: That area depicted on said Harris map as “15’ Easement”, said map being incorporated herein by reference for a more perfect description of said easement.

Pedestrian Easement #3: An area 6 feet wide, over which a wooden walkway is located, the centerline of which is described as follows:

BEGINNING at point "K" on said Harris map, which is in the northern line of the "15' Easement" described herein above, and running thence North 12 degrees 09' 45" East to the northern edge of "C" Dock.

The Declarant reserves the right to construct an alternate access walkway to "C" Dock and upon the completion of said walkway the easements described as Pedestrian Easement #2 and Pedestrian Easement #3 hereinabove shall be null and void.

EXHIBIT C

BEGINNING at an iron pipe at the southeast corner of Harbour Way (a Town street) and running thence North 09 degrees 55' East with the end of the street 60.20 feet; thence North 22 degrees 25' East 90.00 feet; thence North 33 degrees 55' East 230.00 feet to a point in Dolphin Creek; thence South 16 degrees 13' 01" East 59.00 feet to the northwest corner of "C" Dock; thence with the edge of "C" Dock South 37 degrees 29' 00" East 119.03 feet; thence South 28 degrees 59' 59" East 22.61 feet; thence South 13 degrees 50' 46" East 7.79 feet to the southern edge of "C" Dock; thence South 12 degrees 09' 45" West 40.21 feet; thence South 20 degrees 56' 33" West 123.90 feet; thence South 14 degrees 06' 16" East 68.45 feet; thence South 09 degrees 55' West 85.00 feet; thence South 78 degrees 36' 55" East 15.19 feet; thence South 11 degrees 23' 05" West 96.70 feet to the northern edge of "D" Dock the following three courses and distances: North 89 degrees 49' 06" West 3.57 feet; North 78 degrees 18' 46" West 69.23 feet; thence North 81 degrees 32' 29" West 167.20 feet; thence South 61 degrees 15' 19" West 41.32 feet to a point in Bonito Channel; thence North 09 degrees 55' East 236.00 feet to the POINT OF BEGINNING, as shown on the map entitled "A survey For Sea Harbour Marina" and prepared by A. Hugh Harris, Jr., PE-RLS, dated December 6, 1989, which was revised on February 8, 1990 and May 24, 1990, and which is recorded, or to be recorded, in the Office of the Register of Deeds of Pamlico County, North Carolina. Said map is incorporated herein by reference.

IN ADDITION to the above-described tract the following is included: Boatslips numbered 59 through 67 and all "finger piers" and pilings adjacent thereto.

AMENDMENT #1 TO THE DECLARATION OF SEA HARBOUR MARINA, INC. FOR SEA HARBOUR CONDOMINIUM YACHT CLUB, INC.

THIS DECLARATION, made this 10th day of June, 1993 by SEA HARBOUR MARINA, INC. a North Carolina corporation with its principal place of business located in Oriental, North Carolina, hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant by Declaration dated May 31, 1990 and recorded in Deed Book 268 at page 790, Pamlico County Registry, formed a condominium yacht club pursuant to Chapter 47C of the North Carolina General Statutes, and

WHEREAS, Article XI (A) provides that Declarant shall dredge the entrance of Pierce Creek prior to March 31, 1993, and

WHEREAS, at the annual meeting of the Association, held on May 8, 1993, Declarant provided evidence that the entrance did not require dredging at this time and proposed that the Association choose either of the following:

- a) Declarant would dredge the entrance at the next permissible period (October, 1993 through March, 1994), or
- b) Declarant would secure a spoil site and a bid for the proposed dredging from a reputable dredging contractor and the Declarant would then deposit a sum equal to said bid in an interest bearing account in the name of the Association for the sole purpose of dredging said entrance when necessary; and

WHEREAS, after discussing said options, the Association voted 64 to 0 in favor of option (b) above, and further to amend Article XI of the Declaration accordingly.

NOW THEREFORE, Declarant pursuant to said vote and N.C.G.S. 47C-2-117 hereby amends Article XI of the Declaration as follows:

By striking the word "and" at the end of Paragraph A (1) and substituting in lieu thereof the following:

"In the event the entrance does not require dredging at said time, Declarant shall deposit a sum of money sufficient to dredge the entrance, in an interest bearing account to be used by the Association for said purpose."

In all other respects, the Declaration and each and every provision thereof is reinstated and confirmed.

IN WITNESS WHEREOF, the Declarant, SEA HARBOUR MARINA, INC., has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written; and SEA HARBOUR CONDOMINIUM YACHT CLUB, INC. does hereby join in this execution to acknowledge the above-described vote in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors this 10th day of June, 1993.