



Declaration
of
Charter, Easements, Covenants, and Restrictions

MCGARVEY RESIDENTIAL COMMUNITIES

May 30, 2006

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DECLARATION
of
Charter, Easements, Covenants and Restrictions
For
BEACH HAVEN

JNM Flagler Development, Ltd., a Florida limited partnership (the "Founder") makes this Declaration effective as of May 23, 2006.

STATEMENT OF PURPOSE:

A. The Founder is the owner of all of the property in Flagler County, Florida, described on Exhibit A (the "Master Plan Area"), which is intended for development as a residential community to be known as "Beach Haven."

B. The first portion of Beach Haven to be developed is the property described as follows, which shall be known as the "Initial Property":

Beach Haven, Unit One, Map Book 35, Pages 73-75 recorded May 30, 2006, public records of Flagler County, Florida.

C. The Founder establishes this Declaration for this new community for the following purposes:

- To further the enjoyment of the natural resources of Beach Haven and enhance its natural beauty;
- To encourage a harmonious architecture; and
- To allow for self governing of Beach Haven by its owners.

DECLARATION:

The Founder hereby submits the property described on the Initial Property to this Declaration of Charter, Easements, Covenants and Restrictions, which will run with the land and be binding upon, and inure to the benefit of, every owner of Beach Haven or any portion of it.

Founder also hereby provides notice of certain restrictions, as further described in Article II, for the remainder of the Master Plan Area, but does not submit the entire Master Plan Area to all the terms of this Declaration at this time.

ARTICLE I: Definitions

The following definitions apply wherever the capitalized terms appear in this Declaration. Additional terms that apply only to one article are defined the first time they appear.

1.1 Architectural Review Board. The “Architectural Review Board” is the panel established by Article XI to administer the Design Code.

1.2 Articles. “Articles” are the Articles of Incorporation of the Association, which are attached as Exhibit B to this Declaration.

1.3 Assessments. “Assessments” is the collective term for the following charges:

(a) General Assessment. The “General Assessment” is the amount distributed among all Members to meet the Association’s annual budgeted expenses, as described in Section 9.3.

(b) Individual Lot Assessment. An “Individual Lot Assessment” is a charge made to a particular Lot Owner for charges relating only to that Lot, as provided in Section 9.5.

(c) Special Assessment. A “Special Assessment” may be charged to each Lot for capital improvements or emergency expenses, in accordance with the provisions of Section 9.4.

1.4 Association. “Association” is the Beach Haven Association, Inc., a Florida nonprofit corporation, its successors and assigns. The Association, whose members are the Owners, is responsible for maintaining Beach Haven and enforcing the Declaration.

1.5 Beach Haven. “Beach Haven” is the Initial Property, as described on the first page of this Declaration, plus any additional property added by Supplemental Declaration.

1.6 Board. “Board” is the Board of Directors of the Association.

1.7 Bylaws. “Bylaws” are the Bylaws of the Association. The form of the initial Bylaws, as proposed, is attached as Exhibit C to this Declaration.

1.8 Commons. “Commons” comprises real property within Beach Haven designated for the common use and enjoyment of all Owners. “Commons” also include any improvements on that real property, all easement rights or personal property for the Owners’ common use, and any

other property of any type specifically designated as Commons. The Commons are not dedicated for use by the general public.

1.9 Common Roads. “Common Roads” are the roads and alleys located within Beach Haven that are intended for automobile traffic. Unless and until dedicated to Flagler County (if ever), Common Roads are part of the Commons. Title or easement rights in the Common Roads may be granted to the Association.

1.10 Community Meeting. The “Community Meeting” is the public meeting of Members for discussion and voting, as described in Article VIII.

1.11 Declaration. “Declaration” is this Declaration of Charter, Easements, Covenants and Restrictions for Beach Haven.

1.12 Design Code. The “Design Code,” as amended from time to time, establishes the plan for the development of Beach Haven through its regulation of land use, architecture and environment.

1.13 Development Period. The “Development Period” begins with the recording of this Declaration and continues so long as the Founder either (a) owns at least five Lots or (b) holds any Lot for sale in the normal course of business. For the purposes of this definition, the term “Lot” shall include all planned lots for the Master Plan Area, whether or not platted and whether or not yet subjected to this Declaration.

1.14 Drainage System. The “Drainage System” is the Master Drainage/Surface Stormwater Management System designed and constructed to control discharge rainfall, as permitted under Chapters 40C-4, 40C-40, or 40C-42, FAC, as amended from time to time. The Drainage System shall incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system. The term shall also include storm and surface water management facilities designed for the collection of storm and surface water draining from the property, and for the storage or conveyance of such waters, or other water management capabilities. Without limiting the generality of the foregoing, the Drainage System shall include the following:

- (a) the detention/retention lakes and ponds and other improvements which constitute the system,
- (b) drainage facilities appurtenant to the basins,
- (c) all lakes, littoral areas, swales, underdrains, culverts, and filtration systems serving Beach Haven,
- (d) any easements and right-of-ways which are necessary for drainage, ingress and egress, in order to properly operate and maintain the system, and

(e) any other properties acquired by the Association which are necessary in connection with the operation and maintenance of the system.

1.15 Founder. The Founder is JNM Flagler Development, Ltd., a Florida limited partnership, its successors and assigns, or any successor or assign of all or substantially all of its interests in the development of Beach Haven. The Founder is also an Owner for so long as the Founder is record owner of any Lot.

1.16 Lot. A "Lot" is the smallest parcel of land that may be separately conveyed. Ordinarily, Lots are designated as numbered, separately identifiable lots on the recorded subdivision plats of Beach Haven. However, the Founder may redefine Lots prior to sale to third parties by combining Lots or portions of Lots and/or adjusting the boundary(ies) of a Lot.

1.17 Master Plan Area. The "Master Plan Area" is all of that property described on Exhibit A, comprising approximately 62.5 acres.

1.18 Member. Each Owner is a "Member" of the Association, as provided in Article III of this Declaration.

1.19 Mortgagee. A "Mortgagee" is any institutional lender that holds a bona fide first mortgage encumbering a Lot as security for the performance of an obligation. The term "institutional lender" specifically includes a bank, savings and loan association, a mortgage lending company, an insurance company, and the Federal National Mortgage Association or similar agency.

1.20 Owner. "Owner" is the record owner, whether one or more persons or entities, of the fee simple title to any Lot. Owners shall not include those having such interest merely as security for the performance of an obligation.

1.22 Supplemental Declaration. "Supplemental Declaration" is any instrument that may be recorded by the Founder or the Association in accordance with Section 2.3 to add property to Beach Haven.

ARTICLE II: Property comprising Beach Haven

Beach Haven is being developed in phases. This article describes the real property of which Beach Haven will initially be comprised and provides the method by which additional property may be added.

2.1 Initial Property. The real property which shall be held, transferred, conveyed and occupied subject to this Declaration consists initially of the Initial Property.

2.2 Master Plan Area.

(a) Intent. It is currently intended that Beach Haven will, upon completion, comprise the entire Master Plan Area. As improvements to each phase of the Master Plan Area are

completed, allowing the sale of those lots, it is expected that the phase will be submitted to the terms of this Declaration and be made part of Beach Haven.

(b) Limitation. No assurances are made as to what portions of the Master Plan Area, if any, will be made part of Beach Haven, the boundaries of those portions or order in which the portions will be added. Exercising any development right in any portion of the Master Plan Area does not necessarily mean the right will be exercised in the remainder of the Master Plan Area

2.3 Adding Property to Beach Haven.

(a) By the Founder. The Founder shall have the right, but not the obligation, for a period of thirty (30) years from this date, from time to time in its sole discretion, to add to Beach Haven any or all of the following properties:

- (i) any part of the Master Plan Area,
- (ii) any contiguous property,
- (iii) property any portion of which is within one-half mile of any portion of Beach Haven (including any property separated from Beach Haven by a public street, body of water or other property), or
- (iv) any other property with a reasonable relationship to Beach Haven.

(b) By Association. Property of any type may be added to Beach Haven by a majority vote of the Board. Such right shall begin when the Founder no longer selects a majority of the Board of Directors and shall extend indefinitely.

(c) Supplemental Declaration. A Supplemental Declaration adding the additional property shall become effective upon being recorded in the county's public records.

(d) Special Provisions. The Supplemental Declaration may modify or add to the provisions of this Declaration if needed to reflect the different character of the additional property.

(e) Corrective Instruments. The Founder currently intends that any platted lots within the Master Plan Area which are conveyed to a party other than the Founder be made subject to this Declaration, unless a statement of intent otherwise is clearly stated in the public records. If through error, a Supplemental Declaration is not recorded prior to, or at the time of, such a conveyance, the Founder shall have the right to record a corrective instrument subjecting the platted lots and any common areas to this Declaration.

(f) Withdrawal of Property. The Founder reserves the right to withdraw property from Beach Haven so long as all Owners within the area to be withdrawn consent, and appropriate access to the remaining portions of Beach Haven is preserved.

ARTICLE III:

Establishment of the Owners' Association

Most day-to-day decisions about the maintenance of Beach Haven and enforcement of the Declaration are the responsibility of the Board, acting on the Members' behalf. For those decisions requiring Members' approval, the Community Meeting provides a public opportunity for discussion and voting.

The Articles and Bylaws of the Association, which create the Association as a non-profit corporation and provide certain procedures for its corporate organization, are attached as exhibits to this Declaration.

3.1 Establishment; Membership. The Association shall be established under Florida law as a not-for-profit corporation and is also a homeowners association subject to Chapter 720, Florida Statutes, as amended from time to time. Every Owner shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from title to any Lot.

3.2 Voting.

(a) Voting Interests. Each Member shall have one vote for each Lot owned.

(b) Exercise of Vote. When more than one person holds an interest in any Lot, all such persons shall be Members. However, the number of votes for that Lot shall not be increased, and the Members must determine among themselves how the Lot's vote may be exercised. Corporations, partnerships and other entities shall notify the Association of the natural person who shall exercise its vote. To the greatest extent permitted by law, the Association may institute voting by electronic or other means.

(c) Methods. Wherever used in this Declaration, approval by a majority or other proportion of the Members refers to a vote in accordance with this Article, either at a properly called Community Meeting or through a voting procedure established under paragraph (d). Where the Declaration specifies consent in writing, or request in writing, by a majority or other proportion of all Members, then the necessary number is based on the number of votes represented by the total Membership of the Association, and signatures may be collected without a Community Meeting or other voting procedure.

(d) Action without Meeting. If permitted by the Board, the membership may approve any matter (specifically including the election of directors) by a written ballot procedure, which may be conducted by mail, or by written consent without a meeting, without prior notice and without a vote. Voting or consents shall be in accordance with the Bylaws and statute.

3.3 Board of Directors.

(a) Election. The Board of Directors shall consist of at least three people and shall be elected as provided in the Bylaws, subject to the Founder's rights under Article 14.

(b) Board's Responsibility. Except as specifically provided in this Article or elsewhere in this Declaration, the Board has been delegated the power, and shall have the authority to act on behalf of the Association and to make all decisions necessary for the operation of the Association, the enforcement of this Declaration and the care of the Commons.

(c) Quorum. Voting at a Board meeting requires presence of at least one-half of the directors, in person or telephone conference or, if allowed by state law, by proxy. If permitted by law, any action required to be taken by vote of the Board may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) by obtaining the written approval of a majority of the Board.

3.4 Community Meeting.

(a) When called. The Community Meeting shall be called annually for the election of members of the Board, and whenever any action is required by this Declaration to be taken by vote or assent in writing of the Members. As a convenient reference and not as a limitation, actions requiring a vote of the Members, or assent in writing, include the following:

Addition of Property	Section 2.3
Election of the Board of Directors	Section 3.4
Repeal of Additional Services	Section 5.9
Approval of General Assessments when increased 15%	Section 8.4
Ratification of expenditures for capital improvements.....	Section 8.6
Repeal of Rules and Regulations adopted by the Board	Section 10.9
Repeal of Modification of Design Code	Section 11.2
Amendment of Declaration.....	Section 15.1
Dedication of the Commons	Section 15.2
Redevelopment	Section 15.3
Termination of the Declaration.....	Section 15.4

(b) Quorum. Voting at a Community Meeting requires presence of members representing the percentage of votes established by the Board as necessary to transact business. The Board may revise this percentage from time to time, but in no event shall the required percentage be less than 25% or more than 50%, unless otherwise required by statute.

(c) Notice. Notice of the meeting must be given to Members in accordance with Section 16.4 ("Notices") at least ten (10) days but no more than thirty (30) days before the meeting, except in an emergency when whatever notice is reasonable shall be given. Notice of meetings shall also be posted in at least one place within the Commons.

(d) Proxies. To the extent allowed by the Bylaws and statute, proxies and limited proxies may be used to establish a quorum and for voting purposes.

(e) Action without Meeting. If permitted by the Board, the membership may approve any matter (specifically including the election of directors) by a written ballot procedure, which may be conducted by mail, or by written consent without a meeting, without prior notice and without a vote. Voting or consents shall be in accordance with the Bylaws and statute.

3.5 Record Keeping. The Board shall keep a record of all meetings, both of the Board and of the Association. For each action taken, the record shall state the vote and a description of the action approved, and, where applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Member.

3.6 Additional Provisions. Additional provisions concerning the operation of the Association and the Board are contained in the Articles and Bylaws.

ARTICLE IV: Commons

Certain property within Swim Haven and certain easement rights, called the "Commons," are to be owned and maintained by the Association for the benefit of all Owners. The Commons include the entry, landscaped areas, the beach club and any private streets.

4.1 Association Ownership, Responsibility.

(a) Title. The Association shall own the Commons. For those portions of the Commons that consist of easements and other rights, the Association shall be the holder of those rights. The Association shall accept title to any Commons conveyed to it by the Founder.

(b) Member's Benefit. The Association shall own and maintain the Commons for the benefit of its Members. Except as specifically permitted by this Declaration, there shall be no commercial use of the Commons, nor shall the Commons be subdivided or sold.

(c) Additional Commons. The Founder may convey to the Association additional Commons that the Association shall accept for maintenance.

(d) Maintenance; Capital Improvements. The Association shall be responsible for the management, control and improvement of the Commons and shall keep the Commons attractive, clean and in good repair. The Association may make capital improvements to the Commons and may modify the uses of the Commons. Expenses for substantial capital improvements must be approved in accordance with Section 8.6.

(e) Rules and Regulations. The Association may make rules and regulations for the use of the Commons.

4.2 Owners' Easement of Enjoyment.

(a) Commons. Every Owner shall have a right and easement of enjoyment in and to the Commons. This easement shall be appurtenant to and shall pass with title to every Lot.

(b) Tenants, Guests. Any Owner may delegate, subject to the provisions of this Declaration, the Bylaws and the Rules and Regulations, his right to enjoyment to the Commons to the members of his family, his tenants or his guests who reside on the Lot or are accompanied by the Owner. The Association may adopt rules to prohibit or restrict dual use of the Commons

recreational facilities by both an Owner and the Owner's tenant, except when the Owner is a bona fide guest of the tenant.

4.3 Damage or Destruction of Commons by Owner. If any Owner or any of his guests, tenants, licensees, agents, employees or members of his family damages any of the Commons as a result of negligence or misuse, the Owner hereby authorizes the Association to repair the damage. The cost of repair shall be the responsibility of that Owner and shall become an Individual Lot Assessment payable by the responsible Owner. The Association may, but is not required to, seek compensation for damage from the guest, tenant or other party who caused the damage, in which case the Owner shall be jointly and severally liable.

4.4 Limitation of Liability. The Association shall use reasonable judgment in reducing access, maintaining the Commons and Common Roads and enforcing traffic control measures, but neither the Association nor the Founder makes any representation or assumes any liability for any loss or injury.

4.5 Purchase of Additional Commons. The Association may acquire additional real property to be owned as Commons. The decision to acquire additional Commons (other than that added by the Founder), whether by purchase or lease or other means, shall be authorized by a two-thirds vote of the Board of Directors. If the purchase or lease is costly enough to be considered a substantial Capital Expense, it must be approved as described in Section 8.6.

4.6 Sale or Lease for Community Benefit. Although it would be unusual, the Association may sell, donate or grant long-term leases for small portions of the Commons or exchange parts of the Commons for other property inside or outside Beach Haven when the Board finds that it benefits the community in at least one of the following two ways:

(a) The conveyance is intended to benefit the community in ways other than the revenue, if any, to be derived from the transaction. *For instance, the Association may convey or exchange property if necessary to improve access or to improve utility service.*

(b) The revenue to be derived is significant and the use and appearance of the Commons is not significantly impaired. *For instance, the Association might sell or lease small amounts of space for cellular telephone transmission equipment if such equipment were not obtrusive.*

Any decision to donate, sell, exchange or lease any portion of the Commons must be approved by two-thirds of the Board. A transaction for sale, exchange or lease for a term of more than one year, including all tenant renewal options, cannot be completed until thirty days after notice to Owners. If requested by at least 10% of the Owners within the 30-day period, a meeting of Owners must be held following at least 7-days notice and, if a quorum is present in person or proxy, the decision to purchase, sell, exchange or lease may be rescinded by majority vote of the Owners present. Any contract with a third party for the purchase, sell, exchange or lease of the Commons should be contingent upon this right of rescission, unless the Board has previously passed a resolution describing the intended transaction and giving 30-days notice.

4.7 Corrective Instruments: The Association, by approval of two-thirds vote of the Board, may also execute corrective instruments, settle boundary line disputes and resolve other title matters concerning the Commons.

4.8 Dedication.

(a) Common Roads. The Founder, at any time at its discretion without consent or agreement from anyone else, or Association, upon consent in writing of two-thirds of all Members and Founder, shall have the right to convey title to or dedicate the Common Roads and/or utility lines and facilities to the appropriate public agency or authority.

(b) Commons. All other Commons may be dedicated to the public by the Board upon consent in writing of two-thirds of all Members.

4.9 Condemnation. If all or part of the Commons is taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

4.10 Other Conveyances. Except as specifically permitted by this Declaration, the Commons cannot be mortgaged or conveyed or used for commercial purposes without the approval of at least two-thirds of the Owners other than the Founder, plus the consent of the Founder during the Development Period.

ARTICLE V:
Association Powers and
Maintenance
Responsibilities

The Association is responsible for maintaining the Commons, and has other maintenance responsibilities as described in this Article. The powers and duties are intended to be flexible, so that the Association can meet the needs of the community as it changes over time.

5.1 Commons. The Association shall be responsible for the management, control and improvement of the Commons and shall keep the Commons attractive, clean and in good repair.

5.2 Swim Club, Pool and Beach Access.

(a) Conveyance to Association. Founder shall construct and convey to the Association a swim club with pool, bathhouse and dune walkover for beach access.

(b) Concessions. The Association may engage in, or lease space for concessions for, the sale of refreshments, towel rental, or other enterprises intended to benefit those using the beach club. All leases shall be at the discretion of the Board, and no such lease shall be for a term greater than two years.

(c) Dune Walk-Over. The dune walk-over shown on the plat is owned and maintained by the Association. No private walk-overs are permitted.

(d) Beach Clean up. To the extent allowed by law, the Association has the right but not the obligation from time to time to clean the beach of any man-made litter or unusual accumulations of seaweed or other debris, to replace sand which is lost to storms, erosion or other forces, to take measures to stabilize the dune system, and to take whatever other actions it deems reasonable to improve the beach adjacent to Beach Haven. The cost of such work shall be part of the common expenses.

5.3 Common Roads and Alleys.

(a) Common Roads and Alleys. The streets within Beach Haven are intended to be private. Certain Lots are served by alleys, which improve the streetscape by allowing rear placement of garages and driveways. The alleys are not dedicated to the public but may be part of the Commons or established by easements. The alleys and any streets not dedicated to the public shall be known as the Common Roads and shall be maintained by the Association. The Association may maintain as Commons the sidewalks and on street parking, even if located within the public right-of-way or on a Lot. The Lot Owner shall maintain the street side convenience parking spaces(s) he constructs.

(b) Regulation. To the extent permitted by applicable law, the Association may make rules and regulations concerning driving and parking within Beach Haven, may prohibit parking on one-way streets and may construct speed bumps, post speed limit or other traffic signs and take any other reasonable measures to discourage excessive speed and encourage safe driving on the Common Roads. To the extent permitted by applicable law, the Association may enforce any violation in accordance with Section 10.12 and may tow or bar admittance to offenders.

5.4 Entry.

(a) Reduced Access. If established by the Founder or if approved by majority vote of the Owners, the Association shall provide reduced access at the entrance to Beach Haven. The Association may employ personnel, or maintain electronic or other devices for limiting access. Once reduced access has been established, the Association may not terminate reduced access unless approved by a two-thirds vote of the Owners. The Association may, however, alter its type or procedure for access measures at the entrances. Reduced access may be reinstated at any time by majority vote of the assessed Owners.

(b) Public Art. The Founder may install at the entry or elsewhere in Beach Haven statues or other public art that are intended to be viewed and enjoyed both by the Owners and by the general public. The Association shall maintain and preserve such art as part of the Commons. If at any time the Association decides to remove the art, the art shall be returned to the Founder or, if the Founder does not accept its return, donated to an appropriate governmental or nonprofit entity.

(c) Entry Signage. The Founder may install entry signage at the entry to Beach Haven. The Association shall maintain and preserve such signage.

5.5 Landscape and Natural Areas.

(a) Landscape and Natural Areas as Part of Commons. Certain portions of the Commons are landscape or natural areas including, without limitation, (i) the 35 foot wide landscape easement area at the east boundary of Beach Haven including the part which is within the A1A right of way, (ii) the landscape areas at the Beach Haven entry and (iii) the parquets and Greenway shown on the Beach Haven plats. The Association shall maintain and preserve such landscape and natural areas as part of the Commons.

(b) Common Irrigation System. Both the parts of the Commons that are landscape and natural areas and the parts of individually owned Lots that are landscape or natural areas may be watered (at the discretion of the Association) by a shared irrigation system that may use re-use water from the lakes and ponds in Beach Haven. The Association may maintain and preserve such shared irrigation system as a common expense insofar as it relates to the Commons and as an Individual Lot Charge for the serviced Lot insofar as it relates to individually owned Lots. Those Lots serviced by the shared irrigation system shall be required to use the Association's shared irrigation system and no private irrigation wells will be allowed except with the prior written approval of the Architectural Review Board. If the Founder installs the shared irrigation system, the Founder may charge a connection fee to each Lot Owner.

(c) Required Maintenance. Each Lot Owner, at his cost, shall maintain and preserve all landscape and natural areas on his Lot in a neat, trimmed, orderly condition. The Association may require that Owners contract for certain routine yard maintenance, in order to provide a uniform level of care. If any Owner fails to so contract, then the Association may contract on behalf of that Owner's Lot, and in that case the cost of such service shall be assessed to that Owner as an Individual Lot Assessment.

(d) Optional Service. The Association also may, but is not obligated to, act as agent for an Owner, if so requested by that Owner, to contract for routine maintenance and other services not required to be provided by the Association, the cost of which would be assessed to that Owner as an Individual Lot Assessment. The terms and conditions of all such contracts shall be at the discretion of the Board.

(e) Landscape Buffer Zones. Certain Lots as designated by the Beach Haven PUD , plats or Design Code or by Flagler County are subject to landscape buffer zones. Landscape buffer zones cannot be fenced and are further regulated in the Design Code.

(f) Greenway Lots. Tracts L and H as shown on the Beach Haven plats (collectively, the "Greenway Lots") are designated to be a natural, continuous greenway until such time, if ever, as similar natural, continuous greenways have been created and dedicated on the properties located both immediately north and immediately south of Beach Haven and which similar greenways approximately align with Tracts L and H, but if such similar, continuous greenways on either or both of the north and south adjacent properties are not created and dedicated within five (5) years of the date of the plat of Beach Haven, Unit One, then both Tracts L and H shall automatically revert to the Founder who may sell them as single family residential Lots.

5.7 Drainage System.

(a) Generally. Beach Haven includes a system of ponds designed to provide drainage and surface stormwater management for all of Beach Haven and, possibly, certain FDOT improvements. The St. Johns River Water Management District, a governmental entity, regulates the Drainage System and imposes certain requirements on the Association. The Association shall accept any part of the Drainage System deeded to it by the Founder and shall maintain the Drainage System in accordance with law, including any parts of the Drainage System that may be located on a Lot rather than the Commons.

(b) Maintenance. The Association shall be responsible for the maintenance, operation and repair of the Drainage System. Maintenance of the Drainage System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved in writing by, the St. Johns River Water Management District.

(c) Association Use and Control. Subject to the requirements of law, the Association shall have the right to control the water level of the Drainage System and to control the growth and eradication of plants, animals, fish and fungi. If permitted by law, the Association may use water from the Drainage System for irrigation.

(d) Private Use. Any change to the height, grade and contour of any lake embankment, and the construction of any decks, docks, moorings, pilings, bulkheads or other structures on the embankments shall require Architectural Review Board approval, which may be withheld in its discretion. The Owner is responsible for obtaining any necessary governmental permits as well. Swimming, boating, fishing or other recreational use is not permitted unless specifically granted by the Association.

(e) Governmental Enforcement. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation and repair of the Drainage System.

5.8 Fences. Certain Lots may be required under the Design Code to have a picket fence along the front of the Lot. In those cases, Owner shall be responsible to maintain, repair, restore and replace such picket fence.

5.9 Lighting. The Association may purchase or lease, or lease to purchase, lighting for the streets and Commons from the local utility. Alternatively, the Association may enter into such agreements with the Founder or other entity if the lighting equipment to be provided meets the requirements of the Design Code and the terms are equivalent to or better than what is provided by the local utility.

5.10 Sanitary Sewage System.

(a) Generally. Beach Haven receives sewage utility service pursuant to sewer lines, lift station(s), a treatment plant and related facilities (collectively, the "Sanitary Sewage System") constructed by Founder. Repair, maintenance, replacement and restoration of the various components of the Sanitary Sewage System is as follows: (a) individual Lot lateral lines, pressure pump and any other sewage service facilities from the point where the lateral line servicing the Lot intersects the Main sewer line is to be maintained, repaired, restored and replaced by the Lot Owner; (b) the Main sewer line and all lift station(s), if any, are to be maintained, repaired, restored and replaced by the Association; and (c) the treatment plant and all waste water and sewage treatment facilities after the Main sewer line are to be maintained, repaired, restored and replaced by the owner of the Sewer Plant (except as otherwise provided in the utility service agreement and/or lease relating thereto which may impose such costs on the Association). The Founder, at its election, may own, operate and/or manage the Sewer Plant, and in that case the terms and provisions relating to providing sewage service to Beach Haven (including the costs thereof) shall be governed by a utility service agreement between the Founder and the Association. In the alternative, the Founder, at its election, may elect to lease all of the Sewer Plant facilities to the Association for operation and maintenance by the Association pursuant to an operating agreement/lease between the Association and Founder. The Association and each Lot Owner shall maintain, repair, restore and replace the portions of the Sanitary Sewage System for which it is responsible in accordance with all laws, rules and regulations, including those imposed by the Florida Department of Environmental Regulation ("FDEP") and any Association and/or Founder requirements. If the Founder or the utility company elects to grant and convey any part of the sewage treatment plant to the Association, then the Association must accept any part of the Sanitary Sewage System deeded to it.

(b) Governmental Enforcement. The FDEP shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation and repair of the Sanitary Sewage System.

(c) Specific Understandings. In addition to all other provisions as herein provided or as may be provided in any utility service agreement and/or lease relating thereto, the following specific provisions relate to the Sanitary Sewage System:

(i) The owner of the Sewer Plant (specifically including the Founder for so long as it owns the Sewer Plant) may charge the Lot Owners "tap" and/or connection fees as a condition for the providing of service.

(ii) The owner of the Sewer Plant (specifically including the Founder for so long as it owns the Sewer Plant) may lease, convey, mortgage, deed, hypothecate or otherwise transfer the Sewer Plant and all other land or components of the Sanitary Sewage System owned by it to whoever and upon whatever terms and conditions it wishes, subject always to the requirements of law.

(iii) Unless and until the owner of the Sewer Plant (including the Founder for so long as it owns the Sewer Plant) elects, in its sole discretion, to allow another utility provider to provide sewer service to Beach Haven, all Lot Owners must obtain their sewer from the owner of the Sewer Plant.

(iv) If owner of the Sewer Plant (specifically including the Founder for so long as it owns the Sewer Plant) expands the plant, lines and related facilities it owns to a capacity that would allow the Sewer Plant to serve other communities in addition to Beach Haven, then such owner, at its sole election, may require that the Association and the additional communities requesting service from the owner of the Sewer Plant become members of a not-for-profit corporation created by the owner to provide such service to Beach Haven and the other communities to whom the owner agrees to provide service. If the owner of the Sewer Plant elects to allow other communities in addition to Beach Haven to receive sewer service from the Sewer Plant, such additional service shall only be provided if any additional communities served by the Sewer Plant agree to become members of the not-for-profit corporation created by the owner of the Sewer Plant and agree pay their proportionate share of the cost of operation and maintenance of the Sewer Plant on the same basis as Beach Haven and any other members of the not-for-profit corporation created to provide such service by the owner of the Sewer Plant.

(v) The owner of the Sewer Plant (specifically including the Founder for so long as it owns the Sewer Plant) may discontinue servicing Beach Haven, but only if a substitute utility provider at comparable rates is substituted and only as may be permitted by the terms of any operating agreement/lease between Beach Haven and the owner of the Sewer Plant.

5.11 Additional Powers. In addition to the specific powers provided in this Article, and to the extent permitted by governmental authorities, the Association may, but is not obligated to, provide the following services or engage in the following activities:

(a) water, electrical, telephone, cable television or other utility services; supply of irrigation water; garbage and trash collection and disposal;

(b) insect and pest control; improvement of vegetation, fishing and wildlife conditions; lake and forestry management, pollution and erosion controls;

(c) emergency rescue, evacuation or safety equipment; fire protection and prevention; lighting of Common Roads; traffic and parking regulation and security patrols within Beach Haven;

(d) landscape maintenance; recreation, sports, craft and cultural programs; and newsletters or other information services;

(e) maintenance of easement areas, public rights-of-way and other public or private properties located within reasonable proximity to Beach Haven if its deterioration would affect the appearance of or access to Beach Haven; and

(f) any other service allowed by law to be provided by a community association organized as a not-for-profit corporation.

The Board may, by majority vote, initiate any of the above services. If requested by petitions signed by at least 10% of the Members, a Community Meeting may be called and, if a quorum is present, the offering of the additional service under this Section 5.11 shall be repealed by majority vote of the Members. For three years after such a repeal, the Board may not reinstitute the service unless also approved by majority vote of the Members.

5.12 Contracts. The Association may contract with any party, including the Founder, for the performance of all or any portion of the management of the Association and its maintenance and repair obligations. The cost of the contract shall be included within the General Assessment, Special Assessment or Individual Lot Assessment as applicable.

5.13 Limitation. The Founder and the Association make no representations concerning security and shall not be liable in any way for failure to provide services or quality of such services.

ARTICLE VI: Easements

Every Owner has the benefit of certain easements, and the responsibility of others.

6.1 Landscape Easements and/or Buffer Areas. Certain Lots may be subject to landscape easements and/or buffer areas as specified and/or required in the Beach Haven PUD, plats or elsewhere. In general, all construction of buildings, homes, pools, sheds, fences, other structures, all other improvements and fill are all prohibited in the Landscape Easements and/or Buffer Areas. Moreover, modification or alteration of the landscaping within such Areas is only allowed with the prior written consent of the Architectural Review Board, and then only hand-clearing, using only hand tools or hand-portable power tools, is permitted. The Design Code may further regulate construction, recreation and all other activities in Landscape Easements and/or Buffer Areas.

6.2 Easements in Favor of the Founder and Association. The Founder hereby reserves for itself, its successors and assigns and for the Association and its assigns the following easements, which shall benefit Beach Haven and all other properties owned by Founder or its assigns which are adjacent to, or reasonably near, Beach Haven (including property separated from Beach Haven by a public road):

(a) Common Roads. A nonexclusive easement for use of the Common Roads.

(b) Utility Easements. An easement upon, across, over, through, and under Beach Haven for ingress, egress, installation, replacement, repair and maintenance of all public and private utility and service systems. These systems include, but are not limited to, water, sewer, irrigation systems, drainage, telephone, electricity, television, cable or communication lines and other equipment. Except where indicated on the plat or as described in specific recorded easements, such easements shall be located within the street right-of-way or other Commons. By virtue of this easement the Founder, and its successors or assigns, may install and maintain facilities and equipment, excavate for such purposes and affix and maintain wires, circuits and conduits.

(c) Police Powers. A blanket easement throughout Beach Haven for private patrol services, and for police powers and services supplied by the local, state and federal governments.

(d) Drainage. A blanket easement and right on, over, under and through the ground within Beach Haven to access, operate, maintain or repair the lakes, the Drainage System and other drainage of surface water and other erosion controls. By this easement, the Founder or the Association shall have the right to enter upon any portion of any Lot that is a part of the Drainage

System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Drainage System as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Drainage System. No person shall alter the drainage flow of the Drainage System, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District. This easement includes the right to cut any trees, bushes or shrubbery, grade soil, or to take any other action reasonably necessary for health, safety or appearance or to comply with governmental requirements. The Founder or Association, as applicable, shall notify affected Owners (except in an emergency) and shall restore the affected property to its original condition as nearly as practicable.

(e) FDOT. Easements, if any, given by Founder or Association to the Florida Department of Transportation in connection with its roads and/or drainage system.

(f) Archeological. Easements, if any, given by Founder or Association in connection with preserving or protecting any archeological or historically significant areas in Beach Haven.

(g) Encroachment. An easement for any improvements constructed on the Commons which encroach on any Lot, whether due to any minor deviation from the subdivision plat of Beach Haven or the settling or shifting of any land or improvements.

(h) Maintenance of Commons. To the extent reasonably necessary, an easement over any Lot for maintenance of the Commons or to perform any duties required or permitted to be performed by the Association, its agent or assigns.

6.3 Relationship between Lots.

(a) Intent. The easements in this Section 6.3 are intended to provide guidelines for reasonable cooperation between neighbors. The Association may make rules for maintenance and use of easement areas and shared improvements that shall be applied uniformly to all Lots similarly configured.

(b) Lot Lines. Lots may not be subdivided or separated into smaller Lots, or any portion of a Lot separately conveyed, except by the Founder or with the specific consent of the Beach Haven Architectural Review Board. However, this shall not prohibit corrective deeds or similar corrective instruments. The Founder may redefine Lots prior to sale by dividing or combining Lots or portions of Lots and adjusting the boundary of a Lot. The Founder shall also have the right to modify subdivision plats of Beach Haven to make adjustments to Lot boundary lines with consent only of those Owners whose Lot boundaries are to be changed. The division or combination of Lots may be subject to zoning or other governmental regulation.

(c) Structural Party Walls. Each Owner grants to the Owner of each adjacent Lot the right and easement to maintain and to utilize any exterior or interior wall of a Building that forms a party wall between them. A wall will be considered a party wall only if it provides structural support for the Buildings, or parts of a Building, on more than one Lot. Maintenance of the surface of the party wall shall be the sole responsibility of the Owner whose Building faces such wall. Each Owner shall be liable and responsible if, in connection with that Owner's use and

maintenance of the party wall, the Owner damages the adjacent Owner's Lot or the wall itself. The cost of any other repairs to the party wall shall be shared equally by the adjacent Owners.

(d) Exterior Walls along a Lot Line. An exterior wall which supports the Building on only one Lot, or which encloses a courtyard on one Lot, shall not be considered a party wall. The Association may make rules and regulations concerning use and maintenance of such walls, including assigning responsibility between the adjoining owners for painting and repair and granting access over the adjoining Lot as reasonably necessary to maintain the wall. All such maintenance and repair shall be in accordance with the Design Code.

(e) Yard Easements. To allow most efficient use of a Lot while complying with governmental setback requirements, a portion of a Lot along a Lot line may be subject to an easement for use by the adjoining Lot Owner. Such easements may be designated on the plat, the Design Code or on the deed from the Founder to the first Owner other than the Founder. Such use easements may be up to four feet wide and shall run along a boundary line, but shall not encroach upon more than one boundary line. In addition, the Owner of such a Lot subject to an easement shall be the beneficiary of a similar easement along another portion of the Lot, unless the Lot is a corner Lot or is larger than the surrounding Lots. Subject to regulation under the Design Code, the beneficiary of such an easement shall have the use and maintenance responsibility for the easement area and may place fences, decks or patios or other structures (but not a primary structure) upon the easement area.

(f) Roof Overhang. If permitted by the Design Code and Beach Haven PUD, roofs may overhang a property line.

6.4 Intercoastal Property Owners Easements. The owners of the land described in Exhibit A of the Easement and Property Agreement recorded in Book 1254, page 50, Flagler County, FL public records have certain ingress, egress and drainage easements as described in said Agreement.

ARTICLE VII: Insurance

Insurance is essential to protect the interests of the various Owners and to assure that funds will be available for rebuilding after a casualty. However, because insurance costs may increase significantly or new types of coverage made available, this Article gives flexibility to the Board to select insurance coverage that is reasonable for the conditions that exist at that time.

7.1 Review of Coverage. The Board shall review limits of coverage and deductibles for each type of insurance at least once each year.

7.2 Casualty Insurance. The Board may obtain and, if additional Commons with significant insurable improvements are added to Beach Haven, shall be required to obtain and maintain, casualty insurance on the Commons for fire damage. Endorsements for extended coverage, vandalism, malicious mischief, flood and windstorm should be obtained where available at reasonable cost. Coverage shall be in an amount not less than necessary to comply with the co-

insurance percentage stipulated in the policy, but in any event not less than 80% of the insurable value (based upon replacement) of the improvements constructed on the Commons.

7.3 Public Liability. The Board may obtain public liability insurance in such limits as the Board may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Commons and any topographic conditions or water access located on or adjoining Beach Haven. Whenever practicable, such insurance should be issued on a comprehensive liability basis and should contain a “severability of interest” endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board or other Owners.

7.4 Director Liability Insurance. The Board may obtain liability insurance insuring against personal loss for actions taken by members of the Board and advisory members in the performance of their duties. Such insurance shall be of the type and amount determined by the Board in its discretion.

7.5 Other Coverage. The Board shall obtain and maintain workman’s compensation insurance if and to the extent necessary to meet the requirements of law, and such other insurance as the Board may determine or as may be requested from time to time by a majority vote of the Members.

7.6 Lot Coverage. Each Owner shall obtain casualty insurance for improvements on the Lot, naming the Association as an additional insured. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy, but in any event not less than 80% of the insurable value (based upon replacement) of the improvements constructed on the Commons. If requested by the Association, an Owner shall provide evidence of such insurance to the Association.

7.7 Repair and Reconstruction after Fire or Other Casualty.

(a) Commons. If fire or other casualty damages or destroys any of the improvements on the Commons, the Board shall arrange for and supervise the prompt repair of the improvements, unless the area is to be redeveloped as provided in Section 15.3 (“Redevelopment”). The Board may restore the Commons to substantially original condition or may improve or modify the design or use. The reconstruction may be considered a substantial capital improvement in accordance with Section 8.6 only if and to the extent that it modifies the original purpose of the Commons, in which case insurance proceeds shall be considered as if they were assessments. The Board shall obtain funds for reconstruction first from the insurance proceeds, then from reserves for the repair and replacement of such improvements, and then from any Special Assessments that may be necessary after exhausting insurance and reserves.

(b) Lot Improvements. If fire or other casualty damages or destroys a building or any other improvements on a Lot, the Owner of that Lot shall immediately proceed to rebuild and restore the improvements to the condition existing immediately prior to such damage or destruction, unless other plans are approved by the Architectural Review Board or the area is to be redeveloped as provided in Section 15.3. If the Owner fails to clean and secure a Lot within 30 days after a casualty, the Association may, in accordance with the provisions of Section 10.10,

remove debris, raze or remove portions of damaged structures and perform any other clean up the Association deems necessary to make the Lot safe and attractive. The cost of such clean-up shall be assessed to the Lot Owner as an Individual Lot Assessment.

ARTICLE VIII: Association Budget

To fulfill its obligation to maintain the Commons and other maintenance obligations under this Declaration, the Board is responsible for the fiscal management of the Association.

8.1 Fiscal Year. The fiscal year of the Association shall begin January 1 of each year and end on December 31 of that year, unless the Board selects a different fiscal year.

8.2 Budget Items. The budget shall estimate total expenses to be incurred by the Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering of all services required by this Declaration or properly approved in accordance with this Declaration. The budget may also include reasonable amounts, as determined by the Board, for working capital for the Association and for reserves. If the Commons are taxed separately from the Lots, the Association shall include such taxes as part of the budget. Fees for professional management of the Association, accounting services, legal counsel and other professional services may also be included in the budget.

8.3 Reserves. The Association may build up and maintain reserves for working capital, contingencies and replacement, which shall be included in the budget and collected as part of the annual General Assessment. Extraordinary expenses not originally included in the annual budget that may become necessary during the year shall be charged first against such reserves. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose unless approved by a majority vote of the Members. If the reserves are inadequate for any reason, including nonpayment of any Member's assessment, the Board may at any time levy an emergency assessment in accordance with the provisions of Section 9.4 ("Special Assessment"). If there is an excess of reserves at the end of the fiscal year and the Board so determines, the excess may be returned on a prorata basis to all Members who are current in payment of all assessments due the Association, or may be used to reduce the following year's assessments.

8.4 Preparation and Approval of Annual Budget.

(a) Initial Budget. The Founder shall determine the budget for the fiscal year in which a Lot is first conveyed to an Owner other than the Founder.

(b) Subsequent Years. Beginning with the year in which a Lot is first conveyed to an Owner other than the Founder and each year thereafter, at least one month before the end of the fiscal year, the Board shall, by majority vote, adopt a budget for the coming year and set the annual General Assessments at a level sufficient to meet the budget. At least two weeks before the fiscal year to which the budget applies, the Board shall send to each Member a copy of the

budget in reasonably itemized form, which shall include the amount of General Assessments payable by each Member.

(c) Approval. If General Assessments are to be increased to greater than 115% of the previous year's General Assessment which was not a year in which General Assessments were guaranteed in whole or in part by Founder, and petitions signed by at least 10% of all Members request review within thirty (30) days after the budget is delivered to Members, the Board shall call a Community Meeting to present the budget and to answer any questions. After presentation, the budget shall be deemed approved unless the percentage required to transact business is present and the budget is rejected by a majority of the Members present. If the budget is rejected, the Board shall approve a new budget within ten (10) days and send a copy to each Member.

8.5 Effect of Failure to Prepare or Adopt Budget. The Board's failure or delay in preparing or adopting the annual budget for any fiscal year, or review of the budget under Section 8.4 (c), shall not waive or release a Member's obligation to pay General Assessments whenever the amount of such assessments is finally determined. In the absence of an annual Association budget each Member shall continue to pay the assessment at the rate established for the previous fiscal period until notified otherwise.

8.6 Substantial Capital Improvements. Any substantial capital improvement to the Commons approved by the Board must be ratified by a majority of the Members. If the substantial capital improvement is approved by the Members, the Board shall determine whether it shall be paid from General Assessments or by Special Assessment. A capital improvement shall be considered substantial if the cost to the Association of the improvement is more than six percent (6%) of the Association's annual budget, or if, when added to other capital improvements for the fiscal year, totals more than ten percent (10%) of the Association's annual budget. However, any repair or replacement of existing improvements shall not be considered a capital improvement. Approval of the Architectural Review Board is required for all capital improvements. This paragraph shall not limit the right of the Founder to make improvements to the Commons.

8.7 Individual Lot Expenses. Certain services may be provided by the Association but are to be assessed to the affected Lots rather than be included in the common expenses. Where such services can be reasonably estimated in advance, the Association may budget for such expenses and assess the cost in advance to the affected Lots, including the establishment of reserves.

8.8 Accounts. Reserves shall be kept separate from other Association funds; either in a single account for all reserves or separated by purpose. All other sums collected by the Board with respect to Assessments and charges of all types may be commingled in a single fund.

ARTICLE IX:

Covenants for Maintenance Assessments

The cost of fulfilling the Association's financial obligations is divided equitably among the Members by means of Assessments. To assure the Association of a reliable source of funds and to protect those Members who contribute their equitable share, assessments are mandatory and are secured both by a lien on the lot and the Member's personal obligation.

9.1 Obligation for Assessments. The Founder, for each Lot owned within the property submitted by this Declaration or Supplemental Declaration to Beach Haven, hereby covenants, and each Owner of any Lot by acceptance of a deed or other transfer instrument, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessments for expenses included in the budget,
- (b) Special Assessments for the purposes provided in this Declaration, and
- (d) Individual Lot Assessments for any charges particular to that Lot,

together with a late fee and interest, as established by the Board, and cost of collection when delinquent, including a reasonable attorney's fee whether or not suit is brought. Upon default in the payment of any one or more installments, the Board may accelerate the entire balance of such Assessment, which shall be declared due and payable in full.

9.2 Equitable Division of Assessment. General Assessments and Special Assessments shall be assessed equally among Lots. If an Owner combines two Lots or parts of Lots and uses them as a single Lot, the Association may assess them as a single Lot or other formula in accordance with regulations consistently applied.

9.3 General Assessments.

(a) Establishment by Board. The Board shall set the date or dates such assessments become due and may provide for collection of assessments annually or in monthly, quarterly or semiannual installments.

(b) Date of Commencement. The annual General Assessments shall begin on the day of conveyance of the first Lot to an Owner other than the Founder. The initial Assessment on any Lot subject to assessment shall be collected at the time title is conveyed to the Owner. During the initial year of ownership, each Owner shall be responsible for the prorata share of the annual General or Special Assessment charged to each Lot, prorated to the month of closing.

(c) Water Management District. Assessments shall be made and shall be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within the retention areas, drainage structures and drainage easements.

9.4 Special Assessment. In addition to the General Assessment, the Board may levy in any fiscal year a Special Assessment applicable to that year and not more than the next four succeeding years as follows:

(a) Capital Improvements. Any substantial capital improvement that has been approved in accordance with Section 8.6 (“Capital Improvements”) or any capital improvement not required to be approved by the Members may be paid by Special Assessment.

(b) Emergency Assessment. By a two-thirds (2/3) vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense which this Declaration or the law requires the Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

9.5 Individual Lot Assessments. The Association may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot or any other charges designated in this Declaration as an Individual Lot Assessment.

9.6 Capital Contribution. At the closing and transfer of title of each Lot to the first Owner other than the Founder, the Owner shall contribute \$250. This contribution shall be used by the Association for the purpose of initial and nonrecurring capital expenses of the Association and for providing initial working capital for the Association, and shall not be considered as a prepayment of assessments.

9.7 Effect of Nonpayment of Assessment; Remedies

(a) Personal Obligation. All Assessments (whether general, special, individual lot or otherwise), together with any late fee, interest and cost of collection when delinquent, including a reasonable attorney’s fee whether or not suit is brought (collectively, the “Assessment Charge”) shall be the personal obligation of the person or entity who was the Owner of the Lot at the time when the assessment was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Lot.

(b) Creation of Lien. The Assessment Charge shall also be charged on the land and shall be a continuing lien upon the Lot against which the Assessment Charge is made, which may be enforced upon recording of a claim of lien. This lien, in favor of the Association, shall secure the Assessment Charge which is then due and which may accrue subsequent to the recording of the claim of lien and prior to entry of final judgment of foreclosure. Any subsequent owner of the Lot shall be deemed to have notice of the Assessment Charge on the land, whether or not a lien has been filed.

(c) Suit for Payment; Foreclosure of Lien. The Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge, or may foreclose the lien in a manner similar to foreclosure of a mortgage lien, or both. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

(d) Other Remedies. The Association shall have the right to assess fines and suspend the voting rights and right to use of the Commons by an Owner for any period during which any Assessment against his Lot remains unpaid.

9.8 Certificate of Payment. The treasurer of the Association, upon request of any Owner, shall furnish a certificate signed by a member of the Board stating whether any assessments are owed by that Owner. Such certificate, when co-signed by the secretary of the Association, may be relied upon by a good faith purchaser or mortgagee as conclusive evidence of payment of any assessment therein stated to have been paid. Alternatively, the Board may delegate to the Association's management company the responsibility for preparing and executing such certificates.

ARTICLE X: Use of Individual Lots

The following covenants are designed to protect the quality of life for all Owners within Beach Haven and to set a standard for reasonable cooperation within the community.

10.1 Permitted Uses. Lots are intended for residential use. To the extent permitted by law, home industry that does not generate significant traffic, noise or odor or change the exterior appearance of a building shall be permitted. Signage for home-based business, if any, shall be regulated under the Design Code.

10.2 Prohibited Uses.

(a) Nuisances, Unlawful Use. No nuisance or immoral, improper, offensive or unlawful use shall be permitted to exist or operate on any Lot or Commons. All laws, building codes, orders, rules, regulations or requirements of any governmental agency having jurisdiction shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair the affected portion of Beach Haven.

(b) Insurance. Nothing shall be done or kept on any Lot or the Commons which will increase the rate of, or result in cancellation of, insurance for Beach Haven or any other Lot or its content, without the prior written consent of the Association.

(c) Soliciting. No soliciting will be allowed at any time within Beach Haven.

(d) Time Sharing. No time-share ownership of Lots is permitted without the Association approval. For this purpose, the term "time-share ownership" shall mean a method of ownership of an interest in a Lot under which the exclusive right of use, possession or occupancy of the Lot circulates among the various owners on a periodically reoccurring basis over a scheduled period of time. Leasing a building or ownership of a Lot by a corporation, partnership or other entity or by not more than four individuals or married couples will not normally be considered time-share ownership.

10.3 Renting. Lots, and the dwellings located thereon, may be rented for residential occupancy only, subject always to such reasonable rules and regulations as may be promulgated by either the Board and/or the Founder for so long as the Founder owns 1 or more Lots. Outbuildings may not

be leased apart from the main residential dwelling. It is specifically agreed that either the Board or the Founder (for so long as it owns 1 or more Lots) may set a minimum term for leases, and said minimum term may be as long as, but no longer than, six months. Additionally, the Board or the Founder (for so long as it owns 1 or more Lots) may prohibit the leasing of a Lot while the Owner is in default in the payment of Assessments.

Regarding the establishment of minimum lease terms, either the Board or the Founder (for so long as it owns 1 or more Lots), at their respective discretion, may from time to time exempt certain Lots from such minimums, and once exempted by either the Board or the Founder, the exempted Lot may not be subjected to a minimum lease term requirement until after December 31, 2019. It is specifically recognized that some, but not all, Lots may be so exempted, and the non-exempt Lots shall be subject to whatever minimum lease term requirements the Board or the Founder imposes, and additionally, the non-exempt Lots have no grievance or complaint as a result of the discrimination against them. Founder hereby designates that the Lots specified on Exhibit D attached hereto are exempt from all minimum lease term requirements hereafter promulgated by either the Board or Founder until December 31, 2019. Additionally, the Board or the Founder for so long as it owns 1 or more Lots may exempt additional exempt Lots at their respective discretion by recording a Notice of Exemption in the public records of Flagler County, FL.

10.4 Attractiveness and Safety of Lots.

(a) Generally. Each Owner shall keep all parts of his Lot in good order and repair and free from debris. The Design Code or the Association may regulate placement and maintenance of garbage and trash containers, and fuel or gas storage tanks, and other matters affecting the attractiveness or safety of Lots.

(b) Sports Equipment. Play structures, such as basketball hoops and swing sets, are not discouraged, but may be prohibited by the Architectural Review Board, in its discretion, and where permitted at all, must be of the type and are allowed only in locations approved by the Architectural Review Board, and then they must be kept in good repair and may be limited, in accordance with the Design Code, to back yards. Large play structures such as skateboard ramps that are visible from outside the Lot may be prohibited or regulated.

10.5 Pets. Most pets are welcome so long as the pets don't cause an unsafe condition or unreasonable disturbance or annoyance.

(a) Types of Pets Permitted. Pets are limited to cats, dogs and birds, along with animals weighing less than five pounds that are not specifically prohibited by rule, that are contained inside the home in an aquarium, terrarium or cage and that are not poisonous or otherwise hazardous if they were to escape. The Association may further regulate the number and size of pets and may prohibit the keeping of particular breeds of dogs or other animals that it deems to create unreasonable danger or nuisance. If the Association or any governmental unit finds cats to be a threat to wildlife, the Association may by rule prohibit or restrict cats.

(b) Pet Behavior. Pets shall not be permitted to roam loose outside the Lot, and shall not create unreasonable noise or odor. Owners shall collect and dispose of animal waste. The

Association may designate specific areas within the Commons where pets may be walked, may prohibit pets on other areas, and may require pets to be on leash.

10.6 Signs. No sign, advertisement or notice of any type or nature whatsoever (including "For Sale" or "For Rent" signs) shall be erected or displayed upon any Lot (including placement on the building, Yard or in any window) or upon the Commons unless specifically permitted by the Design Code. The Design Code may prohibit all types of signs within residential areas. However, the Founder shall be permitted to post and display advertising signs within Beach Haven so long as the Founder has any property for sale in the normal course of business, and hereby reserves an easement for reasonable use of the Commons for such purposes.

10.7 Automobiles.

(a) Parking. Automobiles may be parked only in the garage or driveway of a Lot, in unassigned parking areas as originally created by the Founder or in other parts of Beach Haven that may be specifically designated in writing by the Board. All parking within Beach Haven shall be in accordance with rules and regulations adopted by the Association. The Association reserves the right to regulate or prohibit the parking of trucks, buses or recreational vehicles, oversize vehicles, boats, and vehicles which display advertising or the name of a business.

(b) Good Repair. Only automobiles bearing current license and registration tags, as required by state law from time to time, may be parked on Beach Haven. All such automobiles shall be in good running condition; repair of automobiles (other than emergency repair) or storage of disabled automobiles is not permitted within Beach Haven.

(c) Garage Doors. Garage doors shall be kept closed except when automobiles are entering or leaving the garage.

(d) Visibility at Street Intersections. No obstruction to visibility at street intersections shall be permitted.

10.8 Mobile Homes; Temporary Structures. Mobile homes are prohibited, although construction trailers and other temporary structures may be permitted by the Founder during construction. The Design Code or Association may prohibit or regulate structures of a temporary character, trailers, tents, shacks, barns, sheds or other outbuildings. However, reasonable, occasional use of tents for festive occasions or children's backyard camping is part of life and should be enjoyed. During parties and other special events, the Board may approve the use of tents, trailers and other temporary buildings on the Commons or elsewhere within Beach Haven.

10.9 Rules and Regulations. The Board may from time to time adopt rules or amend previously adopted rules and regulations governing the details of the operation, use, maintenance and control of the Lots, Commons and any facilities or services made available to the Owners. This right shall include without limitation the right to approve rental agents, contractors and sub-contractors who do business within Beach Haven. Rules and Regulations shall take effect immediately upon approval by the Board, or at a later date selected by the Board. If requested in writing by at least 10% of all Members, a Community Meeting may be called and any Rule or Regulation may be repealed by majority vote of the Members. A copy of the Rules and

Regulations adopted from time to time shall be posted in a conspicuous place within Beach Haven or furnished to each Owner.

10.10 Owner's Responsibility. Each Owner, family members of Owners and Owners' guests and tenants shall conform and abide by the covenants contained in this Declaration and any Rules and Regulations which may be adopted from time to time by the Board. Each Owner shall be responsible for assuring such compliance, and any violation by family members, guests or tenants may be considered to be a violation by the Owner.

10.11 Covenants Committee.

(a) Establishment. The Board shall establish a Covenants Committee to hear any complaints of violations of these Covenants or Rules and Regulations adopted by the Board. The primary goal of the Covenants Committee is not to punish but to conciliate and resolve problems. The Covenants Committee may suggest or approve dispute resolution agreements and withhold the requirement of paying a fine if the agreement is honored.

(b) Statutory Requirement. *Under §720.305, Florida Statutes, as currently written, a fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.* It is intended that the Covenants Committee comply with the law and any changes to the law, which shall be automatically incorporated into this Declaration.

(c) Complaints. The Board or any resident or Owner may file a request with the Covenants Committee to hear an issue concerning possible violation of this Declaration or the Rules and Regulations. The Covenants Committee will notify the resident who is believed to be in violation, as well as the Owner of the Lot, if different, and set a convenient date for a hearing.

(d) Hearing. The object of the hearing is to hear the various viewpoints and to attempt to reach an agreement that is acceptable to all parties. Sessions must be conducted with tact, dignity and respect. The Covenants Committee has the discretion to decide if the complaining party should participate in the hearing.

(e) Resolution. The Covenants Committee is to evaluate whether the resident or Owner has caused an unreasonable disturbance or other violation, and if so, to help reach a resolution. If the parties reach agreement and the Covenants Committee approves the agreement, the agreement is to be summarized in writing and signed by the parties, including the Covenants Committee. The Covenants Committee has the right to consider whether the same problem has arisen in the past and whether the resident has complied with previous agreements in evaluating the current agreement. If agreement is not reached, or if the parties do not comply with the agreement, or if the Covenants Committee determines by majority vote that a fine or suspension be imposed, the Covenants Committee is to make a report and recommendation to the Board for further action.

10.12 Enforcement. After receiving the report of the Covenants Committee, the Board may take any of the following actions:

(a) Fines and Suspension. *Section 720.305, Florida Statutes, permits fines of up to \$100 for each day of a continuing violation, except that no such fine shall exceed \$1000 in the aggregate unless otherwise provided in the governing documents.* If so recommended by the Covenants Committee, the Board has the right to assess fines up to the maximum allowed by law as that law may be amended from time to time, with no limit on the aggregate amount, and may restrict the resident's use of the Commons for up to sixty (60) days or until the violation is remedied, whichever is longer. This section is intended to automatically incorporate any changes to the statute cited above and to provide notice under the statute that aggregate fines may exceed \$1,000. Fines shall be charged against the Lot as an Individual Lot Assessment. Any fines collected shall be contributed to the general fund of the Association. However, the primary goal of this Declaration is not to punish but to resolve problems. The Association may suggest or approve agreements and withhold the requirement of paying a fine if the agreement is honored.

(b) Pets. If the Board finds that a pet causes an unsafe condition or unreasonable disturbance or annoyance or violates this Declaration or any of the Rules and Regulations concerning pets, the Board may require the resident or Owner to take steps to cure or limit the offensive condition. If such steps are ineffective, if the resident or Owner fails to cooperate or if the pet is considered to create an unsafe condition or unreasonable disturbance or annoyance, the Association may require that an Owner or resident permanently remove the pet from the Community.

(c) Corrective Action for Lot Maintenance. If the Board determines that any Owner has failed to maintain any part of a Lot (including the yard and any wall, fence, or building for which the Owner is responsible) in a clean, attractive and safe manner, in accordance with the provisions of this Declaration, Design Code and applicable Rules and Regulations, the Board shall notify the Owner of its findings and may assess fines. If the violation continues for ten days after notice to the Owner, the Association shall have the right without liability to enter the Lot to correct, repair, restore, paint and maintain any part of such Lot and to have any objectionable items removed from the Lot. The Board may reduce or eliminate the time for notice if it believes the condition creates a hazard. All costs related to such action are to be assessed to the Owner as an Individual Lot Assessment.

(d) Tenant Violations. If after notice to both the tenant and the Owner and opportunity for a hearing the Board determines that a tenant has violated this Declaration or Rules and Regulations, the Association may assess fines against the Owner. In addition, if the violation continues for ten days after notice to the Owner of the findings, or if the tenant materially violates the same covenant more than once in any one-year period, the Association shall have the right to evict the tenant, except tenants who are members of the Owner's family. Each Owner by acceptance of a deed irrevocably appoints the Association as its agent and attorney-in-fact in such an eviction action. All costs related to such action shall be charged to the Owner as an Individual Lot Assessment.

(e) Additional Remedies: All remedies listed in this section are non-exclusive and may be applied cumulatively. The Association shall also have the right to bring suit to enforce the covenants contained in this Declaration, including the right to an injunction.

ARTICLE XI: The Design Code and Architectural Review Board

The Design Code is intended to encourage individual design within a unifying guide for development. This Article establishes the Design Code and the Architectural Review Board, which administers the Design Code.

11.1 Design Code. The Founder hereby establishes the Design Code as the guide for the construction of homes and other improvements within Beach Haven. The Design Code does not need to be recorded to be effective.

11.2 Modification of Design Code. During the Development Period, the Founder may revise any part of the Design Code from time to time for any of the following reasons:

(a) To make changes which the Founder believes will better accomplish the objectives of Beach Haven;

(b) To establish separate provisions as property is added to Beach Haven in accordance with Section 2.3; or

(c) To adjust for market conditions.

After the Development Period, the Board of Directors of the Association by two-thirds vote may make modifications to the Design Code. If requested by petitions signed by at least 10% of the Members, a Community Meeting may be called and, if a quorum is present, the modification to the Design Code shall be repealed by majority vote of the Members. The Design Code may not be modified to impair the rights of Lot Owners who have not yet constructed a home to build improvements which are substantially similar to those permitted during the Development Period.

11.3 Architectural Review Board.

(a) Establishment. The Founder hereby establishes the Architectural Review Board to administer the Design Code. The Architectural Review Board is not a committee of the Association but exists as a separate entity under the terms of this Declaration.

(b) Composition. The Architectural Review Board shall consist of at least two members. During the Development Period, the Founder shall select the members of the Architectural Review Board. After that time, the Board of Directors of the Association shall select the members of the Architectural Review Board, which may include members of the Board of Directors. To the extent reasonably possible, the Architectural Review Board shall include one or more architects, designers, builders or other professionals with an interest in home design.

(c) Employees. The Architectural Review Board may employ personnel or contract with individuals or companies as necessary to assist in the review process.

(d) Compensation. Professionals and staff may be paid reasonable compensation for serving on the Architectural Review Board, as determined from time to time by the Founder or the Board, whichever is responsible for selection of the Architectural Review Board members. All members shall be compensated for expenses.

(e) Cost of Operation. The Founder or the Board, whichever is responsible for selection of the Architectural Review Board members, shall set the Architectural Review Board's review fees to cover all or part of the expected cost of its operation and shall fund any deficit. Fees shall not be intended to create a surplus, other than an ordinary operating capital fund for the Architectural Review Board to which any excess fees shall be contributed.

ARTICLE XII:

Design Review and Construction Regulation

The Architectural Review Board will review all plans for construction, or modification, of any Lot or Commons.

12.1 Construction Subject to Review.

(a) Lots. No tree or land clearing or grading or any construction is permitted on a Lot until the Architectural Review Board has reviewed and approved construction plans and specifications, all fees have been paid, all deposits have been received and a site meeting with the Architectural Review Board has occurred. All construction must comply with the submitted and approved plans. Once a plan is approved, any modification to that plan, or any modification to the finished Lot, must also be reviewed and approved.

(b) Commons. Construction of any structure upon the Commons (other than initial construction by the Founder), or modification of any existing structure, as well as any material alteration of the landscaping or topography of any Commons, must be approved in advance by the Architectural Review Board.

(c) Scope. The Design Code shall set standards for all aspects of the Lot visible from the outside, including without limitation the size and shape of the building, its roof, windows, doors, porches and other components, placement on the lot, fences, drainage, paving and landscaping and all finish materials. The Design Code may also regulate the type, placement and number of residential or business units that may be constructed on a Lot and the uses to which those units may be put. Review shall include materials and color selection and selection and placement of any ornamentation or functional accessories, including but not limited to the following:

- (i) materials and color selection for the main building and any outbuilding (including roof, doors, windows and trim);
- (ii) driveways, walks, patios and other ground surface materials;

- (iii) antennas, satellite dishes or receivers, solar panels or other devices which are visible from outside the Lot;
- (iv) fountains, swimming pools, whirlpools or other pools;
- (v) privacy walls or other fences and gates;
- (vi) awnings, flower boxes, shelves, statues, or other outdoor ornamentation, and window coverings visible through the window;
- (vii) construction trailers or other trailers, temporary structures, tents, shacks, and sheds;
- (viii) signage of any type; and
- (ix) permanent or semi-permanent play equipment, whether or not secured, such as tree houses, basketball hoops, skateboard ramps and swing sets.

The listing of a category does not imply that such construction is permitted.

(d) Exception. Interior construction and modifications not affecting the external structure or appearance of any Building are not subject to review. However, construction drawings are required as part of the review process to assist in interpreting the design.

(e) Drainage. All plans shall comply with applicable drainage, water conservation, e, erosion control and stormwater detention requirements.

(f) Modifications. Modifications after completion of construction, or additions or changes to the approved plans during construction, must be reviewed and approved. However, review is not required to paint with originally approved materials and colors, or to replace the roof or other components with duplicates of the original material. Significant new landscaping, grading and any removal or substantial pruning of trees or plants must be approved in advance.

12.2 Review Procedure.

(a) Application. The plans to be submitted for approval shall include, at a minimum (i) the construction plans and specifications, including all materials and colors, (ii) elevations of all proposed improvements (iii) proposed clearing, grading and landscaping, and (iv) all other items required by the Architectural Review Board, in its discretion. Plans and specifications for review shall be submitted in the form required by the Architectural Review Board.

(b) Uniform Procedures. The Architectural Review Board may establish forms and procedures for the review of applications, including review costs and fees, if any, to be paid by the applicant. The Architectural Review Board may provide lists of approved materials and may allow for staff review and approval of routine or minor matters.

(c) Basis for Decision. Applications shall be approved or denied based upon compliance with the provisions of the Design Code in effect at the time of the submittal, and overall quality of design. If the Architectural Review Board rejects an application due to overall design quality, despite compliance with the Design Code, the Architectural Review Board shall make suggestions for improving the design.

(d) Variances. The Architectural Review Board may grant variances from the Design Code based on existing topographical or landscape conditions, existing trees, or architectural merit. Any such variance must be in writing. **Approval of a variance does not constitute a precedent for other applications, and such requests may be arbitrarily denied. Such variances may also require further approvals and/or permits from Flagler County, State of Florida or other governmental agencies, and in that case obtaining and paying for such further approvals and permits is Owner's responsibility.**

(e) Notification; Construction; Inspection. The Architectural Review Board shall make best efforts to notify the applicant of its decision within the time allowances set out in its Design Code. However, a delay in reviewing an application shall not be deemed consent to construction. If approval is given, construction of the improvements may begin. If construction is not begun within six months after approval of the plans and specifications and there has been any change in the Design Code in the intervening months, then the approval will expire and the plans and specifications must be resubmitted.

(f) Pre-construction, On-site Meeting. No site clearing, tree removal, home construction or any other type of construction activity shall commence until the Owner and the Architectural Review Board have conducted a meeting in person and at the Lot, and all decisions, procedures and policies adopted at such meeting shall apply to all construction. Such meeting shall occur after the ARB has approved Owner's house plans.

(g) Inspection. The Architectural Review Board or its agent may inspect the property during construction but has no obligation to make any such inspection.

(h) Governmental Compliance. Owners are responsible for making sure that construction conforms to governmental regulations and all local building codes. If the Architectural Review Board notes noncompliance, the Owner will be required to make the necessary changes. However, the Architectural Review Board is not responsible for compliance with governmental requirements.

12.3 Approval of Architects, Builders.

(a) Generally. The creation of the Beach Haven streetscape depends on the quality of design and construction, and adherence to the Design Code. While architects and contractors are selected by the Owner, they must cooperate with the Architectural Review Board. Approval of architects and contractors is necessary to assure quality construction and a reasonable spirit of cooperation. Once granted, approval status may be reviewed and revoked or extended from time to time based on actual performance.

(b) Architects. Architects and house designers must be approved in writing by the Founder or Architectural Review Board before submitting plans. Approval shall be based on quality of past work, client satisfaction and understanding of, and willingness to work within, the Design Code.

(c) Contractors. Contractors must be approved in writing by the Founder or by the Architectural Review Board before building in Beach Haven. Approval shall be based on

willingness to build in accordance with approved plans and specifications, quality of past work, client satisfaction and financial history. Contractors must agree to comply with construction regulations, to dispose of construction debris properly and to build in accordance with the approved plans and specifications. Contractors must post a deposit for compliance and damages. Failure to comply may result in fines, forfeiture of the deposit and revocation of the right to build in Beach Haven.

(d) Architect's and Contractor's Agreement to Comply. Prior to commencing any construction on the Lot, Owner shall obtain the agreement of his Architect, engineer, Contractor and all other consultants that each of them will fully comply with this Declaration, the Design Code and all applicable laws, codes, rules and regulations. It is Owner's responsibility to make sure all his Architects, engineers, Contractors and other consultants are fully advised of the requirements of this Declaration, the Design Code and all applicable laws, codes, rules and regulations.

12.4 Sidewalks. The Owner shall be responsible for construction of sidewalks in accordance with the Design Code, even if those sidewalks are in the right-of-way or on land owned by the Association or Founder. The Buyer is responsible for installing sidewalks on the Lot, in accordance with the Design Code, upon the first to occur of the following: (a) prior to the completion of the construction of the home on the Lot, (b) five years from the date of the Plat, or if applicable, the Replat including the Lot or (c) when required by the County. Notwithstanding the foregoing, Founder or Association, at its election, may extend the sidewalk installation date. After installation, Association is responsible for routine maintenance, repair, restoration and replacement of sidewalks, but any maintenance, repair, restoration and replacement necessitated by an Owner's negligence, misuse or construction activities shall be the responsibility of the Owner as an Individual Lot Assessment.

12.5 Trees.

(a) Tree Preservation. The Architectural Review Board may require the relocation and replanting of trees that must be removed for construction. If particularly significant trees are found within the building setback lines, the Architectural Review Board shall determine whether the placement of the building should be altered to accommodate the trees, or whether the trees may be removed.

(b) Tree Planting. The Design Code includes significant requirements for tree planting. The Owner may be required to install trees on the Lot or in the right of way adjacent to the Lot in accordance with the Design Code. The Founder may provide the trees, in which case the Owner shall be required to pay Founder for the cost.

(c) Protection. The cutting, removal or intentional damage of trees (including excessive pruning or failure to use due care with equipment or when removing other trees permitted to be removed) is prohibited except as specifically permitted under the Design Code.

12.6 Damage During Construction.

(a) Specific Damage. The Lot Owner shall be responsible for the repair and related cost of any damage to any other property within the master plan of Beach Haven, including but not limited to streets, curbs, landscaping and utilities, incurred during construction of improvements on the Lot, when caused by Owner, its agents, employees, contractors or suppliers. Owner agrees to promptly repair any damage and to remove any debris, mud or dirt carried by construction vehicles from Owner's Lot to the street or other areas. Founder may, but shall not be obligated to, repair any damage, and Owner shall promptly reimburse Founder for all expenses incurred. In addition, Founder may determine in its reasonable discretion the total cost of repairing non-major damage to the various improvements described above that cannot be attributed to any particular Owner, and may divide the cost of such repair among all Lots on a pro-rata basis, based on square footage.

(b) General Community Damage. Founder or Association, at its discretion, may require that Owner pay a Commons damage fee that is non-refundable. Such fee is intended to cover the general damage to the community Commons by the construction activities of Owner and the other parties engaging in construction during similar periods as Owner. Such non-refundable damage fee is intended to pay for the cost of repairing the Commons where it is impractical or impossible to determine which party(ies) caused the damage to the Commons and/or how much damage each party caused. Such non-refundable damage fee is in addition to, not in lieu of, the Association's and Founder's rights to recover for Specific Damage as provided in Section 12.6 (a) above.

12.7 Enforcement.

(a) Fines. The Architectural Review Board may require the builder or Owner to post a deposit from which the Architectural Review Board may deduct fines for failure to comply with the approved plans and specifications, tree regulations and rules for builder conduct. The collection of a fine shall not in any way diminish the available remedies at law or equity. Owner is responsible for any and all non-compliance of Owner's architects, engineers, consultants, contractors and/or other agents.

(b) Suit Permitted. If any construction is begun which has not been approved or which deviates from approved plans and specifications, the Architectural Review Board, the Founder or the Association may require the Owner to resolve the dispute through binding arbitration or may bring suit seeking damages, specific performance, declaratory decree and/or injunction, or any other remedy at law or in equity. The Board shall be empowered to bring suits on behalf of the Association. If suit is brought and the court finds that the construction was not approved or that the construction deviated from the approved plans or specifications, then the party bringing suit shall also be awarded reasonable attorney's fees, even if the relief requested is not granted.

(c) Trees. Improper cutting, removal or intentional damage to existing trees is subject to fines plus a requirement that the tree be replaced with an approved species of comparable caliper, or, if approved by the Architectural Review Board, a combination of trees totaling the caliper of the removed tree. The Architectural Review Board shall set fines.

(d) No Waiver. Failure to enforce any provision of these Master Deed Restrictions shall not be deemed a waiver of the right to do so at any time thereafter. Variances from the Design Code may be granted in particular circumstances; however, such variances shall not create a precedent for other applications.

12.8 Liability. The Architectural Review Board and its inspectors are concerned primarily with aesthetic considerations, and are not responsible for compliance with governmental requirements or design or construction defects or use of materials affecting the safety or structural integrity of the building. Approval by the Architectural Review Board of an application shall not constitute a basis for any liability of the Founder, or members of the Architectural Review Board, Board of Directors or Association for failure of the plans to conform to any applicable building codes or inadequacy or deficiency in the plans resulting in defects in the improvements, or for the performance or quality of work of any contractor or architect approved by it, or for non-compatible or unstable soil conditions or soil erosion, or any other condition of the property.

ARTICLE XIII: Building Time Limits

The Building Time Limits apply during the early stages of Beach Haven's development. While the requirement will usually be made part of sales documents, it is included here to provide additional terms and enforcement provisions, as well as legal notice of the restriction for subsequent purchasers.

13.1 Founder's Intent.

(a) Purpose. To allow for Community development and to discourage speculation which results in empty lots, the Owner of a Lot must begin construction of a primary building on the Lot, in accordance with plans and specifications approved by the Founder within a limited period of time, as described in Section 13.2, unless the deed or other recorded instrument from the Founder releases or modifies the restriction as to that Lot.

(b) Holder of Rights. The right to enforce this Article XIII is held originally by the Founder, who may assign these rights at any time to the Architectural Review Board or to the Association. The time limit for construction does not apply to any Lots held by the Founder. At the end of the Development Period, all of the Founder's rights under this Article XIII shall be automatically assigned to the Association.

(c) Completion, Release of Restriction. Upon completion of a single family residence in accordance with this section, Founder or the Architectural Review Board shall provide Owner with a release and satisfaction in recordable form. A single family residence shall be considered complete when it has been constructed in accordance with the approved plans and specifications, including landscaping, and satisfies the requirements for receiving a certificate of occupancy from the municipality. Construction of an outbuilding without construction of the primary single family residence fails to satisfy this requirement.

(d) Commencement of Construction Defined. Construction shall be deemed to have commenced when all of the following have occurred:

- (i) Issuance of final approval of all plans and specifications by the Architectural Review Board;
- (ii) Completion of the pre-construction site meeting between Owner or Contractor and the Architectural Review Board;
- (iii) Issuance of the building permit for the house from Flagler County;
- (iv) Payment of all fees and deposits to Architectural Review Board;
- (v) Receipt of all compliance agreements from Owner's architects, engineers, contractors and other consultants by the Architectural Review Board;
- (vi) layout of house on the Lot; and
- (vii) commencement of foundation digging on the Lot.

13.2 Construction Time Limit.

(a) Requirement. Unless otherwise specified on the deed or other recorded instrument executed by Founder (who may, in its discretion, extend construction commencement date(s)), Owner shall begin construction of the single family residence on the Lot within five years from the date of the Beach Haven plat or replat, if applicable, which includes the Lot (the "Required Commencement Date") and diligently pursue construction until completion, including landscaping. Owner must submit plans and begin the architectural review process in sufficient time to begin construction on time.

(b) Unavoidable Delays. Failure to make significant progress during any thirty-day period or to complete the single family residence within twelve months from the start of construction shall be considered a failure to diligently pursue construction under (a), except in the case of casualty, extreme material shortages, extreme weather conditions or other significant matters beyond the builder's control.

13.3 Enforcement.

(a) Events of Default. If Owner fails to comply with the requirements of Section 13.2, then Founder shall have the right, but not the obligation, to repurchase the Lot for the amount set out in paragraph (b). These rights shall be in addition to the Architectural Review Board's rights to enforce the requirements of Article XII.

(b) Repurchase Price. The repurchase price shall be equal to the amount paid by Owner to Founder or the current fair market value of the Lot, whichever is less, plus the cost or fair market value, whichever is less, of any improvements made in accordance with plans approved by the Architectural Review Board. Any mortgage or lien on the Lot and all closing costs for the repurchase shall be deducted from the amount paid to Owner by Founder.

(c) Time of Exercise. Unless Owner has obtained a release and satisfaction as provided in Section 13.1, and except as provided in Section 13.4, Founder may exercise its rights against Owner at any time up to three years after the Required Commencement Date. Founder may preserve its enforcement rights by recording, within three years after the Required Commencement Date, a lien or other notice of its intent to exercise its rights.

(d) Founder's Right to Repurchase also Applicable if Owner Deviates. Founder also has the right, but not the obligation, to repurchase the Lot in accordance with paragraphs (b) and (c) above if Owner deviates from the approved plans and specifications and fails, after reasonable notice, to correct the deviation.

13.4 Subordination to Mortgage.

(a) Effect. Founder agrees to subordinate its right of repurchase to a Mortgagee under the terms of this section, which shall be effective whether or not noted in the deed. A Mortgagee in granting a mortgage subject to this right of repurchase agrees to these terms. Except as described in this section, Founder's right of repurchase shall not be subordinate to any other encumbrances.

(b) Assumption of Mortgage. If Founder exercises its right of repurchase while Mortgagee's mortgage encumbers the Lot, Founder shall take the Lot subject to the mortgage, and Mortgagee in granting a mortgage subject to this right of repurchase agrees to allow Founder to assume the mortgage.

(c) Mortgage Foreclosure. If Mortgagee files a foreclosure of its mortgage or accepts a deed in lieu of foreclosure before the Required Commencement Date or within three years thereafter and a release and satisfaction has not been recorded as provided in Section 13.1, Founder shall be notified of the foreclosure action or conveyance. Founder's rights of enforcement under Section 13.3 shall not be extinguished by foreclosure or deed in lieu of foreclosure but shall continue as a restriction on the lot.

(d) Extension. If Mortgagee has acquired title through a foreclosure action or a deed in lieu, then Mortgagee may give notice to Founder that it wishes to extend the Required Commencement Date or, if construction has begun, extend the time for construction. Founder shall be given thirty (30) days after such notice from Mortgagee in which to exercise a repurchase right by payment to Mortgagee of the foreclosure judgment (or amount owed, for deed in lieu), plus interest at the stated rate of the note (not default rate) provided by the mortgage at the time of foreclosure or deed in lieu. Founder may exercise such rights whether or not the conditions for default under Section 13.3 are met at the time the notice is given. If Founder does not exercise its repurchase right, then Founder shall grant, in recordable form, an extension of the construction period provided in Section 13.2 as follows:

- (i) If construction of the single family residence has not begun, the new Required Commencement Date shall be two years from the foreclosure judgment or deed in lieu.
- (ii) If construction of the single family residence has begun, Mortgagee shall be allowed six months from the date of the foreclosure judgment or deed in lieu to contract with a builder and to receive approval for any modifications to the approved plans and specifications. Mortgagee or Mortgagee's assignee must then diligently pursue construction until completion, including landscaping.

Subject to the extended dates, Founder's rights of enforcement under Section 13.3 shall continue as a restriction on the lot.

13.5 Resale Restriction; Right of First Refusal. If Owner has not constructed a single family residence on the Lot in accordance with approved plans and specifications prior to reselling the Lot, the Lot shall remain subject to the requirements and remedies set out in this Article XIII. The requirement to begin construction as described in Section 13.2 shall continue to run from the plat date, unless the Founder in Founder's sole discretion agrees to an extension. In the event of such a proposed sale, Founder shall have a right of first refusal to repurchase the Lot on the same terms and conditions Owner intends to accept. Founder shall have seven (7) business days from receipt of Owner's written notice to notify Owner whether Founder will exercise its right. If Founder does not exercise its right, then Owner may sell the Lot to another purchaser, but only for the same price and terms offered to Founder. If Owner does not consummate that sale, Founder's right of first refusal applies to all subsequent offers. Founder's right of first refusal shall automatically terminate when Founder no longer has any lots for sale in Beach Haven, including all subsequent phases.

ARTICLE XIV: Founder's Reserved Rights

Most of the rights contained in this Article apply only to the Development Period or other stated period of time and will expire automatically.

14.1 Selection of Board. The Founder shall appoint and remove the initial officers and members of the Board and may elect a majority of the Board until required by law to end its control of the Board. No later than sixty days after completion of the first one hundred (100) single family residences within Beach Haven, Lot owners other than the Founder shall have the right to elect at least one member of the Board. Elections shall be conducted in accordance with the Bylaws. The Founder may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the control period, in which case the Founder reserves the right to record an instrument specifying that certain actions of the Association or Board must be approved by the Founder before they become effective.

14.2 Guarantee of Assessments. For so long as Founder is in control of the Association (meaning as long as Founder has the right to appoint or elect the majority of the Association Board of Directors) and unless the Founder waives such right (which Founder, in its sole discretion may do), Founder is excused from payment of assessments on any Lots or other property it owns provided that Founder is obligated to pay an Association operating expenses incurred that exceed the assessments receivable from the other Owners and the Association's other income. During the period while Founder is paying the operating expense deficit, the General Assessments payable by the Lot Owners other than Founder may be increased by up, but no more than, to 15% per year. At such time as the Founder is no longer in control of the Association, the Founder shall pay General Assessments and Special Assessments on all Lots it owns which have been made part of Beach Haven.

14.3 Easements in Favor of the Founder. In addition to the easements in Section 6.2, the Founder reserves for itself and its assigns the following easements in perpetuity:

(a) Construction. To the extent reasonably necessary, an easement over, under and through any roads, whether public or private, and any other Commons for construction equipment and any other purpose related to continued construction of any property within the Master Plan Area, including improvements upon any property added to Beach Haven pursuant to Section 2.3 above. This easement shall expire when all improvements to the Master Plan Area are complete.

(b) Cable. An exclusive easement for installation, replacement, repair and maintenance of cable and fiber optic systems. By virtue of this easement the Founder, and its successors or assigns, may install and maintain facilities and equipment, excavate for such purposes and affix and maintain wires, circuits and conduits. However, the exercise of this easement must not unreasonably disturb each Owner's right of quiet enjoyment of his Lot.

(c) Gas. An exclusive easement for installation, replacement, repair and maintenance of underground pipes for the distribution of propane or natural gas or both. By virtue of this easement the Founder, and its successors or assigns, may install and maintain facilities and equipment and excavate for such purposes. However, the exercise of this easement must not unreasonably disturb each Owner's right of quiet enjoyment of his Lot.

14.4 Models; Sales and Management Offices. The Founder reserves for itself and its assigns the right to maintain a sales office, a management office and an unlimited number of models within Beach Haven during the Development Period. These facilities may be located on any Lot in Beach Haven and may be relocated from time to time at the Founder's discretion. The sales office, management office and models may be owned by different entities, including builders and other entities that are unrelated to the Founder. At the end of its use as a sales or management office or model, the Lot shall be owned by the owner of record, subject to all normal covenants and restrictions for Beach Haven. Subject to state law and local ordinances, the Founder or its assigns may maintain signs on the Commons and on the sales office, management office and models advertising Beach Haven.

14.5 Commercial Use of Images. The Founder shall have the following rights:

(a) the exclusive right to grant permission for the Commons to be photographed, sketched, painted or its image otherwise reproduced for commercial use (including without limitation its use as a motion picture set or as a background for the display of fashions or other goods), and

(b) the right to grant permission for similar reproduction of the exteriors of any other part of Beach Haven which can be viewed from streets, alleys or Commons. Such exteriors may be reproduced without the consent of, or payment to, the Lot Owner, but the above right is not intended to prevent any Lot Owner from granting independent permission for any part of Beach Haven owned exclusively by that Owner, in which case the consent of the Founder shall not be required.

The Founder may collect a fee for its consent to the use of such images, or for the providing of support services to photographers or others. The exercise of these rights shall not interfere with normal and customary rights of architects as to structures designed by them. Consent of the

Founder shall not be required for photography or other reproductions of the images of Beach Haven in connection with any news or feature coverage, for academic purposes, or by any governmental agency interested in the promotion of tourism or commerce or any other similar purpose.

14.6 Trademark. The name "Beach Haven" is a trade name owned by the Founder.

ARTICLE XV: Amendment, Redevelopment and Termination

Property Owners should be able to rely on the Declaration and the general principles it states. Amendment should not be easy. However, new solutions will be proposed from time to time to make the Association operate more efficiently or to adjust to changing conditions. Where clearly to the community's benefit, these new provisions should be incorporated into the Declaration.

15.1 Amendment.

(a) By Members. This Declaration may be amended at any time by an instrument signed by the president or vice president and secretary of the Association, certifying approval in writing by two-thirds (2/3) of all Members. Any amendment during the Development Period shall require Founder's consent. Rights reserved to the Founder may not be amended at any time without the specific consent of the Founder.

(b) By the Founder. The Founder specifically reserves the absolute and unconditional right, at any time during the Development Period, to amend this Declaration without the consent or joinder of any party (i) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association or any other generally recognized institution involved in the guarantee or purchase and sale of home loan mortgages, (ii) to conform to the requirements of institutional mortgage lenders or title insurance companies, or (iii) to clarify the Declaration's provisions or correct errors.

(c) Limitation. Whenever any action described in this Declaration requires approval of greater than two-thirds (2/3) of the Members, amendment of that provision shall require the same percentage vote as would be required to accomplish that action directly.

(d) Recording. Any amendment shall take effect upon recording in the public records.

(e) Water Management District. Any amendment to this Declaration which alter any provision related to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

15.2 Dedication.

(a) Common Roads. The Founder, at any time at its discretion without consent or agreement from anyone else, or Association, upon consent in writing of two-thirds of all

Members and Founder, shall have the right to convey title to or dedicate the Common Roads and/or utility lines and facilities to the appropriate public agency or authority.

(b) Commons. All other Commons may be dedicated to the public by the Board upon consent in writing of two-thirds of all Members.

15.3 Redevelopment. All or a portion of Beach Haven, known as a "Redevelopment Area," may be purchased for redevelopment in accordance with the following provisions:

(a) Purpose. If Beach Haven should ever be struck by a natural disaster or other casualty, all or a portion of Beach Haven might be destroyed and need to be rebuilt. In general, after any casualty loss, improvements are to be rebuilt in accordance with the original plan. Alternatively, this section provides a method for redevelopment in accordance with a new plan when Lot Owners representing sixty seven percent (67%) of the votes in the Association, and a majority of the Mortgagees agree that it is necessary and desirable to do so. This super-majority approval is designed to protect individual property owners' rights and expectations in their property. However, when such consensus is achieved, this section allows redevelopment, while continuing to protect the dissenting owners by assuring payment to them of fair market value, plus a relocation allowance. The same method may be used when, after long periods of time, changing uses and conditions make redevelopment desirable.

(b) Redevelopment Area. A Redevelopment Area is a portion of Beach Haven that must be a defined, logical section for redevelopment. Both the plan for redevelopment and exercise of the purchase option for a Redevelopment Area must be approved by the Architectural Review Board and the Board prior to exercise of the option. The plan for redevelopment may include modification of the Design Code or termination of the Declaration for the Redevelopment Area. If the Declaration is terminated for a Redevelopment Area, the Board may sell or donate to the Owners within the Redevelopment Area the Commons located there, reserving access and use easements as appropriate.

(c) Purchase Option; Time When Available. The option to purchase Lots within Beach Haven for redevelopment is not available until the occurrence of one of the following:

- (i) Any time after fifty (50) years from the recording of this Declaration, or
- (ii) Upon a casualty loss destroying at least 75%, by value, of the insurable improvements, either within all of Beach Haven, or within a Redevelopment Area. The option period for a casualty loss ends ninety (90) days after the casualty, and if the option is not exercised within that time, the damage must be repaired in accordance with Section 7.7 ("Repair and Reconstruction after Fire or Other Casualty").

(d) Requirements for Exercise. If Owners representing sixty seven percent (67%) of the Member's votes within Beach Haven or the Redevelopment Area, as applicable, and Mortgagees holding mortgages on a majority of the Lots encumbered by mortgages, wish to make a new use of that portion of the property, such Owners may exercise an option to purchase

the remaining Lots. The option to purchase must be executed by all Owners of all Lots seeking the option, and must include all remaining Lots.

(e) Delivery of Option; Closing. The option to purchase (or copy of the original, executed option) must be delivered in person or by registered mail to each Owner of a Lot to be purchased. The sale price shall be paid in cash or upon terms approved by the seller, and the sale shall be closed in a timely fashion following determination of the sale price.

(f) Price. The price for each Lot to be purchased shall be its fair market value determined by agreement between the seller and purchaser within 30 days of the delivery or mailing of the notice. In the absence of agreement, the purchasing Owners and the selling Owners shall each select a real estate appraiser, which appraiser shall then choose a third appraiser, and the purchase price shall be the average (mean) of the three appraisals. The fair market value of the property shall be determined in its present, as-is condition, subject to the Declaration, and the seller shall be entitled to any insurance proceeds attributable to that Lot distributed on account of the casualty loss. The purchaser shall pay the expense of the appraisals and all closing costs.

(g) Relocation Allowance. In addition to the purchase price, the purchaser shall pay to the seller a relocation allowance of five percent (5%) of the purchase price.

(h) Enforcement. A judgment of specific performance of the purchase based upon the determination of the price by the appraisers may be entered in any court of competent jurisdiction.

(i) Limitation. If necessary for this section's validity under the Rule Against Perpetuities or similar law, this option shall expire 90 years from the time of recording of this Declaration, or whatever greater time period allowed by law.

15.4 Duration; Termination. The covenants and restrictions contained in this Declaration shall run with and bind Beach Haven and shall inure to the benefit of and be enforceable by the Founder, the Association, and all Owners of property within Beach Haven, their respective legal representatives, heirs, successors or assigns for twenty years, and shall be automatically extended for each succeeding ten year periods unless an instrument signed by Owners representing 90% of the votes in the Association shall have been recorded, agreeing to terminate the Declaration as of a specified date.

This Declaration may also be terminated in any of the following ways:

(a) Unanimous Consent. The Declaration may be terminated at any time by the consent in writing of all Owners.

(b) Dedication of Commons. The Declaration may be terminated by consent in writing by Members representing two-thirds (2/3) of the votes in the Association, if the Commons have been accepted for dedication or taken by eminent domain by the appropriate unit of local government (or, if alleys or footpaths are not accepted for dedication, they have been conveyed to the adjacent Lot Owner, reserving an easement for continued use).

(c) Redevelopment. The Declaration may be terminated for all or a part of Beach Haven in accordance with the redevelopment provisions of Section 15.3.

15.5 Rerecording. Unless this Declaration is terminated, the Association shall rerecord this Declaration or other notice of its terms at intervals necessary under Florida law to preserve its effect.

15.6 Condemnation. If all or part of the Commons is taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such property.

ARTICLE XVI:

General Provisions

16.1 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform and consistent plan for the development and operation of Beach Haven as a community of the highest quality. The italicized portions at the beginning of each Article are intended to state the purposes for the provisions that follow and may be used as an aid to interpretation. However, if the italicized portion conflicts with the operative provision, the operative provision shall govern.

16.2 Invalidity. The invalidity of any part of this Declaration shall not impair or affect the validity or enforceability of the rest of the Declaration, which shall remain in full force and effect.

16.3 Enforcement of Declaration.

(a) Enforcement. Suit may be brought against any person, persons or entity violating or attempting to violate the provisions of this Declaration, either to restrain violation or to recover damages, and against his or its property to enforce any lien created by this Declaration. To enforce this Declaration or the Rules and Regulations, the Association, the Founder or any Owner may bring an action for damages, specific performance, declaratory decree or injunction, or any other remedy at law or in equity. The Board shall be empowered to bring suits on behalf of the Association.

(b) No Waiver. Failure to enforce any provision of this Declaration or the Rules and Regulations shall not be deemed a waiver of the right to do so at any time thereafter.

(c) Association's Legal Fees. Any and all costs, including but not limited to attorneys' fees and court costs, which may be incurred by the Association in the enforcement of any of the provisions of this Declaration, whether or not suit is brought, may be assessed as an Individual Lot Assessment to the Owner against whom such action was taken.

16.4 Notices. Any notice required to be sent to the Owner shall be deemed to have been properly sent when mailed, postage prepaid, or hand delivered to the Lot and, if different, to the last known address of the person who appears as Owner of the Lot as that address is stated on the records of the Association at the time of the mailing.

16.5 Gender and Number. The use of the masculine gender herein shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

16.6 Consent of Mortgagees.

(a) When Consent Required. This Declaration contains provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions are to be construed as covenants for the protection of the Mortgagees on which they may rely in making loans secured by a mortgage on a Lot. Accordingly, no amendment or modification of this Declaration specifically impairing such rights, priorities, remedies or interests of a mortgagee shall be adopted without the prior written consent of Mortgagees as provided in subsection (b). This section shall not be construed, however, as a limitation upon the rights of the Founder, the Association or the Members to make amendments which do not adversely affect the Mortgagees.

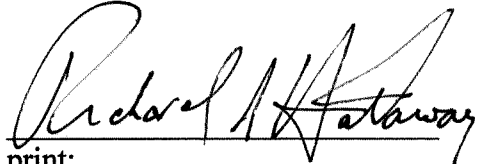
(b) Percentage Required. Wherever consent of the Mortgagees is required, it shall be sufficient to obtain the written consent of Mortgagees holding a lien on a majority or more of all Lots encumbered by a mortgage.

(c) Timely Response. Any such required consent shall be given promptly and shall not be unreasonably withheld. Any consent not given or denied within 30 calendar days of receipt of request for consent shall be deemed given.

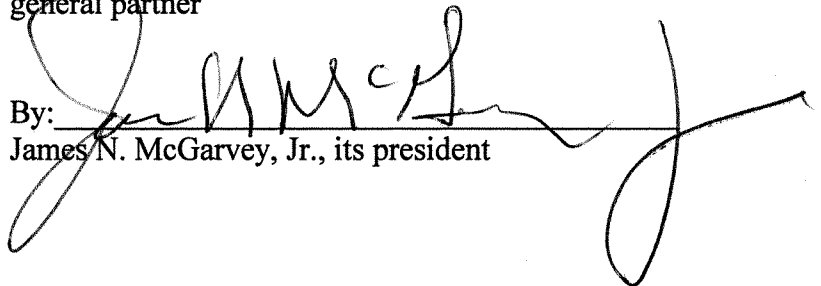
16.7 Law to Govern. This Declaration shall be construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the undersigned does hereby make this Declaration of Charter, Easements, Covenants and Restrictions for Beach Haven and has caused this Declaration to be executed as of the day and year first above written.

"WITNESSES"


print: RICHARD G. HATHAWAY

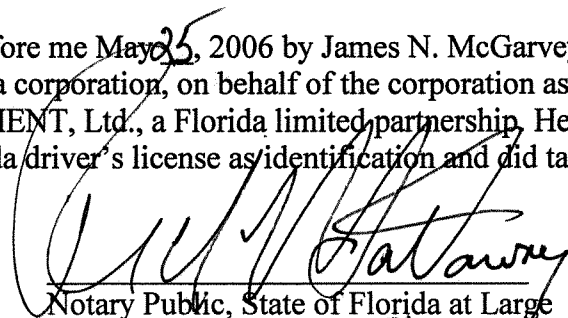
JNM FLAGLER DEVELOPMENT, Ltd., a Florida Limited Partnership by JNM Flagler, Inc., its general partner

By: 
James N. McGarvey, Jr., its president


print: Ruth K. McDonald

STATE OF FLORIDA
COUNTY OF St. Johns

The foregoing instrument was acknowledged before me May ²⁵ 2006 by James N. McGarvey, Jr., president of JNM FLAGLER, INC., a Florida corporation, on behalf of the corporation as general partner of JNM FLAGLER DEVELOPMENT, Ltd., a Florida limited partnership. He is personally known to me or has produced a Florida driver's license as identification and did take an oath.

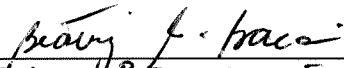

Notary Public, State of Florida at Large
Serial Number: _____
NOTARY PUBLIC-STATE OF FLORIDA
Richard G. Hathaway
Commission #DD369246
Expires: DEC. 08, 2008
Bonded Thru Atlantic Bonding Co., Inc.

MORTGAGEE CONSENT AND JOINDER

The undersigned hereby consents to and joins in the foregoing Declaration and agrees that its Mortgage, Security Agreement and Financing Statement, dated July 15, 2003, recorded in OR Book 964, page 1369, Flagler County, FL public records, as thereafter amended, is subordinate and inferior to said Declaration.

"WITNESSES"

Wachovia Bank, N.A.


Print: BEATRIZ E. BACANI


Name: Ronald K Call
Title: Vice President


Print: Susan G. Moore

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me May 25th 2006 by RONALD K. CALL, the Vice President of Wachovia Bank, N.A., a National banking association, on behalf of the bank. He/~~she~~ has produced a Florida driver's license as identification and did take an oath.

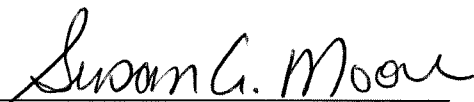

Notary Public, State of Florida at Large
Serial Number: SUSAN G. MOORE
Notary Public, State of Florida
My comm. exp. Jan. 26, 2007
Comm. No. DD 165278

Exhibit "A"

PARCEL ONE: The Southerly 1,246 feet of the Easterly 1,750 feet lying Westerly of State Road A-1-A (a 100 foot right of way) of Lot 14, Dupont Estate Subdivision, according to plat thereof recorded in Map Book 3, page 17, of the Public Records of Flagler County, Florida.

PARCEL TWO: The Northerly 25 feet of the Southerly 346 feet of Lot 25, Dupont Estate Subdivision, according to Map Book 3, page 17, of the Public Records of Flagler County, Florida.

PARCEL THREE: The Southerly 1246 feet of the Westerly 425 feet of the Easterly 2175 feet that lies Westerly of State Road A-1-A, of Lot 14, DUPONT ESTATES SUBDIVISION, as recorded in Plat Book 3, page 17, of the Public Records of Flagler County, Florida, less and except the Southerly 100 feet thereof.

PARCEL FOUR: The Southerly 100 feet of the Westerly 425 feet of the Easterly 2175 feet that lies Westerly of State Road A-1-A, of Lot 14, DUPONT ESTATES SUBDIVISION, as recorded in Plat Book 3, page 17, of the Public Records of Flagler County, Florida.

EASEMENT PARCEL: ALSO TOGHETHER WITH a 30 foot wide Easement for Drainage and Utilities, lying over, under and across the Northerly 30 feet of the Southerly 1246 feet of the Westerly 307 feet of the Easterly 2482 feet that lies Westerly of State Road A-1-A of Lot 14, Dupont Estates Subdivision, as recorded in Map Book 3, page 17, of the Public Records of Flagler County, Florida.

Exhibit "B" to Declaration
ARTICLES OF INCORPORATION
FOR
BEACH HAVEN NEIGHBORHOOD ASSOCIATION, INC.,
A FLORIDA NOT-FOR-PROFIT CORPORATION

The undersigned subscriber to these Articles of Incorporation, a Florida general corporation, hereby forms a not-for-profit corporation under the laws of the State of Florida.

ARTICLE I
NAME

The name of the corporation is the Beach Haven Neighborhood Association, Inc. hereinafter referred to as the "Association." The street address of the Association is c/o James N. McGarvey, Jr., 432 Osceola Ave., Jacksonville Beach, Florida 32250.

ARTICLE II
REGISTERED AGENT

The initial Registered Agent of the Association is James N. McGarvey, Jr. The street address of the Registered Agent is 432 Osceola Ave., Jacksonville Beach, Florida 32250.

ARTICLE III
PURPOSES

The Association does not contemplate pecuniary gain or profit to its members. The Association's specific purposes are to provide for the maintenance and preservation of the property to be known as Beach Haven (the "Property") in accordance with the Declaration of Charter, Easements, Covenants and Restrictions, recorded or to be recorded in the public records of Flagler County, Florida (the "Declaration") for the mutual advantage and benefit of the members of the Association, who shall be owners of separately conveyable property, such as a lot ("Parcel") within the Property. To promote the health, safety and welfare of the owners of Parcels, the Association shall have and exercise the following authority, powers and duties:

- (a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, which is hereby incorporated by reference, as it may be amended from time to time, and all the powers and privileges of a not-for-profit corporation organized under Chapter 617, Florida Statutes.
- (b) To acquire, by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.
- (c) To operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent St. Johns River Water Management District permit no. 40-035-96654-1 requirements and applicable District rules and shall assist in the enforcement of the Declaration of Charter, Easements, Covenants, and Restrictions which relate to the surface water or

stormwater_management system. The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system, including but not limited to work within retention areas, drainage structures and drainage easements.

(d) To borrow money and to mortgage, pledge or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred.

(e) To participate in mergers and consolidations with other nonprofit corporations organized for similar purposes.

ARTICLE IV MEMBERSHIP

Every person or entity who is a record owner of a Parcel within the Property shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Parcel.

ARTICLE V VOTING RIGHTS

Voting rights are assigned in accordance with the provisions of the Declaration. However, until the occurrence of certain events as described of the Declaration, the developer of the Property shall have the right to elect a majority of the members of the Board

ARTICLE VI BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors, who do not need to be members of the Association. The Board of Directors shall be selected as provided in the Declaration and Bylaws.

ARTICLE VII TERM OF EXISTENCE

This corporation shall commence existence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The corporation shall have perpetual existence unless sooner dissolved in accordance with the provisions herein contained or in accordance with the laws of the State of Florida.

ARTICLE VIII DISSOLUTION

The Association may be dissolved as provided in the Declaration. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity that would comply with Section 40C-42.027, F.A.C. and be approved in

writing by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

ARTICLE IX OFFICERS

Subject to the direction of the Board, the affairs of this Association shall be administered by its officers, as designated in the Bylaws of this Association. Said officers shall be elected annually by the Board in accordance with the Bylaws.

ARTICLE X BYLAWS

The Bylaws of this Association shall be adopted by the first Board and recorded among the public records of Flagler County, Florida. The Bylaws may be altered, amended, modified or repealed by (a) a majority of the Directors, or (b) assent in writing of members representing a majority of the voting interests. Any such modification shall be effective upon recording in the public records of Flagler County.

ARTICLE XI AMENDMENTS

This Association reserves the right to amend or repeal any of the provisions contained in these Articles by approval in writing of two-thirds (2/3) of the membership.

ARTICLE XII SUPREMACY

These Articles and the Bylaws are subject to the Declaration and in the event of a conflict, the Declaration shall govern. In the event of a conflict between the Articles and Bylaws, the Articles shall govern.

ARTICLE XIII INDEMNIFICATION

This Association shall indemnify and hold harmless any and all of its present or former directors, officers, employees or agents, to the full extent permitted by law. Said indemnification shall include but not be limited to the expenses, including the cost of any judgments, fines, settlements and counsel's fees actually and necessarily paid or incurred in connection with any action, suit or proceeding, whether civil, criminal, administrative or investigative, and any appeal thereof, to which any such persons or his legal representative may be made a party or may be threatened to be made a party by reason of his being or having been a director, officer, employee or agent as herein provided. The foregoing right of indemnification shall not affect any other rights to which any director, officer, employee or agent may be entitled as a matter of law or which he may be lawfully granted.

ARTICLE XIV
INCORPORATOR

The incorporator of the corporation is JNM Flagler Development, Ltd., a Florida limited partnership whose address 432 Osceola Ave., Jacksonville Beach, Florida 32250.

IN WITNESS WHEREOF, the incorporator has caused these Articles of Incorporation to be executed this ____ day of May, 2006.

WITNESSES:

Patricia H. Kelley
print: Patricia H. Kelley

Mary K. Baer
print: MARY K. BAER

JNM Flagler Development, Ltd.,
a Florida limited partnership,

By: James N. McGarvey, Jr.
James N. McGarvey, Jr., its president

STATE OF FLORIDA
COUNTY OF Duval

The foregoing instrument was acknowledged before me May 12, 2006 by James N. McGarvey, Jr., president of JNM FLAGLER, INC., a Florida corporation, on behalf of the corporation as general partner of JNM FLAGLER DEVELOPMENT, LTD., a Florida limited partnership. He is personally known to me or has produced a Florida driver's license as identification and did take an oath.

Patricia H. Kelley
Patricia H. Kelley
Notary Public, State of Florida at Large
Serial Number:



Patricia H. Kelley
Commission # DD529652
Expires May 21, 2010
Bonded Troy Fan - Insurance, Inc. 800-385-7019

BYLAWS
FOR
BEACH HAVEN NEIGHBORHOOD ASSOCIATION, INC.,
A FLORIDA NOT-FOR-PROFIT CORPORATION

Introduction

The Beach Have Neighborhood Association, Inc. (the "Association") is organized as a not-for-profit corporation under Chapter 617, Florida Statutes. It is also subject to the special provisions of Chapter 720, Florida Statutes, for homeowners' associations. These Bylaws were written to comply with those chapters at the time the Association was formed. However, those laws may change, and the Association is required to comply with changes to the law.

The Bylaws are attached as an exhibit to the Declaration of Charter, Easements, Covenants and Restrictions for Beach Haven, recorded or to be recorded in the public records of Flagler County, Florida. The Articles of Incorporation, the document that legally created the corporation under state law, is also an attachment to the Declaration. A corporation's Bylaws provide the details for running the organization. They must not contradict the statutes, the Declaration or the Articles of Incorporation but they fill in the gaps.

These Bylaws incorporate certain relevant portions of Chapter 720, which are shown in italics with a bar to the left to set them off from the rest of the text. These Bylaws do not restate those procedures that are adequately described in the statute, and the Association should follow the statutory requirements. In some cases, the statutes have been reformatted to make them easier to read, and extraneous paragraphs have been deleted. Where the statute uses the term "developer," it shall refer to the Founder as defined in the Declaration. The entire statute is not included and should be consulted for additional provisions.

Bylaws are intended to be easier to amend than either the Declaration or the Articles of Incorporation so that the Association can adjust the Bylaws to its needs. Any amendments to the Bylaws must be recorded in the public records of Flagler County as an amendment to the Declaration. However, any amendments to the statute shall be automatically incorporated into these Bylaws and do not need to be approved or recorded, although such changes should be noted the next time the Bylaws are amended for any other purpose.

I. Members

1.1 Membership. The Members of the Association are the owners of separately conveyable parcels of real property (each a "Parcel" or "Lot", and collectively the "Parcels" or "Lots") in Beach Have Neighborhood (the "Neighborhood") as described in the Declaration. The membership of each Owner shall terminate when he or she ceases to be an Owner of a Parcel. Upon the sale, transfer or other disposition of his ownership interest in a Parcel, membership in the Association shall automatically be transferred to the new Parcel Owner. The Association may issue certificates evidencing membership.

1.2 Shares; Votes. Each Member shall have an interest in the funds and assets of the Association and shall be assigned a vote as set out in the Declaration.

II. Membership Meetings

Editor's Note: A quorum is the percentage of membership necessary to conduct business of the Association at a meeting. State law allows those physically present to be counted, plus those who have filed a proxy. A proxy is a legal document that allows a Member who will not be present at the meeting to designate another person to vote for that Member. A general proxy allows the designee to vote on all matters, while a limited proxy directs the designee to vote for certain matters in a certain way.

Article 3 of the Declaration provides additional information concerning voting methods.

720.306 Meetings of members; voting and election procedures; amendments.--

(1) QUORUM; AMENDMENTS.--

(a) Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members shall be 30 percent of the total voting interests. Unless otherwise provided in this chapter or in the articles of incorporation or Bylaws, decisions that require a vote of the members must be made by the concurrence of at least a majority of the voting interests present, in person or by proxy, at a meeting at which a quorum has been attained.

(2) ANNUAL MEETING.--The association shall hold a meeting of its members annually for the transaction of any and all proper business at a time, date, and place stated in, or fixed in accordance with, the Bylaws. The election of directors, if one is required to be held, must be held at, or in conjunction with, the annual meeting or as provided in the governing documents.

(3) SPECIAL MEETINGS.--Special meetings must be held when called by the board of directors or, unless a different percentage is stated in the governing documents, by at least 10 percent of the total voting interests of the association. Business conducted at a special meeting is limited to the purposes described in the notice of the meeting.

(4) CONTENT OF NOTICE.--Unless law or the governing documents require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

(5) ADJOURNMENT.--Unless the Bylaws require otherwise, adjournment of an annual or special meeting to a different date, time, or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to s. 720.303(2). Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If a new record date for the adjourned meeting is or

must be fixed under 1s. 617.0707, notice of the adjourned meeting must be given to persons who are entitled to vote and are members as of the new record date but were not members as of the previous record date.

(6) PROXY VOTING.--The members have the right, unless otherwise provided in this subsection or in the governing documents, to vote in person or by proxy. To be valid, a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his or her place.

720.303 Association powers and duties; meetings of board....--

(2) BOARD MEETINGS.--.... The bylaws or amended bylaws may provide for giving notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members; however, a member must consent in writing to receiving notice by electronic transmission.

2.1 Rules. The meetings of the membership shall be held in accordance with the provisions of the Declaration and, subject to the Declaration, in accordance with these By-Laws. Except where in conflict with the Declaration, Roberts Rules of Order (as amended) shall govern the conduct of all membership meetings.

2.2 Annual Meeting. The Board shall determine the date and time of the annual meeting, which shall ordinarily be at least 11 months but no later than 13 months since the previous annual meeting.

2.3 Special Meetings. Unless specifically provided otherwise in these Bylaws or in the Declaration, meetings of the membership shall be held when directed by the President or the Board or when requested in writing by Members holding a majority of the votes having the right to vote at such meeting. The call for the meeting shall be issued by the secretary.

2.4 Notice.

(a) Electronic Means. The Board may provide for posting on an Association website, notice by electronic transmission or similar means. Such notice may be in addition to, or with the written consent of the Members, instead of, delivery by mail or personal delivery.

(b) Written Notice. Notice of all Members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association to each Member unless waived in writing. Such notices shall be mailed or personally delivered to each Member not less

than seven (7) days prior to the meeting, except in an emergency, in which case the Board shall give such notice as is reasonable under the circumstances.

(c) Posting. In addition, except in an emergency, when such notice requirement shall be waived, written notice shall be posted at a conspicuous place on the Neighborhood not less than forty-eight (48) hours prior to any special meeting and not less than fourteen (14) days prior to the annual meeting.

2.5 Waiver. Any Owner may waive notice of a meeting or consent to the holding of a meeting without notice or consent to action taken without a meeting, by execution of a waiver or consent in writing. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Association action to which the waiver or consent relates.

2.6 Quorum. Voting at an Association meeting requires presence of Members in person or proxy representing the percentage of votes established by the Board as necessary to transact business. The Board may revise this percentage from time to time, but in no event shall the required percentage be less than 10% or more than 50% of the membership. If Florida law is ever modified to permit other forms of representation, such as teleconferencing, to be counted toward a quorum, the Board may by rule adopt such change without amendment of these Bylaws.

2.7 Meeting Location. The Board shall determine the place for all regular and special meetings, which shall be in Flagler County.

2.8 Proxies. Proxies are permitted for any meeting of the membership.

2.9 Action without Meeting. If permitted by the Board, the membership may approve any matter (specifically including the election of Directors) by written ballot. Ballots shall be mailed or hand delivered to all Members. The Board shall establish for each vote the amount of time to be permitted for voting, which shall be no less than 10 days nor more than 60 days, and all ballots returned within the permitted time shall be counted. The Board may also establish a minimum number of ballots that must be returned in order for the vote to be valid, within the limits required for a quorum. The Board may also adopt rules permitting voting by internet or other procedures that may become available from time to time.

III. Board of Directors

Editor's Note: The Board of Directors sets policy for the maintenance of Association Property, enforces the Declaration and makes most of the decisions about operation of the Association.

720.303 Association powers and duties; meetings of board.....

(2) BOARD MEETINGS.--A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. All meetings of the board must be open to all members except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all board meetings must be posted in a

conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency

Notwithstanding this general notice requirement, for communities with more than 100 members, the bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. The bylaws or amended bylaws may provide for giving notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members; however, a member must consent in writing to receiving notice by electronic transmission.

720.306 Meetings of members; voting and election procedures; amendments.--

(7) ELECTIONS.--Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association shall be eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters.

(8) RECORDING.--Any parcel owner may tape record or videotape meetings of the board of directors and meetings of the members. The board of directors of the association may adopt reasonable rules governing the taping of meetings of the board and the membership.

3.1 Initial Composition. The initial Board shall consist of three members originally appointed by the Founder.

3.2 First Election. As provided in the Declaration and Section 720.307, Florida Statutes, no later than 3 months after 90% of the total Units within Beach Have Neighborhood have been sold by Founder, Parcel Owners other than the Founder shall be entitled to elect a majority of the Board. The Association shall call a meeting of the Owners to elect a member of the Board. Notice shall be given not less than thirty (30) days before the meeting. The meeting may be called and notice given by any Owner if the Association fails to do so. At the meeting, such Owners shall elect the directors that they are then entitled to elect and those newly elected directors shall serve until the next regularly scheduled annual meeting of the Association, when their successors shall be elected. For so long as Founder owns 5% or more of the Units, Founder shall have the right to appoint 1 director of the Board.

3.3 Transition. As provided in Section 14.2 of the Declaration and Section 720.307, Florida Statutes, Parcel Owners other than the Found shall be entitled to elect a majority of the Board three months after 90% of the total Units within Beach Have Neighborhood have been sold by Founder. Until that time, the Founder may select a majority of the Board. For so long as Founder owns 5% or more of the Units, Founder shall have the right to appoint 1 director of the Board. The Founder may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the control period, in which case the Founder reserves the right to record an instrument specifying that certain actions of the Association or Board must be approved by the Founder before they become effective.

3.4 Number of Directors. After transition from developer control, the Board shall consist of five directors.

3.5 Term. Directors shall hold office for a term of two years. A director may be elected to a one-year term to permit staggered terms. Directors may be elected for successive terms.

3.6 Qualifications. Directors are not required to be Owners.

3.7 Voting Procedure. In voting for the Board of Directors, a Member may cast his or her votes for as many candidates as there are Directors to be elected. A Member is not required to use all of that Member's votes; however, no cumulative voting shall be permitted. For example, if there are three seats to be filled and the Member has one vote, the Member may cast one vote each for one, two or three candidates, but shall not cast more than one vote for any particular candidate. If the Member is eligible to cast two votes, the Member may cast two votes apiece for up to three candidates. The candidates receiving the highest number of votes shall be declared elected. Directors may be elected by a plurality; a majority is not required. However, if there are a large number of candidates, the Board may in advance of the voting determine that a certain minimum percentage of the votes may be required for election, and provide for run-off elections if such percentage is not achieved.

3.8 Powers and Duties. The Board shall have the following powers and duties:

- (a) To elect the officers of the Association as hereinafter provided;
- (b) To administer the affairs of the Association and the Neighborhood and formulate policies for such purposes;
- (c) To adopt administrative rules and regulations governing the administration, management, operation and use of the Neighborhood and to amend such rules and regulations from time to time;
- (d) To provide for the maintenance, repair and replacement of those parts of the Neighborhood stated in the Declaration to be maintained by the Association;

(e) To provide for the designation, hiring and removal of employees and other personnel or service companies, including a property manager, to engage or contract for the services of others, to make purchases for the maintenance, repair, replacement, administration, management and operation of the Neighborhood and to delegate any such powers to the employees or agents of the Association;

(f) To estimate the amount of the annual budget, to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses as hereinafter provided and to assess any supplemental assessment as the Board shall deem necessary;

(g) To enter into contracts for cable television services, high-speed Internet access, telephone service, security services, and other telecommunications or information services to be provided to the Neighborhood, including, without limitation, bulk service agreements, wholesale purchase agreements, resale agreements, and facilities construction, installation,, maintenance and repair agreements,

(h) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Owners as expressed in a resolution duly adopted at any annual or special meeting of the Owners; and

(i) To exercise all other powers and duties of the Board provided for in the Declaration and the Articles.

3.9 Removal. Except for directors selected by the Founder, any director may be removed from office, with or without cause, by at least a majority vote of all Members, at any duly called meeting of Members. A special Association meeting to remove a director or directors from office may be called by Members representing 10% of the membership giving notice of the meeting unless a lower percentage is permitted by law. The notice shall state the purpose of the meeting and shall be given to all Members in writing at least one week prior to the Association meeting.

3.10 Vacancy. Any vacancy occurring in the Board may be filled by a majority vote of the remaining Board members, except that a vacancy resulting from removal of a director by the Members shall be filled by a vote of the membership. Any Board member selected by the Founder may be replaced at any time by the Founder. Members shall also vote to fill a vacancy if there are not sufficient remaining Board members to constitute a quorum.

3.11 Meetings; Notice. Regular or special meetings of the Board shall be held upon call by the President or a majority of the Board on not less than forty-eight (48) hours notice in writing to each director, unless the Board determines an emergency to exist, in which event the Board shall give such notice as is reasonable under the circumstances. All meetings of the Board, except for meetings between the board and its attorney permitted by law to be private, shall be open to all Members and, except in an emergency as provided above, notices of all such meetings shall be posted in a conspicuous place on the Neighborhood at least 48 hours prior to the meeting. The Board may provide for alternative posting on an Association website, notice by electronic transmission or similar means easily accessible by all Members. If required by law, Members must consent in writing to receiving notice by electronic transmission. Members other than

Directors shall not be entitled to vote or participate in any other way at the Board meeting unless the Board so permits. Except under emergency conditions, all meetings shall be held in Flagler County.

3.12 Waiver. Any director may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action of the Board without a meeting. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Board action to which the waiver or consent relates.

3.13 Quorum. Voting at a Board meeting requires presence of at least one-half of the directors, in person or telephone conference or, by rule of the Board, any other legal means. Any action required to be taken by vote of the Board may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) by obtaining the written approval of a majority of the Board.

3.14 Compensation. Directors shall receive no compensation for their services unless expressly provided for in resolutions duly adopted by the Owners but may be reimbursed for expenses.

IV. Officers

4.1 President. The President shall preside over the meetings of the Board and of the Association and shall be the chief executive officer of the Association. In the recess of the Board, the President shall have general control and management of the business and affairs of the Association.

4.2 Additional Officers. Subject to the provisions of the Declaration and Articles, at each annual meeting of the Board, the Board shall elect the following officers of the Association:

(a) One or more Vice Presidents, who shall also be directors and who shall, in the absence or disability of the President, perform the duties and exercise the powers of the President;

(b) A Secretary, who shall keep the minutes of all meetings of the Board and of the membership and who shall perform all the duties generally incident to the office of Secretary;

(c) A Treasurer, who shall cause to be kept the financial records and books of account of the Association; and

(d) Such additional officers as the Board shall see fit to elect. An individual may hold more than one position.

4.3 Powers. The officers shall have the general powers usually vested in such officers of a not-for-profit corporation, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may deem necessary.

4.4 Term. Each officer shall hold office for the term of one year and until his successor shall have been elected and qualified.

4.5 Vacancy. Vacancies in any office shall be filled by the Board at special meetings thereof. Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the whole Board.

4.6 Compensation. Officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted by the Owners, but may be reimbursed for expenses.

V. Records

Editor's Note: The Declaration provides as follows:

3.5 Record Keeping. The Board shall keep a record of all meetings, both of the Board and of the Association. For each action taken, the record shall state the vote and a description of the action approved, and, where applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record shall be available for inspection by any Member.

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting.--

(3) MINUTES.--Minutes of all meetings of the members of an association and of the board of directors of an association must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

(4) OFFICIAL RECORDS.--The association shall maintain each of the following items, when applicable, which constitute the official records of the association:

(a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.

(b) A copy of the Bylaws of the association and of each amendment to the Bylaws.

(c) A copy of the articles of incorporation of the association and of each amendment thereto.

(d) A copy of the declaration of covenants and a copy of each amendment thereto.

(e) A copy of the current rules of the homeowners' association.

(f) The minutes of all meetings of the board of directors and of the members, which minutes must be retained for at least 7 years.

(g) A current roster of all members and their mailing addresses and parcel identifications. The association shall also maintain the electronic mailing addresses and the numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by unit owners to receive notice by electronic transmission

shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

(i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the association has any obligation or responsibility. Bids received by the association for work to be performed must also be considered official records and must be kept for a period of 1 year.

(j) The financial and accounting records of the association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:

- 1. Accurate, itemized, and detailed records of all receipts and expenditures.*
- 2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.*
- 3. All tax returns, financial statements, and financial reports of the association.*
- 4. Any other records that identify, measure, record, or communicate financial information.*

(5) INSPECTION AND COPYING OF RECORDS.--The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community.

(a) The failure of an association to provide access to the records within 10 business days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this subsection.

(b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

VI. Budget; Financial Reporting

6.1 Initial Budget. The Founder shall determine the budget for the fiscal year in which a Parcel is first conveyed to an Owner other than the Founder.

6.2 Subsequent Years. Beginning with the year in which a Parcel is first conveyed to an Owner other than the Founder and each year thereafter, at least one month before the end of the fiscal year, the Board shall, by majority vote, adopt a budget for the coming year and set the annual General Assessments at a level sufficient to meet the budget. At least two weeks before

the fiscal year to which the budget applies, the Board shall send to each Member a copy of the budget in reasonably itemized form, which shall include the amount of General Assessments payable by each Member.

6.3 Approval. If General Assessments are to be increased to greater than 115% of the previous year's General Assessment which was not a year in which General Assessments were guaranteed in whole or in part by Founder, and petitions signed by at least 10% of all Members request review within thirty (30) days after the budget is delivered to Members, the Board shall call a Neighborhood Meeting to present the budget and to answer any questions. After presentation, the budget shall be deemed approved unless the percentage required to transact business is present and the budget is rejected by a majority of the Members present. If the budget is rejected, the Board shall approve a new budget within ten (10) days and send a copy to each Member.

Editor's Note: Additional provisions may be found in Articles 8 and 9 of the Declaration.

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting.--

(2) BOARD MEETINGS.--.....An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

(6) BUDGETS.--The association shall prepare an annual budget. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the association, the developer, or another person. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The copy must be provided to the member within the time limits set forth in subsection (5). [See Part V, above, for text]

(7) FINANCIAL REPORTING.--The association shall prepare an annual financial report within 60 days after the close of the fiscal year. The association shall, within the time limits set forth in subsection (5), provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

(a) Financial statements presented in conformity with generally accepted accounting principles; or

(b) A financial report of actual receipts and expenditures, cash basis, which report must show:

1. *The amount of receipts and expenditures by classification; and*
2. *The beginning and ending cash balances of the association.*

(8) ASSOCIATION FUNDS; COMMINGLING.—

(a) All association funds held by a developer shall be maintained separately in the association's name. Reserve and operating funds of the association shall not be commingled prior to turnover except the association may jointly invest reserve funds; however, such jointly invested funds must be accounted for separately.

(b) No developer in control of a homeowners' association shall commingle any association funds with his or her funds or with the funds of any other homeowners' association or community association.

VII. Amendment

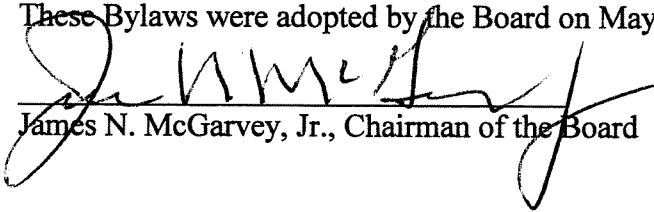
7.1 Amendment. The Bylaws may be altered, amended, modified or repealed by (a) unanimous approval of the Directors, after notice to Members and opportunity for discussion, or (b) approval of a majority of the Members at a meeting at which a quorum was present, or (c) assent in writing of Members representing a majority of the voting interests. The President or Vice-President and secretary shall execute a certificate indicating compliance with the approval process. Any such modification shall be effective upon recording in the public records of Flagler County.

7.2 Changes to Law. The Board may at any time revise or restate a working copy of the Bylaws to incorporate changes to the law or additional provisions of the law, to incorporate relevant portions of the Declaration or, after turnover, to delete portions of the statute concerning the developer. If the Board makes such changes, it may record the revised Bylaws at any time, but is not required to do so.

VIII. Supremacy

In the event of a conflict among the Bylaws, Articles or Declaration, the Declaration shall control, followed by the Articles and then Bylaws.

These Bylaws were adopted by the Board on May 11, 2006.


James N. McGarvey, Jr., Chairman of the Board

BEACH HAVEN

Declaration of Charter, Easements, Covenants and Restrictions

EXHIBIT D

Lots which allow short term rentals per Section 10.3:

A-8, A-9, A-10, A-11, A-12, A-13, A-14, A-15, A-16, A-17, A-18

B-3, B-4, B-5, B-6, B-7, B-8, B-9, B-10, B-11, B-12, B-13, B-14, B-15, B-16, B-17, B-18, B-19

C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-15, C-16, C-17, C-18, C-19

Prepared By:

Hathaway & Reynolds, PA
50 A1A North, Suite #108
Ponte Vedra Beach, FL 32082

Return To:

Hathaway & Reynolds, PA
50 A1A North, Suite #108
Ponte Vedra Beach, FL 32082

**FIRST AMENDMENT TO
DECLARATION
of
Charter, Easements, Covenants and Restrictions
For
BEACH HAVEN**

This First Amendment, effective April 26, 2013, is made pursuant to Section 15.1(a) of the Declaration of Charter, Easements, Covenants and Restrictions for Beach Haven [the "Declaration"] recorded in Official Records Book 1442, page 154 of the public records of Flagler County, FL.

STATEMENT OF PURPOSE:

A. The Declaration, Section 15.1(a), provides that it may be amended by written approval of two-thirds [2/3rds] of all the Members of the Beach Haven Neighborhood Association, Inc., a Florida nonprofit corporation [the "Association"] plus the Founder's consent if still within the Development Period.

B. The Development Period, as defined in the Declaration, has expired, and thus the consent of the Founder is not required to amend the Declaration pursuant to Section 15.1(a).

C. The Association President and Secretary, by their signatures hereon below, hereby certify that this First Amendment has been approved in writing by at least two-thirds [2/3rds] of the Association Members.

Accordingly, the Declaration is hereby amended as follows:

1. **Definitions.** Except as otherwise set forth herein, defined terms used herein have the meanings ascribed to them in the Declaration.
2. **Conflict.** In the event of a conflict or ambiguity between the terms of the Declaration and the terms of this Amendment, then the terms of this Amendment shall supersede, control and prevail. The Declaration and this Amendment are to be read together as one and the same Agreement between the Buyer and Seller.
3. **Revised Definition of Association.** The term "Association" as used in the Declaration and this Amendment means Beach Haven Neighborhood Association, Inc., a Florida nonprofit corporation, its successors and assigns.
4. **Amendment to Declaration, Section 10.3.** Section 10.3 of the Declaration is hereby deleted in its entirety and substituted therefor is the following new Section 10.3:

10.3 Renting. Lots, and the dwellings located thereon, may be rented for residential occupancy only, subject always to such reasonable rules and regulations as may be promulgated by the Board. Outbuildings may not be leased apart from the main residential dwelling. It is specifically agreed that the Board may set a minimum term for leases, and said minimum term may be as long as, but no longer than, six months. Additionally, the Board may prohibit the leasing of a Lot while the Owner is in default in the payment of Assessments.

Regarding the establishment of minimum lease terms, the Board, at its discretion, may from time to time exempt certain Lots from such minimums, and once exempted, the exempted Lot may not be subjected to a minimum lease term requirement until after December 31, 2019. It is specifically recognized that some, but not all, Lots may be so exempted, and the non-exempt Lots shall be subject to whatever minimum lease term requirements the Board imposes, and additionally, the non-exempt Lots have no grievance or complaint as a result of the discrimination against them.

The Board hereby designates that the 6 Lots specified on Exhibit D-1 attached hereto are exempt from all minimum lease term requirements hereafter promulgated by the Board until after December 31, 2019.

Additionally, the Board hereby designates that the 34 Lots specified on Exhibit D-2 attached hereto are exempt from all minimum lease term requirements hereafter promulgated by the Board until after December 31, 2019; provided always that each of such 34 Lots may be leased with rental terms of less than six [6] months only where A) such shorter rental terms

must be at least 30 continuous days and B) there may be no more than 2 of such rentals with terms of less than six [6] months in any calendar year.

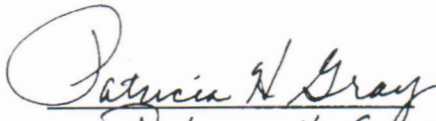
Additionally, the Board may exempt additional exempt Lots at its respective discretion by recording a Notice of Exemption in the public records of Flagler County, FL.

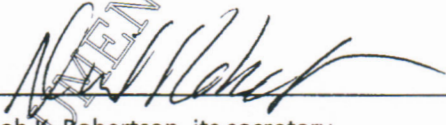
5. **Miscellaneous.** As amended herein, all terms and conditions in the Declaration in full force and effect.

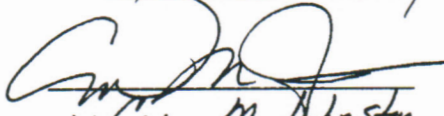
IN WITNESS WHEREOF, this Amendment is executed effective as of the date stated above.

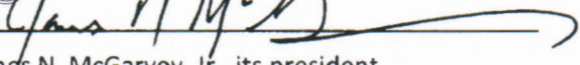
WITNESSED

**Beach Haven Neighborhood Association, Inc., a
Florida nonprofit corporation**


print: Patricia H. Gray

By: 
Dinah K. Robertson, its secretary

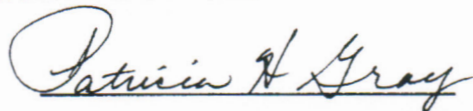

print: James N. McGarvey, Jr.

By: 
James N. McGarvey, Jr., its president

STATE OF FLORIDA
COUNTY OF Duval

The foregoing instrument was acknowledged before me April 26, 2013 by Dinah K. Robertson, President and James N. McGarvey, Jr., Secretary of Beach Haven Neighborhood Association, Inc., a Florida nonprofit corporation. They are personally known to me or have produced Florida driver's licenses as identification and did take an oath.





Notary Public, State of Florida at Large

Serial Number:

Exhibit D-1

A-17, A-18, B-3, B-4, B-5, C-1

UNOFFICIAL DOCUMENT

Exhibit D-2

A-8, A-9, A-10, A-11, A-12, A-13, A-14, A-15, A-16

B-6, B-7, B-8, B-9, B-10, B-11, B-12, B-13, B-14, B-15, B-16, B-17, B-18, B-19

C-2, C-3, C-4, C-5, C-6, C-7, C-8, C-15, C-16, C-17, C-18

UNOFFICIAL DOCUMENT